



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2011 Senate Bill 539

**Senate Substitute
Amendment 1**

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CURRENT LAW

Disclosure Documents Required for the Sale of Residential Real Property

Sale of all Residential Real Property, Ch. 709, Stats.

With certain exceptions, the statutes governing the sale of residential real property (ch. 709, Stats.) require an owner selling the property generally to provide disclosures to a prospective buyer through a real estate condition report. This report contains disclosures regarding the various conditions and other pieces of information of which the owner is aware. It is not required, however, if the owner is any of the following:

- A personal representative.
- A trustee.
- A conservator.
- A fiduciary who is appointed by, or subject to the supervision, of a court.

[s. 709.01 (2), Stats.]

The Sale of Condominiums, Ch. 703, Stats.

In addition to the disclosure requirements found in ch. 709, Stats., if the residential real property is a condominium, the owner must comply with the requirements in ch. 703, Stats., governing the sale of condominiums. One of the additional disclosure requirements is that the owner must furnish an

addendum to the real estate condition report (addendum). The addendum includes the executive summary,¹ as well as other various pieces of descriptive information regarding the condominium and the association fees and contact information. [s. 709.02 (2), Stats.] However, the owner is required to provide an addendum even if the owner is exempt from providing a real estate condition report as described in the previous section.

Under ch. 703, Stats., a condominium with no more than 12 units (small condominium) directs the owner to provide a shortened addendum without an executive summary. [s. 703.365 (8), Stats.] However, ch. 709, Stats., still requires an owner to provide the executive summary.

Cancelation of a Condominium Sales Contract With Incomplete Disclosure Documents

Section 703.33 (4) (b), Stats., states that when a condominium purchaser receives an *incomplete* set of disclosure documents in the addendum, the purchaser may rescind a condominium sales contract in writing, without stating any reason and without any liability as follows:

- If the purchaser does not give notice requesting the missing documents, within five business days following the receipt of the incomplete disclosure documents.
- If the purchaser gives notice requesting the missing documents, either within five business days following the receipt of the requested documents or the deadline for receipt, whichever is earlier.

These timelines are discretionary, not mandatory.

2011 SENATE BILL 539

2011 Senate Bill 539 (the bill) makes the following changes to the disclosure documents required for condominium sales:

- Clarifies that if the owner selling a condominium unit is not required to provide a real estate condition report, then he or she is also not required to provide an addendum to the report.
- Clarifies that the owner selling a small condominium is not required to provide an executive summary in the addendum.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 (SSA1) to the bill retains all of the provisions in the bill, and also specifies that if a condominium seller provides an incomplete set of disclosure documents the purchaser may rescind the contract under the specified procedures, but if not rescinded within the given

¹ The executive summary must include the following information or location where the materials may be found: condominium identification; expansion plans; governance; special amenities; maintenance and repair of units; maintenance, repair, and placement of common elements; rental of units; unit alterations; parking; pets; reserves; fees on new units; amendments; and other restrictions or features. [s. 703.33 (1) (h), Stats.]

timeline, the right to rescind on the basis of incomplete disclosure is terminated. This provision first applies to sales contracts that are entered into on the effective date of the bill.

LEGISLATIVE HISTORY

Senate Bill 539 was introduced on March 2, 2012, by Senators Grothman and Darling. On March 9, 2012, the Senate Committee on Financial Institutions and Rural Issues introduced and adopted the substitute amendment, and recommended passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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