

2024 -- S 2185 SUBSTITUTE A

LC004283/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

**RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES**

Introduced By: Senators Gu, Euer, McKenney, Sosnowski, DiMario, LaMountain, Gallo,
Burke, and Bissailon

Date Introduced: January 24, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-20.8-1 and 5-20.8-2 of the General Laws in Chapter 5-20.8 entitled

2 "Real Estate Sales Disclosures" are hereby amended to read as follows:

3 **5-20.8-1. Definitions.**

4 When used in this chapter, unless the context indicates otherwise:

5 (1) "Agent" means any individual or entity acting on behalf of a seller or buyer to effect
6 the transfer of real estate. It includes listing agent, selling agent, buyer's agent, and their respective
7 brokers.

8 (2) "Agreement to transfer" means a purchase and sale agreement, installment-sales
9 contract, option to purchase agreement, or other agreement intended to effect the transfer of real
10 estate from a seller to a buyer.

11 (3) "Buyer" means any individual or entity seeking to obtain title to real estate from a seller
12 for consideration.

13 (4) "Closing" means the time at which real estate is transferred from seller to buyer and
14 consideration is delivered to the seller or to a settlement agent with the intention of imminent
15 delivery upon the recording of pertinent documents and other ministerial acts associated with
16 settlement.

17 (5) "Deficient conditions" means any land restrictions, defect, malfunction, breakage, or
18 unsound condition existing on, in, across, or under the real estate of which the seller has knowledge.

1 (6) "Lead exposure hazard" means a condition that presents a clear and significant health
2 risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are children
3 under the age of six (6) years.

4 (7) "Real estate" means vacant land or real property and improvements consisting of a
5 house or building containing one to four (4) dwelling units.

6 (8) "Seller" means any individual or entity seeking to transfer title to real estate to a buyer
7 for consideration.

8 (9) "Shoreline property" means any real estate that abuts the shore as governed by § 46-23-
9 26.

10 ~~(9)~~(10) "Transfer" means the sale or conveyance, exchange of, or option to purchase any
11 real estate.

12 **5-20.8-2. Disclosure requirements.**

13 (a) As soon as practicable, but in any event no later than prior to signing any agreement to
14 transfer real estate, the seller of the real estate shall deliver a written disclosure to the buyer and to
15 each agent with whom the seller knows he or she or the buyer has dealt in connection with the real
16 estate. The written disclosure shall comply with the requirements set forth in subsection (b) and
17 shall state all deficient conditions of which the seller has actual knowledge. The agent shall not
18 communicate the offer of the buyer until the buyer has received a copy of the written disclosure
19 and signed a written receipt of the disclosure. If the buyer refuses to sign a receipt pursuant to this
20 section, the seller or agent shall immediately sign and date a written account of the refusal. The
21 agent is not liable for the accuracy or thoroughness of representations made by the seller in the
22 written disclosure or for deficient conditions not disclosed to the agent by the seller.

23 (b)(1) The Rhode Island real estate commission shall approve a form of written disclosure
24 for vacant land and a form of written disclosure for the sale of real property and improvements
25 consisting of a house or building containing one to four (4) dwelling units as required under this
26 chapter or the seller may use a disclosure form substantially conforming to the requirements of this
27 section. The following provisions shall appear conspicuously at the top of any written disclosure
28 form: "Prior to the signing of an agreement to transfer real estate (vacant land or real property and
29 improvements consisting of a house or building containing one to four (4) dwelling units), the seller
30 is providing the buyer with this written disclosure of all deficient conditions of which the seller has
31 knowledge. This is not a warranty by the seller that no other defective conditions exist, which there
32 may or may not be. The buyer should estimate the cost of repair or replacement of deficient
33 conditions prior to submitting an offer on this real estate. The buyer is advised not to rely solely
34 upon the representation of the seller made in this disclosure, but to conduct any inspections or

1 investigations the buyer deems to be necessary to protect his or her best interest.” Nothing
2 contained in this section shall be construed to impose an affirmative duty on the seller to conduct
3 inspections as to the condition of this real estate.

