



HOUSE BILL No. 4375

February 25, 1993, Introduced by Reps. Clack, Rocca and Gire and referred to the Committee on Consumers.

A bill to require certain disclosures in connection with transfers of residential property.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "seller disclosure act".

3 Sec. 2. Except as provided in section 3, this act applies
4 to the transfer of any interest in real estate consisting of not
5 less than 1 or more than 4 residential dwelling units, whether by
6 sale, exchange, installment land contract, lease with an option
7 to purchase, any other option to purchase, or ground lease cou-
8 pled with proposed improvements by the purchaser or tenant, or a
9 transfer of stock or an interest in a residential cooperative.

10 Sec. 3. This act does not apply to any of the following:

11 (a) Transfers pursuant to court order, including, but not
12 limited to, transfers ordered by a probate court in

1 administration of an estate, transfers pursuant to a writ of
2 execution, transfers by any foreclosure sale, transfers by a
3 trustee in bankruptcy, transfers by eminent domain, and transfers
4 resulting from a decree for specific performance.

5 (b) Transfers to a mortgagee by a mortgagor or successor in
6 interest who is in default, transfers to a beneficiary of a deed
7 of trust by a trustor or successor in interest who is in default,
8 transfers by a sale under a power of sale or any foreclosure sale
9 under a decree of foreclosure after default in an obligation
10 secured by a mortgage or deed of trust or secured by any other
11 instrument containing a power of sale, or transfers by a mortga-
12 gee or a beneficiary under a deed of trust who has acquired the
13 real property at a sale conducted pursuant to a power of sale
14 under a mortgage or deed of trust or a sale pursuant to a decree
15 of foreclosure or has acquired the real property by a deed in
16 lieu of foreclosure.

17 (c) Transfers by a nonoccupant fiduciary in the course of
18 the administration of a decedent's estate, guardianship, conser-
19 vatorship, or trust.

20 (d) Transfers from 1 co-tenant to 1 or more other
21 co-tenants.

22 (e) Transfers made to a spouse, parent, grandparent, child,
23 or grandchild.

24 (f) Transfers between spouses resulting from a judgment of
25 divorce or a judgment of separate maintenance or from a property
26 settlement agreement incidental to such a judgment.

1 (g) Transfers or exchanges to or from any governmental
2 entity.

3 Sec. 4. (1) The transferor of any real property subject to
4 this act shall deliver to the prospective transferee the written
5 statement required by this act within the following time limits:

6 (a) In the case of a sale, before the transferor executes a
7 binding purchase agreement with the prospective transferee.

8 (b) In the case of transfer by an installment sales contract
9 where a binding purchase agreement has not been executed, or in
10 the case of a lease together with an option to purchase or a
11 ground lease coupled with improvements by the tenant, before the
12 transferor executes the installment sales contract with the pro-
13 spective transferee.

14 (2) With respect to any transfer subject to subsection (1),
15 the transferor shall indicate compliance with this act either on
16 the purchase agreement, the installment sales contract, the
17 lease, or any addendum attached to the purchase agreement, con-
18 tract, or lease, or on a separate document.

19 (3) Except as provided in subsection (4), if any disclosure
20 or amendment of any disclosure required to be made by this act is
21 delivered after the transferor executes a binding purchase agree-
22 ment, the prospective transferee may terminate the purchase
23 agreement by delivering written notice of termination to the
24 transferor or the transferor's agent within the following time
25 limits:

1 (a) Not later than 72 hours after delivery of the disclosure
2 statement to the prospective transferee, if the disclosure
3 statement was delivered to the prospective transferee in person.

4 (b) Not later than 120 hours after delivery of the disclo-
5 sure statement to the prospective transferee, if the disclosure
6 statement was delivered to the prospective transferee by mail.

7 (4) A transferee's right to terminate the purchase agreement
8 expires upon the transfer of the subject property by deed or
9 installment sales contract.

