



State of Wisconsin
2011 - 2012 LEGISLATURE



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2011 ASSEMBLY BILL 163

May 31, 2011 – Introduced by Representatives STEINEKE, RIVARD, BIES, KERKMAN, MOLEPSKE JR, NASS, A. OTT and STASKUNAS, cosponsored by Senators GROTHMAN, OLSEN and SCHULTZ. Referred to Committee on Housing.

1 **AN ACT** *to amend* chapter 709 (title), 709.01 (1), 709.02 (1), 709.02 (2) (intro.),
2 709.03 (intro.) and 709.07; and *to create* 709.001 and 709.033 of the statutes;
3 **relating to:** a disclosure report for sellers of vacant land.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, owners selling certain residential real property must give prospective buyers a form, known as the real estate condition report, on which the owner discloses certain conditions of the real property of which the owner is aware. The property to which the report applies is property that includes one to four dwelling units and that has been inhabited. A dwelling unit is defined as a structure or part of a structure that is used as a home or residence or sleeping place by one person or by two or more persons maintaining a common household. The report must be given to a prospective buyer no later than ten days after the seller has accepted an offer to purchase, creating a contract of sale. A prospective buyer may rescind a contract of sale if he or she does not receive a report within the specified time or if he or she timely receives a report but it is incomplete or discloses a defect of which the buyer was not aware.

This bill creates a vacant land disclosure report, similar to the real estate condition report, on which the owner of the property must disclose certain conditions of the property of which the owner is aware. For example, the owner must disclose whether he or she is aware of underground storage tanks on the property; of any planned public improvements that may result in special assessments; of any significant odor, noise, water intrusion, or other irritants coming from neighboring

ASSEMBLY BILL 163

1 709.01 (1) Except as provided in sub. (2), all persons who transfer real property
2 located in this state, including a condominium unit, ~~as defined in s. 703.02 (15), and~~
3 ~~time-share property, as defined in s. 707.02 (32), but excluding property that has not~~
4 ~~been inhabited, that includes 1 to 4 dwelling units, as defined in s. 101.61 (1), by sale,~~
5 ~~exchange, or land contract, unless the transfer is exempt from the real estate~~
6 ~~transfer fee under s. 77.25, shall comply with ss. 709.02 to 709.04 and 709.06.~~

7 **SECTION 4.** 709.02 (1) of the statutes is amended to read:

8 709.02 (1) In regard to transfers described in s. 709.01, the owner of the
9 property shall furnish, not later than 10 days after acceptance of a contract of sale
10 or option contract, to the prospective buyer of the property a completed copy of the
11 report under s. 709.03 or 709.033, whichever is applicable, subject to s. 709.035,
12 except that the owner may substitute for any entry information supplied by a
13 licensed engineer, land surveyor, or structural pest control operator ~~or,~~ by an
14 individual who is a qualified 3rd party, ~~as defined in s. 452.23 (2) (b), or by a~~
15 ~~contractor about matters within the scope of the contractor's occupation, if the~~
16 ~~information is in writing and is furnished on time and if the entry to which it relates~~
17 ~~is identified, and except that the owner may substitute for any entry information~~
18 ~~supplied by a public agency, as defined in s. 66.0825 (3) (h).~~ Information that
19 substitutes for an entry on the report under s. 709.03 or 709.033 and that is supplied
20 by a person specified in this section may be submitted and certified on a
21 supplemental report prepared by the person, as long as the information otherwise
22 satisfies the requirements under this section. A prospective buyer who does not
23 receive a report within the 10 days may, within 2 business days after the end of that
24 10-day period, rescind the contract of sale or option contract by delivering a written
25 notice of rescision to the owner or to the owner's agent.

