



Information for Real Estate Licensees

From CRES, a Gallagher Company

Plan Summary

What is Disclosure Protection?

Disclosure Protection Plan gives home sellers a comprehensive insurance and legal support plan. It includes: consultations with an expert real estate attorney, a Permit History Report, access to a Custom Disclosures Library, a Disclosure Checklist, and \$25,000 in defense and damages protection if a buyer brings a claim against the seller. Disclosure Protection Plan can help protect the seller in the event of a claim after closing.

Who is eligible?

Sellers of **residential property** are eligible. Investment properties, second homes, rentals, commercial, vacant land or any home that doesn't meet the definition below is not eligible. The home must be listed and sold by a licensed real estate agent or broker or other real estate closing services provider.

RESIDENTIAL PROPERTY means a single-family dwelling, condominium, townhome or planned urban development (PUD) owned and occupied by the seller, which could be temporarily vacant for no more than sixty (60) days immediately preceding the listing of this property sold to the buyer. The property must be the primary residence of the seller and be owned and occupied by the seller for a minimum of six months prior to the initial signed listing agreement on this property.

Why do sellers need legal protection when they sell their home?

Sellers are the main target of claims and lawsuits, with nearly 48% of claims resulting from disclosure issues. The average disclosure claim costs sellers between \$20,000 and \$25,000, but sometimes a lot more.

Disclosure Protection Plan helps sellers before they even open escrow -- with custom disclosures and the opportunity to talk to an experienced real estate defense attorney regarding their transaction-related questions.

What insurance coverage does it include?

Insurance policy to cover seller's DEFENSE COSTS AND DAMAGES from the buyer's claim against the seller for actual or alleged *disclosed* structural defects.

Coverage goes into effect upon close of escrow and stays in effect for 180 days from close of escrow.

Coverage is \$25,000 with a \$2,500 retention (like a deductible that is paid up front).

Coverage does not apply to undisclosed issues, misrepresentations, omissions, concealment, intentional, dishonest and/or fraudulent acts committed to effectuate coverage.

Please read the policy for complete coverages and exclusion details.

Effective 12/6/22.

Other Plan Benefits

Legal Consultations

Disclosure Protection Plan includes three, thirty-minute legal consultations on transaction related matters.

Legal advice is provided by expert real estate attorneys who specialize in real estate defense litigation and are members of the CRES Legal Panel.

Why would sellers need to talk to a risk management attorney?

There are times during the transaction when seller's questions should be answered in consultation with an attorney, which minimizes risks for the seller and the agent. Our panel attorneys have answered thousands of real estate questions over the course of twenty-five plus years assisting our clients.

Sellers may have questions about taking on a seller carry-back loan, renting back after close of escrow, general disclosure questions or even disclosing activities in their neighborhood that could materially affect the value of their home.

Permit History Report

A Permit History Report includes relevant data on the seller's home, including: incomplete permits, completed permits, contractor names (if any), and a description of work. The Permit History Report accesses 90 million records from direct, onsite inspection sources to show permits that often don't show up in tax assessor data.

Report data may not be available in all areas, but the Permit History Report also comes with a **Permit Advisory Form** to advise the buyer to inspect and verify permit status to their satisfaction. The form is another layer of disclosure protection.

Custom Disclosures

Access to a disclosure library to assist sellers in disclosing issues unique to their home. Disclosures include: Solar Panels, Accessory Dwelling Unit, HERO Loans, Seller Carryback Loan, Prior Reports, As Is Property, Marijuana, Septic or Sewer, Square Footage, Smoke and Carbon Monoxide, and more.

Plan Details

*Here are some plan limitations and exclusions. Please read Plan details and the policy endorsement for **all** benefits, exclusions and conditions.*

QUALIFICATION

- The policy only covers residential property which means a single-family dwelling, condominium, townhome or planned urban development (PUD) owned and occupied by the seller which could be temporarily vacant for no more than sixty (60) days immediately preceding the listing of this property sold to the buyer. The property must be the primary residence of the seller and be owned and occupied by the seller for a minimum of six months prior to the initial signed listing agreement on this property
- Coverage does not apply to intentional, dishonest or fraudulent acts committed by or on behalf of the sellers to effectuate the sale of their property.
- A sellers' claim against their listing agent voids Disclosure Protection Plan for this claim.

