

1 HOUSE BILL NO. 415
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 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SEPTIC SYSTEM DISCLOSURE STATEMENT ON
 7 REAL ESTATE DOCUMENTS; PROVIDING FOR A SEPTIC SYSTEM MAINTENANCE EDUCATION
 8 PROGRAM; AND PROVIDING AN APPLICABILITY DATE."

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 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Septic
 13 System Disclosure Act".

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 15 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions
 16 apply:

17 (1) "Inhabitable real property" means any real property that includes a building affixed to land. The
 18 building must be designed to be primarily occupied by humans, either as a dwelling or as a place of business.

19 (2) "Septic system" means any system where sewage, including wastewater, is collected in a tank
 20 or disposed of within the boundaries of the inhabitable real property being offered for sale.

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 22 NEW SECTION. **Section 3. Septic system disclosure statement on real estate documents --**
 23 **disclosure of permit -- immunity from liability.** (1) A septic system disclosure statement must be provided
 24 prior to or contemporaneously with the purchase and sale of inhabitable real property served by a septic
 25 system. The seller shall provide the following disclosure statement to the buyer, and the buyer shall
 26 acknowledge receipt of this disclosure statement by signing a copy of the disclosure statement: "THIS
 27 PROPERTY INCLUDES A SEPTIC SYSTEM THAT COLLECTS, TREATS, AND DISPOSES OF SEWAGE. A
 28 POORLY MAINTAINED SEPTIC SYSTEM MAY MALFUNCTION, DAMAGING PROPERTY AND DEGRADING

1 WATER QUALITY. THE BUYER UNDERSTANDS THAT SEPTIC SYSTEMS REQUIRE REGULAR
 2 MAINTENANCE, REPAIR, AND POTENTIAL REPLACEMENT TO PROTECT PUBLIC HEALTH, WATER
 3 QUALITY, AND PRIVATE PROPERTY. IT IS THE BUYER'S OBLIGATION TO DETERMINE THE CONDITION
 4 OF THE SEPTIC SYSTEM. THE BUYER MAY HIRE A QUALIFIED INSPECTOR TO INSPECT THE SEPTIC
 5 SYSTEM AND ASSOCIATED INFRASTRUCTURE AND MAKE ANY CONTRACT CONTINGENT UPON THE
 6 RESULTS OF THAT INSPECTION."

7 (2) If the information is available, the seller shall provide for the disclosure to the buyer prior to the
 8 purchase of the inhabitable real property:

- 9 (a) the county permit for the septic system; and
- 10 (b) any other records of septic system and drainfield maintenance, repair, and location.

11 (3) The furnishing of information pursuant to subsection (2) is not to be construed as a promise,
 12 warranty, or representation of any sort by the seller as to the condition of the septic system. This section does
 13 not create a contingency on the purchase of the property or any right to rescind a contract for purchase unless
 14 the contingency or right to rescind is an express term of the applicable contract.

15 (4) The department of environmental quality shall implement education and outreach programs
 16 that increase public knowledge and understanding of the maintenance of septic systems.

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 18 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be
 19 codified as an integral part of Title 70, chapter 16, and the provisions of Title 70, chapter 16, apply to [sections
 20 1 through 3].

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 22 **NEW SECTION. Section 5. Applicability.** [This act] applies to offers for the purchase and sale of
 23 inhabitable real property made on or after [the effective date of this act].

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