



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4498/P2 /P3
FFK&KP:emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN: 11/28/2017
OUT: 11/29/2017

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1 **AN ACT to repeal** 440.975 (3) (c); **to repeal and recreate** 709.03 and 709.033;
2 **and to create** 440.97 (2m) and 440.975 (3) (cm) of the statutes; **relating to:** real
3 estate disclosure reports, the written reports of home inspectors, and providing
4 an exemption from emergency rule procedures.

Analysis by the Legislative Reference Bureau

This bill updates the real estate disclosure report forms and changes the requirements for a report submitted to a client by a registered home inspector.

Under current law, with certain exceptions, an owner selling residential real property or vacant land must give a prospective buyer a form, known as a real estate condition report for residential real property and known as the vacant land disclosure report for vacant land, on which the owner discloses certain conditions of, and other information about, the real property of which the owner is aware. This bill makes various technical changes to these forms, including grouping questions into substantive categories, providing examples of different types of defects, and providing additional instructions and explanatory material. The updated forms include the disclosures required under current law. In addition to making technical changes, the bill also requires additional disclosures regarding the owner's awareness of certain conditions related to the property, including 1) defects related to smoke detectors or carbon monoxide detectors or violations of state or local smoke detector or carbon monoxide detector laws; 2) unsafe levels of mold or other moisture intrusions or conditions; 3) defects in, as opposed to just the presence of, underground or aboveground fuel storage tanks; and 4) burial sites on the property.

The bill also adjusts the contents that a report submitted by a registered home inspector to a client is required to contain. Under the bill, a report by a home inspector must describe each defect detected during a home inspection. The bill defines a "defect" as a condition of a component of an improvement to residential real property that would significantly impair the health or safety of a future occupant or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the component of the improvement. The bill also provides that a home inspector may use the term "defect" in a written home inspection report only if the use is consistent with the bill's definition of "defect."

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

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

2 440.97 (2m) "Defect" means a condition of a component of an improvement to
3 residential real property that would significantly impair the health or safety of a
4 future occupant of the property or that, if not repaired, removed, or replaced, would
5 significantly shorten or adversely affect the expected normal life of the component
6 of the improvement.

****NOTE: This provision refers to the "expected normal life of the component of the improvement." In current law s. 709.03, the real estate condition report, at part B. 1., refers to the "expected normal life of the premises." If this provision should use "premises" instead of "component of the improvement," please let me know.

****NOTE: Also, s. 440.975 (6) (h) provides that a home inspector is not required to "[p]redict future conditions, including the failure of a component of an improvement to residential real property." As drafted according to the instructions, the provision above and s. 440.975 (3) (cm) of the draft require a home inspector to disclose "a condition ... that would significantly impair the health or safety of a future occupant" If this provision of the draft is intended to be an exception to s. 440.975 (6) (h), please let me know.

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

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

9 440.975 (3) (cm) Describes any defect that is detected by the home inspector
10 during his or her home inspection. A home inspector is not required to use the term
11 "defect" in describing a defect in the written report required under this subsection.

1 A home inspector may not use the term “defect” in a written report required under
2 this subsection unless that use is consistent with s. 440.97 (2m).

3 **SECTION 4.** 709.03 of the statutes is repealed and recreated to read:

4 **709.03 Residential real estate condition report form.** The report
5 required under s. 709.02 with respect to real property, as defined in s. 709.001 (5) (a),
6 shall be in substantially the following form and shall include at least all of the
7 following information:

8 **REAL ESTATE CONDITION REPORT**

9
10 **DISCLAIMER**

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

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

22
23 **NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS**

24 Real estate licensees may not provide advice or opinions concerning whether or not
25 an item is a defect for the purposes of this report or concerning the legal rights or

1 obligations of parties to a transaction. The parties may wish to obtain professional
2 advice or inspections of the property and to include appropriate provisions in a
3 contract between them with respect to any advice, inspections, defects, or
4 warranties.

6 A. OWNER'S INFORMATION

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

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

13 A3. In this form, "owner" means the person or persons, entity, or organization that
14 owns the above-described real property.

15 An "owner" who transfers real estate containing one to four dwelling units, including
16 a condominium unit and time-share property, by sale, exchange, or land contract is
17 required to complete this report.

