

AN ACT concerning civil law.

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

Section 5. The Residential Real Property Disclosure Act is amended by changing Sections 5, 15, 20, 30, 35, 40, 45, 50, 55, and 65 as follows:

(765 ILCS 77/5)

Sec. 5. Definitions. As used in this Act, unless the context otherwise requires, the following terms have the meaning given in this Section: -

"Residential real property" means real property improved with not less than one nor more than 4 residential dwelling units; units in residential cooperatives; or, condominium units, including the limited common elements allocated to the exclusive use thereof that form an integral part of the condominium unit. The term includes a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code that is real property as defined in the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act.

"Seller" means every person or entity who:

(1) is a beneficiary of an Illinois land trust; or

(2) has an interest, legal or equitable, in

residential property as:

(i) an owner; 7

(ii) a beneficiary of a trust; 7

(iii) a beneficiary pursuant to testate disposition, intestate succession, or a transfer on death instrument; or

(iv) a contract purchaser or lessee of a ground lease, who has an interest (legal or equitable) in residential real property. However, "seller" shall not include any person who has both (i) never occupied the residential real property and (ii) never had the management responsibility for the residential real property nor delegated such responsibility for the residential real property to another person or entity.

"Seller" does not include a party to a transfer that is exempt under Section 15.

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

"Contract" means a written agreement by the seller and prospective buyer that would, subject to the satisfaction of any negotiated contingencies, require the prospective buyer to accept a transfer of the residential real property.

(Source: P.A. 98-749, eff. 7-16-14; 99-78, eff. 7-20-15.)

(765 ILCS 77/15)

Sec. 15. Seller exemptions. ~~The provisions of this Act do not apply to the following:~~ A seller in any of the following transfers is exempt from this Act, regardless of whether a disclosure report is delivered:

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

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

(3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. As used in this paragraph, "trust"

includes an Illinois land trust.

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

(5) Transfers from a decedent pursuant to testate disposition, ~~or~~ intestate succession, or a transfer on death instrument.

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

(7) Transfers from an entity that has taken title to residential real property from a seller for the purpose of assisting in the relocation of the seller, so long as the entity makes available to all prospective buyers a copy of the disclosure report form furnished to the entity by the seller.

(8) Transfers to or from any governmental entity.

(9) Transfers of newly constructed residential real property that has never ~~not~~ been occupied. This does not include rehabilitation of existing residential real property.

(Source: P.A. 88-111.)

(765 ILCS 77/20)

Sec. 20. Disclosure report requirements. A seller of residential real property shall complete all ~~applicable~~ items in the disclosure report document described in Section 35 ~~of this Act~~. The seller shall deliver to the prospective buyer the written disclosure report statement required by this Act

before the signing of a contract ~~written agreement by the seller and prospective buyer that would, subject to the satisfaction of any negotiated contingencies, require the prospective buyer to accept a transfer of the residential real property.~~

(Source: P.A. 88-111.)

(765 ILCS 77/30)

Sec. 30. Disclosure report supplement. If, prior to closing, any seller becomes aware ~~has actual knowledge~~ of an error, inaccuracy, or omission in any prior disclosure report or supplement ~~document~~ after delivery of that disclosure report or supplement ~~document~~ to a prospective buyer, that seller shall supplement the prior disclosure report or supplement ~~document~~ with a written supplemental disclosure, delivered by any method set forth in Section 50.

(Source: P.A. 90-383, eff. 1-1-98; 91-357, eff. 7-29-99.)

(765 ILCS 77/35)

Sec. 35. Disclosure report form. The disclosures required of a seller by this Act shall be made in the following form:

RESIDENTIAL REAL PROPERTY DISCLOSURE REPORT

NOTICE: THE PURPOSE OF THIS REPORT IS TO PROVIDE PROSPECTIVE BUYERS WITH INFORMATION ABOUT MATERIAL DEFECTS IN THE RESIDENTIAL REAL PROPERTY BEFORE THE SIGNING OF A CONTRACT. THIS REPORT DOES NOT LIMIT THE PARTIES' RIGHT TO

CONTRACT FOR THE SALE OF RESIDENTIAL REAL PROPERTY IN "AS IS" CONDITION. UNDER COMMON LAW, SELLERS WHO DISCLOSE MATERIAL DEFECTS MAY BE UNDER A CONTINUING OBLIGATION TO ADVISE THE PROSPECTIVE BUYERS ABOUT THE CONDITION OF THE RESIDENTIAL REAL PROPERTY EVEN AFTER THE REPORT IS DELIVERED TO THE PROSPECTIVE BUYER. COMPLETION OF THIS REPORT BY THE SELLER CREATES LEGAL OBLIGATIONS ON THE SELLER; THEREFORE THE SELLER MAY WISH TO CONSULT AN ATTORNEY PRIOR TO COMPLETION OF THIS REPORT.

Property Address: .....  
City, State & Zip Code: .....  
Seller's Name: .....

This Report is a disclosure of certain conditions of the residential real property listed above in compliance with the Residential Real Property Disclosure Act. This information is provided as of ...(month) ...(day) ...(year), ~~and does not reflect any changes made or occurring after that date or information that becomes known to the seller after that date.~~ The disclosures herein shall not be deemed warranties of any kind by the seller or any person representing any party in this transaction.