ASSEMBLY BILL 163

SECTION 5

1 **SECTION 5.** 709.02 (2) (intro.) of the statutes is amended to read:

2 709.02 (2) (intro.) In regard to a transfer of a condominium unit, as defined in
3 s. ~~703.02 (15)~~, the owner shall furnish, in addition to and at the same time as the
4 information required under sub. (1), all the following information as an addendum
5 to the ~~real estate condition~~ report under s. 709.03 or 709.033:

6 **SECTION 6.** 709.03 (intro.) of the statutes is amended to read:

7 **709.03 Report Residential real estate condition report form.** (intro.)
8 The report required under s. 709.02 with respect to real property as defined in s.
9 709.001 (5) (a) shall be in substantially the following form and shall include at least
10 all of the following information:

11 **SECTION 7.** 709.033 of the statutes is created to read:

12 **709.033 Vacant land disclosure report form.** The report required under
13 s. 709.02 with respect to real property as defined in s. 709.001 (5) (b) shall be in
14 substantially the following form and shall include at least all of the following
15 information:

VACANT LAND DISCLOSURE REPORT

DISCLAIMER

16
17
18 A. THIS DISCLOSURE REPORT CONCERNS THE REAL PROPERTY
19 LOCATED AT IN THE (CITY) (VILLAGE) (TOWN) OF, COUNTY OF,
20 STATE OF WISCONSIN. THIS REPORT IS A DISCLOSURE OF THE
21 CONDITION OF THAT PROPERTY IN COMPLIANCE WITH SECTION 709.02 OF
22 THE WISCONSIN STATUTES AS OF (MONTH), (DAY), (YEAR). IT IS
23 NOT A WARRANTY OF ANY KIND BY THE OWNER OR ANY AGENTS
24 REPRESENTING ANY PRINCIPAL IN THIS TRANSACTION AND IS NOT A

ASSEMBLY BILL 163

		YES	NO	N/A
C. 1.	I am 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.	....	....	....
C. 2.	I am aware of a government agency, court order, or federal, state, or local regulations requiring repair, alteration, or correction of an existing condition.	....	....	....
C. 3.	I am aware of a land division or subdivision for which required state or local approvals were not obtained.	....	....	....
C. 4.	I am aware that all or a portion of the property is in a floodplain, wetland, or shoreland zoning area under local, state, or federal regulations.	....	....	....
C. 5.	I am aware that all or part of the property is subject to, or in violation of, an agricultural conservation easement or a farmland preservation agreement with the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) or under a county farmland preservation plan (also see item D. 2.), or enrolled in, or in violation of, a forest cropland, managed forest land (see s. 710.12, Wis. stats.), conservation reserve, or other comparable program.	....	....	....
C. 6.	I am aware of a boundary or lot dispute, an encroachment, an encumbrance, a joint driveway, or a violation of the fence laws under ch. 90, Wis. stats.	....	....	....
C. 7.	I am aware of a material violation of an environmental rule or other rule or agreement regulating the use of the property.	....	....	....
C. 8.	I am aware of any condition constituting a significant health risk or safety hazard for occupants of the property.	....	....	....

ASSEMBLY BILL 163

		YES	NO	N/A
C. 9.	I am 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 Commerce at P.O. Box 7970, Madison, Wisconsin, 53707, whether the tanks are in use or not. Regulations of the Wisconsin Department of Commerce may require the closure or removal of unused tanks.)	....	....	....
C. 10.	I am aware of a defect or contamination caused by unsafe concentrations of, or unsafe conditions relating to, pesticides, herbicides, fertilizer, radon, radium in water supplies, lead or arsenic in soil, or other potentially hazardous or toxic substances on the premises.	....	....	....
C. 11.	I am aware that methamphetamine or other hazardous or toxic substances have been manufactured on the property.	....	....	....
C. 12.	I am aware of high voltage electric (100 kilovolts or greater) or steel natural gas transmission lines located on, but not directly serving, the property.	....	....	....
C. 13.	I am 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.	....	....	....
C. 14.	I am aware of defects in any septic system or other sanitary disposal system on the property or any out-of-service septic system that is not closed or abandoned according to applicable regulations.	....	....	....

ASSEMBLY BILL 163

		YES	NO	N/A
C. 15.	I am 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, or slides; or excessive rocks or rock formations.	....	....	....
C. 16.	I am 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 action program, the DATCP Agricultural Chemical Cleanup Program, or other similar program.	....	....	....
C. 17.	I am aware that there is no legal access to the property by vehicle from public roads.	....	....	....
C. 18.	I am aware that the property is subject to any of the following: a homeowners' association; a common area shared or co-owned with another; a zoning violation or nonconforming use; a right-of-way; a restrictive covenant; an easement, including a conservation easement; an easement maintenance agreement; or use of a part of the property by a nonowner, other than a recorded utility easement.	....	....	....
C. 19.	I am aware that the property is located within a special purpose district, such as a drainage district, lake district, sanitary district, or sewer district, that has the authority to impose assessments against real property located within the district.	....	....	....

