



2025 South Dakota Legislature

Senate Bill 171

*Introduced by: **Senator Reed***

1 **An Act to add questions about historical property to seller's disclosure statement.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 43-4-44 be AMENDED:**

4 **43-4-44.** The following form ~~shall~~ must be used for the property condition
 5 disclosure statement, with a designated space at the top of each page after the first page
 6 to write in the property address, and a designated space at the bottom of each page for
 7 each seller and buyer to initial:

SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

RESIDENTIAL-SDCL 43-4-44

Seller(s) _____

Property _____

Address _____

This Disclosure Statement concerns the real property identified above and offered for sale. This disclosure is required by law to be completed by sellers of real property and given to potential buyers. This form can have important legal consequences. If you do not understand this form, you should seek advice from a competent source.

Seller states that the information contained in this disclosure fully reflects the Seller's knowledge of the matters disclosed as of the date affixed to the form. If any material fact changes prior to closing, the seller MUST disclose that change in a written amendment to this disclosure statement and give the same to the buyer.

This statement is a DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY in compliance with ~~South Dakota law §~~ SDCL 43-4-38. It is NOT A WARRANTY of ANY KIND by the Seller or anyone representing any party in a transaction. It is NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES either party may wish to obtain.

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

4 If the answer to any of the following requires more space for explanation, please
 5 fully explain in comments or on an attached separate sheet.

6 **I. LOT OR TITLE INFORMATION**

7 1. When did you purchase or build the home? _____ / _____

8 Month Year

	LOT OR TITLE INFORMATION	Yes	No	Do Not Know	N/A	Comments
11 12 13 14 15	2. Are there any recorded liens or financial instruments against the property, other than a first mortgage?					
16 17 18 19 20 21 22 23 24 25 26	3. Are there any unrecorded liens or financial instruments against the property, other than a first mortgage; or have any materials or services been provided in the past one hundred twenty days that would create a lien against the property under chapter 44-9?					
27 28 29 30 31 32 33 34 35 36 37	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)?					
38 39 40	5. Are there any problems related to establishing the lot lines/boundaries?					
41 42 43 44	6. Do you have a location survey in your possession or a copy of the recorded plat?					If yes, attach a copy.
45 46 47	7. Are you aware of any encroachments or shared features, from or on					

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	adjoining property (i.e. fences, driveway, sheds, outbuildings, or other improvements)?					
8.	Are you aware of any covenants or restrictions affecting the use of the property in accordance with local law?					If yes, attach a copy.
9.	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?					
10.	Is the property currently occupied by the owner?					
11.	Does the property currently receive the owner-occupied tax reduction pursuant to SDCL 10-13-39?					
12.	Is the property currently part of a property tax freeze for any reason?					
13.	Is the property leased?					
14.	If leased, does the property use comply with applicable local ordinances?					
15.	Does this property or any portion of this property receive rent?					If yes, how much \$_____ and how often _____
16.	Do you pay any mandatory fees or special assessments to a homeowners' or condominium association?					If yes, what are the fees or assessments? \$_____ per _____ (i.e. annually, semi-annually, monthly) Payable to whom: _____ For what purpose: _____

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17.	Are you aware if the property has ever had water in either the front, rear, or side yard more than forty-eight hours?					
18.	Is the property located in a flood plain?					
19.	Are federally protected wetlands located upon any part of the property?					
<u>20.</u>	<u>Has the property been designated as a historic property by a local governing body pursuant to SDCL 1-19B-20?</u>					<u>If yes, in which year was it designated?</u>
<u>21.</u>	<u>Is the property located within an established historic district?</u>					<u>If yes, has a certificate of appropriateness been issued for any changes to exterior features?</u>
20 22	Are you aware of any private transfer fee obligations, as defined pursuant to § SDCL 43-4-48, that would require a buyer or seller of the property to pay a fee or charge upon the transfer of the property, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property?					If yes, what are the fees or charges? \$ _____ per _____ _____ (i.e. annually, semi-annually, monthly)

Additional Comments

II. STRUCTURAL INFORMATION

	STRUCTURAL INFORMATION	Yes	No	Do Not Know	N/A	Comments
1.	Are you aware of any water penetration in the walls, windows, doors, basement, or crawl space?					
2.	Have any water damage related repairs been made?					

Underscores indicate new language.
Overstrikes indicate deleted language.

1	3.	Are there any unrepaired water-related damages that remain?					
2							
3							
4	4.	Are you aware if drain tile is installed on the property?					
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6	5.	Are you aware of any interior cracked walls, ceilings or floors, or cracks or defects in exterior driveways, sidewalks, patios, or other hard surface areas?					
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13	6.	Type of roof covering:					
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15	7.	Age of roof covering, if known:					
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17	8.	Are you aware of any roof leakage, past or present?					
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19	9.	Have any roof repairs been made, when and by whom?					
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21	10.	Is there any existing unrepaired damage to the roof?					
22							
23							
24	11.	Are you aware of insulation in ceiling/attic?					
25							
26	12.	Are you aware of insulation in walls?					
27							
28	13.	Are you aware of insulation in the floors?					
29							
30	14.	Are you aware of any pest infestation or damage, either past or present?					
31							
32							
33	15.	Are you aware of the property having been treated or repaired for any pest infestation or damage?					If yes, who treated it and when?
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37	16.	Are you aware of any work upon the property which required a building, plumbing, electrical, or any other permit?					
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42	17.	Was a permit obtained for work performed upon the property?					
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44							
45	18.	Was the work approved by an inspector as required by local or state ordinance?					
46							
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48	19.	Are you aware of any past or present damage to the property (i.e. fire, smoke, wind, floods, hail, or snow)?					
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1	20.	Have any insurance claims been made for damage to the property?					
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4	21.	Was an insurance payment received for damage to the property?					
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7	22.	Has the damage to the property been repaired?					
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10	23.	Are there any unrepaired damages to the property from the insurance claim?					
11							
12	24.	Are you aware of any problems with sewer blockage or backup, past or present?					
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16	25.	Are you aware of any drainage, leakage, or runoff from any sewer, septic tank, storage tank, or drain on the property into any adjoining lake, stream, or waterway?					
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Additional Comments