4 (2) The disclosure form for vacant land shall include the following information:

5 (i) Sewage System — (Assessment, Annual Fees, Type, Cesspool/Septic Location, Last
6 Pumped, Maintenance History, Defects)

7 “Potential purchasers of real estate in the State of Rhode Island are hereby notified that
8 many properties in the state are still serviced by cesspools as defined in chapter 19.15 of title 23
9 (the “Rhode Island Cesspool Act of 2007”). Cesspools are a substandard and inadequate means of
10 sewage treatment and disposal, and cesspools often contribute to groundwater and surface water
11 contamination. Requirements for abandonment and replacement of high-risk cesspools as
12 established in chapter 19.15 of title 23 are primarily based upon a cesspool’s nontreatment of
13 wastewater and the inherent risks to public health and the environment due to a cesspool’s distance
14 from a tidal water area, or a public drinking water resource. Purchasers should consult chapter
15 19.15 of title 23 for specific cesspool abandonment or replacement requirements. An inspection of
16 property served by an on-site sewage system by a qualified professional is recommended prior to
17 purchase. Pursuant to § 5-20.8-13, potential purchasers shall be permitted a ten-day (10) period to
18 conduct an inspection of a property’s sewage system to determine if a cesspool exists, and if so,
19 whether it will be subject to the phase-out requirements as established in chapter 19.15 of title 23.”

20 (ii) Water System — (Imp. & Repairs, Type, Defects) Private water supply (well). “The
21 buyer understands that this property is, or will be served, by a private water supply (well) that may
22 be susceptible to contamination and potentially harmful to health. If a public water supply is not
23 available, the private water supply must be tested in accordance with regulations established by the
24 Rhode Island department of health pursuant to § 23-1-5.3. The seller of that property is required to
25 provide the buyer with a copy of any previous private water supply (well) testing results in the
26 seller’s possession and notify the buyer of any known problems with the private water supply
27 (well).”

28 (iii) Property Tax

29 (iv) Easements and Encroachments — The seller of the real estate is required to provide
30 the buyer with a copy of any previous surveys of the real estate that are in the seller’s possession
31 and notify the buyer of any known easements, encroachments, covenants, or restrictions of the
32 seller’s real estate. If the seller knows that the real estate has a conservation easement or other
33 conservation or preservation restriction as defined in § 34-39-2, the seller is required to disclose
34 that information and provide the buyer with a copy of any documentation in the seller’s possession

1 regarding the conservation and preservation restrictions. A buyer may wish to have a boundary or
2 other survey independently performed at the buyer's own expense.

3 (v) Deed — (Type, Number of Parcels)

4 (vi) Zoning — (Permitted use, Classification). “Buyers of real estate in the State of Rhode
5 Island are legally obligated to comply with all local real estate ordinances; including, but not limited
6 to, ordinances on the number of unrelated persons who may legally reside in a dwelling, as well as
7 ordinances on the number of dwelling units permitted under the local zoning ordinances.” If the
8 subject property is located in a historic district, that fact must be disclosed to the buyer, together
9 with the notification that “property located in a historic district may be subject to construction,
10 expansion, or renovation limitations. Contact the local building inspection official for details.”

11 (vii) Restrictions — (Plat or Other)

12 (viii) Building Permits

13 (ix) Flood Plain — (Flood Insurance)

14 (x) Wetlands — The location of coastal wetlands, bay, freshwater wetlands, pond, marsh,
15 river bank, or swamp, as those terms are defined in chapter 1 of title 2, and the associated buffer
16 areas may impact future property development. The seller must disclose to the buyer any such
17 determination on all or part of the land made by the department of environmental management.

18 (xi) Hazardous Waste — (Asbestos and Other Contaminants)

19 (xii) Miscellaneous

20 (xiii) Farms — The disclosure shall inform the buyer that any farm(s) that may be in the
21 municipality are protected by the right to farm law.

