Statement on

SB 907

AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT AND CRUMBLING CONCRETE FOUNDATIONS

SUPPORT WITH CHANGES

Submitted to the Planning and Development and the Insurance and Real Estate Committees

March 8, 2019

By

Connecticut REALTORS®

Connecticut REALTORS® (CTR) submits this testimony in SUPPORT WITH CHANGES of SB 907, AN ACT CONCERNING THE RESIDENTIAL DISCLOSURE REPORT AND CRUMBLING CONCRETE FOUNDATIONS. CTR represents over 17,000 members involved in all aspects of real estate in Connecticut. CTR’s members work with many thousands of buyers, sellers, landlords and tenants annually.

This bill requires additional information on the Residential Disclosure Report. Specifically, it would necessitate a seller to disclose to a purchaser any facts that are within the seller's actual knowledge concerning the following: the presence of pyrrhotite in the concrete foundations located on the seller's property, any testing or inspection done by a licensed professional to determine whether such foundations contain pyrrhotite, any foundation deterioration, problems or settling caused by the presence of pyrrhotite in such foundations, and any repairs to remedy such deterioration, problems or settling. It also affirmatively requires all sellers to disclose known issues with the foundation, regardless of whether a Residential Disclosure Report was completed or not.
CTR applauds the intention of this legislation but respectfully requests changes to ensure the end result meets the intention.

Specifically, many sellers do not know the term “pyrrhotite” and the including that specific word could lead many sellers to respond “unknown” on the form. CTR proposes new questions about foundation cracks, repairs and inspections be asked, but don’t try to identify the trigger for the crack, repair or inspection. Should there be a YES, then the buyer will know to potentially look further into the issue. By leaving out “pyrrhotite” all the information will be disclosed, not just instances where the seller know the cause of the problem was directly related to a chemical

CTR believes any known defect should be disclosed in the absence of a Residential Disclosure Report, including but not limited to crumbing foundations

The association has drafted language addressing the issue of a disclosing a known defect in a property for sale. A known defect would be defined as a condition that has a significant adverse effect on the value of the residential real property, significantly impairs the health or safety of future occupants of the residential real property or significantly shortens the expected normal life of the residential real property, prior to transfer by sale, exchange or lease with option to buy. Knowledge of a crumbing foundation would fall within this definition of a known defect as well as other such issues, such as an extensive mold problem.

CTR also believes it to be helpful to clearly state the penalty for not providing a known defect. Our proposed language would include that the buyer would be able to bring an action for damages against the seller under the unfair trade practices of the Connecticut General Statutes if the seller fails to disclose the existence of the known defect.

Currently the definition CTR has proposed for a material fact is used in other states related to the sale of property. CTR has attached a draft of proposed language for the Committee’s consideration. CTR welcomes the opportunity to work with members of the committees to incorporate any additional improvements to this proposal.

In conclusion, CRT supports with changes SB 907. Thank you for your attention to this important matter.
AN ACT DEFINING THE TERM “KNOWN DEFECT” IN REAL ESTATE TRANSACTIONS.

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

(New) (Effective January 1, 2020): Sec. 20-327c. (a) Credit due purchaser at closing if report not furnished. On or after January 1, 1996, every agreement to purchase residential real estate, for which a written residential condition report is required pursuant to section 20-327b, shall include a requirement that the seller credit the purchaser with the sum of five hundred dollars at closing should the seller fail to furnish the written residential condition report as required by sections 20-327b to 20-327e, inclusive.

(b) Failure to furnish the report as required by sections 20-327b to 20-327e, inclusive shall not exempt the seller from disclosing a known defect that has a significant adverse effect on the value of the residential real property, significantly impairs the health or safety of future occupants of the residential real property or significantly shortens the expected normal life of the residential real property, prior to transfer by sale, exchange or lease with option to buy.

(c) If the known defect is not disclosed the buyer damaged by the significant adverse effect may bring an action in the judicial district in which the residential real property is located to recover actual damages under 42-110g.

Purpose: Requires sellers to disclose known defects. Currently a seller can fail to sign the written residential disclosure report and avoid disclosure of a known defect.

Fiscal Note: There is no impact on the agency as the action is that of the buyer of the residential real property.