

## 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 and transfers pursuant to § 11010.8 of the Business and Professions Code where no public report is required.
- 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 the sole trustee of the trust as well as the former owner of the property or 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.
- Leases regardless of duration with the exception of a lease with an option to purchase or a ground lease coupled with improvements.