

2017 DRAFTING REQUEST**Bill**For: **Cody Horlacher (608) 266-5715**Drafter: **fknepp**By: **Anna**Secondary Drafters: **kpaczusk**Date: **10/9/2017**

May Contact:

Same as LRB: **-5009**Submit via email: **YES**Requester's email: **Rep.Horlacher@legis.wisconsin.gov**Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov****konrad.paczuski@legis.wisconsin.gov****Pre Topic:**

No specific pre topic given

Topic:

Real estate condition report forms

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 10/16/2017	eweiss 10/17/2017			
/P1	fknepp 11/6/2017		dwalker 10/17/2017		
/P2	fknepp 11/22/2017	eweiss 11/8/2017	mbarman 11/8/2017		
/P3	fknepp 12/5/2017	eweiss 11/28/2017	dwalker 11/28/2017		
/P4	fknepp	eweiss	dwalker		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	12/7/2017	12/5/2017	12/5/2017		
			dwalker 12/7/2017	dwalker 12/7/2017	

FE Sent For:

<END>

*Not
Needed*

Real Estate Condition Report and Home Inspector Definition of Defect

Condition Report Objective: To create a user-friendly and organized real estate condition report, it is recommended to reformat the statute so that disclosures of a similar nature are near each other. This improved format will also lessen the need for sellers to require clarification from the real estate licensee or attorney as to the objective of the question. For drafting, it is **recommended to repeal the form portions of Wis. Stat. § 709.03** (pages 1-7 of this document) **and Wis. Stat. § 709.033** (pages 8-14 of this document) relating to vacant land disclosure **and replace the language with the information below.**

Consistency of Defect Definition: To create definition of defect in the home inspector report that compliments and creates more consistency in the definition of defect used in the condition report and offer to purchase. Therefore, it is proposed to modify the home inspector statute to substantially matching the definition of "defect" in the home inspector report and to authorize any necessary administrative rule changes to be made so consistency exists in statute and rule as to the definition and inspection report. **See page 15 of this document for recommended language changes.**

Effective Date: July 1, 2018

Wis. Stat. 709.03 Residential real estate condition report form. The report required under s. 709.02 with respect to real property as defined in s. 709.001 (5)(a) shall be in substantially the following form and shall include at least all of the following information:

REAL ESTATE CONDITION REPORT

DISCLAIMER

THIS CONDITION REPORT CONCERNS THE REAL PROPERTY LOCATED AT _____ IN THE _____ (CITY) (VILLAGE) (TOWN) OF _____, COUNTY OF _____, STATE OF WISCONSIN. THIS REPORT IS A DISCLOSURE OF THE CONDITION OF THAT PROPERTY IN COMPLIANCE WITH SECTION 709.02 OF THE WISCONSIN STATUTES AS OF _____ (MONTH), _____ (DAY), _____ (YEAR). IT IS NOT A WARRANTY OF ANY KIND BY THE OWNER OR ANY AGENTS REPRESENTING ANY PARTY IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THAT THE PARTIES MAY WISH TO OBTAIN.

A buyer who does not receive a fully completed copy of this report within 10 days after the acceptance of the contract of sale or option contract for the above-described real property shall have the right to rescind that contract (Wis. Stats. Section 709.02), provided the owner is subject to Wisconsin Statutes chapter 709.

NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS

Real estate licensees may not provide advice or opinions concerning whether or not an item is a defect for the purposes of this report, the legal rights or obligations of parties to a transaction. The parties may wish to obtain professional advice or inspections of the property and to include appropriate provisions in a contract between them with respect to any advice, inspections, defects or warranties.

A. OWNER'S INFORMATION

A1. In this form, "aware" means the "owner(s)" have notice or knowledge.

A2. In this form, "defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that

if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

A3. In this form, "owner" means that person or those persons, or the entity or organization, which is the owner of the above-described real property.

"Owners" who transfer real estate containing one to four dwelling units, including a condominium unit and time-share property by sale, exchange or land contract are required to complete this report.

Exceptions: "Owners" who are personal representatives, trustees, conservators and fiduciaries appointed by or subject to supervision by a court, and who have never occupied the property transferred are not required to complete this report. Owners who transfer property which has not been inhabited or who transfer property by conveyance exempt from the real estate transfer fee are not required to complete this report. (Wis. Stat. § 709.01)

A4. The owner represents that to the best of his or her knowledge the responses to the following questions have been accurately checked as "yes", "no" or "not applicable (N/A)" to the property being sold. If the owner responds to any question with "yes", the owner shall provide, in the additional information area of this form, an explanation of the reason why the response to the question is "yes".

A5. If the transfer is of a condominium unit, the property to which this form applies is the condominium unit, the common elements of the condominium and any limited common elements that may be used only by the owner of the condominium unit being transferred.

A6. The owner discloses the following information with the knowledge that, even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the property. The owner hereby authorizes his or her agents and the agents of any prospective buyer 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.

CAUTION: The lists of possible types of defects following each question below are examples only and are not the only defects which might properly be disclosed in response to each respective question.

Check Yes No N/A

B. STRUCTURAL AND MECHANICAL

B1. Are you aware of defects in the roof?

Roof defects might include items such as leakage, or significant problems with gutters or eaves.

B2. Are you aware of defects in the electrical system?

Electrical defects might include items such as electrical wiring not in compliance with applicable code, knob and tube wiring, 60 amp service, or aluminum-branch circuit wiring.

B3. Are you aware of defects in part of the plumbing system (including the water heater, water softener and swimming pool) that is included in the sale?

Other plumbing system defects might include items such as leaks or defects in pipes, toilets, interior or exterior faucets, bathtubs, showers, or any sprinkler system.

B4. Are you aware of defects in the heating and air conditioning system (including the air filters and humidifiers)?

Heating and air conditioning defects might include items such as defects in the heating ventilation, and air conditioning (HVAC) equipment, supplemental heaters, ventilating fans or fixtures, or solar collectors.

B5. Are you aware of defects in woodburning stove or fireplace or other defects caused by a fire in a stove or fireplace or elsewhere on the property?

Such defects might include items such as defects in the chimney, fireplace flue, inserts or other installed fireplace equipment; or woodburning stoves not installed pursuant to applicable code.

B6. Are you aware of defects relative so smoke detectors or carbon monoxide detectors or a violation of applicable state or local smoke detector or carbon monoxide detector laws?

NOTE: State law requires operating smoke detectors on all levels of all residential properties, and operating carbon monoxide detectors on all levels of most residential properties (see Wis. Stat. § § 101.149 & 101.647).

B7. Are you aware of defects in the basement or foundation (including cracks, seepage and bulges)?

Other basement defects might include items such as flooding, or defects in drain tiling or sump pumps, movement, shifting, or deterioration in the foundation.

B8. Are you aware of defects in the structure of the property?

Structural defects with respect to the residence or other improvements might include items such as movement, shifting or deterioration in walls; major cracks or flaws in interior or exterior walls, partitions or foundation; wood rot, and significant problems with driveways, sidewalks, patios, decks, fences, waterfront piers or walls, windows, doors, floors, ceilings, stairways or insulation.

B9. Are you aware of defects in mechanical equipment included in the sale either as fixtures or personal property?

Mechanical equipment defects might include items such as defects in any appliance central vacuum, garage door opener, in-ground sprinkler, in-ground pet containment system, which is included in the sale.

B10. Are you aware of rented items located on the property such as a water softener or other water condition systems or other item affixed to or closely associated with the property?

B12. Explanation of "yes" responses _____

C. ENVIRONMENTAL

C1. Are you aware of the presence of unsafe levels of mold, or roof, basement, window or plumbing leaks or overflow from sinks, bathtubs or sewers, or other water or moisture intrusions or conditions?

C2. Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, high voltage electric (100 KV or grater) or steel natural gas transmission lines located on but not directly serving the property, lead in paint, lead in soil, or other potentially hazardous or toxic substances on the premises?

NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.

C3. Are you aware of the presence of asbestos or asbestos-containing materials on the premises?

C4. Are you aware of unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic substances on neighboring properties?

C5. Are you aware of a defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic substances on neighboring properties?

Such defects might include items such as environmental hazards resulting from an adjacent or nearby dump, gas station, or commercial/industrial business which improperly uses/handles toxic substances.

C6. Are you aware of current or previous termite, powder-post beetle or carpenter ant infestations or defects caused by animal, reptile, or insect infestations?

C7. Are you aware of water quality issues caused by unsafe concentrations of, unsafe conditions relating to lead?

C8. Are you aware of the manufacture of methamphetamine or other hazardous or toxic substances on the property?

C9. Explanation of "yes" responses

D. WELL, SEPTIC AND STORAGE TANKS

D1. Are you aware of defects in the well, including unsafe well water?

