



House Bill No. 5321

Public Act No. 18-179

AN ACT CONCERNING THE WRITTEN RESIDENTIAL DISCLOSURE REPORT, THE CAPTIVE INSURANCE COMPANY ESTABLISHED FOR ASSISTING WITH CRUMBLING FOUNDATIONS AND FUNDING FOR LEAD REMOVAL, REMEDIATION AND ABATEMENT.

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

Section 1. Section 20-327b of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Except as otherwise provided in this section, each person who offers residential property in the state for sale, exchange or for lease with option to buy, shall provide a written residential condition report to the prospective purchaser at any time prior to the prospective purchaser's execution of any binder, contract to purchase, option or lease containing a purchase option. A photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of the written residential condition report containing the prospective purchaser's written receipt shall be attached to any written offer, binder or contract to purchase. A photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of the written residential condition report containing the signatures of both seller and purchaser shall be attached to any agreement to purchase

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the property.

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

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

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

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

.... (Date)

.... (Seller)

.... (Date)

.... (Seller)"

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

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

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

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

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

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

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

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

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

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

(L) If the foundation of the property is made of concrete, a statement that the prospective purchaser should have the foundation inspected by a professional engineer licensed pursuant to chapter 391 who is a structural engineer, for deterioration of the foundation due to the presence of pyrrhotite.

(M) A question as to whether the seller has knowledge of any

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testing or inspection done by a licensed professional related to a foundation on the property.

(N) A question as to whether the seller has knowledge of any repairs related to a foundation on the property.

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

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

(d) The Commissioner of Consumer Protection shall prescribe the written residential disclosure report required by this section and sections 20-327c to 20-327e, inclusive. The written residential disclosure report shall be based upon a template that the Commissioner shall prescribe. Such template shall: Fit on pages being not more than eight and one-half inches in height and eleven inches in width, with type size no smaller than nine-point type, other than checkboxes or section headers, which may be in a smaller size; include the address of the subject property on each page; include page numbers on each page; include section headings in bold type and include space for the buyer and the seller's initials on each page, except the signature page. The report shall contain the following, in the order indicated:

(1) A section entitled "Instructions to Sellers"

You MUST answer ALL questions to the best of your knowledge.

Identify/Disclose any problems regarding the subject property.

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YOUR REAL ESTATE LICENSEE CANNOT COMPLETE THIS FORM ON YOUR BEHALF.

UNK means Unknown, N/A means Not Applicable.

If you need additional space to complete any answer or explanation, attach additional page(s) to this form. Include subject property address, seller's name and the date.

(2) Pursuant to the Uniform Property Condition Disclosure Act, the seller is obligated to answer the following questions and to disclose herein any knowledge of any problem regarding the following:

(A) A subsection entitled "Subject Property"

(i) Name of seller(s)

(ii) Street address, municipality, zip code

(B) A subsection entitled "General Information"

(i) Indicate the YEAR the structure was built:

(ii) Indicate HOW LONG you have occupied the property: If not applicable, indicate with N/A.

(iii) Does anyone else claim to own any part of your property, including, but not limited to, any encroachment(s)? If YES, explain:

(iv) Does anyone other than you have or claim to have any right to use any part of your property, including, but not limited to, any easement or right-of-way? If YES, explain:

(v) Is the property in a flood hazard area or an inland wetlands area? If YES, explain:

(vi) Do you have any reason to believe that the municipality in

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which the subject property is located may impose any assessment for purposes such as sewer installation, sewer improvements, water main installation, water main improvements, sidewalks or other improvements? If YES, explain:

(vii) Is the property located in a municipally designated village district, municipally designated historic district or listed on the National Register of Historic Places? If YES, explain:

(viii) Special Statement: Information concerning village districts and historic districts may be obtained from the municipality's village or historic district commission, if applicable.

