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LC002034

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES

Introduced By: Representatives Carson, and Handy

Date Introduced: February 28, 2019

Referred To: House Corporations

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-20.8-1 and 5-20.8-2 of the General Laws in Chapter 5-20.8
2 entitled "Real Estate Sales Disclosures" are hereby amended to read as follows:

3 **5-20.8-1. Definitions.**

4 When used in this chapter, unless the context indicates otherwise:

5 (1) "Agent" means any individual or entity acting on behalf of a seller or buyer to effect
6 the transfer of real estate. It includes listing agent, selling agent, buyer's agent, and their
7 respective brokers.

8 (2) "Agreement to transfer" means a purchase and sale agreement, installment sales
9 contract, option to purchase agreement or other agreement intended to effect the transfer of real
10 estate from a seller to a buyer.

11 (3) "Approved energy rater" means a vendor who evaluates the energy performance of a
12 building and provides an estimate of annual utility costs. The office of energy resources shall
13 create and maintain a list of approved energy raters who provide reliable annual utility cost
14 estimates.

15 (4) "Building" means a structure that uses energy and is designed or intended to be used
16 as a home, residence, sleeping place by one or more persons, workplace, storage facility, or to
17 enable activities;

18 ~~(3)~~(5) "Buyer" means any individual or entity seeking to obtain title to real estate from a

1 seller for consideration.

2 ~~(4)~~(6) "Closing" means the time at which real estate is transferred from seller to buyer
3 and consideration is delivered to the seller or to a settlement agent with the intention of imminent
4 delivery upon the recording of pertinent documents and other ministerial acts associated with
5 settlement.

6 ~~(5)~~(7) "Deficient conditions" means any land restrictions, defect, malfunction, breakage,
7 or unsound condition existing on, in, across or under the real estate of which the seller has
8 knowledge.

9 (8) "Owner" means any person who, alone or jointly or severally with others:

10 (i) Has legal title or tax title (pursuant to §§ 44-9-40 through 44-9-46) to any dwelling,
11 dwelling unit or structure with or without accompanying actual possession thereof; or

12 (ii) Has charge, care, or control of any dwelling, dwelling unit or structure as owner or
13 agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

14 Any person representing the actual owner in this way shall be bound to comply with the
15 provisions of this chapter and of rules and regulations adopted pursuant thereto to the same extent
16 as if he or she were the owner.

17 ~~(6)~~(9) "Real estate" means vacant land or real property and improvements consisting of a
18 house or building containing one to four (4) dwelling units.

19 ~~(7)~~(10) "Seller" means any individual or entity seeking to transfer title to real estate to a
20 buyer for consideration.

21 ~~(8)~~(11) "Transfer" means the sale or conveyance, exchange of, or option to purchase any
22 real estate.

23 **5-20.8-2. Disclosure requirements.**

24 (a) As soon as practicable, but in any event no later than prior to signing any agreement
25 to transfer real estate, the seller of the real estate shall deliver a written disclosure to the buyer
26 and to each agent with whom the seller knows he or she or the buyer has dealt in connection with
27 the real estate. The written disclosure shall comply with the requirements set forth in subsection

28 (b) of this section and shall state all deficient conditions of which the seller has actual knowledge.

29 The agent shall not communicate the offer of the buyer until the buyer has received a copy of the
30 written disclosure and signed a written receipt of the disclosure. If the buyer refuses to sign a
31 receipt pursuant to this section, the seller or agent shall immediately sign and date a written
32 account of the refusal. The agent is not liable for the accuracy or thoroughness of representations
33 made by the seller in the written disclosure or for deficient conditions not disclosed to the agent
34 by the seller.