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III. SYSTEMS/UTILITIES INFORMATION

27		SYSTEMS/UTILITIES INFORMATION	Worki ng	Not Workin g	Non e	Not Include d	Comments
30	1.	Air conditioning System					Age of System, if known:
31							
32	2.	Air Exchanger					
33	3.	Air Purifier					
34	4.	Attic Fan					
35	5.	Bathroom Whirlpool and Controls					
36							
37	6.	Burglar Alarm & Security System					
38							
39	7.	Ceiling Fan					
40	8.	Central Air - Electric					
41	9.	Central Air - Water Cooled					
42							
43	10.	Cistern					
44	11.	Dishwasher					

Underscores indicate new language.
Overstrikes indicate deleted language.

1	12.	Disposal					
2	13.	Doorbell					
3	14.	Fireplace					
4	15.	Fireplace Insert					
5	16.	Garage Door(s)					
6	17.	Garage Door Opener(s)					
7	18.	Garage Door Control(s)					
8	19.	Garage Wiring					
9	20.	Home Heating System(s) Type:					Age of System, if known:
10							
11	21.	Hot Tub and Controls					
12	22.	Humidifier					
13	23.	In Floor Heat					
14	24.	Intercom					
15	25.	Light Fixtures					
16	26.	Microwave					
17	27.	Microwave Hood					
18	28.	Plumbing and Fixtures					
19	29.	Pool and Equipment					
20	30.	Propane Tank – Select One: <u> </u> Leased					
21		<u> </u> Owned					
22							
23	31.	Radon System					
24	32.	Sauna					
25	33.	Septic/Leaching Field					
26	34.	Sewer Systems/Drains					
27	35.	Smart Home System					Smart Home System includes:
28							
29	36.	Smoke/Fire Alarm					
30	37.	Solar House – Heating					
31	38.	Sump Pump(s)					
32	39.	Switches and Outlets					
33	40.	Underground Sprinkler and Heads					
34							
35	41.	Vent Fan – Kitchen					
36	42.	Vent Fan – Bathroom					

1	43.	Water Heater, Select One: <input type="checkbox"/> Electric <input type="checkbox"/> Gas					Age of System, if known:
2							
3	44.	Water Purifier, Select One: <input type="checkbox"/> Leased <input type="checkbox"/> Owned					
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5							
6	45.	Water Softener, Select One: <input type="checkbox"/> Leased <input type="checkbox"/> Owned					
7							
8							
9	46.	Well and Pump					
10	47.	Wood Burning Stove					

11 Additional Comments

12 _____

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14 _____

15 **IV. HAZARDOUS CONDITIONS**

16 Are you aware of any existing hazardous conditions of the property and are you
17 aware of any tests having been performed?

18 If the answer is yes to any of the questions below, please explain in additional
19 comments or on an attached separate sheet.

	HAZARDOUS CONDITIONS	Existing Condition		Tests Perform		Comments
		Yes	No	Yes	No	
20						
21						
22						
23	1. Methane Gas					
24	2. Lead Paint					
25	3. Radon Gas (House)					
26	4. Radon Gas (Well)					
27	5. Radioactive Materials					
28	6. Landfill, Mineshaft					
29	7. Expansive Soil					
30	8. Mold					
31	9. Toxic Materials					
32	10. Urea Formaldehyde					
33	Foam Insulations					
34	11. Asbestos Insulation					
35	12. Buried Fuel Tanks					
36	13. Chemical Storage					
37	14. Fire Retardant					
38	Treated Plywood					
39	15. Production of					
40	Methamphetamines					
41	16. Use of					
42	Methamphetamines					

V. MISCELLANEOUS INFORMATION

	MISCELLANEOUS INFORMATION	Yes	No	Do Not Know	N/A	Comments
1. 2. 3. 4. 5. 6. 7. 8.	1. Is the street or road located at the end of the driveway to the property public or private? Public _____ Private _____					
9. 10. 11. 12.	2. Is there a written road maintenance agreement? If yes, attach a copy of the maintenance agreement.					
13. 14. 15. 16.	3. Has the fireplace/wood stove/chimney flue been cleaned? If yes, please provide date of service.					
17. 18. 19. 20. 21.	4. Since you have owned the property, are you aware of a human death by homicide or suicide occurring on the property?					
22. 23. 24.	5. Is the water source (select one) _____ public or _____ private					If private, what is the date and result of the last water test?
25. 26. 27. 28.	6. Is the sewer system (select one) _____ public or _____ private					If private, what is the date of the last time septic tank was pumped?
29. 30.	7. Are there broken window panes or seals?					
31. 32. 33. 34. 35. 36. 37. 38.	8. Are there any items attached to the property that will not be left, such as: towel bars, mirrors, curtain rods, window coverings, light fixtures, clothes lines, swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, tv mounts, speakers, etc.?					If yes, please list:
39. 40. 41.	9. Are you aware of any other material facts which have not been disclosed on this form?					If yes, please explain:

Additional Comments

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VI. ADDITIONAL COMMENTS (ATTACH ADDITIONAL PAGES IF NECESSARY)

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
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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
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