



House of Representatives

General Assembly

File No. 736

January Session, 2009

Substitute House Bill No. 6114

House of Representatives, April 20, 2009

The Committee on General Law reported through REP. SHAPIRO of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DISCLOSURE OF HISTORIC DISTRICT DESIGNATIONS AND LEASED ITEMS TO PROSPECTIVE PURCHASERS OF RESIDENTIAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-327b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Except as otherwise provided in this section, each person who
4 offers residential property in the state for sale, exchange or for lease
5 with option to buy, shall provide a written residential condition report
6 to the prospective purchaser at any time prior to the prospective
7 purchaser's execution of any binder, contract to purchase, option, or
8 lease containing a purchase option. A photocopy, duplicate original,
9 facsimile transmission, or other exact reproduction or duplicate of the
10 written residential condition report containing the prospective
11 purchaser's written receipt shall be attached to any written offer,
12 binder or contract to purchase. A photocopy, duplicate original,
13 facsimile transmission or other exact reproduction or duplicate of the

14 written residential condition report containing the signatures of both
15 seller and purchaser, shall be attached to any agreement to purchase
16 the property.

17 (b) The following shall be exempt from the provisions of this
18 section: (1) Any transfer from one or more co-owners solely to one or
19 more of the co-owners; (2) transfers made to the spouse, mother,
20 father, brother, sister, child, grandparent or grandchild of the
21 transferor where no consideration is paid; (3) transfers pursuant to an
22 order of the court; (4) transfers of newly-constructed residential real
23 property for which an implied warranty is provided under chapter
24 827; (5) transfers made by executors, administrators, trustees or
25 conservators; (6) transfers by the federal government, any political
26 subdivision thereof or any corporation, institution or quasi-
27 governmental agency chartered by the federal government; (7)
28 transfers by deed in lieu of foreclosure; (8) transfers by the state of
29 Connecticut or any political subdivision thereof; (9) transfers of
30 property which was the subject of a contract or option entered into
31 prior to January 1, 1996; and (10) any transfer of property acquired by
32 a judgment of strict foreclosure or by foreclosure by sale or by a deed
33 in lieu of foreclosure.

34 (c) The provisions of this section shall apply only to transfers by
35 sale, exchange or lease with option to buy, of residential real property
36 consisting of not less than one nor more than four dwelling units
37 which shall include cooperatives and condominiums, and shall apply
38 to all transfers, with or without the assistance of a licensed real estate
39 broker or salesperson, as defined in section 20-311.

40 (d) (1) [The] Not later than April 1, 2010, the Commissioner of
41 Consumer Protection, shall, by regulations adopted in accordance with
42 the provisions of chapter 54, prescribe the form of the written
43 residential disclosure report required by this section and sections 20-
44 327c to 20-327e, inclusive. The regulations shall provide that the form
45 include information concerning: [municipal]

46 (A) Municipal assessments, including, but not limited to, sewer or

47 water charges applicable to the property. Such information shall
48 include: [(A)] (i) Whether such assessment is in effect and the amount
49 of the assessment; [(B)] (ii) whether there is an assessment on the
50 property that has not been paid, and if so, the amount of the unpaid
51 assessment; and [(C)] (iii) to the extent of the seller's knowledge,
52 whether there is reason to believe that the municipality may impose an
53 assessment in the future;

54 (B) Leased items on the premises, including, but not limited to,
55 propane fuel tanks, water heaters, major appliances and alarm
56 systems; and

57 (C) (i) Whether the real property is located in a municipally
58 designated village district or municipally designated historic district or
59 has been designated on the National Register of Historic Places, and
60 (ii) a statement that information concerning village districts and
61 historic districts may be obtained from the municipality's village or
62 historic district commission, if applicable.

63 (2) Such form of the written residential disclosure report shall
64 contain the following:

65 (A) A certification by the seller in the following form:

66 "To the extent of the seller's knowledge as a property owner, the
67 seller acknowledges that the information contained above is true and
68 accurate for those areas of the property listed. In the event a real estate
69 broker or salesperson is utilized, the seller authorizes the brokers or
70 salespersons to provide the above information to prospective buyers,
71 selling agents or buyers' agents.

T1 (Date) (Seller)
T2 (Date) (Seller)"

72 (B) A certification by the buyer in the following form:

73 "The buyer is urged to carefully inspect the property and, if desired,
74 to have the property inspected by an expert. The buyer understands

75 that there are areas of the property for which the seller has no
76 knowledge and that this disclosure statement does not encompass
77 those areas. The buyer also acknowledges that the buyer has read and
78 received a signed copy of this statement from the seller or seller's
79 agent.