(ix) Is the property located in a special tax district? If YES, please explain:

(x) Is the property subject to any type of land use restrictions, other than those contained within the property's chain of title or that are necessary to comply with state laws or municipal zoning? If YES, explain:

(xi) Is the property located in a common interest community? If YES, is it subject to any community or association dues or fees? Please explain:

(xii) Do you have any knowledge of prior or pending litigation, government agency or administrative actions, orders or liens on the property related to the release of any hazardous substance? If YES, please explain:

(C) A subsection entitled "Leased Equipment"

Does the property include any Leased or Rented Equipment that would necessitate or obligate either of the following: The assignment or transfer of the lease or rental agreement(s) to the buyer or the

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replacement or substitution of the equipment by the buyer? If YES, indicate by checking ALL items that apply: PROPANE FUEL TANK; WATER HEATER; SECURITY ALARM SYSTEM; FIRE ALARM SYSTEM; SATELLITE DISH ANTENNA; WATER TREATMENT SYSTEM; SOLAR DEVICES; MAJOR APPLIANCES; OTHER

(D) A subsection entitled "Mechanical/Utility Systems"

(i) Heating system problems? If YES, explain. List Fuel Types.

(ii) Hot water heater Type: Age: Hot water problems? If YES, explain:

(iii) Is there an underground storage tank? If YES, give AGE of tank and LOCATION.

(iv) Are you aware of any problems with the underground storage tank? If YES, explain:

(v) During the time you have owned the property, has there ever been an underground storage tank located on the property? If YES, has it been removed? If YES, what was the date of removal and what was the name and address of the person or business who removed such underground storage tank? Provide any and all written documentation of such removal within your control or possession by attaching a copy of such documentation to this form.

(vi) Air conditioning problems? If YES, explain: Air conditioning Type: Central; Window; Other

(vii) Plumbing system problems? If YES, explain:

(viii) Electrical System problems? If YES, explain:

(ix) Electronic security system problems? If YES, explain:

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(x) Are there carbon monoxide or smoke detectors located in a dwelling on the property? If YES, state the NUMBER of such detectors and whether there have been problems with such detectors;

(xi) Fire sprinkler system problems? If YES, explain:

(E) A subsection entitled "Water System"

(i) Domestic Water System Type: Public; Private Well; Other

(ii) If Public Water:

(I) Is there a separate expense/fee for water usage? If YES, is the expense/fee for water usage flat or metered? Give the AMOUNT and explain:

(II) Are there any UNPAID water charges? If YES, state the amount unpaid:

(iii) If Private Well:

Has the well water been tested for contaminants/volatile organic compounds? If YES, attach a copy of the report.

(iv) If Public Water or Private Well: Are you aware of any problems with the well, or with the water quality, quantity, recovery, or pressure? If YES, explain:

(F) A subsection entitled "Sewage Disposal System"

(i) Sewage Disposal System Type: Public; Septic; Cesspool; Other

(ii) If Public Sewer:

(I) Is there a separate charge made for sewer use? If YES, is it Flat or Metered?

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(II) If it is a Flat amount, state amount and due dates:

(III) Are there any UNPAID sewer charges? If any unpaid sewer charges, state the amount:

(iii) If Private:

(I) Name of service company

(II) Date last pumped: AND frequency:

(III) For any sewage system, are there problems? If YES, explain:

(G) A subsection entitled "Asbestos/Lead"

(i) Are asbestos containing insulation or building materials present? If YES, location:

(ii) Is lead paint present? If YES, location:

(iii) Is lead plumbing present? If YES, location:

(H) A subsection entitled "Building/Structure/Improvements"

(i) Is the foundation made of concrete? If NO, explain:

(ii) Foundation/Slab problems or settling? If YES, explain:

(iii) Basement Water Seepage/Dampness? If YES, explain Amount, Frequency and Location:

(iv) Sump pump problems? If YES, explain:

(v) Do you have any knowledge of any testing or inspection done by a licensed professional related to a foundation on the property? If YES, attach a copy of the report.

(vi) Do you have any knowledge of any repairs related to a

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foundation on the property? If YES, explain:

(vii) Roof type; Age?

(viii) Roof leaks? If YES, explain:

(ix) Exterior siding problems? If YES, explain:

(x) Chimney, Fireplace, Wood or Coal Stove problems? If YES, explain:

(xi) Patio/deck problems? If YES, explain:

(xii) If constructed of Wood, is the Wood Treated or Untreated?