In this form, "~~am~~ aware" means to have actual notice or actual knowledge without any specific investigation or inquiry. In this form, "material defect" means a condition that would have a substantial adverse effect on the value of the residential real property or that would significantly impair the health or safety of future occupants of the

residential real property unless the seller reasonably believes that the condition has been corrected.

The seller discloses the following information with the knowledge that even though the statements herein are not deemed to be warranties, prospective buyers may choose to rely on this information in deciding whether or not and on what terms to purchase the residential real property.

The seller represents that to the best of his or her actual knowledge, the following statements have been accurately noted as "yes" (correct), "no" (incorrect), or "not applicable" to the property being sold. If the seller indicates that the response to any statement, except number 1, is yes or not applicable, the seller shall provide an explanation in the additional information area of this form.

YES NO N/A

1..... Seller has occupied the property within the last 12 months. (If "no," please identify capacity or explain relationship to property.) ~~(No explanation is needed.)~~

2..... I currently have flood hazard insurance on the property.

3 ~~2~~..... I am aware of flooding or recurring leakage problems in the crawl space or basement.

4 ~~3~~..... I am aware that the property is

located in a floodplain ~~flood plain or~~  
~~that I currently have flood hazard~~  
~~insurance on the property.~~

5 ~~4~~..... I am aware of material defects in  
the basement or foundation  
(including cracks and bulges).

6 ~~5~~..... I am aware of leaks or material  
defects in the roof, ceilings, or  
chimney.

7 ~~6~~..... I am aware of material defects in  
the walls, windows, doors, or floors.

8 ~~7~~..... I am aware of material defects in  
the electrical system.

9 ~~8~~..... I am aware of material defects in  
the plumbing system (includes  
such things as water heater, sump  
pump, water treatment system,  
sprinkler system, and swimming  
pool).

10 ~~9~~..... I am aware of material defects in  
the well or well equipment.

11 ~~10~~..... I am aware of unsafe conditions in  
the drinking water.

12 ~~11~~..... I am aware of material defects in  
the heating, air conditioning, or  
ventilating systems.

13 ~~12~~..... I am aware of material defects in  
the fireplace or woodburning  
stove.

14 ~~13~~..... I am aware of material defects in  
the septic, sanitary sewer, or  
other disposal system.

15 ~~14~~..... I am aware of unsafe concentrations  
of radon on the premises.

16 ~~15~~..... I am aware of unsafe concentrations  
of or unsafe conditions relating  
to asbestos on the premises.

17 ~~16~~..... I am aware of unsafe concentrations  
of or unsafe conditions relating  
to lead paint, lead water pipes,  
lead plumbing pipes or lead in  
the soil on the premises.

18 ~~17~~..... I am aware of mine subsidence,  
underground pits, settlement,  
sliding, upheaval, or other earth  
stability defects on the  
premises.

19 ~~18~~..... I am aware of current infestations  
of termites or other wood boring  
insects.

20 ~~19~~..... I am aware of a structural defect  
caused by previous infestations

of termites or other wood boring insects.

21 ~~20~~..... I am aware of underground fuel storage tanks on the property.

22 ~~21~~..... I am aware of boundary or lot line disputes.

23 ~~22~~..... I have received notice of violation of local, state or federal laws or regulations relating to this property, which violation has not been corrected.

24 ~~23~~..... I am aware that this property has been used for the manufacture of methamphetamine as defined in Section 10 of the Methamphetamine Control and Community Protection Act.

Note: These disclosures are not intended to cover the common elements of a condominium, but only the actual residential real property including limited common elements allocated to the exclusive use thereof that form an integral part of the condominium unit.

Note: These disclosures are intended to reflect the current condition of the premises and do not include previous problems, if any, that the seller reasonably believes have been corrected.

If any of the above are marked "not applicable" or "yes", please explain here or use additional pages, if necessary:

.....  
.....  
.....

Check here if additional pages used: .....

Seller certifies that seller has prepared this report statement and certifies that the information provided is based on the actual notice or actual knowledge of the seller without any specific investigation or inquiry on the part of the seller. The seller hereby authorizes any person representing any principal in this transaction to provide a copy of this report, and to disclose any information in the report, to any person in connection with any actual or anticipated sale of the property.

(This paragraph shall be printed in boldface type.) THE SELLER ACKNOWLEDGES THAT THE SELLER IS REQUIRED TO PROVIDE THIS DISCLOSURE REPORT TO THE PROSPECTIVE BUYER BEFORE THE SIGNING OF THE CONTRACT AND HAS A CONTINUING OBLIGATION, PURSUANT TO SECTION 30 OF THE RESIDENTIAL REAL PROPERTY DISCLOSURE ACT, TO SUPPLEMENT THIS DISCLOSURE PRIOR TO CLOSING.

Seller: ..... Date: .....

Seller: ..... Date: .....

