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Important 2009 Forms Changes

The following is a list of recently passed legislation and examples of the forms changes they triggered. This is not an exhaustive list, other forms changes were adopted.

HB-1091: Effective Date 7-1-09 – HB-1091 requires revisions to the Listing Contract to disclose/inform the Seller of the Seller's obligation to equip the property with carbon monoxide detectors. The Contract to Buy and Sell will also have a provision addressing the carbon monoxide alarms if it is a residential property.

New Listing Contract language:

18.2.3. Carbon Monoxide Alarms. Note: If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and one or more rooms lawfully used for sleeping purposes (Bedroom), Seller understands that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code, prior to offering the Property for sale or lease.

New Contract to Buy and Sell language:

10.8. Carbon Monoxide Alarms. Note: If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code.

HB-1109: Effective Date 7-1-09 – HB 1109 requires revisions to both the Listing Contract and the Contract to Buy and Sell.

New Listing Contract language:

10.5. Colorado Foreclosure Protection Act. The Colorado Foreclosure Protection Act (Act) generally requires that (1) the Property is residential, (2) any loan secured by the Property is at least thirty days delinquent or in default, and (3) Buyer does not reside in the Property for at least one year. If all requirements 1, 2 and 3 are met and the Act otherwise applies, then a different contract that complies with the provisions of the Act is required. Therefore, if the Act applies, Seller agrees, Broker is **not** authorized to prepare such a contract for the sale of the Property. It is recommended that an attorney prepare the required documents.

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New Contract to Buy and Sell language:

30. COLORADO FORECLOSURE PROTECTION ACT. If the Colorado Foreclosure Protection Act (Act) applies, then a different contract that complies with the provisions of the Act is required, and this Contract shall be void and of no effect. The Act generally requires that (1) the Property is residential, (2) any loan secured by the Property is at least thirty days delinquent or in default, (3) Buyer does not reside in the Property for at least one year and (4) Buyer is subject to the Act. Buyer **Will** **Will Not** occupy the Property as Buyer's personal residence for at least one year. The parties are further advised to consult with their own attorney.

SB-87: Effective Date 7-1-09 – SB 87 requires a revision to the Contract to Buy and Sell.

New Contract to Buy and Sell language:

8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

SB-60: Effective Date 7-1-09 – SB 60 requires a revision to the Contract to Buy and Sell (CBS). A Buyer has a right to terminate the contract. The CBS may not restrict the right of a Buyer to test.

New Contract to Buy and Sell language:

11. METHAMPHETAMINE DISCLOSURE (Residential Property Only). If the Property is residential, and Seller knows that methamphetamine was ever manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose such fact. No disclosure is required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used as a methamphetamine laboratory. If Buyer's test results indicate that the Property has been contaminated with methamphetamine, but has not been remediated to meet the standards established by rules of the State Board of Health promulgated pursuant to § 25-18.5-102, C.R.S., Buyer shall promptly give written notice to Seller of the results of the test, and Buyer may terminate this Contract, notwithstanding any other provision of this Contract.

***To view the latest versions of the new contracts, you may visit the Division of Real Estate's website: http://www.dora.state.co.us/real-estate/contracts/contracts_0709.htm **