18 Exceptions: An "owner" who is a personal representative, trustee, conservator, or
19 fiduciary appointed by or subject to supervision by a court, and who has never
20 occupied the property transferred is not required to complete this report. An "owner"
21 who transfers property that has not been inhabited or who transfers property in a
22 manner that is exempt from the real estate transfer fee is not required to complete
23 this report. (Wis. Stat. s. 709.01)

24 A4. The owner represents that to the best of the owner's knowledge, the responses
25 to the following questions have been accurately checked as "yes," "no," or "not

1 applicable (N/A)” to the property being sold. If the owner responds to any question
2 with “yes,” the owner shall provide, in the additional information area of this form,
3 an explanation of the reason why the response to the question is “yes.”

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

8 A6. The owner discloses the following information with the knowledge that, even
9 though this is not a warranty, prospective buyers may rely on this information in
10 deciding whether and on what terms to purchase the property. The owner hereby
11 authorizes the owner’s agents and the agents of any prospective buyer to provide a
12 copy of this report, and to disclose any information in the report, to any person in
13 connection with any actual or anticipated sale of the property.

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15 CAUTION: The lists of defects following each question below are examples only and
16 are not the only defects that may properly be disclosed in response to each respective
17 question.

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B. STRUCTURAL AND MECHANICAL

		YES	NO	N/A
B1.	Are you aware of defects in the roof? Roof defects may include items such as leakage or significant problems with gutters or eaves.
B2.	Are you aware of defects in the electrical system? Electrical defects may include items such as electrical wiring not in compliance with applicable code, knob and tube wiring, 60 amp service, or aluminum-branch circuit wiring.	....	....	....

		YES	NO	N/A
B3.	Are you aware of defects in part of the plumbing system (including the water heater, water softener, and swimming pool)? Other plumbing system defects may 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 may 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 of other defects caused by a fire in a stove or fireplace or elsewhere on the property? Such defects may 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 related 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. ch. 101).	....	....	....
B7.	Are you aware of defects in the basement or foundation (including cracks, seepage, and bulges)? Other basement defects may include items such as flooding, defects in drain tiling or sump pumps, or movement, shifting, or deterioration in the foundation.	....	....	....
B8.	Are you aware of defects in any structure on the property? Structural defects with respect to the residence or other improvements may 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.	....	....	....
B9.	Are you aware of defects in mechanical equipment included in the sale either as fixtures or personal property? Mechanical equipment defects may include items such as defects in any appliance, central vacuum, garage door opener, in-ground sprinkler, or in-ground pet containment system that is included in the sale.	....	....	....
B10.	Are you aware of rented items located on the property such as a water softener or other water conditioner system or other items affixed to or closely associated with the property?
B11.	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; 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 property? 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 property?	....	....	....
C4.	Are you aware of the presence of or a defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of hazardous or toxic substances on neighboring properties?	....	....	....
C5.	Are you aware of current or previous termite, powder post beetle, or carpenter ant infestations or defects caused by animal, reptile, or insect infestations?	....	....	....
C6.	Are you aware of water quality issues caused by unsafe concentrations of or unsafe conditions relating to lead?	....	....	....
C7.	Are you aware of the manufacture of methamphetamine or other hazardous or toxic substances on the property?
C8.	Explanation of "yes" responses			
			
			

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D. WELLS, SEPTIC SYSTEMS, STORAGE TANKS

		YES	NO	N/A
D1.	Are you aware of defects in a well on the property or in a well that serves the property, including unsafe well water? Well defects may include items such as an unused well not properly closed in conformance with state regulations, a well that was not constructed pursuant to state standards or local code, or a well that 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 substances affecting human consumption safety.
D2.	Are you aware of a joint well serving the property?	....	....	....
D3.	Are you aware of a defect related to a joint well serving the property?	....	....	....
D4.	Are you aware that a septic system or other private sanitary disposal system serves the 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 serves the property and that is not closed or abandoned according to applicable regulations? Septic system defects may include items such as backups in toilets or in the basement; exterior ponding, overflows, or backups; or defective or missing baffles.	....	....	....

		YES	NO	N/A
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 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.	....	....	....
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 an "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?	....	....	....
E3.	Are you aware of pending special assessments?	....	....	....
E4.	Are you aware that the property is 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 a required state or local permit was not obtained?
E8.	Explanation of "yes" responses			
			
			

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F. LAND USE

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		YES	NO	N/A
F1.	Are you aware of the property being part of or subject to a subdivision homeowners' association?
F2.	<i>If the property is not a condominium unit,</i> 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?	....	....	....
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.	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 non agricultural 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. a. Are you aware of all or part of the property having been assessed as agricultural land under Wis. Stat. s. 70.32 (2r) (use value assessment)? 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)) 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 (4))	....	....	....
F11.	Is all or part of 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/FarmlandPreservati.aspx for more information.	....	....	....