Well defects might include items such as an unused well not properly closed in conformance with state regulations, a well which was not constructed pursuant to state standards or local code, or a well which requires modifications to bring it into compliance with current code specifications. Well water defects might include, but are not limited to, unsafe levels of bacteria (total Coliform and E. coli), nitrate, arsenic or other substance affecting human consumption safety.

D2. Are you aware of a joint well serving this property?

D3. Are you aware of a defect relating to the joint well serving this property?

D4. Are you aware of a septic system or other private sanitary disposal system serves this property?

D5. Are you aware of defects in the septic system or other private sanitary disposal system on the property or any out-of-service septic system that is not closed or abandoned according to applicable regulations?

Septic system defects might include items such as back-ups in toilets or in the basement; exterior ponding, overflows or back-ups; or defective or missing baffles.

D6. Are you aware of underground or aboveground fuel storage tanks on or previously located on the property? (If "yes," the owner, by law, may have to register the tanks with the Wisconsin Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708, whether the tanks are in use or not. Regulations of the Wisconsin Department of Agriculture, Trade and Consumer Protection may require the closure or removal of unused tanks

D7. Are you aware of defects in the underground or aboveground fuel storage tanks on or previously located on the property?

Defects in underground or aboveground fuel storage tanks might include items such as abandoned tanks not closed in conformance with applicable local, state and federal law; leaking, corrosion, or failure to meet operating standards.

D8. Are you aware of an "LP" tank on the property? (If "yes", specify in the additional information space whether the owner of the property either owns or leases the tank)

D9. Are you aware of defects in the "LP" tank on the property?

D10. Explanation of "yes" responses _____

E. TAXES, SPECIAL ASSESSMENTS, PERMITS, ETC.

E1. Have you received notice of property tax increases, other than normal annual increases, or are you aware of a pending property reassessment?

E2. Are you aware that remodeling that may increase the property's assessed value was done?

E3. Are you aware of pending special assessments?

E4. Are you aware of the property being located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district?

E5. Are you aware of any proposed construction of a public project that may affect the use of the property?

E6. Are you aware of remodeling affecting the property's structure or mechanical systems that was done or additions to this property that were made during your period of ownership without the required permits?

E7. Are you aware of any land division involving the property for which required state or local permits was not obtained?

E8. Explanation of "yes" responses _____

F. LAND USE

F1. Are you aware of the property being part of or subject to any subdivision homeowners' associations?

F2. Are you aware of common areas associated with the property that are co-owned with others?

F3. Are you aware of any zoning code violations with respect to the property?

F4. Are you aware of the property or any portion of the property being located in a floodplain, wetland or shoreland zoning area?

F5. Are you aware of nonconforming uses of the property?

A nonconforming use is a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.

F6. Are you aware of conservation easements on the property?

A conservation easement is a legal agreement in which a property owner conveys some of the rights associated with ownership of his/her property to an easement holder such as a governmental unit or a qualified nonprofit organization to protect the natural habitat of fish, wildlife or plants or similar ecosystem, preserve areas for outdoor recreation or education, or for similar purposes.

F7. Are you aware of restrictive covenants or deed restrictions on the property?

F8. Are you aware of nonowners having rights to use part of the property, including, but not limited to, rights-of-way, easements other than recorded utility easements?

F9. Are you aware of the property being subject to a mitigation plan required under administrative rules of the Wisconsin Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county?

F10. The use value assessment system values agricultural land based on the income that would be generated from its rental for agricultural rather than its fair market value. When a person converts agricultural land to a non- agricultural use (e.g. residential or commercial development), that person may owe a conversation charge. For more information visit <https://www.revenue.wi.gov/Pages/FAQS/slf-useassmt.aspx> or (608) 266-2486.

- a. Are you aware of all or part of the land having been assessed as agricultural land under Wis. Stat. § 70.32(2r) (use value assessment)?
- b. Are you aware of the property having been assessed a use-value assessment conversation charge relating to this property? (Wis. Stat. § 74.485(2))
- c. Are you aware of the payment of a use-value assessment conversation charge having been deferred relating to this property? (Wis. Stat. § 74.485(5))

Early termination of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee equal to 3 times the class 1 “use value” of the land. Visit https://datcp.wi.gov/Pages/Programs_Services/FarmlandPreservation.aspx for more information.

F14. Is all, or part of the property is subject to, enrolled in, or in violation of the Forest Crop Law, Managed Forest Law, the Conservation Reserve Program or a comparable program?

F15. Are you aware of a dam that is totally or partially located on the property or that an ownership in a dam that is not located on the property will be transferred with the property because it is owned collectively by members of a homeowners association, lake district, or similar group? (If “yes,” contact the Wisconsin Department of Natural Resources to find out if dam transfer requirements or agency orders apply.)

F16. Are you aware of boundary or lot line disputes, encroachments or encumbrances (including a joint driveway) affecting the property?

Encroachments often involve some type of physical object belonging to one person but partially located on or overlapping on land belonging to another; such as, without limitation, fences, houses, garages, driveways, gardens and landscaping. Encumbrances include, without limitation, a right or claim of another to a portion of the property or to the use of the property such as a joint driveway, liens, and licenses.

F17. Are you aware there is not legal access to the property?

F18. Are you aware of federal, state or local regulations requiring repairs, alterations or corrections of an existing condition?

This might include items such as orders to correct building code violations.

F19. Are you aware of a pier attached to the property is not in compliance with state or local pier regulations? See <http://dnr.wi.gov/topic/Waterways/information>.

F20. Are you aware of one or more burial sites on the property? (For information regarding the presence, preservation, and potential disturbance of burial sites, contact the Wisconsin Historical Society at 800-342-7834 or www.wihist.org/burial-information.)

F21. Explanation of “yes” responses _____

G. ADDITIONAL INFORMATION

G1. Have you filed any insurance claims relating to damage to this property or premises within the last five years?

G2. Are you aware of a structure on the property that is designated as a historic building or that part of the property is in a historic district?

G3. Are you aware of other defects affecting the property?

Other defects might include items such as drainage easement or grading problems; excessive sliding, settling, earth movements, upheavals, or any other defect or material condition.

G4. The owner has owned the property for _____ years.

G5. The owner has lived in the property for _____ years.

G6. Explanation of "yes" responses _____

OWNERS' CERTIFICATION

NOTE: Wisconsin Statute § 709.035 requires owners who, prior to acceptance of a purchase contract or an option to purchase, obtain information which would change a response on this report, to submit a new report or an amended report to the prospective buyer.

The owner certifies that the information in this report is true and correct to the best of the owner's knowledge as of the date on which the owner signs this report.

Owner _____ Date _____
Owner _____ Date _____
Owner _____ Date _____
Owner _____ Date _____

CERTIFICATION BY PERSON SUPPLYING INFORMATION

A person other than the owner certifies that he or she has supplied information on which the owner relied for this report and that that information is true and correct to the best of that person's knowledge as of the date on which the person signs this report.

Person _____ Items _____ Date _____
Person _____ Items _____ Date _____
Person _____ Items _____ Date _____
Person _____ Items _____ Date _____

BUYER'S ACKNOWLEDGEMENT

The prospective buyer acknowledges that technical knowledge such as that acquired by professional inspectors may be required to detect certain defects such as the presence of asbestos, building code violations and floodplain status.

I acknowledge receipt of a copy of this statement.

Prospective buyer _____ Date _____
Prospective buyer _____ Date _____
Prospective buyer _____ Date _____
Prospective buyer _____ Date _____

Wis. Stat. 709.333 Vacant land disclosure report form.

The report required under s. 709.02 with respect to real property as defined in s. 709.001 (5)(b) shall be in substantially the following form and shall include at least all of the following information:

VACANT LAND DISCLOSURE REPORT

DISCLAIMER

THIS DISCLOSURE REPORT CONCERNS THE REAL PROPERTY LOCATED AT IN THE (CITY) (VILLAGE) (TOWN) OF, COUNTY OF, STATE OF WISCONSIN. THIS REPORT IS A DISCLOSURE OF THE CONDITION OF THAT PROPERTY IN COMPLIANCE WITH SECTION 709.02 OF THE WISCONSIN STATUTES AS OF (MONTH), (DAY), (YEAR). IT IS NOT A WARRANTY OF ANY KIND BY THE OWNER OR ANY AGENTS REPRESENTING ANY PARTY IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THAT THE PARTIES MAY WISH TO OBTAIN.

A buyer who does not receive a fully completed copy of this report within 10 days after the acceptance of the contract of sale or option contract for the above-described real property shall have the right to rescind that contract (Wis. Stats. Section 709.02), provided the owner is subject to Wisconsin Statutes chapter 709.

NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS

Real estate licensees may not provide advice or opinions concerning whether or not an item is a defect for the purposes of this report the legal rights or obligations of parties to a transaction. The parties may wish to obtain professional advice or inspections of the property and to include appropriate provisions in a contract between them with respect to any advice, inspections, defects or warranties.

A. OWNER'S INFORMATION

A1. In this form, "aware" means the "owner(s)" have notice or knowledge.

A2. In this form, "defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

A3. In this form, "owner" means that person or those persons, or the entity or organization, which is the owner of the above-described real property.

"Owners" who transfer real estate containing one to four dwelling units, including a condominium unit and time-share property by sale, exchange or land contract are required to complete this report.

Exceptions: "Owners" who are personal representatives, trustees, conservators and fiduciaries appointed by or subject to supervision by a court, and who have never occupied the property transferred are not required to complete this report. Owners who transfer property which has not been inhabited or who transfer property by conveyance exempt from the real estate transfer fee are not required to complete this report. (Wis. Stat. § 709.01)

A4. The owner represents that to the best of his or her knowledge the responses to the following questions have been accurately checked as "yes", "no" or "not applicable (N/A)" to the property being sold. If the owner responds to any question with "yes", the owner shall provide, in the additional information area of this form, an explanation of the reason why the response to the question is "yes".

A5. If the transfer is of a condominium unit, the property to which this form applies is the condominium unit, the common elements of the condominium and any limited common elements that may be used only by the owner of the condominium unit being transferred.

A6. The owner discloses the following information with the knowledge that, even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the property. The owner hereby authorizes his or her agents and the agents of any prospective buyer 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.

CAUTION: The lists of possible types of defects following each question below are examples only and are not the only defects which might properly be disclosed in response to each respective question.

Check Yes No N/A

B. ENVIRONMENTAL

B1. Are you aware of a material violation of an environmental rule or other rule or agreement regulating the use of the property?

B2. Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the property, lead in soil, or other potentially hazardous or toxic substances on the premises?

B3. Are you aware of the manufacture of methamphetamine or other hazardous or toxic substances on the property?

B4. Are you aware of subsoil conditions that would significantly increase the cost of development, including, but not limited to, subsurface foundations or waste material; any type of fill; dumpsites where pesticides, herbicides, fertilizer, or other toxic or hazardous materials or containers for these materials were disposed of in violation of manufacturer or government guidelines or other laws regulating such disposal; high groundwater; adverse soil conditions, such as low load-bearing capacity, earth or soil movement, settlement, upheavals, or slides; excessive rocks or rock formations or other soil problems?

B5. Are you aware of a defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic substances on neighboring properties?

B6. Are you aware of brownfields (abandoned, idled, or underused land that may be subject to environmental contamination) or other contaminated land on the property, or that contaminated soils on the property have been cleaned up under the Petroleum Environmental Cleanup Fund Act (PECFA), a Wisconsin Department of Natural Resources (DNR) remedial or cleanup program, the DATCP Agricultural Chemical Cleanup Program, or other similar program?

B7. Explanation of "yes" responses. _____

C. WELL, SEPTIC, STORAGE TANK

C1. Are you aware of underground storage tanks presently or previously on the property for storage of flammable or combustible liquids, including, but not limited to, gasoline or heating oil. (If "yes," the owner, by law, may have to register the tanks with the Wisconsin Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708, whether the tanks are in use or not. Regulations of the Wisconsin Department of Agriculture, Trade and Consumer Protection may require the closure or removal of unused tanks?)

C2. Are you aware of defects in the underground or aboveground fuel storage tanks on or previously located on the property?

Defects in underground or aboveground fuel storage tanks might include items such as abandoned tanks not closed in conformance with applicable local, state and federal law; leaking, corrosion, or failure to meet operating standards.

C3. Are you aware of defects in any well, including unsafe well water due to contaminants such as coliform, nitrates, or atrazine, or any out-of-service wells or cisterns that are required to be abandoned (see s. NR 812.26, Wis. Adm. Code) but that are not closed or abandoned according to applicable regulations?

C4. Are you aware of a joint well serving this property?

C5. Are you aware of a defect relating to the joint well serving this property?

C6. Are you aware of defects in any septic system or other private sanitary disposal system on the property or any out-of-service septic system that is not closed or abandoned according to applicable regulations that serves this property?

C7. Explanation of "yes" responses. _____

D. TAXES, SPECIAL ASSESSMENTS, PERMITS, ETC.

D1. Have you received notice of property tax increase, other than normal annual increases or are you aware of pending property tax reassessment?

D2. Are you aware of proposed or pending special assessments?

D3. Are you aware of the property being located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district?

D4. Are you aware of any proposed construction of a public project that may affect the use of the property?

D5. Are you aware of any land division involving the property for which required state or local permits was not obtained?

D6. Are you aware of impact fees or another condition or occurrence that would significantly increase development costs or reduce the value of the property to a reasonable person with knowledge of the nature and scope of the condition or occurrence?

D7. Are you aware of proposed, planned, or commenced public improvements or public construction projects that may result in special assessments or that may otherwise materially affect the property or the present use of the property?

D8. Explanation of "yes" responses. _____

E. LAND USE

E1. Are you aware of the property being part of or subject to any subdivision homeowners' associations?

E2. Are you aware of common areas associated with the property that are co-owned with others?

E3. Are you aware that all or a portion of the property is in a floodplain, wetland, or shoreland zoning area under local, state, or federal regulations?

E4. Are you aware of any zoning code violations with respect to the property?

E5. Are you aware of the property or any portion of the property being located in a floodplain, wetland or shoreland zoning area?

E6. Are you aware of nonconforming uses of the property?

A nonconforming use is a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.

E7. Are you aware of conservation easements on the property?

A conservation easement is a legal agreement in which a property owner conveys some of the rights associated with ownership of his/her property to an easement holder such as a governmental unit or a qualified nonprofit organization to protect the natural habitat of fish, wildlife or plants or similar ecosystem, preserve areas for outdoor recreation or education, or for similar purposes.

E8. Are you aware of restrictive covenants or deed restrictions on the property?

E9. Are you aware of nonowners having rights to use part of the property, including, but not limited to, rights-of-way, easements other than recorded utility easements?

E10. Are you aware of the property being subject to a mitigation plan required under administrative rules of the Wisconsin Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county?

E11. The use value assessment system values agricultural land based on the income that would be generated from its rental for agricultural rather than its fair market value. When a person converts agricultural land to a non- agricultural use (e.g. residential or commercial development), that person may owe a conversation charge. For more information visit

<https://www.revenue.wi.gov/Pages/FAQS/slf-useassmt.aspx> or (608) 266-2486.

- a. Are you aware of all or part of the land having been assessed as agricultural land under Wis. Stat. § 70.32(2r) (use value assessment)?
- b. Are you aware of the property having been assessed a use-value assessment conversation charge relating to this property? (Wis. Stat. § 74.485(2))
- c. Are you aware of the payment of a use-value assessment conversation charge having been deferred relating to this property? (Wis. Stat. § 74.485(5))

E14. Is the property subject to or in violation of a farmland preservation agreement?

Early termination of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee equal to 3 times the class 1 "use value" of the land. Visit https://datcp.wi.gov/Pages/Programs_Services/FarmlandPreservation.aspx for more information.

E15. Is all, or part of the property is subject to, enrolled in, or in violation of the Forest Crop Law, Managed Forest Law, the Conservation Reserve Program or a comparable program?

E16. Are you aware of a dam that is totally or partially located on the property or that an ownership in a dam that is not located on the property will be transferred with the property because it is owned collectively by members of a homeowners association, lake district, or similar group? (If "yes," contact the Wisconsin Department of Natural Resources to find out if dam transfer requirements or agency orders apply.)

E17. Are you aware of boundary or lot line disputes, encroachments or encumbrances (including a joint driveway) affecting the property?

Encroachments often involve some type of physical object belonging to one person but partially located on or overlapping on land belonging to another; such as, without limitation, fences, houses, garages, driveways, gardens and landscaping. Encumbrances include, without limitation, a right or claim of another to a portion of the property or to the use of the property such as a joint driveway, liens, and licenses.

E18. Are you aware there is not legal access to the property?

E19. Are you aware of a pier attached to the property is not in compliance with state or local pier regulations? See <http://dnr.wi.gov/topic/Waterways/information>.

E20. Are you aware of one or more burial sites on the property? (For information regarding the presence, preservation, and potential disturbance of burial sites, contact the Wisconsin Historical Society at 800-342-7834 or www.wihist.org/burial-information.)

E21. Are you aware of archeological artifacts, mineral rights, orchards, or endangered species on the property?

E22. Are you aware of existing or abandoned manure storage facilities located on the property?

E23. Are you aware if any or all of the property is enrolled in the managed forest land?

