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Attorneys At Law
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What Sellers and Brokers Need to Know About the Property Condition Disclosure Statement (PCDS)

As your trusted legal counsel in real estate matters, we want to ensure you're fully informed about the Property Condition Disclosure Statement (PCDS)—a critical document in most residential transactions in New York State.

While many in the industry have long relied on the former "\$500 opt-out" workaround, that approach was eliminated in early 2024. With this change firmly in place for over a year, it's now essential for sellers and brokers to understand not only how the PCDS works, but also the risks, responsibilities, and best practices surrounding its use.

□ What Is the PCDS?

The PCDS is a detailed questionnaire that sellers of residential real property (1–4 units) must complete and deliver to prospective buyers before contract signing. The document requires sellers to disclose known material defects and other relevant information about the condition of the property, including:

- Flooding and water damage history
- Pest infestations
- Roof, HVAC, plumbing, and electrical system issues
- Structural concerns
- Hazardous materials (e.g., asbestos, lead, radon)
- Environmental concerns
- Insurance history

□ Benefits of the PCDS

- **Transparency for Buyers:** Buyers receive meaningful insights about the property they're investing in, especially regarding issues like flood risk and structural integrity.
- **Reduced Litigation Risk:** Full and truthful disclosure helps shield sellers from future claims of concealment or fraud.
- **Consumer Confidence:** The form promotes accountability and honesty, strengthening public trust in the residential real estate market.

⚠ Risks and Liabilities

Sellers who knowingly omit or misrepresent material facts on the PCDS may face legal consequences, including:

- **Civil Liability:** Buyers may sue for damages if they relied on false or misleading disclosures.
- **Contractual Remedies:** Courts may allow rescission of the deal or compensation for repair costs.

Note: The PCDS is not a substitute for a buyer's inspection. Sellers are only required to disclose known defects—they are not obligated to investigate or

test the property for unknown issues.

☐ **Broker and Agent Best Practices**

Real estate licensees should be cautious:

- Do Not Complete the Form on Behalf of Sellers. This can expose you to liability.
- Educate, Don't Advise: Guide sellers on the importance of the PCDS and refer them to legal counsel for advice.
- Ensure Timely Delivery: The PCDS must be delivered before the buyer signs the contract, or the transaction may be delayed or legally challenged.

☐ **Pro Tips for Sellers**

- Be Honest, Not Alarmist: Disclose what you know, but don't speculate or exaggerate.
- When in Doubt, Consult an Attorney: Legal guidance can help protect your interests.
- Keep Copies: Always retain a signed copy of the completed PCDS for your records.

☐ **Need Help?**

Whether you're a seller, broker, or buyer, James G. Dibbini & Associates, P.C. is here to provide experienced legal guidance. We can help ensure compliance with disclosure obligations, minimize legal risk, and facilitate a smooth transaction.

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