

DISCLOSURE OF LIEN UNDER MELLO-ROOS OR IMPROVEMENT BOND ACT OF 1915

This disclosure is contained in a seldom-used provision of California Civil Code 1102 et.seq. (The Transfer Disclosure Statement) The section is 1102.6b. It is required to be made if the property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to (1) The Mello-Roos Community Facilities Act or (2) to a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915.

The statute requires the Seller to provide to the prospective purchaser a disclosure notice concerning the special tax. The statute requires the Seller to make a good faith effort to obtain the disclosure notice concerning the special tax or a disclosure notice concerning an assessment installment from each local agency that levies a special tax (Mello-Roos) or the local agency that collects assessment installments to secure bonds (Improvement Bond Act of 1915), as long as the notices are made available by the local agency. (1102.6b, (b))

The statute also provides that if the prospective purchaser receives the disclosure, a Seller or his or her agent is not required to provide additional information and information in the disclosure shall be deemed to satisfy the responsibility of the Seller or his or her agent to inform the prospective purchaser regarding the special tax or assessment installments. (1102.6b, (c))

As a Listing Agent you are in a Fiduciary Relationship with the Seller. One of those duties is to protect the Seller. If the disclosure is not made and the Buyer receives a special tax under Mello-Roos or an assessment under the Improvement Bond Act of 1915, the Buyer can sue the Seller for violation of the statute and failure to disclose. The Seller will have a cause of action against the listing agent for breach of fiduciary duty.

Whether or not either Mello-Roos or the 1915 Bond Act burdens the property will be listed on the Preliminary Title Report. The problem with this Statute is that the local taxing or levying agency is responsible to create the Notice required in the statute and none of them have prepared such notice as of yet.

Most disclosure companies will provide all information needed for the Mello-Roos disclosure if asked to do so. However, we do not believe any company provides complete disclosure for assessment installments pursuant to the Improvement Bond Act of 1915.

If you are a listing agent and the Preliminary Title Report lists the bond act of 1915, contact the County Tax Assessor's office and ask them to send you the notice required under Civil Code Section 1102.6b. They will tell you they do not have any such notice.

However, they may provide you with the name and phone number of whom to contact to get the notice.

At that point all you need to do is provide the following written disclosure to the prospective purchaser on your letterhead:

(Date)

(Purchasers Name)

(Care of Selling Agent)

(Selling Agent's Address)

RE Mello-Roos; Improvement Bond Act of 1915

Dear Purchasers:

The Preliminary Title Report lists a Taxing Agency, which affects the property you are purchasing. You are entitled to a Notice from the local agency that is in charge of levying a tax or collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915. The County Tax Assessor's Office has provided the name of the agency that is responsible for providing this Notice.

**Please contact this agency at: Name of Agency
Address of Agency
Phone No. of Agency (if Provided by Assessor's office)**

I hope you find this information useful.

Sincerely,

(Your signature)

Keep a copy of this letter in your transaction file.