The managed forest land program is a landowner incentive program that encourages sustainable forestry on private woodlands by exempting the landowner from the payment of property taxes in exchange for the payment of a lower acreage share payment and compliance with certain conservation practices. Orders designating lands as managed forest lands remain in effect for 25 or 50 years. When ownership of land enrolled in the managed forest land program changes, the new owner must sign and file a report of the change of ownership on a form provided by the Wisconsin Department of Natural Resources (DNR) and pay a fee. By filing this form, the new owner agrees to comply with the management plan for the land and the managed forest land program rules. The DNR Division of Forestry monitors forest management plan compliance. Changes that a landowner makes to property that is subject to an order designating it as managed forest land, or to its use, may jeopardize benefits under the program or cause the property to be withdrawn from the program and may result in the assessment of penalties. For more information, call your local DNR forester or visit: <http://dnr.wi.gov/forestry>.

E24. Are you aware of a land division or subdivision for which the required state or local approvals were not obtained?

Explanation of "yes" responses. _____

F. ADDITIONAL INFORMATION

F1. Are you aware of high voltage electric (100 kilovolts or greater) or steel natural gas transmission lines located on, but not directly serving, the property?

F2. Are you aware of flooding, standing water, drainage problems, or other water problems on or affecting the property?

F3. Are you aware of material damage from fire, wind, flood, earthquake, expansive soil, erosion, or landslide?

F4. Are you aware of significant odor, noise, water diversion, water intrusion, or other irritants emanating from neighboring property?

F5. Are you aware of significant crop damage from disease, insects, soil contamination, wildlife, or other causes; diseased or dying trees or shrubs; or substantial injuries or disease in livestock on the property or neighboring property?

F6. Utility Connections. Are you aware that the property is connected to the following utilities on the property or at the lot line? (if "yes," indicate where the utility is located).

- a. Electricity _____
- b. Municipal water _____
- c. Telephone _____
- d. Cable television _____
- e. Natural gas _____
- f. Municipal sewer _____

F7. Are you aware of other defects affecting the property?

Other defects might include items such as animal, reptile or insect infestation; invasive species affecting waterways, such as plants; drainage easement or grading problems; excessive sliding, settling, earth movements, upheavals or other soil problems; deed restriction violations; or any other defect or material condition.

F8. Are you aware of a government agency, court order, or federal, state, or local regulations requiring repair, alteration, or correction of an existing condition?

F9. The owner has owned the property for _____ years.

F10. Explanation of "yes" responses. _____

OWNER'S CERTIFICATION

The owner certifies that the information in this report is true and correct to the best of the owner's knowledge as of the date on which the owner signs this report.

Owner _____	Date _____
Owner _____	Date _____
Owner _____	Date _____
Owner _____	Date _____

CERTIFICATION BY PERSON SUPPLYING INFORMATION

A person other than the owner certifies that he or she has supplied information on which the owner relied for this report and that that information is true and correct to the best of that person's knowledge as of the date on which the person signs this report.

Person _____	Items _____	Date _____
Person _____	Items _____	Date _____
Person _____	Items _____	Date _____
Person _____	Items _____	Date _____

BUYER'S ACKNOWLEDGEMENT

The prospective buyer acknowledges that technical knowledge such as that acquired by professional inspectors may be required to detect certain defects such as the presence of asbestos, building code violations and floodplain status.

I acknowledge receipt of a copy of this statement.

Prospective buyer _____
Prospective buyer _____
Prospective buyer _____
Prospective buyer _____

Date _____
Date _____
Date _____
Date _____

Definition Consistency of Defect in the Home inspector Report

Create a definition for "defect" in the home inspector statute of Wis. Stat. § 440.97

"Defect" means a condition of any component of an improvement that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced, would significantly shorten or adversely affect the expected normal life of the component of the improvement.

Include a reference in Wis. Stat. § 440.975(3)(c) to the use of defect in the report

The relevant information from the statute is included for reference. The underlined portion provides the recommended additions and strikethrough deletions.

Wis. Stat. 440.975 Standards of practice.

(1) In this section, "reasonably competent and diligent inspection" means an inspection that complies with the standards established under this subchapter or the rules promulgated under this subchapter.

(2) A home inspector shall perform a reasonably competent and diligent inspection to detect observable conditions of an improvement to residential real property. Except for removing an access panel that is normally removed by an occupant of residential real property, this subsection does not require a home inspector to disassemble any component of an improvement to residential real property. A reasonably competent and diligent inspection under this subsection is not required to be technically exhaustive.

(3) After completing a home inspection, a home inspector shall submit a written report to a client that does all of the following:

(a) Lists the components of an improvement to residential real property that the home inspector is required to inspect under the rules promulgated under s. 440.974 (1) (b).

(b) Lists the components of an improvement to residential real property that the home inspector has inspected.

(c) Describes a defect as defined in [insert newly created statutory reference to defect].

A report is not required to use the term defect. Any report containing the word defect must meet the definition in [insert newly created definition of defect statutory reference].

~~Describes any condition of any component of an improvement to residential real property that is detected by the home inspector during his or her home inspection and that, if not repaired have significant adverse effect on the life expectancy of the improvement or the component of the improvement.~~

(d) Provides any other information that the home inspector is required to provide under the rules promulgated under s. 440.974 (1) (c).

Update administrative rules

Wis. Admin. Code § SPS 131 utilizes the term material adverse fact in 131.02(17) and 131.33(1)(e), in addition other relevant terms and rule sections may require other updates to mirror the statutory language. Therefore the legislation should provide for administrative rules that require modification due to this statutory change the ability to qualify for the emergency rule process.

Proposed effective date

July 1, 2018



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4498(?) #1
FFK:emw
LHR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓
XVOR ✓
PWF ✓

GEN

Real estate disclosure reports, the
written reports of home inspectors
and providing an exception exemption
from emergency rule procedures.

1

AN ACT /...; relating to: ???

Analysis by the Legislative Reference Bureau

prelim →

INS
I-H →

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

SECTION 1. 709.03 of the statutes is repealed and recreated to read:

3

709.03 Residential real estate condition report form. The report

4

required under s. 709.02 with respect to real property as defined in s. 709.001 (5) (a)

5

shall be in substantially the following form and shall include at least all of the

6

following information:

7

] REAL ESTATE CONDITION REPORT [

8

9

] DISCLAIMER [

10

THIS CONDITION REPORT CONCERNS THE REAL PROPERTY LOCATED AT

11

.... IN THE (CITY) (VILLAGE) (TOWN) OF, COUNTY OF, STATE OF

1 WISCONSIN. THIS REPORT IS A DISCLOSURE OF THE CONDITION OF THAT
2 PROPERTY IN COMPLIANCE WITH SECTION 709.02 OF THE WISCONSIN
3 STATUTES AS OF (MONTH), (DAY), (YEAR). IT IS NOT A WARRANTY
4 OF ANY KIND BY THE OWNER OR ANY AGENTS REPRESENTING ANY PARTY
5 IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS
6 OR WARRANTIES THAT THE PARTIES MAY WISH TO OBTAIN.

7 A buyer who does not receive a fully completed copy of this report within 10 days after
8 the acceptance of the contract of sale or option contract for the above-described real
9 property shall have ^{has} the right to rescind that contract (Wis. Stat. s. 709.02), provided
10 the owner is subject to ^{is required to provide this report under} Wisconsin Statutes chapter 709.

11 ^{*)} ~~****~~ NOTE : I changed "subject to" to "required to provide this report under" Okay? ↓

12 NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS

13 Real estate licensees may not provide advice or opinions concerning whether or not
14 an item is a defect for the purposes of this report ^{or concerning} the legal rights or obligations of
15 parties to a transaction. The parties may wish to obtain professional advice or
16 inspections of the property and to include appropriate provisions in a contract
17 between them with respect to any advice, inspections, defects, or warranties.

18 [→] ~~****~~ NOTE: Please confirm that the first sentence of the notice is consistent with your intent. ↓

19 A. OWNER'S INFORMATION

- 20 A1. In this form, "aware" means the "owner(s)" have notice or knowledge.
- 21 A2. In this form, "defect" means a condition that would have a significant adverse
22 effect on the value of the property; that would significantly impair the health or
23 safety of future occupants of the property; or that if not repaired, removed, or
24 replaced would significantly shorten or adversely affect the expected normal life of
25 the premises.

1 A3. In this form, "owner" means ^{the} that person or those persons, or the entity or
2 organization, which is the owner of the above-described real property.

3 ^{An} "owners" who transfer ^s real estate containing one to four dwelling units, including
4 a condominium unit and time-share property ^{that owns} by sale, exchange, or land contract are ^{is}
5 required to complete this report.

