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Governor

STATE OF NEVADA

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Administrator

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Director



DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
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**To:** The Honorable Senator Mark Amodei, Chairman, Senate Judiciary Committee

**From:** Tami DeVries, Acting Deputy Administrator

**Cc:** Gail Anderson, Administrator and Doug Walther, Deputy Director, Department of Business & Industry

**Date:** March 5, 2003

**Re:** Senate Bill 204

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Time to time issues arise from concerned consumers, industry practitioners, legislators, regulators and emerging trends which stimulate the need to review and update the Seller Real Property Disclosure (SRPD) requirements and disclosure form. Senate Bill 204 addresses such an issue.

In compliance with the Seller Real Property Disclosure Act, NRS Chapter 113.100-113.150, which first became effective January 1, 1996, the SRPD form is a disclosure statement of the property condition and information, of which the sellers have actual knowledge, that materially affect the value of the property. Sellers are required to personally complete the form by answering all questions on the form, thereby reporting conditions they know of that may affect the property. This form is required for all transactions involving single-to four-family residential property intended to be used as a dwelling. Failure to provide a purchaser with a signed disclosure statement will enable the purchaser to terminate an otherwise binding purchase agreement and seek other remedies as provided by the law.

The Real Estate Division SUPPORTS the passage of SB 204. The amendments proposed by SB 204 are consistent with the intent of the Seller Real Property Disclosure Act. Use of a residence to manufacture methamphetamine can materially affect a property; therefore, if such activity is known by the seller, it should be specifically disclosed to a purchaser of that property. Section 2 of SB 204 proposes to remove the exemption of certain entities from the requirement of completing and providing the disclosure form to prospective purchasers. This is a reasonable way to ensure that a purchaser will be able to make an informed decision regarding the purchase of that property, at least to the extent of the sellers' knowledge about the condition of the property.

EXHIBIT F Senate Committee on Judiciary

Date: 3-6-03 Page 1 of 5

## SELLER'S REAL PROPERTY DISCLOSURE FORM

In accordance with Nevada Law, a seller of residential real property in Nevada must disclose any and all known conditions and aspects of the property which materially affect the value or use of residential property in an adverse manner (see NRS 113.130 and 113.140).

Date \_\_\_\_\_ Do you currently occupy or have you ever occupied this property? YES NO

Property address \_\_\_\_\_

Check here if the Seller is exempt from the completion of this form pursuant to NRS 113.130(2).

**Purpose of Statement:** (1) This statement is a disclosure of the condition of the property in compliance with the Seller Real Property Disclosure Act, effective January 1, 1996. (2) This statement is a disclosure of the condition and information concerning the property known by the Seller which materially affects the value of the property. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction and is not a substitute for any inspections or warranties the Buyer may wish to obtain.

**Instructions to the Seller:** (1) ANSWER ALL QUESTIONS. (2) REPORT KNOWN CONDITIONS AFFECTING THE PROPERTY. (3) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS REQUIRED. (4) COMPLETE THIS FORM YOURSELF. (5) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK N/A (NOT APPLICABLE). EFFECTIVE JANUARY 1, 1996, FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE THE PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT AND SEEK OTHER REMEDIES AS PROVIDED BY THE LAW (see NRS 113.150).

**Systems / Appliances:** Are you aware of any problems and/or defects with any of the following:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>		<u>YES</u>	<u>NO</u>	<u>N/A</u>
Electrical System .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shower(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plumbing .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sink(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer System & line .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sauna / hot tub(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Septic tank & leach field .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Built-in microwave .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well & pump .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Range / oven / hood-fan .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yard sprinkler system(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dishwasher .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fountain(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Garbage disposal .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heating system .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash compactor .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooling system .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Central vacuum .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solar heating system .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alarm system .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireplace & chimney .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>			
Wood burning system .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Smoke detector .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Garage door opener .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Intercom .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water treatment system(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Data Communication line(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>				Satellite dish(es) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water heater .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>			
Toilet(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bathub(s) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

**EXPLANATIONS:** Any "Yes" must be fully explained. Attach explanations to form.

\_\_\_\_\_  
Seller(s) Initials

\_\_\_\_\_  
Buyer(s) Initials

2

**Property conditions, improvements and additional information:**

YES      NO      N/A

Are you aware of any of the following:

**1. Structure:**

- (a) Previous or current moisture conditions and/or water damage?  YES  NO
- (b) Any structural defect?  YES  NO
- (c) Any construction, modification, alterations, or repairs made without required state, city or county building permits?  YES  NO
- (d) Whether the property is or has been the subject of a claim governed by NRS 40.600 to 40.695 (construction defect claims)?  YES  NO  
(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED)

**2. Land / Foundation:**

- (a) Any of the improvements being located on unstable or expansive soil?  YES  NO
- (b) Any foundation sliding, settling, movement, upheaval, or earth stability problems that have occurred on the property?  YES  NO
- (c) Any drainage, flooding, water seepage, or high water table?  YES  NO
- (d) The property being located in a designated flood plain?  YES  NO
- (e) Whether the property is located next to or near any known future development?  YES  NO
- (f) Any encroachments, easements, zoning violations or nonconforming uses?  YES  NO
- (g) Is the property adjacent to "open range" land?  YES  NO  
(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED under NRS 113.065)

**3. Roof:** Any problems with the roof?  YES  NO

**4. Pool/spa:** Any problems with structure, wall, liner, or equipment?  YES  NO  N/A

**5. Infestation:** Any history of infestation (termites, carpenter ants, etc.)?  YES  NO

**6. Environmental:** Any substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, radon gas, urea formaldehyde, fuel or chemical storage tanks, contaminated water or soil on the property?  YES  NO

**7. Fungi / Mold:** Any previous or current fungus or mold?  YES  NO

**8. Any features of the property shared in common with adjoining landowners such as walls, fences, road, driveways or other features whose use or responsibility for maintenance may have an effect on the property?**  YES  NO

**9. Common Interest Communities:** Any "common areas" (facilities like pools, tennis courts, walkways or other areas co-owned with others) or a homeowner association which has any authority over the property?  YES  NO

(a) Common Interest Community Declaration and Bylaws available?  YES  NO

(b) Any periodic or recurring association fees?  YES  NO

(c) Any unpaid assessments, fines or liens, and any warnings or notices that may give rise to an assessment, fine or lien?  YES  NO

(d) Any litigation, arbitration, or mediation related to property or common area?  YES  NO

(e) Any assessments associated with the property (excluding property taxes)?  YES  NO

(f) Any construction, modification, alterations, or repairs made without required approval from the appropriate Common Interest Community board or committee?  YES  NO

**10. Any problems with water quality or water supply?**  YES  NO

**11. Any other conditions or aspects of the property which materially affect its value or use in an adverse manner?**  YES  NO

**12. Lead-Based Paint:** Was the property constructed on or before 12/31/77?  YES  NO  
(If yes, additional Federal EPA notification and disclosure documents are required)

**13. Water source:** Municipal  Community Well  Domestic Well  Other   
If Community Well: State Engineer Well Permit # \_\_\_\_\_ Revocable  Permanent  Cancelled   
Use of community and domestic wells may be subject to change. Contact the Nevada Division of Water Resources for more information regarding the future use of this well.

**14. Wastewater disposal:** Municipal Sewer  Septic System  Other

**EXPLANATIONS: Any "Yes" must be fully explained. Attach explanations to form.**

\_\_\_\_\_  
Seller(s) Initials

\_\_\_\_\_  
Buyer(s) Initials

3

Buyers and sellers of residential property are advised to seek the advice of an attorney concerning their rights and obligations as set forth in Chapter 113 of the Nevada Revised Statutes regarding the seller's obligation to execute the Nevada Real Estate Division's approved "Seller's Real Property Disclosure Form". For your convenience, Chapter 113 of the Nevada Revised Statutes provides as follows:

**CONDITION OF RESIDENTIAL PROPERTY OFFERED FOR SALE**

113.100 Definitions. As used in NRS 113.100 to 113.150, inclusive, unless the context otherwise requires:

- 1. "Defect" means a condition that materially affects the value or use of residential property in an adverse manner.
  - 2. "Disclosure form" means a form that complies with the regulations adopted pursuant to NRS 113.120.
  - 3. "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.
  - 4. "Residential property" means any land in this state to which is affixed not less than one nor more than four dwelling units.
  - 5. "Seller" means a person who sells or intends to sell any residential property.
- (Added to NRS by 1995, 842; A 1999, 1446)