T3 (Date) (Seller)
T4 (Date) (Seller)"

80 (C) A statement concerning the responsibility of real estate brokers
81 in the following form:

82 "This report in no way relieves a real estate broker of the broker's
83 obligation under the provisions of section 20-328-5a of the Regulations
84 of Connecticut State Agencies to disclose any material facts. Failure to
85 do so could result in punitive action taken against the broker, such as
86 fines, suspension or revocation of license."

87 (D) A statement that any representations made by the seller on the
88 written residential disclosure report shall not constitute a warranty to
89 the buyer.

90 (E) A statement that the written residential disclosure report is not a
91 substitute for inspections, tests and other methods of determining the
92 physical condition of property.

93 (F) Information concerning environmental matters such as lead,
94 radon, subsurface sewage disposal, flood hazards and, if the residence
95 is or will be served by well water, as defined in section 21a-150, the
96 results of any water test performed for volatile organic compounds
97 and such other topics as the Commissioner of Consumer Protection
98 may determine would be of interest to a buyer.

99 (G) A statement that information concerning the residence address
100 of a person convicted of a crime may be available from law
101 enforcement agencies or the Department of Public Safety and that the
102 Department of Public Safety maintains a site on the Internet listing

103 information about the residence address of persons required to register
104 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

105 (e) On or after January 1, 1996, the Commissioner of Consumer
106 Protection shall make available the residential disclosure report
107 prescribed in accordance with the provisions of this section and
108 sections 20-327c to 20-327e, inclusive, to the Division of Real Estate, all
109 municipal town clerks, the Connecticut Association of Realtors, Inc.,
110 and any other person or institution that the commissioner believes
111 would aid in the dissemination and distribution of such form. The
112 commissioner shall also cause information concerning such form and
113 the completion of such form to be disseminated in a manner best
114 calculated, in the commissioner's judgment, to reach members of the
115 public, attorneys and real estate licensees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	20-327b

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Consumer Protection can develop the regulations required in the bill with existing resources and therefore there is no fiscal impact to the bill.

OLR Bill Analysis**sHB 6114*****AN ACT CONCERNING DISCLOSURE OF HISTORIC DISTRICT DESIGNATIONS AND LEASED ITEMS TO PROSPECTIVE PURCHASERS OF RESIDENTIAL PROPERTY.*****SUMMARY:**

This bill requires the consumer protection commissioner to adopt regulations, by April 1, 2010, amending the written residential condition report used in residential real estate transactions. The amended report must require that the seller disclosure (1) leased items on the premises, including propane tanks, water heaters, major appliances, and alarm systems and (2) whether the real property is located in a designated historic zone.

Under the bill, relevant historic designations include (1) a municipally designated village district, (2) a municipally designated historic district, or (3) property on the National Register of Historic Places. If the property is designated, the report must include a statement that information about village or historic districts may be obtained from the municipality's village or historic district commission.

EFFECTIVE DATE: Upon passage

BACKGROUND***Written Residential Condition Report***

State law requires a real estate seller to give prospective purchasers a residential condition report before the binder or contract is executed in any residential real estate transaction (i.e., sale, exchange, or lease with option to buy). The report discloses information about the property and environmental matters, such as lead and radon (CGS § 20-327b).

Village and Historic Districts

Municipal zoning commissions may establish and specifically identify in the municipal plan of conservation and development village districts located in areas of distinctive character, landscape, or historic value (CGS § 8-2j).

A municipality may also establish historic districts to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places associated with the history of or indicative of a period or style of architecture of the municipality, state, or nation. Such districts may be created by a vote of the municipal legislative body and in conformance with Connecticut Commission on Culture and Tourism standards and criteria (CGS § 7-147a).

Related Bill

HB 5400 (File 63), requires the residential condition report to include a statement listing all leased appliances and items on the premises, including propane tanks and security system hardware.

Legislative History

On March 31, the House referred the bill (File 100) to the General Law Committee, which reported a substitute (1) requiring disclosure of leased items on the property, (2) amending the form of the disclosure of historic properties, and (3) amended the relevant designations in the original bill to include municipally designated village or historic districts and properties on the National Register of Historic Places.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/03/2009)

General Law Committee

Joint Favorable Substitute

Yea 16 Nay 0 (04/06/2009)