

Document on Demand

#137

SENATE ENROLLED ACT 572

SELLER PROPERTY CONDITION DISCLOSURE

1. Requires sellers of 1-4 unit residential properties to complete a property condition disclosure form disclosing known, significant defects in the major systems of a home.
2. The form must be delivered to a prospective buyer prior to accepting an offer to purchase. If the form is delivered after offer acceptance the offer is not enforceable against the buyer until the buyer has received and signed a copy of the form. In addition, if a buyer receives a disclosure form or an amended form after acceptance that discloses a defect, they have two business days to rescind their offer and receive any deposits made. After closing the failure to complete and deliver a form does not by itself invalidate a transaction.
3. A defect is defined as a condition that would have a significant adverse effect on the value of the property, that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.
4. The bill covers property which is for sale, exchange, lease with an option to buy or is for sale under an installment contract.
5. The bill applies to most residential transactions including FSBO's. Exceptions are transfers: 1) ordered by a court 2) by a mortgagee who has acquired the property through foreclosure 3) from the administration of a decedent's estate, guardianship, conservatorship, or trust 4) from one co-owner to another co-owner 5) to a family member, 6) in a tax sale 7) for or from a governmental entity, 8) to a living trust, and 9) new home sales.
6. The Real Estate Commission is charged with developing the required disclosure form. An owner may use a form other than the Commission form, but, it must contain the information in the Commission form as a minimum. In other words, one can only add to the Commission form.
7. The bill is effective July 1, 1998. However, a form will not be required in transactions until July 1, 1994. The effective date of July 1, 1993 merely authorizes the Commission to begin the process of developing the form.
8. The disclosures do not represent a warranty by the seller, are not to take the place of an inspection, are the representations of the seller and not their agent, and are not intended to be a part of any contract between the buyer and seller.
9. An owner is not liable for failing to disclose a defect for which they were unaware, or for making a disclosure based on information provided by a public agency or a

person with a professional license or other special knowledge.

10. An owner is required to amend the disclosure statement if the property condition materially changes between the initial disclosure and the closing.

11. An appraiser retained to appraise the property for which the disclosure is prepared must be given a copy of the form if requested.