113.110 Conditions required for "conveyance of property" and to complete service of document. For the purposes of NRS 113.100 to 113.150, inclusive:

- 1. A "conveyance of property" occurs:
    - (a) Upon the closure of any escrow opened for the conveyance; or
    - (b) If an escrow has not been opened for the conveyance, when the purchaser of the property receives the deed of conveyance.
  - 2. Service of a document is complete:
    - (a) Upon personal delivery of the document to the person being served; or
    - (b) Three days after the document is mailed, postage prepaid, to the person being served at his last known address.
- (Added to NRS by 1995, 844)

113.120 Regulations prescribing format and contents of form for disclosing condition of property. The Real Estate Division of the Department of Business and Industry shall adopt regulations prescribing the format and contents of a form for disclosing the condition of residential property offered for sale. The regulations must ensure that the form:

- 1. Provides for an evaluation of the condition of any electrical, heating, cooling, plumbing and sewer systems on the property, and of the condition of any other aspects of the property which affect its use or value, and allows the seller of the property to indicate whether or not each of those systems and other aspects of the property has a defect of which the seller is aware.
  - 2. Provides notice:
    - (a) Of the provisions of NRS 113.140 and subsection 5 of NRS 113.150.
    - (b) That the disclosures set forth in the form are made by the seller and not by his agent.
    - (c) That the seller's agent, and the agent of the purchaser or potential purchaser of the residential property, may reveal the completed form and its contents to any purchaser or potential purchaser of the residential property.
- (Added to NRS by 1995, 842)

113.130 Completion and service of disclosure form before conveyance of property; discovery or worsening of defect after service of form; exceptions; waiver.

- 1. Except as otherwise provided in subsections 2 and 3:
  - (a) At least 10 days before residential property is conveyed to a purchaser:
    - (1) The seller shall complete a disclosure form regarding the residential property; and
    - (2) The seller or his agent shall serve the purchaser or his agent with the completed disclosure form.
  - (b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or his agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or his agent shall inform the purchaser or his agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:
    - (1) Rescind the agreement to purchase the property; or
    - (2) Close escrow and accept the property with the defect as revealed by the seller or his agent without further recourse.
- 2. Subsection 1 does not apply to a sale or intended sale of residential property:
  - (a) By a government or governmental agency.
  - (b) Pursuant to a court order or by foreclosure or deed in lieu of foreclosure.
  - (c) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.
  - (d) Which is the first sale of a residence that was constructed by a licensed contractor and not occupied by the purchaser for more than 120 days.
  - (e) By any bank, thrift company, credit union, trust company, savings and loan association or mortgage or farm loan association, licensed as such under the laws of this state or of the United States, if it has acquired the property for development, for the convenient transaction of its business, or as a result of foreclosure of the property encumbered in good faith as security for a loan or other obligation it has originated or holds.
  - (f) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.
- 3. A purchaser of residential property may waive any of the requirements of subsection 1. Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized. (Added to NRS by 1995, 842; A 1997, 349)

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Seller(s) Initials

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Buyer(s) Initials

4

**NRS 113.135 Certain sellers to provide copies of certain provisions of NRS and give notice of certain soil reports; initial purchaser entitled to rescind sales agreement in certain circumstances; waiver of right to rescind.**

1. Upon signing a sales agreement with the initial purchaser of residential property that was not occupied by the purchaser for more than 120 days after substantial completion of the construction of the residential property, the seller shall:
  - (a) Provide to the initial purchaser a copy of NRS 11.202 to 11.206, inclusive, and 40.600 to 40.695, inclusive;
  - (b) Notify the initial purchaser of any soil report prepared for the residential property or for the subdivision in which the residential property is located; and
  - (c) If requested in writing by the initial purchaser not later than 5 days after signing the sales agreement, provide to the purchaser without cost each report described in paragraph (b) not later than 5 days after the seller receives the written request.
2. Not later than 20 days after receipt of all reports pursuant to paragraph (c) of subsection 1, the initial purchaser may rescind the sales agreement.
3. The initial purchaser may waive his right to rescind the sales agreement pursuant to subsection 2. Such a waiver is effective only if it is made in a written document that is signed by the purchaser.  
(Added to NRS by 1999, 1446)