SECTION 4

		YES	NO	N/A
F12.	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?	....	....	....
F13.	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.)	....	....	....
F14.	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.	....	....	....
F15.	Are you aware there is not legal access to the property?	....	....	....
F16.	Are you aware of federal, state, or local regulations requiring repairs, alterations, or corrections of an existing condition? This may include items such as orders to correct building code violations.	....	....	....
F17.	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 for more information.	....	....	....
F18.	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 .)
F19.	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 all or any 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.			

- | | | YES | NO | N/A |
|-----|---|-----|----|-----|
| G5. | The owner has lived in the property for years. | | | |
| G6. | Explanation of "yes" responses | | | |
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OWNER'S CERTIFICATION

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NOTE: Wisconsin Statute section 709.035 requires owners who, prior to acceptance of a purchase contract or an option to purchase, obtain information that would change a response on this report to submit a complete amended report or an amendment to the previously completed report to the prospective buyer within 10 days of acceptance.

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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.

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Owner Date

11

Owner Date

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Owner Date

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CERTIFICATION BY PERSON SUPPLYING INFORMATION

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

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Person Items Date

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Person Items Date

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Person Items Date

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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

SECTION 5. 709.033 of the statutes is repealed and recreated to read:

709.033 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.

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

6 NOTICE TO PARTIES REGARDING ADVICE OR INSPECTIONS

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

14 A. OWNER'S INFORMATION

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

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

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

23 An "owner" who transfers real estate that does not include any buildings is required
24 to complete this report.

1 Exceptions: An “owner” who is a personal representative, trustee, conservator, or
2 fiduciary appointed by or subject to supervision by a court, and who has never
3 occupied the property transferred is not required to complete this report. An “owner”
4 who transfers property that has not been inhabited or who transfers property in a
5 manner that is exempt from the real estate transfer fee is not required to complete
6 this report. (Wis. Stat. s. 709.01)

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

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

16 A6. The owner discloses the following information with the knowledge that, even
17 though this is not a warranty, prospective buyers may rely on this information in
18 deciding whether and on what terms to purchase the property. The owner hereby
19 authorizes the owner’s agents and the agents of any prospective buyer to provide a
20 copy of this report, and to disclose any information in the report, to any person in
21 connection with any actual or anticipated sale of the property.

22
23 CAUTION: The lists of defects following each question below are examples only and
24 are not the only defects that may properly be disclosed in response to each respective
25 question.

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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 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, settling, 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			
			
			

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C. WELLS, SEPTIC SYSTEMS, STORAGE TANKS

		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 not. Wisconsin Department of Agriculture, Trade and Consumer Protection regulations 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 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.	....	....	....

		YES	NO	N/A
C3.	Are you aware of defects in a well on the property or a well that serves the property, 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 a 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 serves the property and that is not closed or abandoned according to applicable regulations?
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 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 land division involving the property for which required state or local permits were not obtained?	....	....	....
D5.	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?	....	....	....
D6.	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?
D7.	Explanation of "yes" responses			
			
			

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E. LAND USE

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YES	NO	N/A
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		YES	NO	N/A
E1.	Are you aware of the property being part of or subject to any subdivision homeowners' associations?
E2.	<i>If the property is not a condominium,</i> Are you aware of common areas associated with the property that are co-owned with others?	....	....	....

*

		YES	NO	N/A
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 nonconforming uses of the property? A nonconforming use is a use of land 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.	....	....	....
E6.	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 the 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.	....	....	....
E7.	Are you aware of restrictive covenants or deed restrictions on the property?	....	....	....
E8.	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?	....	....	....
E9.	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?	....	....	....
E10.	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 non agricultural 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.			
	a. Are you aware of all or part of the property having been assessed as agricultural land under Wis. Stat. s. 70.32 (2r) (use value assessment)?	....	....	....
	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))	....	....	....
	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 (4))	....	....	....
E11.	Is all or part of 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.	....	....	....
E12.	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?	....	....	....

