

**43-4-44. Property condition disclosure statement.** The following form shall be used for the property condition disclosure statement:

SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

Seller \_\_\_\_\_

Property Address \_\_\_\_\_

This Disclosure Statement concerns the real property identified above situated in the City of \_\_\_\_\_ County of \_\_\_\_\_, State of South Dakota.

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PARTIES MAY WISH TO OBTAIN.

Seller hereby authorizes any agent representing any party in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

IF ANY MATERIAL FACT COMES TO THE ATTENTION OF THE SELLER WHICH WOULD AFFECT ANY STATEMENT MADE BY THE SELLER FOLLOWING THE SIGNING OF THIS STATEMENT AND BEFORE THE TIME OF SETTLEMENT, THE SELLER SHALL NOTIFY THE BUYER AND ANY AGENT REPRESENTING ANY PARTY TO THIS TRANSACTION IN WRITING OF SUCH MATERIAL FACT OR OTHER INFORMATION.

I. LOT OR TITLE INFORMATION

1. When did you purchase or build the home? \_\_\_\_\_
2. Were there any title problems when you purchased the property?  
Yes \_\_\_ No \_\_\_ Unknown \_\_\_  
If yes, describe: \_\_\_\_\_
3. Are there any unrecorded or recorded liens or financial instruments against the property, other than a first mortgage?  
Yes \_\_\_ No \_\_\_ Unknown \_\_\_  
If yes, explain: \_\_\_\_\_
4. Are there any easements which have been granted in connection with the property (other than normal utility easements for public water and sewer, gas and electric service, telephone service, cable television service, drainage, and sidewalks)?  
Yes \_\_\_ No \_\_\_ Unknown \_\_\_ If yes, explain on separate page and attach hereto.
5. Are there any problems related to establishing the lot lines/boundaries?  
Yes \_\_\_ No \_\_\_ Unknown \_\_\_  
Do you have a location survey in your possession or a copy of the recorded plat?  
Yes \_\_\_ No \_\_\_ Unknown \_\_\_ If yes, attach a copy of same.

6. Are you aware of any encroachments from or on adjoining property (i.e. fences, driveway, sheds, outbuildings, or other improvements)?  
Yes \_\_\_\_ No \_\_\_\_  
If yes, explain: \_\_\_\_\_
7. Are you aware of any covenants or restrictions affecting the use of the property in accordance with local law?  
Yes \_\_\_\_ No \_\_\_\_  
If yes, attach a copy of the covenants and restrictions, if available.
8. Are you aware of any current or pending litigation, foreclosure, zoning, building code or restrictive covenant violation notices, mechanic's liens, judgments, special assessments, zoning changes or changes that could affect your property?  
Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
If yes, explain: \_\_\_\_\_  
\_\_\_\_\_
9. Is the property currently occupied by the owner? Yes \_\_\_\_ No \_\_\_\_  
If no, is the property leased? Yes \_\_\_\_ No \_\_\_\_  
If yes, please attach a copy of any written lease or a statement as to the terms and conditions of the lease.
10. If leased, does the property use comply with local zoning laws, if any?  
Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_
11. Is there ground rent? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
If so, what is the ground rent payment (i.e. annually, semi-annually, monthly)?  
\$ \_\_\_\_\_ per \_\_\_\_\_
12. Do you pay any mandatory fees or special assessments to a homeowners' or condominium association?  
Yes \_\_\_\_ No \_\_\_\_  
If so, what are the fees or assessments? \$ \_\_\_\_ per \_\_\_\_ (i.e. annually, semi-annually, monthly)  
Payable to whom: \_\_\_\_\_  
For what purpose: \_\_\_\_\_
13. Does the property ever have standing water in either the front, rear or side yard more than forty-eight hours after heavy rain?  
Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
If yes, describe: \_\_\_\_\_
14. Are wetlands located upon any part of the property?  
Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
If yes, describe: \_\_\_\_\_

15. Are any features of the property (i.e. walls, fences, roads or driveways) shared in common with adjoining landowners whose use or responsibility for maintenance may have an effect on the property?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, describe: \_\_\_\_\_

## II. STRUCTURAL INFORMATION

1. Have you experienced any water penetration problems in the walls, windows, doors, basement or crawl space?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

What water damage related repairs, if any, have been made?

If so, when? \_\_\_\_\_

Is drain tile installed on the property? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

2. Are there any interior cracked walls or floors, or cracks or defects in exterior driveways, sidewalks, patios, or other hard surface areas?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, explain: \_\_\_\_\_

3. Have you ever experienced roof leakage?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

Type of roof covering: \_\_\_\_\_

Age: \_\_\_\_\_

What roof repairs, if any, have been made? \_\_\_\_\_

If so, when? \_\_\_\_\_

Describe any existing unrepaired damage to the roof: \_\_\_\_\_

4. Have you received notice that fire retardant treated plywood may have been used during roof construction of the property?

