



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5713/1
KRP:kjf

2019 SENATE BILL 874

February 28, 2020 - Introduced by Senators L. TAYLOR, RISSER, SMITH and LARSON, cosponsored by Representatives RIEMER, STUCK, STUBBS, ANDERSON, L. MYERS, SUBECK, C. TAYLOR, SINICKI, SARGENT, VINING and SPREITZER. Referred to Committee on Utilities and Housing.

1 **AN ACT** *to renumber and amend* 709.02 (1); *to amend* 254.34 (1) (h) 1., 709.01
2 (1), 709.03 (form) C2. and 709.08; and *to create* 709.03 (form) C2m. and 709.09
3 of the statutes; **relating to:** disclosures regarding radon in real estate
4 transactions.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, an owner of residential real property with one to four dwelling units (residential real property) must give a prospective buyer a form, known as a real estate condition report form, on which the owner discloses certain conditions of, and other information about, the residential real property of which the owner is aware. The bill requires an owner to disclose on the report whether the owner has notice or knowledge of the presence of radon on the residential real property, tests for radon conducted on the residential real property, or the presence of radon mitigation systems serving the residential real property.

The bill also requires that, in addition to the report, the owner must provide to the prospective buyer a pamphlet developed by the Department of Health Services that describes the risks of, testing for, and mitigation of indoor radon. Under current law, DHS must develop and disseminate current radon information to the news media, builders, realtors, and the general public, and the bill specifies that DHS must develop and disseminate the pamphlet.

Finally, the bill requires that the owner of residential real property must include in a contract of sale or option contract a statement explaining potential risks from dangerous levels of indoor radon gas.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 254.34 (1) (h) 1. of the statutes is amended to read:

2 254.34 (1) (h) 1. Develop and disseminate current radon information to the
3 news media, builders, realtors, and the general public, including a pamphlet for
4 home buyers and sellers that describes the risks of, testing for, and mitigation of
5 indoor radon.

6 **SECTION 2.** 709.01 (1) of the statutes is amended to read:

7 709.01 (1) Except as provided in sub. (2), all persons who transfer real property
8 located in this state, including a condominium unit and time-share property, by sale,
9 exchange, or land contract, unless the transfer is exempt from the real estate
10 transfer fee under s. 77.25, shall comply with ss. 709.02 to 709.04 ~~and~~, 709.06, and
11 709.09.

12 **SECTION 3.** 709.02 (1) of the statutes is renumbered 709.02 (1) (a) and amended
13 to read:

14 709.02 (1) (a) In Subject to par. (b), in regard to transfers a transfer described
15 in s. 709.01, the owner of the real property shall furnish, not later than 10 days after
16 acceptance of a contract of sale or option contract, to the prospective buyer of the real
17 property a completed copy of ~~the a~~ report under s. 709.03 or 709.033, whichever is
18 applicable, subject to s. 709.035, ~~except that~~ and, for real property, as defined in s.
19 709.001 (5) (a), a copy of the pamphlet developed by the department of health services
20 under s. 254.34 (1) (h) 1. that describes the risks of, testing for, and mitigation of
21 indoor radon.

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1 **(b) For any entry in a report furnished under par. (a), the owner of the real**
2 **property** may substitute ~~for any entry~~ information supplied by a licensed engineer,
3 professional land surveyor, as defined in s. 443.01 (7m), or structural pest control
4 operator, by an individual who is a qualified 3rd party, or by a contractor about
5 matters within the scope of the contractor's occupation, if the information is in
6 writing and is furnished on time and if the entry to which it relates is identified, ~~and~~
7 ~~except that.~~ **For any entry in a report furnished under par. (a), the owner may**
8 ~~substitute for any entry~~ information supplied by a public agency. Information that
9 substitutes for an entry on the report ~~under s. 709.03 or 709.033~~ and that is supplied
10 by a person specified in this section ~~section~~ **paragraph** may be submitted and certified on a
11 supplemental report prepared by the person, as long as the information otherwise
12 satisfies the requirements under this section.

13 **(c) A prospective buyer who does not receive a report or, if applicable, the**
14 **pamphlet within the 10 days 10-day period described in par. (a) may, within 2**
15 business days after the end of that 10-day period, rescind the contract of sale or
16 option contract by delivering a written notice of rescision to the owner or to the owner's
17 agent.

18 **SECTION 4.** 709.03 (form) C2m. of the statutes is created to read:

19 **709.03** (form)

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SECTION 4

C2m. Are you aware of the presence of radon on the
property, tests for radon conducted on the
property, or the presence of radon mitiga-
tion systems serving the property? (If “yes,”
specify in the additional information space
all of the following: a) the most current
records and test results related to radon
concentrations on the property; b) a
description of any radon concentrations,
mitigation, or remediation on the property;
and c) if applicable, a description of the
radon mitigation system installed on the
property.)

1 **SECTION 5.** 709.03 (form) C2. of the statutes is amended to read:

2 **709.03** (form)

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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.

1 **SECTION 6.** 709.08 of the statutes is amended to read:

2 **709.08 Waiver.** A buyer may waive in writing the right to rescind under s.
 3 709.05. If a buyer proceeds to closing, the buyer’s right to rescind under s. 709.05 is
 4 terminated. A buyer may waive in writing the right to receive the report or pamphlet
 5 required under s. 709.02.

6 **SECTION 7.** 709.09 of the statutes is created to read:

7 **709.09 Additional disclosure; risks from indoor radon.** In regard to a
 8 transfer described in s. 709.01, the owner of real property, as defined in s. 709.001
 9 (5) (a), shall include in the contract of sale or option contract a statement explaining
 10 potential risks from dangerous levels of indoor radon gas in substantially the
 11 following form: “The Department of Health Services recommends testing for radon

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1 during real estate transactions to better understand radon levels and lung cancer
2 risk. Radon is a naturally occurring, odorless, colorless, radioactive gas that can
3 cause lung cancer. Radon can leak into your home and is common in Wisconsin.
4 Behind smoking, radon is the 2nd leading cause of lung cancer in the United States.”

SECTION 8. Nonstatutory provisions.

6 (1) REAL ESTATE CONDITION REPORT. Notwithstanding s. 709.035, the treatment
7 of s. 709.03 (form) C2. and C2m. does not require a property owner that has furnished
8 to a prospective buyer of the property an original or amended report before the
9 effective date of this subsection to submit an amended report with respect to the
10 information required by s. 709.03 (form) C2. and C2m.

SECTION 9. Initial applicability.

12 (1) REAL ESTATE CONDITION REPORT. The treatment of s. 709.03 (form) C2. and
13 C2m. first applies to a report that is furnished on the effective date of this subsection.

SECTION 10. Effective date.

15 (1) This act takes effect on the first day of the 7th month beginning after
16 publication.

17 (END)