



House of Representatives

File No. 579

General Assembly

February Session, 2012 **(Reprint of File No. 93)**

Substitute House Bill No. 5087
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 23, 2012

AN ACT REQUIRING THE COMMISSIONER OF CONSUMER PROTECTION TO MAKE CHANGES TO THE RESIDENTIAL PROPERTY CONDITION DISCLOSURE REPORT.

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

1 Section 1. Subsection (d) of section 20-327b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2012*):

4 (d) (1) Not later than [April 1, 2010] January 1, 2013, the
5 Commissioner of Consumer Protection shall, by regulations adopted in
6 accordance with the provisions of chapter 54, prescribe the form of the
7 written residential disclosure report required by this section and
8 sections 20-327c to 20-327e, inclusive. The regulations shall provide
9 that the form include information concerning:

10 (A) Municipal assessments, including, but not limited to, sewer or
11 water charges applicable to the property. Such information shall
12 include: (i) Whether such assessment is in effect and the amount of the
13 assessment; (ii) whether there is an assessment on the property that

14 has not been paid, and if so, the amount of the unpaid assessment; and
15 (iii) to the extent of the seller's knowledge, whether there is reason to
16 believe that the municipality may impose an assessment in the future;

17 (B) Leased items on the premises, including, but not limited to,
18 propane fuel tanks, water heaters, major appliances and alarm
19 systems; [and]

20 (C) (i) Whether the real property is located in a municipally
21 designated village district or municipally designated historic district or
22 has been designated on the National Register of Historic Places, and
23 (ii) a statement that information concerning village districts and
24 historic districts may be obtained from the municipality's village or
25 historic district commission, if applicable.

26 (2) Such form of the written residential disclosure report shall
27 contain the following:

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

29 "To the extent of the seller's knowledge as a property owner, the
30 seller acknowledges that the information contained above is true and
31 accurate for those areas of the property listed. In the event a real estate
32 broker or salesperson is utilized, the seller authorizes the brokers or
33 salespersons to provide the above information to prospective buyers,
34 selling agents or buyers' agents.

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

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

36 "The buyer is urged to carefully inspect the property and, if desired,
37 to have the property inspected by an expert. The buyer understands
38 that there are areas of the property for which the seller has no
39 knowledge and that this disclosure statement does not encompass
40 those areas. The buyer also acknowledges that the buyer has read and

41 received a signed copy of this statement from the seller or seller's
42 agent.

T3 (Date) (Seller)

T4 (Date) (Seller)"

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

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

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

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

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

62 (G) A statement that information concerning the residence address
63 of a person convicted of a crime may be available from law
64 enforcement agencies or the Department of Emergency Services and
65 Public Protection and that the Department of Emergency Services and
66 Public Protection maintains a site on the Internet listing information
67 about the residence address of persons required to register under
68 section 54-251, 54-252, 54-253 or 54-254, who have so registered.

69 (H) If the property is located in a common interest community,
70 whether the property is subject to any community or association dues
71 or fees.

72 (I) Whether, during the seller's period of ownership, there is or has
73 ever been an underground storage tank located on the property, and, if
74 there is or was, if it has been removed. If such underground storage
75 tank has been removed, such seller shall state when it was removed,
76 who removed it and shall provide any and all written documentation
77 of such removal within the seller's possession and control.

78 (J) A statement that the prospective purchaser should consult with
79 the municipal building official in the municipality in which the
80 property is located to confirm that building permits and certificates of
81 occupancy have been issued for work on the property, where
82 applicable.

83 (K) A statement that the prospective purchaser should have the
84 property inspected by a licensed home inspector.

85 (L) A question as to whether the seller is aware of any prior or
86 pending litigation, government agency or administrative action, order
87 or lien on the premises related to the release of any hazardous
88 substance.

89 (M) Whether there are smoke detectors and carbon monoxide
90 detectors located in a dwelling on the premises, the number of such
91 detectors, whether there have been any problems with such detectors
92 and an explanation of any such problems.

93 Sec. 2. Section 20-327c of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective July 1, 2012*):

95 On or after January 1, 1996, every agreement to purchase residential
96 real estate, for which a written residential condition report is required
97 pursuant to section 20-327b, as amended by this act, shall include a
98 requirement that the seller credit the purchaser with the sum of [three]

99 five hundred dollars at closing should the seller fail to furnish the
100 written residential condition report as required by sections 20-327b to
101 20-327e, inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	20-327b(d)
Sec. 2	<i>July 1, 2012</i>	20-327c

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: None

Municipal Impact: None

Explanation

There is no fiscal impact to the Department of Consumer Protection (DCP) in updating the regulations prescribing what must be disclosed on forms describing the condition of a residential property offered for sale, as the DCP has expertise in this area.

House "A" (LCO 3420) is technical and results in no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5087 (as amended by House "A")******AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE REAL ESTATE PROPERTY CONDITION DISCLOSURE REPORT FORM REVISION WORK GROUP.*****SUMMARY:**

This bill requires the consumer protection commissioner to update, by January 1, 2013, the regulations prescribing what must be disclosed on forms describing the condition of a residential property offered for sale. In addition to the required disclosures in existing law, the bill requires the disclosure form to state:

1. whether a property located in a common interest community is subject to any community or association dues or fees;
2. (a) whether during the seller's ownership, there is or has ever been an underground storage tank on the property, (b) if so, whether it has been removed, and (c) if the tank was removed and within the seller's possession and control, he or she must provide any and all documentation of removal with information on when and who removed it;
3. that the prospective purchaser should consult with the municipal building official where the property is located to confirm that applicable building permits and certificates of occupancy have been issued for work on the property;
4. that the prospective purchaser should have the property inspected by a licensed home inspector;
5. if the seller is aware of any prior or pending litigation or government agency or administrative action, order, or lien on

the premises related to the release of any hazardous substance;
and

6. (a) whether there are smoke and carbon monoxide detectors located in a dwelling on the premises, (b) the number of detectors, and (c) if there have been any problems with the detectors, an explanation of the problems.

The bill also increases the credit, from \$300 to \$500, that the seller must give the purchaser at closing if he or she does not furnish the written residential condition report.

*House Amendment "A" (1) clarifies the written documentation a seller must produce for underground storage tanks, (2) adds the smoke and carbon monoxide detector provision, and (3) makes a technical change.

EFFECTIVE DATE: July 1, 2012

BACKGROUND

Property Condition Reports

With certain exceptions, the law requires someone who offers residential property with one to four units for sale, exchange, or lease with the option to buy, to provide a property disclosure report to a potential buyer before the transaction is executed. A copy of the report must be attached to any written offer, binder, or contract to purchase. By law, the report must include information on municipal water or sewer assessments, the presence of leased equipment on the premises, and whether the property is located in a historic or village district or on the National Register of Historic Places.

The seller's representations are limited to his or her actual knowledge and the report does not create any new express or implied warranties.

Related Bill

The Insurance and Real Estate Committee reported out HB 5141

(File 20), which also amends the property disclosure report form requirements. Its provisions are included in House Amendment "A."

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/13/2012)