

Home Fire Hardening Disclosures

Fire Hardening Disclosure in Effect Since 1/1/2021

Since January 2021, sellers of residential property with one to four units built prior to 1/1/2010 and who are required to complete a TDS and whose property is located in a high or very high fire hazard severity zone have been required to disclose to buyers six categories of property features that may make the property vulnerable to wildfires and flying embers. Disclosure is only required if the seller is aware of any of the identified vulnerabilities.

Updated Fire Hardening Disclosure Effective 7/1/25

In addition to the seller disclosures of know wildfire vulnerabilities, starting July 1, 2025, sellers of the same properties described above (residential property with one to four units built prior to 1/1/2010, if a TDS is required, and located in a high or very high fire hazard severity zone) are required to provide buyers with a list of 12 categories of low-cost retrofits that may make a property more resistant to wildfires. The seller is also required to disclose to the buyer if the seller has completed any of the 12 specified retrofits during the time the seller owned the property. Unlike the vulnerability disclosure requirement, the low-cost retrofit disclosure is not based on what the seller is aware of but rather on what the seller has completed.

How Does the Low-Cost Retrofit Disclosure Differ from Other Disclosures?

California law requires sellers of residential property with one to four units to disclose to buyers material facts and defects that could impact the value of the property to be sold. Sellers are advised that when in doubt they should disclose because it is better that a buyer finds out about a possible negative fact before, rather than after, escrow closes. As a general rule, over-disclosure of defects is better than under-disclosure. If the defect does not exist, or the buyer is not concerned about the issue, the buyer has been forewarned. If disclosure is not made, however, a buyer has a potential legal claim for negligent non-disclosure, concealment or fraud.

The low-cost retrofit disclosure is different; it requires the disclosure of a potentially favorable fact about the property – that the fire hardening improvement has been completed during the seller’s ownership. In this case, one has to advise caution in making a disclosure.

Is it Better to Over or Under Disclose Positive Features?

Over-disclosure of positive features can be detrimental to a seller because a seller who discloses that a retrofit has been completed is making a promise about a positive condition of the property. If the retrofit has not been fully completed or has not met the standards described for the retrofit, the buyer could claim the seller represented the property to be in a better condition than what was delivered. For example, the roof replacement disclosure asserts a Class A fire-rated improvement. If a new compliant roof was placed over an aged roof but not over a recent home addition, or if unbeknownst to the seller the roof was Class B rated rather than A, the disclosure would be inaccurate.

What is the best practice when making fire hardening disclosures?

Providing explanations in the allotted space beneath the vulnerability disclosure and the low-cost retrofit disclosure will help avoid misunderstanding and prevent potentially costly disputes.

What form should be used to make the fire hardening disclosures?

C.A.R. form Fire Hardening and Defensible Space Disclosure and Addendum (FHDS) with a revision date of 6/25 or later. FHDS, revised 6/22 may be used up until the 7/1/25 effective date for required low cost retrofit disclosure.

Additional Information available from C.A.R. Legal Q&A titled “Home Hardening.”