1 (b)(1) The Rhode Island real estate commission may approve a form of written disclosure
2 as required under this chapter or the seller may use a disclosure form substantially conforming to
3 the requirements of this section. The following provisions shall appear conspicuously at the top of
4 any written disclosure form: "Prior to the signing of an agreement to transfer real estate (vacant
5 land or real property and improvements consisting of a house or building containing one to four
6 (4) dwelling units), the seller is providing the buyer with this written disclosure of all deficient
7 conditions of which the seller has knowledge. This is not a warranty by the seller that no other
8 defective conditions exist, which there may or may not be. The buyer should estimate the cost of
9 repair or replacement of deficient conditions prior to submitting an offer on this real estate. The
10 buyer is advised not to rely solely upon the representation of the seller made in this disclosure,
11 but to conduct any inspections or investigations which the buyer deems to be necessary to protect
12 his or her best interest." ~~Nothing contained in this section shall be construed to impose an~~
13 ~~affirmative duty on the seller to conduct inspections as to the condition of this real estate.~~

14 (2) The disclosure form shall include the following information:

15 (i) Seller Occupancy -- (Length of Occupancy)

16 (ii) Year Built

17 (iii) Basement -- (Seepage, Leaks, Cracks, etc. Defects)

18 (iv) Sump Pump -- (Operational, Location, and Defects)

19 (v) Roof (Layers, Age and Defects)

20 (vi) Fireplaces -- (Number, Working and Maintenance, Defects)

21 (vii) Chimney -- (Maintenance History, Defects)

22 (viii) Woodburning Stove -- (Installation Date, Permit Received, Defects)

23 (ix) Structural Conditions -- (Defects)

24 (x) Insulation -- (Wall, Ceiling, Floor, UFFI)

25 (xi) Termites or other Pests -- (Treatment Company)

26 (xii) Radon -- (Test, Company) "Radon has been determined to exist in the State of
27 Rhode Island. Testing for the presence of radon in residential real estate prior to purchase is
28 advisable."

29 (xiii) Electrical Service -- (Imp. & Repairs, Electrical Service, Amps, Defects)

30 (xiv) Heating System -- (Type, Imp. & Repairs, Underground Tanks, Zones,
31 Supplemental Heating, Defects)

32 (xv) Air Conditioning -- (Imp. & Repairs, Type, Defects)

33 (xvi) Plumbing -- (Imp. & Repairs, Defects)

34 (xvii) Sewage System -- (Assessment, Annual Fees, Type, Cesspool/Septic Location,

1 Last Pumped, Maintenance History, Defects)

2 "Potential purchasers of real estate in the state of Rhode Island are hereby notified that
3 many properties in the state are still serviced by cesspools as defined in Rhode Island general law
4 chapter 23-19.15 (The Rhode Island Cesspool Phase-Out Act of 2007). Cesspools are a
5 substandard and inadequate means of sewage treatment and disposal, and cesspools often
6 contribute to groundwater and surface water contamination. Requirements for abandonment and
7 replacement of high-risk cesspools as established in Rhode Island general law Chapter 23-19.15
8 are primarily based upon a cesspool's non-treatment of wastewater and the inherent risks to public
9 health and the environment due to a cesspool's distance from a tidal water area, or a public
10 drinking water resource. Purchasers should consult Rhode Island general law chapter 23-19.15 for
11 specific cesspool abandonment or replacement requirements. An inspection of property served by
12 an on-site sewage system by a qualified professional is recommended prior to purchase. Pursuant
13 to Rhode Island general law § 5-20.8-13, potential purchasers shall be permitted a ten (10) day
14 period to conduct an inspection of a property's sewage system to determine if a cesspool exists,
15 and if so, whether it will be subject to the phase-out requirements as established in Rhode Island
16 general law chapter 23-19.15.

17 (xviii) Water System -- (Imp. & Repairs, Type, Defects) Private water supply (well).
18 "The buyer understands that this property is, or will be served, by a private water supply (well)
19 which may be susceptible to contamination and potentially harmful to health. If a public water
20 supply is not available, the private water supply must be tested in accordance with regulations
21 established by the Rhode Island department of health pursuant to § 23-1-5.3. The seller of that
22 property is required to provide the buyer with a copy of any previous private water supply (well)
23 testing results in the seller's possession and notify the buyer of any known problems with the
24 private water supply (well)."

25 (xix) Domestic Hot Water -- (Imp. & Repairs, Type, Defects, Capacity of Tank)

26 (xx) Property Tax

27 (xxi) Easements and Encroachments -- The seller of that real estate is required to provide
28 the buyer with a copy of any previous surveys of the real estate that are in the seller's possession
29 and notify the buyer of any known easements, encroachments, covenants or restrictions of the
30 seller's real estate. If the seller knows that the real estate has a conservation easement or other
31 conservation or preservation restriction as defined in § 34-39-1 of the general laws, the seller is
32 required to disclose said information and provide the buyer with a copy of any documentation in
33 the seller's possession regarding the conservation and preservation restrictions. A buyer may
34 wish to have a boundary or other survey independently performed at his or her own expense.