22 (3) The disclosure form for the sale of real property and improvements consisting of a
23 house or building containing one to four (4) dwelling units shall include the following information:

24 (i) Seller Occupancy — (Length of Occupancy)

25 (ii) Year Built

26 (iii) Basement — (Seepage, Leaks, Cracks, etc. Defects)

27 (iv) Sump Pump — (Operational, Location, and Defects)

28 (v) Roof (Layers, Age, and Defects)

29 (vi) Fireplaces — (Number, Working and Maintenance, Defects)

30 (vii) Chimney — (Maintenance History, Defects)

31 (viii) Woodburning Stove — (Installation Date, Permit Received, Defects)

32 (ix) Structural Conditions — (Defects)

33 (x) Insulation — (Wall, Ceiling, Floor, UFFI)

34 (xi) Termites or other Pests — (Treatment Company)

1 (xii) Radon — (Test, Company). “Radon has been determined to exist in the State of Rhode
2 Island. Testing for the presence of radon in residential real estate prior to purchase is advisable.”

3 (xiii) Electrical Service — (Imp. & Repairs, Electrical Service, Amps, Defects,
4 Modifications)

5 (xiv) Heating System — (Type, Imp. & Repairs, Underground Tanks, Zones, Supplemental
6 Heating, Defects, Modifications)

7 (xv) Air Conditioning — (Imp. & Repairs, Type, Defects)

8 (xvi) Plumbing — (Imp. & Repairs, Defects, Modifications)

9 (xvii) Sewage System — (Assessment, Annual Fees, Type, Cesspool/Septic Location, Last
10 Pumped, Maintenance History, Defects)

11 “Potential purchasers of real estate in the state of Rhode Island are hereby notified that
12 many properties in the state are still serviced by cesspools as defined in Rhode Island general law
13 chapter 19.15 of title 23 (the Rhode Island Cesspool Act of 2007). Cesspools are a substandard and
14 inadequate means of sewage treatment and disposal, and cesspools often contribute to groundwater
15 and surface water contamination. Requirements for abandonment and replacement of high-risk
16 cesspools as established in chapter 19.15 of title 23 are primarily based upon a cesspool’s
17 nontreatment of wastewater and the inherent risks to public health and the environment due to a
18 cesspool’s distance from a tidal water area, or a public drinking water resource. Purchasers should
19 consult chapter 19.15 of title 23 for specific cesspool abandonment or replacement requirements.
20 An inspection of property served by an on-site sewage system by a qualified professional is
21 recommended prior to purchase. Pursuant to § 5-20.8-13, potential purchasers shall be permitted a
22 ten-day (10) period to conduct an inspection of a property’s sewage system to determine if a
23 cesspool exists, and if so, whether it will be subject to the phase-out requirements as established in
24 chapter 19.15 of title 23.”

25 (xviii) Water System — (Imp. & Repairs, Type, Defects) Private water supply (well). “The
26 buyer understands that this property is, or will be served, by a private water supply (well) that may
27 be susceptible to contamination and potentially harmful to health. If a public water supply is not
28 available, the private water supply must be tested in accordance with regulations established by the
29 Rhode Island department of health pursuant to § 23-1-5.3. The seller of that property is required to
30 provide the buyer with a copy of any previous private water supply (well) testing results in the
31 seller’s possession and notify the buyer of any known problems with the private water supply
32 (well).”

33 (xix) Domestic Hot Water — (Imp. & Repairs, Type, Defects, Capacity of Tank)

34 (xx) Property Tax

1 (xxi) Easements and Encroachments — The seller of the real estate is required to provide
2 the buyer with a copy of any previous surveys of the real estate that are in the seller’s possession
3 and notify the buyer of any known easements, encroachments, covenants, or restrictions of the
4 seller’s real estate. If the seller knows that the real estate has a conservation easement or other
5 conservation or preservation restriction as defined in § 34-39-1, the seller is required to disclose
6 that information and provide the buyer with a copy of any documentation in the seller’s possession
7 regarding the conservation and preservation restrictions. A buyer may wish to have a boundary or
8 other survey independently performed at his or her own expense.

