

What REALTORS® Need to Know About the PDS and New PNDS and REALTOR@ Disclosure of MLD New Forms

Overview

On **July 9, 2025**, the **British Columbia Real Estate Association (BCREA)**, in collaboration with **BC Financial Services Authority (BCFSA)**, released **critical updates to disclosure documents** used in residential real estate transactions:

1.  A **revised** version of the **Property Disclosure Statement (PDS)**
2.  A **new** document: the **Property No-Disclosure Statement (PNDS)**

These changes were implemented in response to growing **litigation risks**, **misuse of disclosures**, and **clarity gaps** in seller obligations, following a **Court of Appeal decision** earlier in 2025.

1. Updated Property Disclosure Statement (PDS)

Purpose:

The PDS is a **seller-prepared disclosure** of known defects and material issues related to the property, covering:

- Structural integrity
- Past damages
- Environmental risks
- Municipal bylaw violations
- And more

✓ Key July 2025 Changes:

- **Improved clarity** in questions to reduce ambiguity and seller misinterpretation
- Refined legal language to reinforce that the PDS is **not a warranty**, but a **declaration of the seller's knowledge**
- New phrasing better aligns with **court rulings** on misrepresentation, aiming to protect both consumers and real estate professionals

⚠ IMPORTANT:

Licensees must not assist sellers in completing the PDS.

The **entire form must be completed independently by the seller**. Agents, assistants, or brokers are **strictly prohibited** from:

- Guiding answers
- Prefilling fields
- Placing digital initials (e.g., Authentisign, DocuSign)

If you're using a digital platform:

● **Do not “prepare” the form for signing.**

Instead, upload a **blank version**, send it to the seller to **fill out independently**, and only retrieve the completed version once the seller has personally reviewed and filled it in.

This protects:

- The **seller** from being accused of misrepresentation they did not author,
 - The **agent/broker** from liability due to perceived influence,
 - And ensures compliance with **BCFSA standards** and BCREA's best practices.
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2. Introduction of the Property No-Disclosure Statement (PNDS)

Purpose:

The PNDS offers a **legally clear alternative** for sellers who:

- Have **no knowledge** of property history, or
- Prefer **not to provide** disclosure for personal or liability reasons.

This form is particularly relevant when:

- The seller **never occupied** the property (e.g., investor, estate, trustee),
- There are **multiple sellers** with inconsistent information,
- The risk of misstatement is high

Legal Validity:

By using the PNDS, the seller **confirms**:

"I am not providing a disclosure of the condition of the property and make no representations about it."

This form must also be filled **entirely by the seller**, without agent assistance.

Legal & Compliance Considerations

Topic	Updated PDS	PNDS
Who fills it?	Seller only (no agent input)	Seller only
Agent initials via Docusign?	 Not permitted	 Not permitted
Purpose	Disclose known facts	Avoid giving incomplete/uncertain info

When to use	Seller is confident and knowledgeable about the property	Seller has no knowledge or prefers to remain silent
Liability risk	Moderate to high if misused	Lower if properly used
Legal effect	Forms part of Contract of Purchase and Sale (if included)	Treated as non-disclosure; buyer due diligence increases

REALTOR® Disclosure of Material Latent Defects Form

Prepared by: Axel's Mini Me, part of Axel Ziba's brain

For: The Align Group | Managing Broker Legal and Compliance Standards

3. REALTOR® Disclosure of Material Latent Defects (New – July 2025)

Background:

This form replaces the former *Seller's Disclosure of Material Latent Defects* form and now establishes a non-negotiable legal framework for REALTORS® under Section 5-13 of the Real Estate Services Rules.

Previously, sellers could provide this disclosure through a seller-based form, but due to numerous lawsuits involving non-disclosure, partial disclosure, or “agent-assisted” completion, BCREA and BCFSA introduced this new standardized REALTOR®-completed disclosure format.

The shift in responsibility is deliberate:

Disclosure of any known material latent defect is the REALTOR®'s duty, not simply the seller's choice.

What Qualifies as a Material Latent Defect

A material latent defect is one that:

- Renders the property dangerous or unfit for habitation;

- Would not be discoverable by a reasonable property inspection;
- Would make a reasonable buyer reconsider the purchase or adjust price substantially.

Examples include:

- Foundation settlement not visible;
 - Prior water or fire damage concealed by renovations;
 - Underground oil tanks or moisture/mold issues;
 - Illegal structural alterations or permits not obtained.
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Purpose and Compliance

The REALTOR® Disclosure of Material Latent Defects Form serves as:

- The official, written record of disclosure prepared by the licensee when such defects are known;
 - A mandatory document to provide to prospective buyers, even if the seller refuses or withholds disclosure;
 - A compliance safeguard for the REALTOR® and brokerage to demonstrate adherence to the Real Estate Services Act and BCFSa guidelines.
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If the Seller Refuses to Disclose:

If a seller refuses to disclose a known material latent defect, the REALTOR® must:

1. Immediately document the refusal in writing (email or brokerage file note);
2. Advise the seller in writing that this instruction is illegal and in violation of the Real Estate Services Act;

3. Refuse to act further on the listing or terminate representation, as this constitutes an unlawful instruction.

 You cannot remain the designated agent if your client directs you to withhold material information that must be disclosed by law. Continuing representation under such circumstances exposes both the REALTOR® and brokerage to disciplinary action, license suspension, or civil liability.



Form Execution Protocol

- The form is to be completed solely by the REALTOR®, not by the seller.
- It should detail the specific nature of the known defect and include all relevant facts.
- Attach any supporting reports (inspection, engineering, remediation, etc.).
- Deliver a copy to each potential buyer or their agent before offer submission.



Legal & Ethical Directive for REALTORS®

If a seller **instructs** a REALTOR® to hide or omit known material latent defects, this is **an illegal instruction** under the Real Estate Services Rules.

The REALTOR® must:

1. **Explain the law clearly** to the client;
2. If they persist, **withdraw representation**;
3. Document the discussion thoroughly.

You must **recuse yourself immediately** — continuing under such instruction exposes your license and brokerage to severe legal and disciplinary penalties.