(xiii) Driveway problems? If YES, explain:

(xiv) Water drainage problems? If YES, explain:

(xv) Interior Floor, Wall and/or Ceiling problems? If YES, explain:

(xvi) Fire and/or Smoke damage? If YES, explain:

(xvii) Termite, Insect, Rodent or Pest Infestation problems? If YES, explain:

(xviii) Rot or Water damage problems? If YES, explain:

(xix) Is house insulated? If YES, Type: Location:

(xx) Has a test for Radon been performed? If YES, attach a copy of the report.

(xxi) Is there a Radon Control System in place? If YES, explain:

(xxii) Has a Radon control system been in place in the previous 12 months? If YES, explain:

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(I) The Seller should attach additional pages to further explain any item(s) above. Indicate here the number of additional pages attached:

(I) Questions contained in subparagraphs (A) to (I), inclusive, of this subdivision shall contain checkboxes indicating "yes", "no", "not applicable" or "unknown".

(3) The written residential disclosure report shall contain the following immediately below the questions contained in subparagraphs (A) to (I), inclusive, of subdivision (2) of this subsection:

A certification by the seller in the following form:

SELLER'S CERTIFICATION

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

.... (Date)

.... (Seller)

.... (Date)

.... (Seller)"

(4) The written residential disclosure report shall contain the following in a separate section immediately below the seller's certification:

IMPORTANT INFORMATION

(A) RESPONSIBILITIES OF REAL ESTATE BROKERS

This report in no way relieves a real estate broker of the broker's obligation under the provisions of section 20-328-5a of the Regulations

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of Connecticut State Agencies to disclose any material facts. Failure to do so could result in punitive action taken against the broker, such as fines, suspension or revocation of license.

(B) STATEMENTS NOT TO CONSTITUTE A WARRANTY

Any representations made by the seller on the written residential disclosure report shall not constitute a warranty to the buyer.

(C) NATURE OF DISCLOSURE REPORT

This Residential Property Condition Disclosure Report is not a substitute for inspections, tests and other methods of determining the physical condition of property.

(D) INFORMATION ON THE RESIDENCE OF CONVICTED FELONS

Information concerning the residence address of a person convicted of a crime may be available from law enforcement agencies or the Department of Public Safety.

(E) BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Prospective buyers should consult with the municipal building official in the municipality in which the property is located to confirm that building permits and certificates of occupancy have been issued for work on the property.

(F) HOME INSPECTION

Buyers should have the property inspected by a licensed home inspector.

(G) CONCRETE FOUNDATION

Prospective buyers may have a concrete foundation inspected by a

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licensed professional engineer who is a structural engineer for deterioration of the foundation due to the presence of pyrrhotite.

(5) The written residential disclosure report shall contain the following immediately below the statements contained in subparagraphs (A) to (G), inclusive, of subdivision (4) of this subsection:

A certification by the buyer in the following form:

BUYER'S CERTIFICATION

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

.... (Date)

.... (Seller)

.... (Date)

.... (Seller)"

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

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(f) Any residential disclosure report prescribed in accordance with the provisions of this section and sections 20-327c to 20-327e, inclusive, shall take effect for new listings thirty days following posting of the notice regarding such report on the Department of Consumer Protection's Internet web site.

Sec. 2. Subsection (b) of section 38a-91vv of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) In addition to any other requirements imposed by law applicable to captive insurance companies, the captive insurance company established pursuant to this section shall:

(1) Upon request of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development, public safety and housing, or the Governor, make recommendations regarding the expansion of eligibility for financial assistance pursuant to this section and modifications to improve the efficiency and operation of the captive insurance company in order to serve its public purpose;

(2) Establish a board of directors who shall serve in a volunteer capacity. The membership of the board shall include, but need not be limited to, a real estate agent or broker, two owners of residential buildings who have concrete foundations that have deteriorated due to the presence of pyrrhotite, a chief executive or such chief executive's designee of a municipality in which residential buildings with concrete foundations that have deteriorated due to the presence of pyrrhotite are located, an individual with professional investment experience and currently registered as an investment adviser pursuant to title 36b, the executive directors of the Capitol Region Council of Governments and the Eastern Region Council of Governments or such executive directors' designees and representatives from the insurance and