6 Exceptions: ^{An} "owners" who ^{is a} are personal representatives, trustees, conservators, and
7 fiduciaries appointed by or subject to supervision by a court, and who ^{has} have never
8 occupied the property transferred are ^{is} not required to complete this report. "Owners"
9 who transfer ^s property which ^{is that} has not been inhabited or who transfer property ^s by
10 conveyance exempt from the real estate transfer fee are ^{is} not required to complete this
11 report. (Wis. Stat. s. 709.01) ^{in a manner that is}

12 A4. The owner represents that to the best of his or her ^{the owner's} knowledge, the responses to
13 the following questions have been accurately checked as "yes," "no," or "not
14 applicable (N/A)" to the property being sold. If the owner responds to any question
15 with "yes," the owner shall provide, in the additional information area of this form,
16 an explanation of the reason why the response to the question is "yes."

17 A5. If the transfer is of a condominium unit, the property to which this form applies
18 is the condominium unit, the common elements of the condominium, and any limited
19 common elements that may be used only by the owner of the condominium unit being
20 transferred.

21 A6. The owner discloses the following information with the knowledge that, even
22 though this is not a warranty, prospective buyers may rely on this information in
23 deciding whether and on what terms to purchase the property. The owner hereby
24 authorizes his or her ^{the owner's} agents and the agents of any prospective buyer to provide a copy
25 of this report, and to disclose any information in the report, to any person in

1 connection with any actual or anticipated sale of the property.

2

3 CAUTION: The lists of possible types of defects following each question below are
4 examples only and are not the only defects which might properly be disclosed in
5 response to each respective question.
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7

B. STRUCTURAL AND MECHANICAL

		YES	NO	N/A
B1.	Are you aware of defects in the roof? Roof defects might include items such as leakage or significant problems with gutters or eaves.
B2.	Are you aware of defects in the electrical system? Electrical defects might include items such as electrical wiring not in compliance with applicable code, knob and tube wiring, 60 amp service, or aluminum-branch circuit wiring.	....	....	....
B3.	Are you aware of defects in part of the plumbing system (including the water heater, water softener, and swimming pool) that is included in the sale? Other plumbing system defects might include items such as leaks or defects in pipes, toilets, interior or exterior faucets, bathtubs, showers, or any sprinkler system.	....	....	....
B4.	Are you aware of defects in the heating and air conditioning system (including the air filters and humidifiers)? Heating and air conditioning defects might include items such as defects in the heating ventilation and air conditioning (HVAC) equipment, supplemental heaters, ventilating fans or fixtures, or solar collectors.	....	....	....
B5.	Are you aware of defects in a woodburning stove or fireplace or other defects caused by a fire in a stove or fireplace or elsewhere on the property? Such defects might include items such as defects in the chimney, fireplace flue, inserts, or other installed fireplace equipment; or woodburning stoves not installed pursuant to applicable code.	....	....	....
B6.	Are you aware of defects relative to smoke detectors or carbon monoxide detectors or a violation of applicable state or local smoke detector or carbon monoxide detector laws? NOTE: State law requires operating smoke detectors on all levels of all residential properties and operating carbon monoxide detectors on all levels of most residential properties (see Wis. Stat. ss. 101.149 and 101.647).	....	....	....
B7.	Are you aware of defects in the basement or foundation (including cracks, seepage, and bulges)? Other basement defects might include items such as flooding, defects in drain tiling or sump pumps, or movement, shifting, or deterioration in the foundation.	....	....	....

B1 NOTE

may

B3 NOTE

of

related

		YES	NO	N/A
B8.	Are you aware of defects in the structure of the property?	....	....	....
	<p>may →] → Structural defects with respect to the residence or other improvements <u>might</u> include items such as movement, shifting, or deterioration in walls; major cracks or flaws in interior or exterior walls, partitions, or the foundation; wood rot; and significant problems with driveways, sidewalks, patios, decks, fences, waterfront piers or walls, windows, doors, floors, ceilings, stairways, or insulation.</p>			
B9.	Are you aware of defects in mechanical equipment included in the sale either as fixtures or personal property?	....	....	....
	<p>may →] → Mechanical equipment defects <u>might</u> include items such as defects in any appliance, central vacuum, garage door opener, in-ground sprinkler, or in-ground pet containment systems <u>which</u> is included in the sale.</p>			
B10.	Are you aware of rented items located on the property such as a water softener or other water conditioner systems or other item affixed to or closely associated with the property?
B12.	Explanation of "yes" responses			

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C. ENVIRONMENTAL

		YES	NO	N/A
C1.	Are you aware of the presence of unsafe levels of mold; roof, basement, window, or plumbing leaks; overflow from sinks, bathtubs, or sewers; or other water or moisture intrusions or conditions?
C2.	Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the property, lead in paint, lead in soil, or other potentially hazardous or toxic substances on the premises?	....	....	....
	<p>NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.</p>			
C3.	Are you aware of the presence of asbestos or asbestos-containing materials on the premises?	....	....	....
C4.	Are you aware of unsafe concentrations of, unsafe conditions relating to, or the storage of hazardous or toxic substances on neighboring properties?	....	....	....
C5.	Are you aware of a defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of hazardous or toxic substances on neighboring properties?	....	....	....
	<p>may →] → Such defects <u>might</u> include items such as environmental hazards resulting from an adjacent or nearby dump, gas station, or commercial/industrial business <u>which</u> improperly uses/handles toxic substances.</p>			
C6.	Are you aware of current or previous termite, powderpost beetle, or carpenter ant infestations or defects caused by animal, reptile, or insect infestations?	....	....	....
C7.	Are you aware of water quality issues caused by unsafe concentrations of or unsafe conditions relating to lead?	....	....	....

		YES	NO	N/A
C8.	Are you aware of the manufacture of methamphetamine or other hazardous or toxic substances on the property?
C9.	Explanation of "yes" responses			
			
			

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S SYSTEMS
D. WELL, SEPTIC AND STORAGE TANKS

		YES	NO	N/A
D1.	Are you aware of defects in the well, including unsafe well water?
	<i>may</i>] Well defects might include items such as an unused well not properly closed in conformance with state regulations, a well which was not constructed pursuant to state standards or local code, or a well which requires modifications to bring it into compliance with current code specifications. Well water defects might include, but are not limited to, unsafe levels of bacteria (total Coliform and E. coli), nitrate, arsenic, or other substance affecting human consumption safety.			
D2.	Are you aware of a joint well serving this property?	....	....	....
D3.	Are you aware of a defect relating to the joint well serving this property?	....	....	....
D4.	Are you aware of a septic system or other private sanitary disposal system serving this property?	....	....	....
D5.	Are you aware of defects in the septic system or other private sanitary disposal system on the property or any out-of-service septic system that is not closed or abandoned according to applicable regulations?	....	....	....
	<i>may</i>] Septic system defects might include items such as backups in toilets or in the basement; exterior ponding, overflows, or backups; or defective or missing baffles.			
D6.	Are you aware of underground or aboveground fuel storage tanks on or previously located on the property? (If "yes," the owner, by law, may have to register the tanks with the Wisconsin Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708, whether the tanks are in use or not. Regulations of the Wisconsin Department of Agriculture, Trade and Consumer Protection may require the closure or removal of unused tanks.)	....	....	....
D7.	Are you aware of defects in the underground or aboveground fuel storage tanks on or previously located on the property?	....	....	....
	] Defects in underground or aboveground fuel storage tanks might include items such as abandoned tanks not closed in conformance with applicable local, state, and federal law; leaking; corrosion; or failure to meet operating standards.			
D8.	Are you aware of an "LP" tank on the property? (If "yes," specify in the additional information space whether the owner of the property either owns or leases the tank.)	....	....	....
D9.	Are you aware of defects in the "LP" tank on the property?
D10.	Explanation of "yes" responses			
			
			

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E. TAXES, SPECIAL ASSESSMENTS, PERMITS, ETC.

		YES	NO	N/A
E1.	Have you received notice of property tax increases, other than normal annual increases, or are you aware of a pending property reassessment?
E2.	Are you aware that remodeling ^{was done} that may increase the property's assessed value was done?	....	....	....
E3.	Are you aware of pending special assessments?	....	....	....
E4.	Are you aware of the property ^{being} located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district?	....	....	....
E5.	Are you aware of any proposed construction of a public project that may affect the use of the property?	....	....	....
E6.	Are you aware of remodeling affecting the property's structure or mechanical systems that was done or additions to this property that were made during your period of ownership without the required permits?	....	....	....
E7.	Are you aware of any land division involving the property for which required state or local permits ^{was} not obtained?
E8.	Explanation of "yes" responses			
			
			

E3 Note

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F. LAND USE

		YES	NO	N/A
F1.	Are you aware of the property being part of or subject to ^a any subdivision homeowners' association?
F2.	Are you aware of common areas associated with the property that are co-owned with others?	....	....	....
F3.	Are you aware of any zoning code violations with respect to the property?	....	....	....
F4.	Are you aware of the property or any portion of the property being located in a floodplain, wetland, or shoreland zoning area?	....	....	....
F5.	Are you aware of nonconforming uses of the property?] A nonconforming use is a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.	....	....	....
F6.	Are you aware of conservation easements on the property?] A conservation easement is a legal agreement in which a property owner conveys some of the rights associated with ownership of his or her property to an easement holder such as a governmental unit or a qualified nonprofit organization to protect the natural habitat of fish, wildlife, or plants or a similar ecosystem, preserve areas for outdoor recreation or education, or for similar purposes.	....	....	....
F7.	Are you aware of restrictive covenants or deed restrictions on the property?	....	....	....