THE PROSPECTIVE BUYER IS AWARE THAT THE PARTIES MAY CHOOSE TO NEGOTIATE AN AGREEMENT FOR THE SALE OF THE PROPERTY SUBJECT

TO ANY OR ALL MATERIAL DEFECTS DISCLOSED IN THIS REPORT ("AS IS"). THIS DISCLOSURE IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THAT THE PROSPECTIVE BUYER OR SELLER MAY WISH TO OBTAIN OR NEGOTIATE. (The remainder of this paragraph shall be printed in boldface type.) THE FACT THAT THE SELLER IS NOT AWARE OF A PARTICULAR CONDITION OR PROBLEM IS NO GUARANTEE THAT IT DOES NOT EXIST. THE PROSPECTIVE BUYER IS AWARE THAT THE PROSPECTIVE BUYER ~~HE~~ MAY REQUEST AN INSPECTION OF THE PREMISES PERFORMED BY A QUALIFIED PROFESSIONAL.

Prospective Buyer: ..... Date: ..... Time: ....

Prospective Buyer: ..... Date: ..... Time: ....

(Source: P.A. 98-754, eff. 1-1-15.)

(765 ILCS 77/40)

Sec. 40. Material defect.

(a) If a seller discloses a material defect in the Residential Real Property Disclosure Report, including a response to any statement that is answered "yes" except numbers 1 and 2, and, in violation of Section 20, it is delivered to the prospective buyer after all parties have signed a contract, the prospective buyer, within 5 business days after receipt of that report, may terminate the contract or other agreement with the return of all earnest money deposits or down payments paid by the prospective buyer in the transaction without any liability to or recourse by the seller. If a material defect is disclosed in the Residential

~~Real Property Disclosure Report, after acceptance by the prospective buyer of an offer or counter offer made by a seller or after the execution of an offer made by a prospective buyer that is accepted by the seller for the conveyance of the residential real property, then the prospective buyer may, within 3 business days after receipt of that report by the prospective buyer, terminate the contract or other agreement without any liability or recourse except for the return to prospective buyer of all earnest money deposits or down payments paid by prospective buyer in the transaction.~~

(b) If a seller discloses a material defect is disclosed in a supplement to this disclosure report document, the prospective buyer shall not have a right to terminate unless: (i) the material defect results from an error, inaccuracy, or omission of which the seller had actual knowledge at the time the prior disclosure document was completed and signed by the seller; (ii) the material defect is not repairable prior to closing; or (iii) the material defect is repairable prior to closing, but within 5 business days after the delivery of the supplemental disclosure, the seller declines, or otherwise fails to agree in writing, to repair the material defect.

(c) The right to terminate the contract, however, shall no longer exist after the conveyance of the residential real property. For purposes of this Act the termination shall be deemed to be made when written notice of termination is personally delivered to at least one of the sellers by any

method set forth in Section 50, at the contact information provided by any seller or indicated in the contract or other agreement. Nothing in subsection (a) or (b) shall limit the remedies available under the contract or Section 55 ~~identified in the contract or other agreement or when deposited, certified or registered mail, with the United States Postal Service, addressed to one of the sellers at the address indicated in the contract or agreement, or, if there is not an address contained therein, then at the address indicated for the residential real property on the report.~~

(Source: P.A. 90-383, eff. 1-1-98.)

(765 ILCS 77/45)

Sec. 45. Other law. This Act is not intended to limit remedies or modify any obligation to disclose created by any other statute or that may exist in common law in order to avoid fraud, misrepresentation, or deceit in the transaction.

(Source: P.A. 88-111.)

(765 ILCS 77/50)

Sec. 50. Delivery of disclosure report. Delivery of the Residential Real Property Disclosure Report provided by this Act shall be by:

(1) personal delivery or facsimile, email, or other electronic delivery to the prospective buyer at the contact information provided by the prospective buyer or

indicated in the contract or other agreement;

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

(3) depositing the report with an alternative delivery service such as Federal Express or ~~7~~ UPS, ~~or Airborne,~~ delivery charges prepaid, addressed to the prospective buyer at the address provided by the prospective buyer or indicated on the contract or other agreement.

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

(Source: P.A. 91-357, eff. 7-29-99.)

(765 ILCS 77/55)

Sec. 55. Violations and damages. If the seller fails or refuses to provide the disclosure report ~~document~~ prior to the conveyance of the residential real property, the prospective buyer shall have the right to terminate the contract. A seller

~~person~~ who knowingly violates or fails to perform any duty prescribed by any provision of this Act or who discloses any information on the Residential Real Property Disclosure Report that the seller ~~he~~ knows to be false shall be liable in the amount of actual damages and court costs, and the court may award reasonable attorney's ~~attorney~~ fees incurred by the prevailing party.

(Source: P.A. 90-383, eff. 1-1-98.)

(765 ILCS 77/65)

Sec. 65. A copy of Sections 5 through 65 of Article 2 of this Act, excluding Section 35, must be printed on or as a part of the Residential Real Property Disclosure Report form.

(Source: P.A. 88-111.)

Section 99. Effective date. This Act takes effect upon becoming law.

Public Act 102-0765

HB4322 Enrolled

LRB102 22898 LNS 32051 b

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Statutes amended in order of appearance

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