		YES	NO	N/A
E13.	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.)	....	....	....
E14.	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.	....	....	....
E15.	Are you aware there is not legal access to the property?	....	....	....
E16.	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 for more information.	....	....	....
E17.	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.)	....	....	....
E18.	Are you aware of archeological artifacts, mineral rights, orchards, or endangered species on the property?	....	....	....
E19.	Are you aware of existing or abandoned manure storage facilities located on the property?	....	....	....
E20.	Are you aware that all or part 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.	....	....	....
E21.	Explanation of "yes" responses			
			
			

		YES	NO	N/A
F1.	Are you aware of high voltage electric (100 kilo volts 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 may include items such as animal, reptile, or insect infestation; drainage easement or grading problems; excessive sliding; 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			
			
			

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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 that would change a response on this report to submit a complete amended report or an amendment to the previously completed report to the prospective buyer within 10 days of acceptance.

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

3 Owner Date

4 Owner Date

5 Owner Date

6

7 **CERTIFICATION BY PERSON SUPPLYING INFORMATION**

8 A person other than the owner certifies that the person supplied information on
9 which the owner relied for this report and that the information is true and correct
10 to the best of the person's knowledge as of the date on which the person signs this
11 report.

12 Person Items Date

13 Person Items Date

14 Person Items Date

15

16 **BUYER'S ACKNOWLEDGEMENT**

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

20 I acknowledge receipt of a copy of this statement.

21 Prospective buyer Date

22 Prospective buyer Date

23 Prospective buyer Date

24 **SECTION 6. Nonstatutory provisions.**

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

2 Notwithstanding section 709.035 of the statutes, a property owner who furnished to
3 a prospective buyer of the property an original or amended report before the effective
4 date of this subsection need only submit an amended report with respect to the
5 information required under section 709.03 (form) of the statutes, 2015 stats., or by
6 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. 709.03, 2015 stats., or 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.

7 (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,

8 the department of safety and professional services may promulgate rules governing
9 the information about defects that a home inspector is required to provide to a client
10 concerning the results of a home inspection under sections 440.974 (1) (c) and
11 440.975 (3) (cm) of the statutes for the period before the effective date of permanent
12 rules promulgated under section 440.974 (1) (c) of the statutes but not to exceed the
13 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
14 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
15 (b), and (3) of the statutes, the department is not required to provide evidence that
16 promulgating a rule under this subsection as an emergency rule is necessary for the
17 preservation of the public peace, health, safety, or welfare and is not required to
18 provide a finding of emergency for a rule promulgated under this subsection.
19 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, for emergency
20 rules promulgated under this subsection, the department is not required to prepare

1 and obtain approval of a statement of scope of the rules or to submit the proposed
2 rules in final draft form to the governor for approval.

3 **SECTION 7. Initial applicability.**

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

7 **SECTION 8. Effective date.**

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

9 (END)

Knepp, Fern

From: Schwarz, Anna
Sent: Wednesday, November 29, 2017 9:50 AM
To: Knepp, Fern
Subject: Re: LRB-449/P3 Revision

One additional change, sorry Fern! In addition to the change below we would also like to include this change:

Section 1 uses the word "a" on line 2, page 2 before component rather than "any". Can we change "a" to "any"?

Sorry for the confusion, this should be the last change for this go-around. Thanks so much!!

-Anna
Anna C. Schwarz
Research Assistant
Regulatory Licensing Reform Committee Clerk
Office of Representative Cody Horlacher
33rd Assembly District
608-266-5715

*Telephone call from Anna
12/15*

*Leave F2 & E2 as is
Section 6 of bill OK
leave as is & remove
note*

From: Schwarz, Anna
Sent: Wednesday, November 29, 2017 9:41 AM
To: Knepp, Fern <Fern.Knepp@legis.wisconsin.gov>
Subject: Re: LRB-449/P3 Revision

Greetings Fern,

Thanks for getting this /P3 out to me so quickly. We've got one tiny change we'd like to make and then I think we are all set. I've included the change below. Any chance you can make that and send us a /P4? Let me know if you have any questions. Thank you and have a great day!

Change: The flow of the page 8 F2 and page 16 E2 reads a bit awkwardly. May be it could read - Are you aware of common areas associated with the property that are co-owned with others, except for condominiums?

-Anna

Anna C. Schwarz
Research Assistant
Regulatory Licensing Reform Committee Clerk
Office of Representative Cody Horlacher
33rd Assembly District
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