		YES	NO	N/A
F8.	Are you aware of nonowners having rights to use part of the property, including, but not limited to, rights-of-way ^{and} easements other than recorded utility easements?	....	....	....
F9.	Are you aware of the property being subject to a mitigation plan required under administrative rules of the Wisconsin Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county?	....	....	....
F10.	<p>The use value assessment system values agricultural land based on the income that would be generated from its rental for agricultural use rather than its fair market value. When a person converts agricultural land to a nonagricultural use (e.g., residential or commercial development), that person may owe a conversion charge. For more information visit https://www.revenue.wi.gov/Pages/FAQS/slf-useassmt.aspx or (608) 266-2486.</p> <p>a. Are you aware of all or part of the <u>land</u> ^{or property} having been assessed as agricultural land under Wis. Stat. s. 70.32 (2r) (use value assessment)?</p> <p>b. Are you aware of the property having been assessed a use-value assessment conversion charge relating to this property? (Wis. Stat. s. 74.485 (2))</p> <p>c. Are you aware of the payment of a use-value assessment conversion charge having been deferred relating to this property? (Wis. Stat. s. 74.485 ⁽²⁾)</p> <p>Early termination of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee equal to 3 times the class 1 "use value" of the land. Visit https://datcp.wi.gov/Pages/Programs_Services/FarmlandPreservation.aspx for more information.</p>	....	....	....
F11.	Is all or part of the property subject to, enrolled in, or in violation of the Forest Crop Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program?	....	....	....
F12.	Are you aware of a dam that is totally or partially located on the property or that an ownership in a dam that is not located on the property will be transferred with the property because it is owned collectively by members of a homeowners' association, lake district, or similar group? (If "yes," contact the Wisconsin Department of Natural Resources to find out if dam transfer requirements or agency orders apply.)	....	....	....
F13.	Are you aware of boundary or lot line disputes, encroachments, or encumbrances (including a joint driveway) affecting the property?	....	....	....
	Encroachments often involve some type of physical object belonging to one person but partially located on or overlapping on land belonging to another; such as, without limitation, fences, houses, garages, driveways, gardens, and landscaping. Encumbrances include, without limitation, a right or claim of another to a portion of the property or to the use of the property such as a joint driveway, liens, and licenses.			
F14.	Are you aware there is not legal access to the property?	....	....	....
F15.	Are you aware of federal, state, or local regulations requiring repairs, alterations, or corrections of an existing condition?	....	....	....
	This might include items such as orders to correct building code violations.			
F16.	Are you aware of a pier attached to the property that is not in compliance with state or local pier regulations? See http://dnr.wi.gov/topic/Waterways/information/recreation/piers.html

F11
F12
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F16

Note: Please confirm the website address.

xxxxxxx: Please confirm that the question in E12 of the vacant land disclosure report was intentionally omitted from this form.

F20
F21

YES NO N/A
....

Are you aware of one or more burial sites on the property? (For information regarding the presence, preservation, and potential disturbance of burial sites, contact the Wisconsin Historical Society at 800-342-7834 or www.wihist.org/burial-information.) ↓

Explanation of "yes" responses

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G. ADDITIONAL INFORMATION

YES NO N/A

G1. Have you filed any insurance claims relating to damage to this property or premises within the last five years?

G2. Are you aware of a structure on the property that is designated as a historic building or that part of the property is in a historic district?

G3. Are you aware of other defects affecting the property?

Other defects might include items such as drainage easement or grading problems; excessive sliding, settling, earth movements, or upheavals; or any other defect or material condition.

G4. The owner has owned the property for years.

G5. The owner has lived in the property for years.

G6. Explanation of "yes" responses

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OWNER'S CERTIFICATION

NOTE: Wisconsin Statute section 709.035 requires owners who, prior to acceptance of a purchase contract or an option to purchase, obtain information which ^{that} would change a response on this report ^{to} submit a new report or an amended report to the prospective buyer.

7

The owner certifies that the information in this report is true and correct to the best of the owner's knowledge as of the date on which the owner signs this report.

11 Owner Date

12 Owner Date

13 Owner Date

1 Owner Date

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CERTIFICATION BY PERSON SUPPLYING INFORMATION

4

A person other than the owner certifies that ^{the person} he or she ~~has~~ supplied information on

5

which the owner relied for this report and ^ethat ^{the}that information is true and correct

6

to the best of ^{e the}that person's knowledge as of the date on which the person signs this

7

report.

8

Person Items Date

9

Person Items Date

10

Person Items Date

11

Person Items Date

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13

BUYER'S ACKNOWLEDGEMENT

14

The prospective buyer acknowledges that technical knowledge such as that acquired

15

by professional inspectors may be required to detect certain defects such as the

16

presence of asbestos, building code violations, and floodplain status.

17

I acknowledge receipt of a copy of this statement.

18

Prospective buyer Date

19

Prospective buyer Date

20

Prospective buyer Date

21

Prospective buyer Date

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SECTION 2. 709.333 of the statutes is repealed and recreated to read:

23

²⁰709.333 Vacant land disclosure report form. The report required under

24

s. 709.02 with respect to real property, as defined in s. 709.001 (5) (b) shall be in

1 substantially the following form and shall include at least all of the following
2 information:

3] VACANT LAND DISCLOSURE REPORT [

5] DISCLAIMER [

6 THIS DISCLOSURE REPORT CONCERNS THE REAL PROPERTY LOCATED AT
7 IN THE (CITY) (VILLAGE) (TOWN) OF, COUNTY OF, STATE OF
8 WISCONSIN. THIS REPORT IS A DISCLOSURE OF THE CONDITION OF THAT
9 PROPERTY IN COMPLIANCE WITH SECTION 709.02 OF THE WISCONSIN
10 STATUTES AS OF (MONTH), (DAY), (YEAR). IT IS NOT A WARRANTY
11 OF ANY KIND BY THE OWNER OR ANY AGENTS REPRESENTING ANY PARTY
12 IN THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS
13 OR WARRANTIES THAT THE PARTIES MAY WISH TO OBTAIN.

14 A buyer who does not receive a fully completed copy of this report within 10 days after
15 the acceptance of the contract of sale or option contract for the above-described real
16 property shall have^{has} the right to rescind that contract (Wis. Stat. s. 709.02), provided
17 the owner is^{required to provide this report under} subject to Wisconsin Statutes chapter 709.

19 NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS

20 Real estate licensees may not provide advice or opinions concerning whether or not
21 an item is a defect for the purposes of this report^{or concerning} the legal rights or obligations of
22 parties to a transaction. The parties may wish to obtain professional advice or
23 inspections of the property and to include appropriate provisions in a contract
24 between them with respect to any advice, inspections, defects, or warranties.

25

A. OWNER'S INFORMATION

A1. In this form, "aware" means the "owner(s)" have notice or knowledge.

A2. In this form, "defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises.

A3. In this form, "owner" means that person or those persons, or the entity or organization which is the owner of the above-described real property.

An "Owners" who transfer real estate containing one to four dwelling units, including a condominium unit and time-share property by sale, exchange, or land contract are required to complete this report.

Exceptions: "Owners" who are personal representatives, trustees, conservators, and fiduciaries appointed by or subject to supervision by a court, and who have never occupied the property transferred are not required to complete this report. "Owners" who transfer property which has not been inhabited or who transfer property by conveyance exempt from the real estate transfer fee are not required to complete this report. (Wis. Stat. s. 709.01)

A4. The owner represents that to the best of his or her knowledge the responses to the following questions have been accurately checked as "yes," "no," or "not applicable (N/A)" to the property being sold. If the owner responds to any question with "yes," the owner shall provide, in the additional information area of this form, an explanation of the reason why the response to the question is "yes."

A5. If the transfer is of a condominium unit, the property to which this form applies is the condominium unit, the common elements of the condominium, and any limited

NOTE: Is "premises" the correct term for vacant land?

