



# House of Representatives

General Assembly

**File No. 400**

February Session, 2016

House Bill No. 5231

*House of Representatives, April 4, 2016*

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING THE RESIDENTIAL PROPERTY CONDITION DISCLOSURE REPORT.***

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 Section 20-327b of the general statutes is repealed and the  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 January 1, 2017*):

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] that was the subject of a contract or option entered  
31 into prior to January 1, 1996; and (10) any transfer of property acquired  
32 by a judgment of strict foreclosure or by foreclosure by sale or by a  
33 deed 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) Not later than January 1, [2013] 2017, the Commissioner of  
41 Consumer Protection shall [, by regulations adopted in accordance  
42 with 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 shall include information required under subdivision (2) of this  
46 subsection and information concerning:

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

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

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 (D) Environmental matters such as lead, radon, subsurface sewage  
64 disposal, flood hazards and, if the residence is or will be served by  
65 well water, as defined in section 21a-150, the results of any water test  
66 performed for volatile organic compounds and such other topics as the  
67 commissioner may determine would be of interest to a buyer;

68 (E) If the property is located in a common interest community,  
69 whether the property is subject to any community or association dues  
70 or fees;

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

77 (G) Whether the seller is aware of any prior or pending litigation,  
78 government agency or administrative action, order or lien on the

79 premises related to the release of any hazardous substance;

80 (H) Whether there are smoke detectors and carbon monoxide  
81 detectors located in a dwelling on the premises, the number of such  
82 detectors, whether there have been any problems with such detectors  
83 and an explanation of any such problems.

84 (2) Such form of the written residential disclosure report shall  
85 contain the following:

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

87 "To the extent of the seller's knowledge as a property owner, the  
88 seller acknowledges that the information contained above is true and  
89 accurate for those areas of the property listed. In the event a real estate  
90 broker or salesperson is utilized, the seller authorizes the brokers or  
91 salespersons to provide the above information to prospective buyers,  
92 selling agents or buyers' agents.

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

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

94 "The buyer is urged to carefully inspect the property and, if desired,  
95 to have the property inspected by an expert. The buyer understands  
96 that there are areas of the property for which the seller has no  
97 knowledge and that this disclosure statement does not encompass  
98 those areas. The buyer also acknowledges that the buyer has read and  
99 received a signed copy of this statement from the seller or seller's  
100 agent.

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

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

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

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

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

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

120 [(G)] ~~(F)~~ A statement that information concerning the residence  
121 address of a person convicted of a crime may be available from law  
122 enforcement agencies or the Department of Emergency Services and  
123 Public Protection and that the Department of Emergency Services and  
124 Public Protection maintains a site on the Internet listing information  
125 about the residence address of persons required to register under  
126 section 54-251, 54-252, 54-253 or 54-254, who have so registered.

127 [(H) If the property is located in a common interest community,  
128 whether the property is subject to any community or association dues  
129 or fees.

130 (I) Whether, during the seller's period of ownership, there is or has  
131 ever been an underground storage tank located on the property, and, if

132 there is or was, if it has been removed. If such underground storage  
133 tank has been removed, such seller shall state when it was removed,  
134 who removed it and shall provide any and all written documentation  
135 of such removal within the seller's possession and control.]

136 [(J)] (G) A statement that the prospective purchaser should consult  
137 with the municipal building official in the municipality in which the  
138 property is located to confirm that building permits and certificates of  
139 occupancy have been issued for work on the property, where  
140 applicable.

141 [(K)] (H) A statement that the prospective purchaser should have  
142 the property inspected by a licensed home inspector.

143 [(L) A question as to whether the seller is aware of any prior or  
144 pending litigation, government agency or administrative action, order  
145 or lien on the premises related to the release of any hazardous  
146 substance.

147 (M) Whether there are smoke detectors and carbon monoxide  
148 detectors located in a dwelling on the premises, the number of such  
149 detectors, whether there have been any problems with such detectors  
150 and an explanation of any such problems.]

151 (e) (1) On [or] and after January 1, [1996] 2017, the Commissioner of  
152 Consumer Protection shall make available the residential disclosure  
153 report form prescribed in accordance with the provisions of this  
154 section and sections 20-327c to 20-327e, inclusive, to the Division of  
155 Real Estate, all municipal town clerks, the Connecticut Association of  
156 Realtors, Inc., and any other person or institution that the  
157 commissioner believes would aid in the dissemination and distribution  
158 of such form. The commissioner shall also cause information  
159 concerning such form and the completion of such form to be  
160 disseminated in a manner best calculated, in the commissioner's  
161 judgment, to reach members of the public, attorneys and real estate  
162 licensees.

163     (2) The commissioner shall submit any recommendations for  
164 material changes to the form of the written residential disclosure  
165 report to the joint standing committee of the General Assembly having  
166 cognizance of matters relating to real estate. No such changes to the  
167 form shall be effective unless enacted by the General Assembly, except  
168 the commissioner may update the form each October first to correct  
169 any technical errors in or make format changes to such form.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2017	20-327b

**INS**     *Joint Favorable*

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***

Eliminating the requirement that the Department of Consumer Protection commissioner prescribe the residential property condition disclosure form in regulation results in no cost to the state as it is procedural in nature.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5231*****AN ACT CONCERNING THE RESIDENTIAL PROPERTY  
CONDITION DISCLOSURE REPORT.*****SUMMARY:**

This bill eliminates the requirement that the Department of Consumer Protection (DCP) commissioner prescribe the residential property condition disclosure form in regulation. Instead, the legislature must enact the form's content in statute. The commissioner must develop the form in accordance with the law and, as under existing law, make it available to DCP's real estate division, municipal town clerks, the Connecticut Association of Realtors, Inc., and any others he deems necessary.

Starting January 1, 2017, the commissioner may, by October 1 annually, make format and technical changes only to the form. He must propose any material change to the legislative committee with cognizance over real estate. (Presumably this means the Insurance and Real Estate Committee, although the General Law and Judiciary committees also have jurisdiction over certain real estate matters.) Under the bill, no material change to the form is effective unless enacted by the legislature.

By law, generally anyone who offers to sell residential property in Connecticut must provide a prospective buyer with a completed disclosure form before the buyer executes a binder, purchase contract, or lease with a purchase option. Certain specified transactions are exempt from the requirement.

EFFECTIVE DATE: January 1, 2017

**BACKGROUND**

**Related Bill**

sHB 5180, reported favorably by the Planning and Development Committee, requires the DCP commissioner to include in the residential property condition disclosure form a recommendation that a home inspection include an inspection of a concrete foundation or septic tank.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 18    Nay 0    (03/17/2016)