



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4936

Introduced 1/19/2006, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

New Act

Creates the Residential Real Property Tax Estimate Disclosure Act. Requires the sellers of newly constructed residential real estate to provide to buyers an estimate of the property taxes based upon the contract price. Sets forth requirements for the disclosure. Effective immediately.

LRB094 17045 BDD 52327 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Residential Real Property Tax Estimate Disclosure Act.

6 Section 5. Purpose. The purpose of this Act is to require,
7 at the time of initial contracting, the sellers of newly
8 constructed residential real estate to provide to the buyers an
9 estimate of the property taxes based on the contract price.
10 This information is important to the buyer because the annual
11 amount of property taxes to be paid is a factor in determining
12 if that real property is affordable.

13 Section 10. Definitions. As used in this Act:

14 "Newly constructed residential real property" means real
15 property that has been newly constructed with not less than one
16 nor more than 6 residential dwelling units, units in
17 residential cooperatives, or condominium units.

18 "Seller" means every person who is an owner, beneficiary of
19 a trust, contract purchaser, or lessee of a ground lease who
20 has an interest (legal or equitable) in residential real
21 property.

22 "Prospective buyer" means any person or entity negotiating
23 or offering to become an owner or lessee of residential real
24 property by means of a transfer for value to which this Act
25 applies.

26 Section 15. Applicability. Except as provided in Section
27 20, this Act applies to any transfer by sale, exchange,
28 installment land sale contract, assignment of beneficial
29 interest, lease with an option to purchase, ground lease, or
30 assignment of ground lease of residential real property.

1 Section 20. Inapplicability. The provisions of this Act do
2 not apply to the following:

3 (1) Transfers pursuant to court order, including, but
4 not limited to, transfers ordered by a probate court in
5 administration of an estate, transfers between spouses
6 resulting from a judgment of dissolution of marriage or
7 legal separation, transfers pursuant to an order of
8 possession, transfers by a trustee in bankruptcy,
9 transfers by eminent domain, and transfers resulting from a
10 decree for specific performance.

11 (2) Transfers from a mortgagor to a mortgagee by deed
12 in lieu of foreclosure or consent judgment, transfer by
13 judicial deed issued pursuant to a foreclosure sale to the
14 successful bidder or the assignee of a certificate of sale,
15 transfer by a collateral assignment of a beneficial
16 interest of a land trust, or a transfer by a mortgagee or a
17 successor in interest to the mortgagee's secured position
18 or a beneficiary under a deed in trust who has acquired the
19 real property by deed in lieu of foreclosure, consent
20 judgment, or judicial deed issued pursuant to a foreclosure
21 sale.

22 (3) Transfers by a fiduciary in the course of the
23 administration of a decedent's estate, guardianship,
24 conservatorship, or trust.

25 (4) Transfers from one co-owner to one or more other
26 co-owners.

27 (5) Transfers pursuant to testate or intestate
28 succession.

29 (6) Transfers made to a spouse or to a person or
30 persons in the lineal line of consanguinity of one or more
31 of the sellers.

32 (7) Transfers to or from any governmental entity.

33 Section 25. Duties of seller. A seller of newly constructed
34 residential real property must complete all applicable items in

1 the disclosure document described in Section 40 of this Act.
 2 The seller must deliver to the prospective buyer the written
 3 disclosure statement required by this Act before the signing of
 4 a written agreement by the seller and prospective buyer that
 5 would, subject to the satisfaction of any negotiated
 6 contingencies, require the prospective buyer to accept a
 7 transfer of the residential real property.

8 Section 30. Liability of seller. The seller is not liable
 9 for any error, inaccuracy, or omission of any information
 10 delivered pursuant to this Act if (i) the seller had no
 11 knowledge of the error, inaccuracy, or omission or (ii) the
 12 error, inaccuracy, or omission was based on information
 13 provided by a public agency.

14 Section 35. Disclosure supplement. If, prior to closing,
 15 any seller has actual knowledge of an error, inaccuracy, or
 16 omission in any prior disclosure document after delivery of
 17 that disclosure document to a prospective buyer, that seller
 18 must supplement the prior disclosure document with a written
 19 supplemental disclosure.

20 Section 40. Disclosure report form. The disclosures
 21 required of a seller by this Act shall be made in the following
 22 form:

23 RESIDENTIAL REAL PROPERTY TAX ESTIMATE DISCLOSURE REPORT

24 NOTICE: THE PURPOSE OF THIS REPORT IS TO PROVIDE PROSPECTIVE
 25 BUYERS WITH AN ESTIMATE OF PROPERTY TAXES TO BE PAID BASED ON
 26 THE INITIAL CONTRACT PRICE OF THE NEWLY CONSTRUCTED RESIDENTIAL
 27 REAL PROPERTY.