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NOTE: I changed this to reflect an owner of real property under s. 709.01 (5)(b). Okay?

the owner's

1 common elements that may be used only by the owner of the condominium unit being
2 transferred.

3 A6. The owner discloses the following information with the knowledge that, even
4 though this is not a warranty, prospective buyers may rely on this information in
5 deciding whether and on what terms to purchase the property. The owner hereby
6 authorizes ^{the owner's} his or her agents and the agents of any prospective buyer to provide a copy
7 of this report, and to disclose any information in the report, to any person in
8 connection with any actual or anticipated sale of the property.

9
10 CAUTION: The lists of possible types of defects following each question below are
11 examples only and are not the only defects ^{that may} which might properly be disclosed in
12 response to each respective question.

13
14 B. ENVIRONMENTAL

		YES	NO	N/A
B1.	Are you aware of a material violation of an environmental rule or other rule or agreement regulating the use of the property?	....	....	....
B2.	Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the property, lead in soil, or other potentially hazardous or toxic substances on the premises ^{property}?	....	....	....
B3.	Are you aware of the manufacture of methamphetamine or other hazardous or toxic substances on the property?	....	....	....
B4.	Are you aware of subsoil conditions that would significantly increase the cost of development, including, but not limited to, subsurface foundations or waste material; any type of fill; dumpsites where pesticides, herbicides, fertilizer, or other toxic or hazardous materials or containers for these materials were disposed of in violation of manufacturer or government guidelines or other laws regulating such disposal; high groundwater; adverse soil conditions, such as low load-bearing capacity, earth or soil movement, settlement, upheavals, or slides; excessive rocks or rock formations; or other soil problems?	....	....	....
B5.	Are you aware of a defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of hazardous or toxic substances on neighboring properties?	....	....	....

- | | | YES | NO | N/A |
|-----|---|------|------|------|
| B6. | Are you aware of brownfields (abandoned, idled, or underused land that may be subject to environmental contamination) or other contaminated land on the property, or that contaminated soils on the property have been cleaned up under the Petroleum Environmental Cleanup Fund Act (PECFA), a Wisconsin Department of Natural Resources (DNR) remedial or cleanup program, the DATCP Agricultural Chemical Cleanup Program, or other similar program? | | | |
| B7. | Explanation of "yes" responses | | | |
| | | | | |
| | | | | |

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C. WELL, SEPTIC, STORAGE TANK SYSTEMS

- | | | YES | NO | N/A |
|-----|---|------|------|------|
| C1. | Are you aware of underground storage tanks presently or previously on the property for storage of flammable or combustible liquids, including, but not limited to, gasoline or heating oil? (If "yes," the owner, by law, may have to register the tanks with the Wisconsin Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708, whether the tanks are in use or no. Regulations of the Wisconsin Department of Agriculture, Trade and Consumer Protection may require the closure or removal of unused tanks.) | | | |
| C2. | Are you aware of defects in the underground or aboveground fuel storage tanks on or previously located on the property?
] Defects in underground or aboveground fuel storage tanks <u>might</u> may include items such as abandoned tanks not closed in conformance with applicable local, state, and federal law; leaking; corrosion; or failure to meet operating standards. | | | |
| C3. | Are you aware of defects in any well, including unsafe well water due to contaminants such as coliform, nitrates, or atrazine, or any out-of-service wells or cisterns that are required to be abandoned (see s. NR 812.26, Wis. Adm. Code) but that are not closed or abandoned according to applicable regulations? | .... | .... | .... |
| C4. | Are you aware of a joint well serving this property? | .... | .... | .... |
| C5. | Are you aware of a defect relating to <u>the</u> joint well serving this property? | .... | .... | .... |
| C6. | Are you aware of defects in any septic system or other private sanitary disposal system on the property or any out-of-service septic system that is not closed or abandoned according to applicable regulations that serves this property? | | | |
| C7. | Explanation of "yes" responses | | | |
| | | | | |
| | | | | |

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D. TAXES, SPECIAL ASSESSMENTS, PERMITS, ETC.

		YES	NO	N/A
D1.	Have you received notice of a property tax increase, other than normal annual increases, or are you aware of a pending property tax reassessment?
D2.	Are you aware of proposed or pending special assessments?	....	....	....
D3.	Are you aware of the property being located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district?	....	....	....
D4.	Are you aware of any proposed construction of a public project that may affect the use of the property?	....	....	....
D5.	Are you aware of any land division involving the property for which required state or local permits were not obtained?	....	....	....
D6.	Are you aware of impact fees or another condition or occurrence that would significantly increase development costs or reduce the value of the property to a reasonable person with knowledge of the nature and scope of the condition or occurrence?	....	....	....
D7.	Are you aware of proposed, planned, or commenced public improvements or public construction projects that may result in special assessments or that may otherwise materially affect the property or the present use of the property?
D8.	Explanation of "yes" responses			
			
			

D7
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E. LAND USE

		YES	NO	N/A
E1.	Are you aware of the property being part of or subject to any subdivision homeowners' associations?
E2.	Are you aware of common areas associated with the property that are co-owned with others?	....	....	....
E3.	Are you aware that all or a portion of the property is in a floodplain, wetland, or shoreland zoning area under local, state, or federal regulations?	....	....	....
E4.	Are you aware of any zoning code violations with respect to the property?	....	....	....
E5.	Are you aware of the property or any portion of the property being located in a floodplain, wetland, or shoreland zoning area?	....	....	....
E6.	Are you aware of nonconforming uses of the property?	....	....	....
	] A nonconforming use is a use of land, <u>a dwelling, or a building</u> that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.			
E7.	Are you aware of conservation easements on the property?	....	....	....
	the] A conservation easement is a legal agreement in which a property owner conveys some of the rights associated with ownership of his (or her) property to an easement holder such as a governmental unit or a qualified nonprofit organization to protect the natural habitat of fish, wildlife, or plants or a similar ecosystem, preserve areas for outdoor recreation or education, or for similar purposes.			
E8.	Are you aware of restrictive covenants or deed restrictions on the property?	....	....	....

ES
NOTE

		YES	NO	N/A
E9.	Are you aware of nonowners having rights to use ^{and} part of the property, including, but not limited to, rights-of-way ^{and} easements other than recorded utility easements?	....	....	....
E10.	Are you aware of the property being subject to a mitigation plan required under administrative rules of the Wisconsin Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county?	....	....	....
E11.	<p>The use value assessment system values agricultural land based on the income that would be generated from its rental for agricultural use rather than its fair market value. When a person converts agricultural land to a nonagricultural use (e.g., residential or commercial development), that person may owe a conversion charge. For more information visit https://www.revenue.wi.gov/Pages/FAQS/slf-use-assmt.aspx or (608) 266-2486.</p> <p>a. Are you aware of all or part of the ^{property} land having been assessed as agricultural land under Wis. Stat. s. 70.32 (2r) (use value assessment)?</p> <p>b. Are you aware of the property having been assessed a use value assessment conversion charge relating to this property? (Wis. Stat. s. 74.485 (2))</p> <p>c. Are you aware of the payment of a use value assessment conversion charge having been deferred relating to this property? (Wis. Stat. s. 74.485 (2))</p>	....	....	....
E14.	<p>Is the property subject to or in violation of a farmland preservation agreement?</p> <p>Early termination of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee equal to 3 times the class 1 "use value" of the land. Visit https://datcp.wi.gov/Pages/Programs_Services/FarmlandPreservation.aspx for more information.</p>	....	....	....
E15.	Is ^{all or part of} any part of the property subject to, enrolled in, or in violation of the Forest Crop Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program?	....	....	....
E16.	Are you aware of a dam that is totally or partially located on the property or that an ownership in a dam that is not located on the property will be transferred with the property because it is owned collectively by members of a homeowners' association, lake district, or similar group? (If "yes," contact the Wisconsin Department of Natural Resources to find out if dam transfer requirements or agency orders apply.)	....	....	....
E17.	<p>Are you aware of boundary or lot line disputes, encroachments, or encumbrances (including a joint driveway) affecting the property?</p> <p>Encroachments often involve some type of physical object belonging to one person but partially located on or overlapping on land belonging to another, such as, without limitation, fences, houses, garages, driveways, gardens, and landscaping. Encumbrances include, without limitation, a right or claim of another to a portion of the property or to the use of the property such as a joint driveway, liens, and licenses.</p>	....	....	....
E18.	Are you aware there is not legal access to the property?	....	....	....
E19.	Are you aware of a pier attached to the property that is not in compliance with state or local pier regulations? See http://dnr.wi.gov/topic/Waterways/information/recreation/piers.html