ASSEMBLY BILL 163

		YES	NO	N/A
C. 20.	I have received notice of a property tax increase, other than a normal annual increase, or am aware of a completed or pending property reassessment or a proposed or pending special assessment.	....	....	....
C. 21.	I am aware of burial sites, archeological artifacts, mineral rights, orchards, or endangered species on the property.	....	....	....
C. 22.	I am aware of flooding, standing water, drainage problems, or other water problems on or affecting the property.	....	....	....
C. 23.	I am aware of material damage from fire, wind, flood, earthquake, expansive soil, erosion, or landslide.	....	....	....
C. 24.	I am aware of significant odor, noise, water intrusion, or other irritants emanating from neighboring property.	....	....	....
C. 25.	I am aware of significant crop damage from disease, insects, soil contamination, wildlife, or other causes; diseased trees; or substantial injuries or disease in livestock on the property or neighboring property.	....	....	....
C. 26.	I am aware of existing or abandoned manure storage facilities.	....	....	....
C. 27.	I am aware that the property is subject to a mitigation plan required under administrative rules of DNR 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.	....	....	....
C. 28.	I am aware that a pier attached to the property is not in compliance with state or local pier regulations. See http://dnr.wi.gov/ for information.	....	....	....
C. 29.	I am 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.	....	....	....

ASSEMBLY BILL 163

C. 30. I am aware of other defects affecting the property.

1

ADDITIONAL INFORMATION

	YES	NO	N/A
D. 1. <u>Use-Value Assessments.</u> 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, such as residential or commercial development, that person may owe a conversion charge. To obtain more information about the use-value law or conversion charge, contact the Wisconsin Department of Revenue's (DOR's) equalization section at (608) 266-2149 or visit: http://www.revenue.wi.gov/faqs/slf/useassmt.html .			
a. I am aware that all or part of the land has been assessed as agricultural land under s. 70.32 (2r), Wis. stats.
b. I am aware that the owner has been assessed a use-value conversion charge under s. 74.485 (2), Wis. stats.
c. I am aware that the payment of a use-value conversion charge has been deferred under s. 74.485 (4), Wis. stats.
D. 2. <u>Farmland Preservation.</u> Rezoning a property zoned farmland preservation to another use, early termination of a farmland preservation agreement, or removal of land from a farmland preservation agreement can trigger payment of a conversion fee equal to 3 times the class 1 "use value" of the land. For more information, call (608) 224-4500 or visit: http://workinglands.wi.gov .			
a. I am aware that the property is in a certified farmland preservation zoning district or is subject to a farmland preservation agreement.
D. 3. <u>Utility Connections.</u> I am aware that the property is connected to the following utilities on the property or at the lot line:			
a. Electricity.

ASSEMBLY BILL 163

1 Person ... Items ... Date ...

2 Person ... Items ... Date ...

3 NOTICE REGARDING ADVICE OR INSPECTIONS

4 H. THE PROSPECTIVE BUYER AND THE OWNER MAY WISH TO OBTAIN
5 PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY AND TO
6 PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN
7 THEM WITH RESPECT TO ANY ADVICE, INSPECTIONS, DEFECTS, OR
8 WARRANTIES.

9 BUYER'S ACKNOWLEDGEMENT

10 I. 1. The prospective buyer acknowledges that technical knowledge such as
11 that acquired by professional inspectors may be required to detect certain defects
12 such as floodplain status.

13 I. 2. I acknowledge receipt of a copy of this statement.

14 Prospective buyer ... Date ...

15 Prospective buyer ... Date ...

16 Prospective buyer ... Date ...

17 SECTION 8. 709.07 of the statutes is amended to read:

18 **709.07 Liability precluded.** An owner is not liable for an error or omission
19 in a report under s. 709.03 or 709.033 if the owner had no knowledge of that error
20 or omission, if the error or omission was based on information provided by a public
21 agency, ~~as defined in s. 66.0825 (3) (h), or~~ by a licensed engineer, land surveyor,
22 structural pest control operator, or qualified 3rd party, ~~as defined in s. 452.23 (2) (b),~~
23 or by a contractor about matters within the scope of the contractor's occupation.

24 SECTION 9. Initial applicability.