28 Initial Contract Price:

29 Estimate of Property Taxes:

30 County in which the residential real property is

1 located:

2 Real Estate Permanent Index Number:

3 Property Address:

4 City, State & Zip Code:

5 Seller's Name:

6 This Report is a disclosure of an estimate of property
7 taxes to be paid for the newly constructed residential real
8 property listed above in compliance with the Residential Real
9 Property Tax Estimate Disclosure Act. This information is
10 provided as of ... (month) ... (day) ... (year), and does not
11 reflect any changes made or occurring after that date or
12 information that becomes known to the seller after that date.

13 Seller certifies that seller has prepared this statement
14 and certifies that the information provided is based on actual
15 knowledge of the seller. The seller hereby authorizes any
16 person representing any principal in this transaction to
17 provide a copy of this report, and to disclose any information
18 in the report, to any person in connection with any actual or
19 anticipated sale of the property.

20 Seller:..... Date/time:.....

21 Seller:..... Date/time:.....

22 Prospective

23 Buyer: Date/time:.....

24 Prospective

25 Buyer: Date/time:.....

26 Section 45. Material defect. If an estimate of property
27 taxes to be paid is disclosed in the Residential Real Property
28 Tax Estimate Disclosure Report after the execution of an offer
29 made by a prospective buyer that is accepted by the seller for
30 the conveyance of the newly constructed residential real
31 property, then the prospective buyer may, within 3 business
32 days after receipt of that report by the prospective buyer,
33 terminate the contract or other agreement without any liability

1 or recourse except for the return to prospective buyer of all
2 earnest money deposits or down payments paid by prospective
3 buyer in the transaction. If an estimate of property taxes to
4 be paid is disclosed in a supplement to this disclosure
5 document, the prospective buyer does not have a right to
6 terminate unless the estimate of property taxes to be paid
7 results from an error, inaccuracy, or omission of which the
8 seller had actual knowledge at the time the prior disclosure
9 document was completed and signed by the seller. The right to
10 terminate the contract, however, does not exist after the
11 conveyance of the newly constructed residential real property.
12 For purposes of this Act, the termination is deemed to be made
13 when written notice of termination is personally delivered to
14 at least one of the sellers identified in the contract or other
15 agreement or when deposited, certified or registered mail, with
16 the United States Postal Service, addressed to one of the
17 sellers at the address indicated in the contract or agreement
18 or, if there is not an address contained therein, then at the
19 address indicated for the residential real property on the
20 report.

21 Section 50. Act not a limitation. This Act is not intended
22 to limit or modify any obligation to disclose created by any
23 other statute or that may exist in common law in order to avoid
24 fraud, misrepresentation, or deceit in the transaction.

25 Section 55. Delivery of Report. Delivery of the Residential
26 Real Property Tax Estimate Disclosure Report provided by this
27 Act must be by:

28 (1) personal or facsimile delivery to the prospective
29 buyer;

30 (2) depositing the report with the United States Postal
31 Service, postage prepaid, first class mail, addressed to
32 the prospective buyer at the address provided by the
33 prospective buyer or indicated on the contract or other
34 agreement; or

1 (3) depositing the report with an alternative delivery
2 service such as Federal Express, UPS, or Airborne, delivery
3 charges prepaid, addressed to the prospective buyer at the
4 address provided by the prospective buyer or indicated on
5 the contract or other agreement.

6 For purposes of this Act, delivery to one prospective buyer
7 is deemed delivery to all prospective buyers. Delivery to an
8 authorized individual acting on behalf of a prospective buyer
9 constitutes delivery to all prospective buyers. Delivery of the
10 report is effective upon receipt by the prospective buyer.
11 Receipt may be acknowledged on the report, acknowledged in an
12 agreement for the conveyance of the residential real property,
13 or shown in any other verifiable manner.

14 Section 60. Violations and damages. If the seller fails or
15 refuses to provide the disclosure document prior to the
16 conveyance of the residential real property, the buyer has the
17 right to terminate the contract. A person who knowingly
18 violates or fails to perform any duty prescribed by any
19 provision of this Act or who discloses any information on the
20 Residential Real Property Tax Estimate Disclosure Report that
21 he or she knows to be false is liable in the amount of actual
22 damages and court costs, and the court may award reasonable
23 attorney fees incurred by the prevailing party.

24 Section 65. Limitation of actions. No action for violation
25 of this Act may be commenced later than one year from the
26 earlier of the date of possession, date of occupancy, or date
27 of recording of an instrument of conveyance of the residential
28 real property.

29 Section 70. Copy of Act; Report form. A copy of this Act,
30 excluding Section 40, must be printed on or as a part of the
31 Residential Real Property Tax Estimate Disclosure Report form.

32 Section 99. Effective date. This Act takes effect upon

1 becoming law.