Yes \_\_\_\_ No \_\_\_\_

If yes, has an inspection of the roof been performed?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, explain results: \_\_\_\_\_

5. Is there insulation in:  
the ceiling/attic? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
the walls? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_  
the floors? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

6. Are you aware of any termite or wood boring infestation or damage, either past or present?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, explain: \_\_\_\_\_

Has the property been treated for any termite or wood boring infestation or damage?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, who treated it and when? \_\_\_\_\_

7. Have you performed any work upon the property within the last five years which required a building, plumbing, electrical or any other permit?  
 Yes \_\_\_ No \_\_\_  
 If yes, describe the work: \_\_\_\_\_  
 Was a permit obtained? Yes \_\_\_ No \_\_\_  
 Was the work approved by an inspector? Yes \_\_\_ No \_\_\_  
 Explain: \_\_\_\_\_
8. Has the property, structures, or improvements thereon ever been damaged? (i.e. fire, smoke, wind, floods, hail, or snow)  
 Yes \_\_\_ No \_\_\_ Unknown \_\_\_  
 If yes, has the damage been repaired? Yes \_\_\_ No \_\_\_
9. Are you aware of any problems with sewer blockage or backup, past or present?  
 Yes \_\_\_ No \_\_\_ Unknown \_\_\_

### III. SYSTEMS/UTILITIES INFORMATION

	NONE/NOT INCLUDED	WORKING	NOT WORKING	UNKNOWN
<b>A. ELECTRICAL SYSTEM</b>				
Burglar Alarm and/or Security System	_____	_____	_____	_____
Ceiling Fan	_____	_____	_____	_____
Garage Wiring	_____	_____	_____	_____
Garage Door/Opener Control(s)	_____	_____	_____	_____
Doorbell	_____	_____	_____	_____
Intercom	_____	_____	_____	_____
Light Fixtures	_____	_____	_____	_____
Sauna	_____	_____	_____	_____
Smoke and/or Fire Alarm	_____	_____	_____	_____
Switches & Outlets	_____	_____	_____	_____
Vent Fan	_____	_____	_____	_____
220 Volt Service	_____	_____	_____	_____

	NONE/NOT INCLUDED	WORKING	NOT WORKING	UNKNOWN
<b>B. HEATING AND COOLING SYSTEM</b>				
Air Exchanger	_____	_____	_____	_____
Attic Fan	_____	_____	_____	_____
Air Purifier	_____	_____	_____	_____
Central Air – Electric	_____	_____	_____	_____
Central Air – Water Cooled	_____	_____	_____	_____
Fireplace	_____	_____	_____	_____
Fireplace Insert	_____	_____	_____	_____
Furnace/Heat – Electric or Gas	_____	_____	_____	_____
Humidifier	_____	_____	_____	_____
Propane Tank – Leased or Owned	_____	_____	_____	_____
Solar House – Heating	_____	_____	_____	_____
Woodburning Stove	_____	_____	_____	_____
<b>C. WATER/SEWER SYSTEMS</b>				
Cistern	_____	_____	_____	_____
Hot Tub, Whirlpool, and Controls	_____	_____	_____	_____
Plumbing and Fixtures	_____	_____	_____	_____
Pool & Equipment	_____	_____	_____	_____
Septic/Leaching Field	_____	_____	_____	_____
Sump Pump	_____	_____	_____	_____
Underground Sprinkler & Heads	_____	_____	_____	_____
Water Heater – Electric or Gas	_____	_____	_____	_____
Water Purifier	_____	_____	_____	_____
Water Softener – Leased or Owned	_____	_____	_____	_____
Well & Pump	_____	_____	_____	_____
Sewer Systems/Drains	_____	_____	_____	_____

D. HAZARDOUS CONDITIONS

Are there any existing hazardous conditions of the property such as methane gas, lead paint, radon gas in the house or well, radioactive material, a landfill mineshaft, expansive soil, toxic materials, ureaformaldehyde foam insulation, asbestos insulation, or buried fuel or chemical storage tanks?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

Have any tests been performed? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

Explain: \_\_\_\_\_

IV. MISCELLANEOUS INFORMATION

1. Is the street or road located at the end of the driveway to the property public or private?

Public \_\_\_\_ Private \_\_\_\_ Unknown \_\_\_\_

If private, is there a written road maintenance agreement?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes, attach a copy of the maintenance agreement, if available.

2. Is this property located in or near a flood plain?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

3. When was the fireplace/wood stove/chimney flue last cleaned? Date: \_\_\_\_\_

4. In the twelve months prior to the date of signing this document, did any of the following occur on the subject property:

a. A human death by homicide?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

b. Other felony committed against the property or a person on the property?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If yes to any of the above explain \_\_\_\_\_

5. Are the improvements connected to a \_\_\_\_ public or \_\_\_\_ private water system?

6. If private, what is the date and result of the last water test? \_\_\_\_\_

7. Are the improvements connected to a \_\_\_\_ public or \_\_\_\_ private sewer system?

8. Are there broken window panes or seals?

Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

If so, specify: \_\_\_\_\_

9. Are there any items attached to the property that will not be left, such as: towel bars, mirrors, swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines, swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, etc.?

\_\_\_\_\_  
\_\_\_\_\_

10. Are there any other problems that have not been disclosed above?

Yes \_\_\_\_ No \_\_\_\_

If yes, explain: \_\_\_\_\_

**CLOSING SECTION**

The Seller hereby certifies that the information contained herein is true and correct to the best of the Seller's information, knowledge and belief as of the date of the Seller's signature below. If any of these conditions change before conveyance of title to this property, the change will be disclosed in a written amendment to this disclosure statement.

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our signature(s) below. Any agent representing any party to this transaction makes no representations and is not responsible for any conditions existing in the property.

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

BUYER \_\_\_\_\_ DATE \_\_\_\_\_