COVERAGE

- The limit of liability is \$25,000, regardless of the number of claims being made or number of claimants.
- Coverage applies collectively to all persons and entities named as "seller." This limit applies regardless of the number of persons or entities who qualify for coverage as "seller" under this policy.
- Coverage is for buyer's claim against the seller for actual or alleged *disclosed* structural defects in seller's owner-occupied, primary residence.
- The seller has a \$2,500 retention -- think of it as a deductible that is paid up front.
- The insurance coverage starts upon closing and recording, and CRES must have the payment from escrow in order for coverage to begin.
- If purchased through escrow, *payment must be received before the insurance policy coverage goes into effect.*
- Coverage lasts for 180 days beginning on the close of escrow date.

CLAIMS

- Claims must be **made and reported** during the coverage period.
- **Sellers must report a claim within 10 days of receipt of the written notice of a claim.**
- A claim is a "demand for money or service" and can come in many forms such as email, letter, lawsuit, a request to attend mediation or arbitration.

*Please read policy endorsement for **all** benefits, exclusions and conditions.*

Plan FAQs

When does the plan go into effect?

The plan is effective immediately upon submission of the “Pay Through Escrow” form. The seller can talk to the attorney the day they purchase the plan. The insurance portion goes into effect upon close of escrow and when CRES receives payment from escrow. Both conditions must be met before the insurance portion is effective.

All documents relating to the transfer of title must be duly recorded.

Doesn't an agent's E&O policy cover a seller?

An agent or broker's policy is meant to cover the real estate professional, not the seller. *However there is an exception.*

If the seller's listing agent is insured through CRES *and* the agent or firm's E&O policy has Seller's Protection Plan (SPP) coverage on the policy, then the seller will benefit from their agent's SPP coverage.

Additionally, CRES-insured listing agents and firms can add to SPP coverage via CRES Qualified Home Warranties and Natural Hazard Disclosure Reports. This means that sellers can have multiple SPP policies (from their listing agent) and add their own Disclosure Protection Plan policy for a total of more coverage.

Won't the homeowner's insurance or other seller's policy provide this coverage?

A homeowner's insurance policy typically doesn't provide coverage for a real estate sale. Some seller's protection plans offer a defense against a claim, but do not provide funds for damages. This means the seller is often left compensating the buyer out of their own pocket.

How is Disclosure Protection Plan different from a Home Warranty?

Home warranties benefit the buyer. The home warranty is designed to cover malfunctions with home systems and appliances.

What is a claim?

A claim is a demand for money or service (asking someone to do something). Claims come in many forms such as letters, email, lawsuits, request to attend arbitrations or meditations or other alternative forms of dispute resolution. When in doubt, have your seller contact us. We are more than happy to review it.

Sellers must report claims within ten days of receipt (this means weekends and holidays too) and all claims must be made and reported within the 180 day coverage period.

What type of claims does the \$25,000 protection cover?

The plan covers claims regarding seller's actual or alleged *disclosed* structural defects in the seller's primary residence.

Please read Plan details for all benefits, exclusions and limitations.

What happens if a claim exceeds the \$25,000 limit?

Coverage is exhausted when the limit is hit. Defense costs are included *within the limit*, so it is in everyone's best interest to identify the issues immediately to prevent a lawsuit. The less spent on defense, the more there is available for damages.

Do the exclusions make it such that no claims are paid?

Exclusions exist to make sure the right type of property is being covered (single family, owner occupied, primary residence), and that sellers aren't intentionally misrepresenting, omitting, or concealing in order to get coverage.

Do You have Questions about Disclosure Protection Plan for Your Sellers?

Please contact our account specialists at <mailto:mggblv2.cres.SellerSupport@ajg.com> or call (800) 880-2747 option 302 if you have any questions.

**Disclaimer: Disclosure Protection Plan is only available to sellers in California. Please read plan insurance policy for complete details.*