9 (xxii) Deed — (Type, Number of Parcels)

10 (xxiii) Zoning — (Permitted use, Classification). “Buyers of real estate in the state of
11 Rhode Island are legally obligated to comply with all local real estate ordinances; including, but
12 not limited to, ordinances on the number of unrelated persons who may legally reside in a dwelling,
13 as well as ordinances on the number of dwelling units permitted under the local zoning ordinances.”
14 If the subject property is located in a historic district, that fact must be disclosed to the buyer,
15 together with the notification that “property located in a historic district may be subject to
16 construction, expansion, or renovation limitations. Contact the local building inspection official for
17 details.”

18 (xxiv) Restrictions — (Plat or Other)

19 (xxv) Building Permits

20 (xxvi) Minimum Housing — (Violations)

21 (xxvii) Flood Plain — (Flood Insurance)

22 (xxviii) Wetlands — The location of coastal wetlands, bay, freshwater wetlands, pond,
23 marsh, river bank, or swamp, as those terms are defined in chapter 1 of title 2, and the associated
24 buffer areas may impact future property development. The seller must disclose to the buyer any
25 such determination on all or part of the land made by the department of environmental management.

26 (xxix) Multi-family or other Rental Property — (Rental Income)

27 (xxx) Pools & Equipment — (Type, Defects)

28 (xxxi) Lead Paint — (Inspection) Every buyer of residential real estate built prior to 1978
29 is hereby notified that those properties may have lead exposures that may place young children at
30 risk of developing lead poisoning. Lead poisoning in young children may produce permanent
31 neurological damage, including learning disabilities, reduced IQ behavioral problems, and
32 impaired memory. The seller of that property is required to provide the buyer with a copy of any
33 lead inspection report in the seller’s possession and notify the buyer of any known lead poisoning
34 problem. Environmental lead inspection is recommended prior to purchase.

1 (xxxii) Fire

2 (xxxiii) Hazardous Waste — (Asbestos and Other Contaminants)

3 (xxxiv) Miscellaneous

4 (xxxv) Farms — The disclosure shall inform the buyer that any farm(s) that may be in the
5 municipality are protected by the right to farm law.

6 (xxxvi) Mold — (Type, repairs, alterations, modifications).

7 (xxxvii) Ventilation system modifications.

8 (xxxviii) Moisture penetration and damage.

9 (c) Any agreement to transfer real estate shall contain an acknowledgement that a
10 completed real estate disclosure form has been provided to the buyer by the seller in accordance
11 with the provisions of this section.

12 (d) The Rhode Island real estate commission has the right to amend the seller disclosure
13 requirements by adding or deleting requirements when there is a determination that health, safety,
14 or legal needs require a change. Any change to requirements shall be a rule change, subject to the
15 administrative procedures act, chapter 35 of title 42. The power of the commission to amend the
16 written disclosure requirements shall be liberally construed so as to allow additional information to
17 be provided as to the structural components, housing systems, and other property information as
18 required by this chapter.

19 (e) The disclosure form for the sale of vacant land or real property and improvements in §
20 5-20.8-2(b)(2) and § 5-20.8-2(b)(3) shall also include the following information:

21 "Shoreline Access - Members of the public shall have the right to access shoreline property
22 as defined in § 5-20.8-1. The public's rights and privileges of the shore may be exercised, where
23 shore exists, on wet sand or dry sand or rocky beach, up to ten feet (10') landward of the
24 "recognizable high tide line" subject to the restrictions governed by § 46-23-26 and any general
25 laws to the contrary.

26 The seller of the real estate is required to notify the buyer of any public rights of way on
27 the real estate that are known to the seller. The seller shall provide the buyer with a copy of any
28 documentation evidencing such rights of way or conditions of public access that is in the seller's
29 possession.

30 The buyer is advised to contact the Coastal Management Resources Council, the
31 municipality or applicable nonprofit organizations to determine whether any public rights of way
32 exist.

33 The seller shall provide the buyer with a copy of any permits relating to the real estate that
34 were issued by the Coastal Management Resources Council and that are in the seller's possession."

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES

- 1 This act would require information on the public's rights and privileges of the shore to be
- 2 included in disclosure forms for the sale of vacant land or real property.
- 3 This act would take effect upon passage.

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