

A Summary of Applicable Laws and Codes

There are numerous codes, statutes and laws governing the transfer of real property. What follows are sketches of some of the most important and often misunderstood laws affecting real estate transactions taking place in San Francisco. We invite you to contact your own attorney or get in touch with us, for further information, including an attorney referral if desired.

REQUIRED BY THE CITY AND COUNTY OF SAN FRANCISCO

Report of Residential Building Record ("3-R Report"). (Ord. #138-60) *This report outlines statistical information pertinent to the property (eg. use, zoning, construction permits issued, etc.) from date of construction to date of sale. A copy of the 3-R Report must be given to the Buyer in every sale or exchange of a residential building in San Francisco.*

Energy and Water Conservation. (Ord. #72-82) *The San Francisco Residential Energy Conservation Ordinance and Water Conservation Ordinance require installation of energy and water conservation measures in connection with residential transfers. Compliance is met through inspection of the property by a licensed inspector, installation of materials and devices called for in the Ordinance, and filing of a Certification of Compliance with the Bureau of Building Inspection.*

Hazardous Wastes. (Ord.#253-86) *On October 25, 1986, the San Francisco Hazardous Waste Ordinance became effective. In sales covered by this Ordinance, the Seller must give a copy of the entire ordinance(!) to the Buyer and obtain a written receipt from the Buyer.*

Smoke Detectors. (Ord. #386-84) *Effective September 7, 1987, every residence in San Francisco is to be equipped with smoke detection devices as required by the San Francisco Smoke Detection Ordinance. The requirements vary depending on type of property, number of dwelling units, date of construction and existing fire prevention/detection equipment.*

Rent Control. (Ord. #276-79) *(No formal notice required between Seller and Buyer.) San Francisco residential properties are subject to the Rent Stabilization Ordinance. Although no formal notices are required, the existence of the Ordinance has undoubtedly affect on the value of property in San Francisco. (Note: eg. Detached single family residences which are rented are subject to the Rent Control Ordinance.)*

Illegal Units. *(No formal notice required between Seller and Buyer.) Many properties in San Francisco contain dwelling units installed without permits or authorization. Spoken of as "in-laws" or "grannie-units," these units are subject to removal if discovered by City inspectors. Failure to disclose the existence of illegal units in connection with a residential transaction may constitute fraud.*

REQUIRED BY STATE LAW
Property Disclosure Statement. (CC Sec. 1102) Effective January 1, 1987, every seller of residential property in California must complete a multi-part disclosure form drafted by the Legislature.

Condominium Disclosures.
Condominium sales only. (a) Substantial Defect. (CC Sec. 1134) In the case of first sales of converted condominiums the Seller must, in writing, disclose the existence of any known defects or malfunctions in the property and/or common area.

(b) **Financial Statements.** (CC Sec. 1730) In connection with condominium transfers other than initial sales after subdivision, the Seller is to obtain from the homeowner's association a current statement of the financial status of the association including, among other things, delinquent assessments, anticipated special assessments and extra ordinary maintenance or repair expenses.

Natural Hazards. (CC Sec. 1103) Sellers, or their agents are required to disclose at time of sale whether the property is located within any of six recognized natural hazard zones that are designated in official maps. If a property is within any such zone it may affect a buyer's ability to develop, to insure or to receive assistance after a disaster.

Water Heaters. (H&S Sec. 19210-212). Effective Jan. 1, 1996 all water heaters must be braced, anchored or strapped to resist toppling in an Earthquake. In San Francisco, newly installed or replaced water heaters must be raised at least 18 inches off floor levels.

Seller Financing. (CC Sec. 2956-67) In cases where the Seller extends to the Buyer a purchase money loan secured by a trust deed on the property and the loan is negotiated or developed by an arranger of credit (as defined law) then a Seller Financing Disclosure Statement must be completed and delivered to both buyer and seller. This requirement serves to reduce abuses by giving the parties notice of the terms of their credit arrangements.

**REQUIRED BY
FEDERAL LAW**

FIRPTA. In December 1984, Congress passed the Foreign Investment in Real Property Tax Act. This law requires the Buyers withhold 10 percent of the gross sales price and send it to the I.R.S. if the seller is a foreign person. Buyers who fail to comply where the Act applies can be liable to the extent of 10% of their gross purchase price plus interest and penalties.

Lead Disclosure. The Federal Residential Lead Based Paint Hazard Reduction Act of 1992 creates lead disclosure duties for sellers of residential properties constructed before 1978. Before 1978 lead was commonly added to paint used in residential construction and improvement. Lead has now been proven to be hazardous, especially to young children. The disclosure is fulfilled by delivering to buyers a pamphlet entitled "Protect Your Family From Lead."