10 Sec. 5. (1) The transferor or his or her agent is not
11 liable for any error, inaccuracy, or omission in any information
12 delivered pursuant to this act if the error, inaccuracy, or omis-
13 sion was not within the personal knowledge of the transferor, or
14 was based entirely on information provided by public agencies or
15 provided by other persons specified in subsection (3), and ordi-
16 nary care was exercised in obtaining and transmitting the
17 information. It is not a violation of this act if the transferor
18 fails to disclose information that could be obtained only through
19 inspection or observation of inaccessible portions of real estate
20 or could be discovered only by a person with expertise in a
21 science or trade beyond the knowledge of the transferor.

22 (2) The delivery of any information required by this act to
23 be disclosed to a prospective transferee by a public agency or
24 other person specified in subsection (3) shall be considered to
25 comply with the requirements of this act and relieves the trans-
26 feror of any further duty under this act with respect to that
27 item of information, unless the transferor has knowledge of

1 information that contradicts the information provided by the
2 public agency or the person specified in subsection (3).

3 (3) The delivery of a report or opinion prepared by a
4 licensed engineer, land surveyor, geologist, structural pest con-
5 trol operator, contractor, or other expert, dealing with matters
6 within the scope of the professional's license or expertise, is
7 sufficient compliance for application of the exemption provided
8 by subsection (1) if the information is provided upon the request
9 of the prospective transferee, unless the transferor has knowl-
10 edge of information that contradicts the information contained in
11 the report or opinion. In responding to a request by a prospec-
12 tive transferee, an expert may indicate, in writing, an under-
13 standing that the information provided will be used in fulfilling
14 the requirements of section 7 and, if so, shall indicate the
15 required disclosures, or parts of disclosures, to which the
16 information being furnished applies. In furnishing the state-
17 ment, the expert is not responsible for any items of information
18 other than those expressly set forth in the statement.

19 Sec. 6. If information disclosed in accordance with this
20 act becomes inaccurate as a result of any action, occurrence, or
21 agreement after the delivery of the required disclosures, the
22 resulting inaccuracy does not constitute a violation of this
23 act. If at the time the disclosures are required to be made, an
24 item of information required to be disclosed under this act is
25 unknown or unavailable to the transferor, and the transferor has
26 made a reasonable effort to obtain the information, the
27 transferor may comply with this act by advising a prospective

1 purchaser of the fact that the information is unknown. The
 2 information provided to a prospective purchaser pursuant to this
 3 act shall be based upon the best information available and known
 4 to the transferor.

5 Sec. 7. The disclosures required by this act shall be made
 6 on the following form:

7 SELLER'S DISCLOSURE STATEMENT

8 Property Address: _____
 9 Street
 10 Michigan
 11 City, Village, or Township

12 Purpose of Statement: This statement is a disclosure of the con-
 13 dition of the property in compliance with the seller disclosure
 14 act. This statement is a disclosure of the condition and infor-
 15 mation concerning the property, known by the seller. Unless oth-
 16 erwise advised, the seller does not possess any expertise in con-
 17 struction, architecture, engineering, or any other specific area
 18 related to the construction or condition of the improvements on
 19 the property or the land. Also, unless otherwise advised, the
 20 seller has not conducted any inspection of generally inaccessible
 21 areas such as the foundation or roof. This statement is not a
 22 warranty of any kind by the seller or by any agent representing
 23 the seller in this transaction, and is not a substitute for any
 24 inspections or warranties the buyer may wish to obtain.

25 Seller's Disclosure: The seller discloses the following informa-
 26 tion with the knowledge that even though this is not a warranty,
 27 the seller specifically makes the following representations based
 28 on the seller's knowledge at the signing of this document. The
 29 seller authorizes its agent(s) to provide a copy of this

1 on the seller's knowledge at the signing of this document. The
 2 seller authorizes its agent(s) to provide a copy of this state-
 3 ment to any prospective buyer in connection with any actual or
 4 anticipated sale of property. The following are representations
 5 made solely by the seller and are not the representations of the
 6 seller's agent(s), if any. This information is a disclosure only
 7 and is not intended to be a part of any contract between buyer
 8 and seller.

