OLR Bill Analysis
ssB 907 (File 372, as amended by Senate "A")*

AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT AND CRUMBLING CONCRETE FOUNDATIONS.

SUMMARY

This bill allows buyers of residential real property to bring a civil suit to recover actual damages from any seller who knows of and fails to disclose significant defects in the property as required by the residential disclosure report.

The bill also expands the content and scope of the written residential disclosure report by (1) requiring sellers to disclose and explain any actual knowledge they have related to pyrrhotite in the property’s foundation and (2) eliminating three exemptions from the disclosure requirements, thus requiring sellers to complete the report for more real estate transactions. Additionally, the bill requires municipalities, which current law exempts from the disclosure requirements, to provide buyers with certain information about a property’s foundation prior to transferring or selling residential real estate.

“Senate Amendment “A” creates a private right of action for purchasers, changes the types of pyrrhotite disclosures required by the residential disclosure report, and requires municipalities to disclose certain foundation-related information.

EFFECTIVE DATE: October 1, 2019, except the provision relating to a buyer’s private right of action, which is effective January 1, 2020.

PRIVATE RIGHT OF ACTION

Existing law requires residential property owners to use the residential disclosure report to make specific disclosures about a property’s condition to a prospective buyer, which must be done before executing a (1) purchase contract or (2) lease contract with a
purchase option. A seller must credit the buyer $500 at closing if he or she fails to do so. The bill specifies that crediting a buyer does not excuse the seller from disclosing defects in the property covered by the residential disclosure report if he or she has actual knowledge of the defect and it significantly impairs the (1) property’s value or useful life span or (2) health and safety of its future occupants. Under these circumstances, the bill additionally allows a purchaser to bring a civil action to recover actual damages from a seller in the judicial district in which the property is located. Under the bill, doing so does not limit any other remedies the purchaser may have.

**DISCLOSURE REPORT CONTENTS**

The bill requires a seller to disclose and explain any knowledge he or she has related to pyrrhotite in the foundation.

Under existing law, a seller must disclose any knowledge of any foundation problems, testing, inspection, or repairs. The bill requires the seller to also describe any areas of the foundation that were tested, inspected, or repaired, including the testing or inspection method and results, and attach any associated reports.

**DISCLOSURE REPORT EXEMPTIONS**

The bill removes three specific exemptions and in so doing requires sellers to provide this report when the residential property will transfer:

1. pursuant to a court order;

2. by a deed in lieu of foreclosure; or

3. when the property being transferred was acquired by a judgment of strict foreclosure, foreclosure by sale, or deed in lieu of foreclosure.

Current law exempts municipalities from completing the report when they transfer property. Although the bill generally retains this exemption, it requires a municipality to disclose to a prospective buyer any knowledge it has of pyrrhotite in, or damage, deterioration,
repairs, or remediation to, a property’s concrete foundation. The municipality must do so before executing any binder, contract to purchase, or option or lease containing a purchase option.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 20  Nay 0  (03/19/2019)