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		YES	NO	N/A
E20. 16	Are you aware of one or more burial sites on the property? (For information regarding the presence, preservation, and potential disturbance of burial sites, contact the Wisconsin Historical Society at 800-342-7834 or www.wihist.org/burial-information.)
E21. 19	Are you aware of archeological artifacts, mineral rights, orchards, or endangered species on the property?	....	....	....
E22. 20	Are you aware of existing or abandoned manure storage facilities located on the property?	....	....	....
E23. 21	Are you aware if ^{the} any or all of the property is enrolled in the managed forest land program?	....	....	....
	The managed forest land program is a landowner incentive program that encourages sustainable forestry on private woodlands by exempting the landowner from the payment of property taxes in exchange for the payment of a lower acreage share payment and compliance with certain conservation practices. Orders designating lands as managed forest lands remain in effect for 25 or 50 years. When ownership of land enrolled in the managed forest land program changes, the new owner must sign and file a report of the change of ownership on a form provided by the Wisconsin Department of Natural Resources (DNR) and pay a fee. By filing this form, the new owner agrees to comply with the management plan for the land and the managed forest land program rules. The DNR Division of Forestry monitors forest management plan compliance. Changes that a landowner makes to property that is subject to an order designating it as managed forest land, or to its use, may jeopardize benefits under the program or cause the property to be withdrawn from the program and may result in the assessment of penalties. For more information, call your local DNR forester or visit http://dnr.wi.gov/topic/forestry.html.			
E24. 22	Are you aware of a land division or subdivision for which the required state or local approvals were not obtained?
E25. 23	Explanation of "yes" responses			
			
			

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F. ADDITIONAL INFORMATION

		YES	NO	N/A
F1.	Are you aware of high voltage electric (100 kilovolts or greater) or steel natural gas transmission lines located on, but not directly serving, the property?
F2.	Are you aware of flooding, standing water, drainage problems, or other water problems on or affecting the property?	....	....	....
F3.	Are you aware of material damage from fire, wind, flood, earthquake, expansive soil, erosion, or landslide?	....	....	....
F4.	Are you aware of significant odor, noise, water diversion, water intrusion, or other irritants emanating from neighboring property?	....	....	....
F5.	Are you aware of significant crop damage from disease, insects, soil contamination, wildlife, or other causes; diseased or dying trees or shrubs; or substantial injuries or disease in livestock on the property or neighboring property?	....	....	....

		YES	NO	N/A
F6.	Utility Connections. Are you aware that the property is connected to the following utilities on the property or at the lot line? (If "yes," indicate where the utility is located.)			
	a. Electricity .....	....	....	....
	b. Municipal water .....	....	....	....
	c. Telephone .....	....	....	....
	d. Cable television .....	....	....	....
	e. Natural gas .....	....	....	....
	f. Municipal sewer .....	....	....	....
F7.	Are you aware of other defects affecting the property?	....	....	....
	Other defects <u>may</u> include items such as animal, reptile, or insect infestation; invasive species affecting waterways, such as plants; drainage easement or grading problems; excessive sliding, settling, earth movements, upheavals, or other soil problems; deed restriction violations; or any other defect or material condition.			
F8.	Are you aware of a government agency, court order, or federal, state, or local regulations requiring repair, alteration, or correction of an existing condition?	....	....	....
F9.	The owner has owned the property for years.			
F10.	Explanation of "yes" responses			
			
			

1 *XXXX NOTE: This form does not include a note about section 709.035 & the*
 2 *requirements to submit*
OWNER'S CERTIFICATION *a new or amended report*
 3 The owner certifies that the information in this report is true and correct to the best *to a prospective*
 4 of the owner's knowledge as of the date on which the owner signs this report. *buyer;*
okay?

5 Owner Date
 6 Owner Date
 7 Owner Date
 8 Owner Date

10 **CERTIFICATION BY PERSON SUPPLYING INFORMATION**

11 A person other than the owner certifies that *the person* he or she has supplied information on
 12 which the owner relied for this report and *the* that that information is true and correct
 13 to the best of *the* that person's knowledge as of the date on which the person signs this
 14 report.

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√SECTION 1. Nonstatutory provisions.

(1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS.

Notwithstanding section 709.035 of the statutes, a property owner who furnished to a prospective buyer of the property an original or amended report before the effective date of this subsection need only submit an amended report with respect to the information required under section 709.03 (form) of the statutes, 2015 stats., or by section 709.033 (form) of the statutes, 2015 stats.

****NOTE: This nonstatutory language clarifies that a property owner who submitted a report prior to July 1, 2018, does not need to provide an amended report that complies with the recreated forms. Any required amendments apply only to information required under the current forms. Arguably this language is not required because s. 709.035 requires an owner to submit an amendment if the owner obtains information or becomes aware of any condition that would change a response on the *completed report*. In this case, the completed report would be a report under s. 709.033, 2015 stats. Please let me know if you would like to include this or similar clarifying language or whether you are comfortable relying on the language in s. 709.035.

709.03 or s.
2015 stats.

END INS FK19-14A

INS FK19-14B

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√SECTION 2. Initial applicability.

(1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS. The treatment of sections 709.03 and 709.033 of the statutes first applies to reports that are furnished on the effective date of this subsection.

]SECTION 3. Effective date.

(1) This act takes effect on July 1, 2018.

END INS FK19-14B

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4498/P1
FFK:...

B1 NOTE

*
****NOTE: The examples given for C1 overlap with this questions. The both include roof leaks. Is that okay? ✓

END B1 NOTE

B3 NOTE

*
****NOTE: This question includes a reference to "the sale". The form is required to be used in situations other than sales, such as an exchange. Is the reference to "the sale" okay? This also applies to B9. ✓

B3 NOTE

C2 NOTE

****NOTE: I changed premises to property in C2 and C3 for consistency. Okay? ✓

C2 NOTE

E3 NOTE

*
****NOTE: Is "proposed or" omitted from this question intentionally? See D2 on the vacant land disclosure report. ✓

END E3 NOTE

D7 NOTE

****NOTE: There seems to be some overlap between this question and D4, specifically related to construction of a public project and its effect on the use of the property. ✓

END D7 NOTE

E5 NOTE

****NOTE: This seems to be duplicative of the question in E3. If so, which question would you like to eliminate? ✓

END E5 NOTE

INS FK19-14A

1 Person Items Date

2 Person Items Date

3 Person Items Date

4 Person Items Date

BUYER'S ACKNOWLEDGEMENT

The prospective buyer acknowledges that technical knowledge such as that acquired by professional inspectors may be required to detect certain defects such as the presence of asbestos, building code violations, and floodplain status.

I acknowledge receipt of a copy of this statement.

Prospective buyer Date

Prospective buyer Date

Prospective buyer Date

Prospective buyer Date



(END)

INS FK 19-14A
 INS KP 19-14
 INS FK 19-14B

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4498/?ins
KP:...

1 INS 1-1

2 SECTION 1. 440.97 (2m) of the statutes is created to read:

3 440.97 (2m) "Defect" means a condition of an improvement to residential real
4 property or of any component of an improvement to residential real property if any
5 of the following applies:

6 (a) The condition significantly impairs the health or safety of an occupant of
7 the property.

8 (b) The condition, if not repaired, removed, or replaced, significantly shortens
9 or adversely affects the expected normal life of the improvement or the component
10 of the improvement.

11 SECTION 2. 440.975 (3) (c) of the statutes is repealed.

12 SECTION 3. 440.975 (3) (cm) of the statutes is created to read:

13 440.975 (3) (cm) Describes any defect that is detected by the home inspector
14 during his or her home inspection. A home inspector is not required to use the term
15 "defect" in describing a defect in the written report required under this subsection.
16 A home inspector may not use the term "defect" in a written report required under
17 this subsection unless that use is consistent with s. 440.97 (2m).

18 END INS 1-1

19 INS 19-14

20 SECTION 4. Nonstatutory provisions.

21 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
22 the department of safety and professional services may promulgate rules governing
23 the information about defects that a home inspector is required to provide to a client

1 concerning the results of a home inspection under sections 440.974 (1) (c) and
2 440.975 (3) (cm) of the statutes for the period before the effective date of permanent
3 rules promulgated under section 440.974 (1) (c) of the statutes but not to exceed the
4 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
5 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
6 (b), and (3) of the statutes, the department is not required to provide evidence that
7 promulgating a rule under this subsection as an emergency rule is necessary for the
8 preservation of the public peace, health, safety, or welfare and is not required to
9 provide a finding of emergency for a rule promulgated under this subsection.

****NOTE: This draft includes emergency rule-making authority for DSPS to promulgate emergency rules until permanent rules are promulgated. This provision maintains the requirements for DSPS to prepare a statement of the scope of the emergency rules and for the emergency rules to be presented to the governor for approval. Please let me know if this is consistent with your intent or if you would like to further expedite DSPS's ability to promulgate rules by avoiding either or both of those requirements.

10 END INS 19-14