9 Instructions to the Seller: (1) Answer ALL questions. (2) Report
 10 known conditions affecting the property. (3) Attach additional
 11 pages with your signature if additional space is required. (4)
 12 Complete this form yourself. (5) If some items do not apply to
 13 your property, check N/A (nonapplicable). If you do not know the
 14 facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A
 15 SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE
 16 AN OTHERWISE BINDING PURCHASE AGREEMENT.

17 Appliances/Systems/Services: The items below are in working
 18 order:

19	Yes	No	Unknown	N/A
20 Range/Oven	_____	_____	_____	_____
21 Dishwasher	_____	_____	_____	_____
22 Refrigerator	_____	_____	_____	_____
23 Hood/fan	_____	_____	_____	_____
24 Disposal	_____	_____	_____	_____
25 TV antenna, TV rotor & controls	_____	_____	_____	_____
26 Garage door opener & remote control	_____	_____	_____	_____

1 Alarm system	_____	_____	_____	_____
2 Intercom	_____	_____	_____	_____
3 Central vacuum	_____	_____	_____	_____
4 Attic fan	_____	_____	_____	_____
5 Pool heater, wall liner & equipment	_____	_____	_____	_____
6 Microwave	_____	_____	_____	_____
7 Trash compactor	_____	_____	_____	_____
8 Ceiling fan	_____	_____	_____	_____
9 Sauna/hot tub	_____	_____	_____	_____
10 Lawn sprinkler system	_____	_____	_____	_____
11 Water heater	_____	_____	_____	_____
12 Plumbing system	_____	_____	_____	_____
13 Water softener/conditioner	_____	_____	_____	_____
14 Well & pump	_____	_____	_____	_____
15 Septic tank & drain field	_____	_____	_____	_____
16 Sump pump	_____	_____	_____	_____
17 City Water System	_____	_____	_____	_____
18 City Sewer System	_____	_____	_____	_____
19 Central air conditioning	_____	_____	_____	_____
20 Central heating system	_____	_____	_____	_____
21 Furnace/humidifier	_____	_____	_____	_____
22 Electronic air filter	_____	_____	_____	_____
23 Solar heating system	_____	_____	_____	_____
24 Fireplace & chimney	_____	_____	_____	_____
25 Wood burning system	_____	_____	_____	_____
26 Explanations (attach additional sheets if necessary):				

1 _____
 2 _____
 3 _____
 4 _____
 5 _____

6 UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN
 7 WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF
 8 CLOSING.

9 **Property conditions, improvements & additional information:**

10 1. **Basement:** Has there been evidence of water? yes ___ no ___

11 If yes, please explain: _____

12 2. **Insulation:** Describe, if known _____

13 Urea Formaldehyde Foam Insulation (UFFI) is installed?

14 unknown ___ yes ___ no ___

15 3. **Roof:** Leaks? yes ___ no ___

16 Approximate age if known _____

17 4. **Well:** Type of well (depth/diameter, age and repair history,

18 if known: _____

19 Has the water been tested? yes ___ no ___

20 If yes, date of last report/results: _____

21 5. **Septic tanks/drain fields:** Condition, if known: _____

22 _____

23 6. **Heating System:** Type/approximate age: _____

24 7. **Plumbing system:** Type: copper ___ galvanized ___ other ___

25 Any known problems? _____

26 8. **Electrical system:** Any known problems? _____

1 _____
2 9. History of infestation, if any: (termites, carpenter ants,
3 etc.) _____

4 10. Environmental Problems: Substances, materials or products
5 that may be an environmental hazard such as, but not limited
6 to, asbestos, radon gas, formaldehyde, lead-based paint, fuel
7 or chemical storage tanks and contaminated soil on the
8 property. unknown __ yes __ no __