1 (xxii) Deed -- (Type, Number of Parcels)

2 (xxiii) Zoning -- (Permitted use, Classification) "Buyers of real estate in the state of
3 Rhode Island are legally obligated to comply with all local real estate ordinances; including, but
4 not limited to, ordinances on the number of unrelated persons who may legally reside in a
5 dwelling, as well as ordinances on the number of dwelling units permitted under the local zoning
6 ordinances." If the subject property is located in a historic district, that fact must be disclosed to
7 the buyer, together with the notification that "property located in a historic district may be subject
8 to construction, expansion or renovation limitations. Contact the local building inspection official
9 for details."

10 (xxiv) Restrictions -- (Plat or Other)

11 (xxv) Building Permits

12 (xxvi) Minimum Housing -- (Violations)

13 (xxvii) Flood Plain -- (Flood Insurance)

14 (xxviii) Wetlands -- The location of coastal wetlands, bay, fresh water wetlands, pond,
15 marsh, river bank or swamp, as those terms are defined in chapter 1 of title 2 and the associated
16 buffer areas may impact future property development. The seller must disclose to the buyer any
17 such determination on all or part of the land made by the department of environmental
18 management.

19 (xxix) Multi-family or other Rental Property -- (Rental Income)

20 (xxx) Pools & Equipment -- (Type, Defects)

21 (xxxi) Lead Paint -- (Inspection) Every buyer of residential real estate built prior to 1978
22 is hereby notified that those properties may have lead exposures that may place young children at
23 risk of developing lead poisoning. Lead poisoning in young children may produce permanent
24 neurological damage, including learning disabilities, reduced IQ behavioral problems, and
25 impaired memory. The seller of that property is required to provide the buyer with a copy of any
26 lead inspection report in the seller's possession and notify the buyer of any known lead poisoning
27 problem. Environmental lead inspection is recommended prior to purchase.

28 (xxxii) Fire

29 (xxxiii) Hazardous Waste -- (Asbestos and Other Contaminants)

30 (xxxiv) Miscellaneous

31 (xxxv) Farms -- The disclosure shall inform the buyer that any farm(s) that may be in the
32 municipality are protected by the right to farm law

33 [\(xxxvi\) Annual Energy Cost Estimate.](#)

34 (c) Any agreement to transfer real estate shall contain an acknowledgement that a

1 completed real estate disclosure form has been provided to the buyer by the seller in accordance
2 with the provisions of this section.

3 (d) The Rhode Island real estate commission has the right to amend the seller disclosure
4 requirements by adding or deleting requirements when there is a determination that health, safety,
5 or legal needs require a change. Any change to requirements shall be a rule change, subject to the
6 Administrative Procedures Act, chapter 35 of title 42. The power of the commission to amend the
7 written disclosure requirements shall be liberally construed so as to allow additional information
8 to be provided as to the structural components, housing systems, and other property information
9 as required by this chapter.

10 SECTION 2. Chapter 5-20.8 of the General Laws entitled "Real Estate Sales Disclosures"
11 is hereby amended by adding thereto the following section:

12 **5-20.8-14. Annual energy cost estimate.**

13 Purpose. To protect consumers in the purchase of buildings through the disclosure of an
14 annual building energy cost estimate produced by an approved energy rater. This information
15 shall enable more knowledgeable decisions about the full costs of operating building
16 improvements that lower utility bills, reduce energy consumption, increase renewable energy
17 generation, improve financial security, reduce carbon emissions, and increase comfort, safety and
18 health for building occupants and owners. This section shall be liberally construed and applied to
19 promote its underlying purposes.

20 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES

- 1 This act would require sellers of real estate to provide buyers a disclosure of the annual
- 2 building energy cost estimate produced by an approved energy rater. The act would also impose
- 3 an affirmative duty on sellers to conduct inspections as to the condition of the real estate.
- 4 This act would take effect upon passage.

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