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banking industries, who shall not have professional relationships with any bank or insurance company that has a financial interest in residential buildings subject to the provisions of this section and sections 7-374b, 8-441, 8-442, 8-443, 8-444, subparagraph (B) of subdivision (20) of subsection (a) of section 12-701 and section 29-265f. The speaker, the minority leader of the House of Representatives, the president pro tempore of the Senate and the Senate Republican president pro tempore shall each appoint a member of the General Assembly as a nonvoting, ex-officio member of the board of directors. It shall not constitute a conflict of interest for a member of the board of directors, who is the owner of a residential building which has a concrete foundation that has deteriorated due to the presence of pyrrhotite, or the spouse or dependent child of such member, to apply for or receive assistance from the captive insurance company established under this section, to repair or replace such concrete foundation, provided such member shall abstain from deliberation, action or vote by the board of directors in specific respect to such member's application or the application of such spouse or dependent child;

(3) Develop eligibility requirements and underwriting guidelines for financial assistance for repair or replacement of concrete foundations. Such requirements and guidelines shall, not later than thirty days prior to their adoption, amendment or modification, be published on a public Internet web site maintained by the captive insurance company;

(4) Develop in coordination with the Department of Housing, Connecticut Housing Finance Authority and participating lenders in the Collapsing Foundations Credit Enhancements Program, established pursuant to section 8-442, a single, unified application for owners of residential buildings to apply for all financial assistance available pursuant to this section and sections 8-442 and 8-443;

(5) Provide financial assistance to such owners of residential

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buildings for the repair or replacement of concrete foundations that have deteriorated due to the presence of pyrrhotite, including, but not limited to, financial reimbursement to homeowners who have had such repair or replacement performed prior to October 31, 2017;

(6) Assist such owners of residential buildings to obtain additional financing necessary to fully fund the repair or replacement of concrete foundations that have deteriorated due to the presence of pyrrhotite;

(7) Approve contractors or other vendors for eligibility to perform foundation repairs or replacements on behalf of claimants;

(8) Disburse such financial assistance to approved contractors or other vendors on behalf of claimants;

(9) Ensure that the financial assistance is used solely for costs of repairing and replacing concrete foundations that have deteriorated due to the presence of pyrrhotite;

(10) Require the disclosure of the amount of all financial compensation received by an owner of such a residential building, if any, arising out of a claim for coverage under the property coverage provisions of the homeowners policy for foundation deterioration due to the presence of pyrrhotite and ensure that such amount is considered when determining the amount of financial assistance offered to such owner;

(11) When appropriate, apply for, qualify for and receive any federal funds made available under any federal act, for assistance to owners of residential buildings and residential condominium units having concrete foundations that have deteriorated due to the presence of pyrrhotite. To the extent permissible under federal law, all such federal funds shall be deposited into the Crumbling Foundations Assistance Fund established pursuant to section 8-441; and

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(12) Enter into agreements, as necessary, with the Connecticut Housing Finance Authority and any participating lender, as defined in section 8-442, to develop and implement additional loan programs or financial products to assist such owners to repair or replace concrete foundations that have deteriorated due to the presence of pyrrhotite, while employing terms and conditions that are preferable to the open market.

Sec. 3. Subsection (c) of section 38a-91vv of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Except as provided in subsection (d) of this section, such captive insurance company shall not be considered a state agency for purposes of any provision of the general statutes, and shall not be considered to perform a governmental function for purposes of chapter 14. Such captive insurance company may, subject to the provisions of this section, do all things necessary and desirable in its discretion to accomplish its purposes, including hiring employees and contracting for administrative or operational services, and entering into agreements with the Connecticut Housing Finance Authority created pursuant to section 8-244 and any participating lender, as defined in section 8-442, to develop and implement additional loan programs or financial products that will assist owners of residential buildings to repair or replace concrete foundations that have deteriorated due to the presence of pyrrhotite on terms and conditions that are preferable to the open market. Not more than ten per cent of all moneys allocated or made available to the captive insurance company in any calendar year shall be used for administrative or operational costs.

Sec. 4. (NEW) (*Effective January 1, 2019*) All funding expended pursuant to subdivision (2) of subsection (a) of section 2 of public act 18-160 shall be allocated for lead removal, remediation and abatement.

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Approved June 13, 2018