

Transfer Disclosure Statement Law—Exemptions

For most residential transactions in California, the seller is required to complete and provide the buyer with a Transfer Disclosure Statement (TDS).

When is the TDS required?

The TDS law applies to transfers (including options and lease options) of real property (or a residential stock cooperative) improved with four or fewer dwelling units. It also applies to resale of personal property manufactured homes and mobile homes intended to be used as a residence. The TDS law does not apply to residential properties of 5 or more units, commercial, industrial, vacant land or agricultural property.

What are the exemptions to the law requiring a seller to provide a TDS?

California law exempts the following types of transactions from the TDS requirement:

- Transfers requiring a public report pursuant to § 11018.1 of the Business and Professions Code (sales of new homes in a subdivision containing 5 or more units) and transfers pursuant to § 11010.8 of the Business and Professions Code where no public report is required (sale of a new home in a subdivision of 4 or fewer units, if entirely located in city boundaries, and satisfies local requirements).
- Transfers pursuant to court order (such as court-ordered probate sales, sales by a bankruptcy trustee, writ of execution, eminent domain, and transfer resulting from a decree for specific performance).
- Transfers by foreclosure (including a deed in lieu of foreclosure and a transfer by a beneficiary who has acquired the property by foreclosure or deed in lieu of foreclosure).
- Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

NOTE: An exception to this exemption occurs when the property is held in a revocable trust and the trustee is a natural person who is also either the former owner of the property or was an occupant in possession of the property within the year preceding the transfer.

- Transfers from one co-owner to one or more other co-owners.
- Transfer made to a spouse or to a child, grandchild, parent, grandparent or other direct ancestor or descendant.
- Transfers between spouses in connection with a dissolution of marriage or similar proceeding.
- Transfers by the State Controller pursuant to the Unclaimed Property Law.
- Transfers as a result of failure to pay property taxes.
- Transfers or exchanges to or from any government entity.