9 If yes, please explain: _____

10 _____

11 Other Items: Are you aware of any of the following:

12 1. Features of the property shared in common with the adjoining
13 landowners, such as walls, fences, roads and driveways, or other
14 features whose use or responsibility for maintenance may have an
15 effect on the property? unknown __ yes __ no __

16 2. Any encroachments, easements, zoning violations, or noncon-
17 forming uses? unknown __ yes __ no __

18 3. Any "common areas" (facilities like pools, tennis courts,
19 walkways, or other areas co-owned with others), or a homeowners'
20 association that has any authority over the property?

21 unknown __ yes __ no __

22 4. Structural modifications, alterations, or repairs made with-
23 out necessary permits or licensed contractors?

24 unknown __ yes __ no __

25 5. Settling, flooding, drainage, structural, or grading
26 problems? unknown __ yes __ no __

1 6. Major damage to the property from fire, wind, floods, or
 2 landslides? unknown __ yes __ no __

3 7. Any underground storage tanks? unknown __ yes __ no __

4 8. Any area environmental concerns? unknown __ yes __ no __

5 If the answer to any of these questions is yes, please explain.

6 Attach additional sheets, if necessary: _____

7 _____

8 _____

9 _____

10 _____

11 Seller certifies that the information in this statement is true
 12 and correct to the best of seller's knowledge as of the date of
 13 seller's signature.

14 BUYER MAY WISH TO OBTAIN
 15 PROFESSIONAL ADVICE AND INSPECTIONS
 16 OF THE PROPERTY TO MORE FULLY
 17 DETERMINE THE CONDITION OF THE
 18 PROPERTY.

19 Seller _____ Date _____

20 Seller _____ Date _____

21 Buyer has read and acknowledges receipt of this statement.

22 Buyer _____ Date _____ Time: _____

23 Buyer _____ Date _____ Time: _____

24 Sec. 8. A city, township, or county may require disclosures
 25 in addition to those disclosures required by section 7, and may
 26 require disclosures on a different disclosure form in connection
 27 with transactions subject to this act.

1 Sec. 9. (1) The seller of residential real property subject
2 to this act who has actual knowledge of any former federal or
3 state ordnance locations within the neighborhood area shall give
4 written notice of that knowledge as soon as practicable before
5 transfer of title.

6 (2) For purposes of this section:

7 (a) "Former federal or state ordnance locations" means an
8 area identified by an agency or instrumentality of the federal or
9 state government as an area once used for military training pur-
10 poses that may contain potentially explosive munitions.

11 (b) "Neighborhood area" means within 1 mile of the residen-
12 tial real property.

13 Sec. 10. Each disclosure required by this act shall be made
14 in good faith. For purposes of this act, "good faith" means hon-
15 esty in fact in the conduct of the transaction.

16 Sec. 11. The specification of items for disclosure in this
17 act does not limit or abridge any obligation for disclosure cre-
18 ated by any other provision of law regarding fraud, misrepresen-
19 tation, or deceit in transfer transactions.

20 Sec. 12. Any disclosure made pursuant to this act may be
21 amended in writing by the transferor, but the amendment is
22 subject to section 4.

23 Sec. 13. Delivery of a disclosure statement required by
24 this act shall be by personal delivery, facsimile delivery, or by
25 mail to the prospective purchaser. Execution of a facsimile
26 counterpart of the disclosure statement shall be considered to be
27 execution of the original.

1 Sec. 14. A transfer subject to this act shall not be
2 invalidated solely because of the failure of any person to comply
3 with a provision of this act. However, any person who willfully
4 or negligently violates or fails to perform any duty prescribed
5 by this act is liable to the transferee for the amount of actual
6 damages suffered by a transferee.

7 Sec. 15. An agent of a transferor shall not be liable for
8 any violation of this act by a transferor unless any agent know-
9 ingly acts in concert with a transferor to violate this act.