

Montana Disclosure Reminder

What MT sellers are legally required to disclose — and how to avoid getting sued.

Montana sellers are required to disclose known material defects. Failing to disclose is the fastest way to get sued post-closing — and the lawsuit usually wins.

What Montana Requires

Montana doesn't mandate a specific state form, but case law and standard practice require sellers to disclose **any known material defect that affects value or desirability**. The Montana Association of REALTORS® Property Disclosure Statement (PDS) is the standard. Use it even on FSBO transactions.

Categories You Must Address

Structural & Foundation

- Cracks in foundation, basement walls, slab
- Settling, shifting, water intrusion
- Roof leaks, age, hail damage history
- Insurance claims related to structure

Systems

- Plumbing leaks, slow drains, sewer issues
- Electrical: knob-and-tube, aluminum wiring, panel issues
- HVAC age, repairs, known problems
- Water heater age and condition

Water & Sewer

- Well: depth, GPM, water test history
- Septic: tank age, last pump-out, leach field condition
- Flooding history (any source)
- Sump pump or known moisture issues

Environmental

- Lead-based paint (federal — required for homes built before 1978)
- Asbestos in known locations
- Radon test results (if any)
- Mold remediation history
- Underground tanks (oil, fuel)

- Methamphetamine contamination history

Legal & Title

- Easements, encroachments, boundary disputes
- HOA dues, restrictions, pending assessments
- Open or expired permits
- Liens, judgments, divorce-related claims

Three Rules That Will Save You

1. When in doubt, disclose. "I think we had a leak in 2019 — fixed it" beats "I forgot to mention it." A disclosed defect is rarely actionable. A hidden one almost always is.

2. Disclose in writing, sign it, keep a copy. Verbal disclosures don't exist in court. Use the PDS form, both parties sign, store the original.

3. Don't answer questions you don't know. "Unknown" is a valid answer. Guessing creates liability.

Federal Lead Paint Disclosure (Pre-1978 Homes)

If your home was built before 1978, you must:

- Provide buyers the EPA pamphlet "Protect Your Family from Lead in Your Home"
- Disclose any known lead-based paint or hazards
- Give buyers 10 days to conduct a lead-based paint inspection
- Include the lead-based paint disclosure form (signed by both parties) in the contract

Need help? Talk to a real estate attorney.

\$300–600 spent with an attorney to review your disclosure can save you a \$30,000 lawsuit later. Damian can refer you — text **406-697-3282**.

This document is a general reminder, not legal advice. Consult a Montana-licensed real estate attorney for your specific situation.