

Legislative Analysis



SELLER DISCLOSURE ACT: INDOOR AIR AND WATER QUALITY

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Senate Bill 370 as passed by the Senate
Sponsor: Sen. Cameron S. Brown
House Committee: Regulatory Reform
Senate Committee: Economic Development, Small Business and Regulatory Reform

First Analysis (9-14-05)

BRIEF SUMMARY: The bill would require the real estate seller's disclosure statement to advise prospective buyers that property inspections "should take indoor air and water quality into account, as well as any evidence of unusually high levels of potential allergens."

FISCAL IMPACT: The bill would have no fiscal impact on the state or on local units of government.

THE APPARENT PROBLEM:

Mold and other indoor allergens sometimes found in Michigan homes are known to cause health problems for some residents, and may leave homeowners with a potentially expensive bill for cleaning up the problem.

According to a representative of the Michigan Association of Realtors, the association recommends that its members advise buyers to have homes inspected for air and water quality problems before they buy. There is a concern, however, that not all agents are advising their clients to have the inspections done, and that people purchasing homes without the aid of a realtor also are not receiving the advice.

Some people believe that Michigan's seller's disclosure statement should alert buyers to this issue, and legislation has been introduced to that end.

THE CONTENT OF THE BILL:

The bill would amend the Seller Disclosure Act to require the seller's disclosure statement to advise prospective buyers that property inspections "should take indoor air and water quality into account, as well as any evidence of unusually high levels of potential allergens."

This phrase would be added to the currently required warning that "Buyers should obtain professional advice and inspections of the property to more fully determine the condition of the property."

The Seller Disclosure Act requires a seller of property containing one to four residential units to deliver to the prospective buyer, or his or her agent, a written statement that

discloses the condition and information about the property known by the seller, following a specific form required by the act. Senate Bill 370 would add the indoor air and water quality as described above.

Under the bill, a seller's disclosure statement form that was printed before the bill's effective date of January 1, 2006 could be used—and would be considered in compliance with the act—until April 1, 2006 (or 90 days after the bill's effective date).

MCL 565.957

HOUSE COMMITTEE ACTION:

The House Committee on Regulatory Reform reported out the Senate-passed version of the bill, without amendments.

ARGUMENTS:

For:

While toxic mold and other harmful allergens are not commonly found in Michigan homes, the Michigan Association of Realtors has been recommending that its members alert buyers to the issue and the need for inspections. The bill would ensure that all Michigan homebuyers were getting the same advice by requiring the seller's disclosure form required for every residential transaction to include a recommendation that inspections take into account air and water quality as well as any evidence of unusually high levels of potential allergens. This should help make buyers aware of potential indoor air and water quality problems in a residence and could reduce future litigation between buyers and sellers.

Against:

The bill would allow the current seller disclosure form to be used for 90 days after the bill's effective date. In testimony before the Senate, the Michigan Association of Realtors suggested that more time would be needed to reprint the form and educate its members about the change.

POSITIONS:

The Michigan Association of Realtors supports the bill. (9-13-05)

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