

Amendment No. 372

Assembly Amendment to Assembly Bill No. 398 (BDR 10-812)
Proposed by: Assembly Committee on Commerce and Labor
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/BAW



Date: 4/12/2021

A.B. No. 398—Revises provisions relating to sales of residential property.
 (BDR 10-812)



ASSEMBLY BILL NO. 398—COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to sales of residential property.
(BDR 10-812)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to sales of residential property; providing that a seller’s agent ~~may~~ **shall** not complete a disclosure form regarding the residential property; providing that a seller’s agent is not liable to the purchaser under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, at least 10 days before residential property is conveyed to a
2 purchaser, the seller is required to complete and serve upon the purchaser a disclosure form
3 which provides an evaluation of the condition of any electrical, heating, cooling, plumbing
4 and sewer systems on the property, and of the condition of any other aspects of the property
5 which affect its use or value. The seller must indicate whether any of those systems or other
6 aspects of the property has a defect of which the seller is aware. (NRS 113.120, 113.130) This
7 bill provides explicitly that a seller’s agent ~~may~~ **shall** not complete the disclosure form on
8 behalf of the seller. This bill also provides that a seller’s agent is not liable to the purchaser if:
9 (1) the seller is aware of a defect and fails to disclose the defect to the purchaser on the
10 disclosure form as required; or (2) after service of the completed disclosure form but before
11 conveyance of the property to the purchaser, the seller discovers a new defect in the
12 residential property that was not identified on the completed disclosure form or discovers that
13 a defect identified on the completed disclosure form has become worse than was indicated on
14 the form and fails to inform the purchaser or the purchaser’s agent of that fact as required.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 113.130 is hereby amended to read as follows:
2 113.130 1. Except as otherwise provided in subsection 2:
3 (a) At least 10 days before residential property is conveyed to a purchaser:
4 (1) The seller shall complete a disclosure form regarding the residential
5 property; and

1 (2) The seller or the seller's agent shall serve the purchaser or the
2 purchaser's agent with the completed disclosure form.

3 *↳ A seller's agent ~~may~~ shall not complete a disclosure form regarding the*
4 *residential property on behalf of the seller.*

5 (b) If, after service of the completed disclosure form but before conveyance of
6 the property to the purchaser, a seller or the seller's agent discovers a new defect in
7 the residential property that was not identified on the completed disclosure form or
8 discovers that a defect identified on the completed disclosure form has become
9 worse than was indicated on the form, the seller or the seller's agent shall inform
10 the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable
11 after the discovery of that fact but in no event later than the conveyance of the
12 property to the purchaser. If the seller does not agree to repair or replace the defect,
13 the purchaser may:

14 (1) Rescind the agreement to purchase the property; or

15 (2) Close escrow and accept the property with the defect as revealed by the
16 seller or the seller's agent without further recourse.

17 *(c) A seller's agent is not liable to the purchaser for damages if:*

18 *(1) The seller is aware of a defect and fails to disclose the defect to the*
19 *purchaser on the disclosure form as required pursuant to paragraph (a); or*

20 *(2) After service of the completed disclosure form but before conveyance*
21 *of the property to the purchaser, the seller discovers a new defect in the*
22 *residential property that was not identified on the completed disclosure form or*
23 *discovers that a defect identified on the completed disclosure form has become*
24 *worse than was indicated on the form and fails to inform the purchaser or the*
25 *purchaser's agent of that fact as required pursuant to paragraph (b).*

26 *↳ The provisions of this paragraph do not affect, and must not be construed to*
27 *affect, the obligation of a seller's agent to comply with the provisions of*
28 *paragraph (a) of subsection 1 of NRS 645.252.*

29 2. Subsection 1 does not apply to a sale or intended sale of residential
30 property:

31 (a) By foreclosure pursuant to chapter 107 of NRS.

32 (b) Between any co-owners of the property, spouses or persons related within
33 the third degree of consanguinity.

34 (c) Which is the first sale of a residence that was constructed by a licensed
35 contractor.

36 (d) By a person who takes temporary possession or control of or title to the
37 property solely to facilitate the sale of the property on behalf of a person who
38 relocates to another county, state or country before title to the property is
39 transferred to a purchaser.

40 3. A purchaser of residential property may not waive any of the requirements
41 of subsection 1. A seller of residential property may not require a purchaser to
42 waive any of the requirements of subsection 1 as a condition of sale or for any other
43 purpose.

44 4. If a sale or intended sale of residential property is exempted from the
45 requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee
46 and the beneficiary of the deed of trust shall, not later than at the time of the
47 conveyance of the property to the purchaser of the residential property, or upon the
48 request of the purchaser of the residential property, provide:

49 (a) Written notice to the purchaser of any defects in the property of which the
50 trustee or beneficiary, respectively, is aware; and

51 (b) If any defects are repaired or replaced or attempted to be repaired or
52 replaced, the contact information of any asset management company who provided

1 asset management services for the property. The asset management company shall
2 provide a service report to the purchaser upon request.

3 5. As used in this section:

4 (a) "Seller" includes, without limitation, a client as defined in NRS 645H.060.

5 (b) "Service report" has the meaning ascribed to it in NRS 645H.150.

6 **Sec. 2.** This act becomes effective on July 1, 2021.