**113.140 Disclosure of unknown defect not required; form does not constitute warranty.**

1. NRS 113.130 does not require a seller to disclose a defect in residential property of which he is not aware.
2. A completed disclosure form does not constitute an express or implied warranty regarding any condition of residential property.
3. Neither this chapter nor chapter 645 of NRS relieves a buyer or prospective buyer of the duty to exercise reasonable care to protect himself.  
(Added to NRS by 1995, 843; A 2001, 2896)

**113.150 Remedies for seller's delayed disclosure or nondisclosure of defects in property; waiver.**

1. If a seller or his agent fails to serve a completed disclosure form in accordance with the requirements of NRS 113.130, the purchaser may, at any time before the conveyance of the property to the purchaser, rescind the agreement to purchase the property without any penalties.
2. If, before the conveyance of the property to the purchaser, a seller or his agent informs the purchaser or his agent, through the disclosure form or another written notice, of a defect in the property of which the cost of repair or replacement was not limited by provisions in the agreement to purchase the property, the purchaser may:
  - (a) Rescind the agreement to purchase the property at any time before the conveyance of the property to the purchaser; or
  - (b) Close escrow and accept the property with the defect as revealed by the seller or his agent without further recourse.
3. Rescission of an agreement pursuant to subsection 2 is effective only if made in writing, notarized and served not later than 4 working days after the date on which the purchaser is informed of the defect:
  - (a) On the holder of any escrow opened for the conveyance; or
  - (b) If an escrow has not been opened for the conveyance, on the seller or his agent.
4. Except as otherwise provided in subsection 5, if a seller conveys residential property to a purchaser without complying with the requirements of NRS 113.130 or otherwise providing the purchaser or his agent with written notice of all defects in the property of which the seller is aware, and there is a defect in the property of which the seller was aware before the property was conveyed to the purchaser and of which the cost of repair or replacement was not limited by provisions in the agreement to purchase the property, the purchaser is entitled to recover from the seller treble the amount necessary to repair or replace the defective part of the property, together with court costs and reasonable attorney's fees. An action to enforce the provisions of this subsection must be commenced not later than 1 year after the purchaser discovers or reasonably should have discovered the defect or 2 years after the conveyance of the property to the purchaser, whichever occurs later.
5. A purchaser may not recover damages from a seller pursuant to subsection 4 on the basis of an error or omission in the disclosure form that was caused by the seller's reliance upon information provided to the seller by:
  - (a) An officer or employee of this state or any political subdivision of this state in the ordinary course of his duties; or
  - (b) A contractor, engineer, land surveyor, certified inspector as defined in NRS 645D.040 or pesticide applicator, who was authorized to practice that profession in this state at the time the information was provided.
6. A purchaser of residential property may waive any of his rights under this section. Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized. (Added to NRS by 1995, 843; A 1997, 350, 1797)

The above information provided on pages one (1) and two (2) of this disclosure form is true and correct to the best of seller's knowledge as of the date set forth on page one (1). **SELLER HAS DUTY TO DISCLOSE TO BUYER AS NEW DEFECTS ARE DISCOVERED AND/OR KNOWN DEFECTS BECOME WORSE (See NRS 113.130(1)(b)).**

Seller(s): \_\_\_\_\_ Date: \_\_\_\_\_

Seller(s): \_\_\_\_\_ Date: \_\_\_\_\_

**BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY AND ITS ENVIRONMENTAL STATUS.** Buyer(s) has/have read and acknowledge(s) receipt of a copy of this Seller's Real Property Disclosure Form and copy of NRS Chapter 113.100-150, inclusive, attached hereto as pages three (3) and four (4).

Buyer(s): \_\_\_\_\_ Date: \_\_\_\_\_

Buyer(s): \_\_\_\_\_ Date: \_\_\_\_\_

5