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## REVISE SELLER DISCLOSURE ACT

House Bill 4591 as enrolled  
Public Act 12 of 2000  
Second Analysis (6-20-00)

**Sponsor: Rep. Patricia Birkholz**  
**House Committee: Regulatory Reform**  
**Senate Committee: Economic Development,  
International Trade and Regulatory  
Affairs**

### ***THE APPARENT PROBLEM:***

Current laws require home sellers to disclose certain information about a property being sold. Failure to provide required information can result in liability for the real estate agent. In the past, some people felt that information should also be disclosed regarding persons convicted of certain offenses who were registered with the Sex Offenders Registry. Originally, the Sex Offenders Registry, which includes the name and address of a person convicted of certain offenses, was accessible only by law enforcement personnel. However, Public Act 494 of 1996 provided for public access to the registry. Because of this, there has been a concern that buyers may expect real estate agents to provide information as to whether or not a person registered under the Sex Offenders Registration Act lives in the area.

To offset the concern that real estate agents could be at risk for lawsuits at the hands of buyers for failing to disclose information contained in the Sex Offenders Registry, the legislature enacted Public Act 437 of 1998. Public Act 437 amended the Occupational Code to specify that an action could not be brought against a real estate broker, associate, or salesperson who failed to disclose any information from the compilation of offenders that is provided by the Sex Offenders Registration Act. However, Public Act 437 did not alleviate the concern that prospective buyers should be made aware that the Sex Offenders Registry does exist and that it is open to public scrutiny. It has been suggested that information be included in the written disclosure that is required to be given to prospective buyers that information compiled under the Sex Offenders Registration Act is available to the public and can be accessed by contacting the appropriate local law enforcement agency.

### ***THE CONTENT OF THE BILL:***

The Seller Disclosure Act (Public Act 92 of 1993) requires the sellers of residential property to make certain written disclosures about the property to prospective buyers. The bill would make the following additions to the information already required to be listed on the seller disclosure statement form:

- Language would be added to specify that a buyer should obtain professional advice and inspections of the property to more fully determine the condition of the property. In addition, buyers would be advised that certain information compiled under the Sex Offenders Registration Act is available to the public and can be accessed by directly contacting the appropriate local law enforcement agency or sheriff's department.
- A buyer could terminate a purchase agreement if the seller failed to provide a signed disclosure statement.
- Unless otherwise agreed upon, all household appliances would be sold in working order except as noted on the disclosure form, and would be without warranty beyond the date of closing.
- A seller disclosure form in use at the time of the bill's effective date could still be used and would be considered in compliance until 90 days after the effective date of the bill.

MCL 565.957

### ***BACKGROUND INFORMATION:***

The Sex Offender Registry Act requires the Department of State Police to maintain a computerized data base of registered individuals, indexed by zip code

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area, and containing the name, aliases, address, physical description, birth date, and listed offenses of each individual residing within a zip code area. The department must make the compilation available to state police posts, local law enforcement agencies, and sheriffs' departments (via the Law Enforcement Information Network [LEIN], or in printed form). The local police agencies, together with the department, also must make the information available in print or electronic form for public inspection. The act also contains provisions making the disclosure of information contained in the registry a misdemeanor and allowing an individual whose registration is revealed a cause of action against the responsible party for treble damages (though these provisions do not apply to the compilation of information by zip code for provision to the public).

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would have no fiscal impact on state or local units of government. (6-16-00)

### ***ARGUMENTS:***

#### ***For:***

At the time that House Bill 5938 (which became Public Act 437 of 1998) was being deliberated, it was pointed out that it was more reasonable to place the responsibility on a prospective buyer to seek out whether or not a person listed on the Sex Offenders Registry lived in the neighborhood than to expect real estate agents to provide such information. Therefore, it makes sense to amend the Seller Disclosure Act to place information regarding the registry and how to access it within the Seller's Disclosure Statement form. The bill would simply inform prospective buyers that the registry exists and that certain information is available to the public by contacting the local law enforcement agency.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.