

2023 -- S 0353

LC001424

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES

Introduced By: Senators McKenney, LaMountain, and Britto

Date Introduced: February 16, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-20.8-2 of the General Laws in Chapter 5-20.8 entitled "Real Estate
2 Sales Disclosures" is hereby amended to read as follows:

3 **5-20.8-2. Disclosure requirements.**

4 (a) As soon as practicable, but in any event no later than prior to signing any agreement to
5 transfer real estate, the seller of the real estate shall deliver a written disclosure to the buyer and to
6 each agent with whom the seller knows he or she or the buyer has dealt in connection with the real
7 estate. The written disclosure shall comply with the requirements set forth in subsection (b) and
8 shall state all deficient conditions of which the seller has actual knowledge. The agent shall not
9 communicate the offer of the buyer until the buyer has received a copy of the written disclosure
10 and signed a written receipt of the disclosure. If the buyer refuses to sign a receipt pursuant to this
11 section, the seller or agent shall immediately sign and date a written account of the refusal. The
12 agent is not liable for the accuracy or thoroughness of representations made by the seller in the
13 written disclosure or for deficient conditions not disclosed to the agent by the seller.

14 (b)(1) The Rhode Island real estate commission ~~may~~ shall approve a form of written
15 disclosure for vacant land and a form of written disclosure for the sale of real property and
16 improvements consisting of a house or building containing one to four (4) dwelling units as required
17 under this chapter or the seller may use a disclosure form substantially conforming to the
18 requirements of this section. The following provisions shall appear conspicuously at the top of any

1 written disclosure form: “Prior to the signing of an agreement to transfer real estate (vacant land or
2 real property and improvements consisting of a house or building containing one to four (4)
3 dwelling units), the seller is providing the buyer with this written disclosure of all deficient
4 conditions of which the seller has knowledge. This is not a warranty by the seller that no other
5 defective conditions exist, which there may or may not be. The buyer should estimate the cost of
6 repair or replacement of deficient conditions prior to submitting an offer on this real estate. The
7 buyer is advised not to rely solely upon the representation of the seller made in this disclosure, but
8 to conduct any inspections or investigations the buyer deems to be necessary to protect his or her
9 best interest.” Nothing contained in this section shall be construed to impose an affirmative duty
10 on the seller to conduct inspections as to the condition of this real estate.

11 (2) The disclosure form [for vacant land](#) shall include the following information:

12 [\(i\) Sewage System — \(Assessment, Annual Fees, Type, Cesspool/Septic Location, Last](#)
13 [Pumped, Maintenance History, Defects\)](#)

14 [“Potential purchasers of real estate in the State of Rhode Island are hereby notified that](#)
15 [many properties in the state are still serviced by cesspools as defined in chapter 19.15 of title 23](#)
16 [\(“the Rhode Island cesspool act of 2007”\). Cesspools are a substandard and inadequate means of](#)
17 [sewage treatment and disposal, and cesspools often contribute to groundwater and surface water](#)
18 [contamination. Requirements for abandonment and replacement of high-risk cesspools as](#)
19 [established in chapter 19.15 of title 23 are primarily based upon a cesspool’s nontreatment of](#)
20 [wastewater and the inherent risks to public health and the environment due to a cesspool’s distance](#)
21 [from a tidal water area, or a public drinking water resource. Purchasers should consult chapter](#)
22 [19.15 of title 23 for specific cesspool abandonment or replacement requirements. An inspection of](#)
23 [property served by an on-site sewage system by a qualified professional is recommended prior to](#)
24 [purchase. Pursuant to § 5-20.8-13, potential purchasers shall be permitted a ten \(10\) day period to](#)
25 [conduct an inspection of a property’s sewage system to determine if a cesspool exists, and if so,](#)
26 [whether it will be subject to the phase-out requirements as established in chapter 19.15 of title 23.”](#)

27 [\(ii\) Water System — \(Imp. & Repairs, Type, Defects\) Private water supply \(well\). “The](#)
28 [buyer understands that this property is, or will be served, by a private water supply \(well\) which](#)
29 [may be susceptible to contamination and potentially harmful to health. If a public water supply is](#)
30 [not available, the private water supply must be tested in accordance with regulations established by](#)
31 [the Rhode Island department of health pursuant to § 23-1-5.3. The seller of that property is required](#)
32 [to provide the buyer with a copy of any previous private water supply \(well\) testing results in the](#)
33 [seller’s possession and notify the buyer of any known problems with the private water supply](#)
34 [\(well\).”](#)

1 (iii) Property Tax

2 (iv) Easements and Encroachments — The seller of the real estate is required to provide
3 the buyer with a copy of any previous surveys of the real estate that are in the seller’s possession
4 and notify the buyer of any known easements, encroachments, covenants, or restrictions of the
5 seller’s real estate. If the seller knows that the real estate has a conservation easement or other
6 conservation or preservation restriction as defined in § 34-39-2, the seller is required to disclose
7 that information and provide the buyer with a copy of any documentation in the seller’s possession
8 regarding the conservation and preservation restrictions. A buyer may wish to have a boundary or
9 other survey independently performed at his or her own expense.

10 (v) Deed — (Type, Number of Parcels)

11 (vi) Zoning — (Permitted use, Classification) “Buyers of real estate in the State of Rhode
12 Island are legally obligated to comply with all local real estate ordinances; including, but not limited
13 to, ordinances on the number of unrelated persons who may legally reside in a dwelling, as well as
14 ordinances on the number of dwelling units permitted under the local zoning ordinances.” If the
15 subject property is located in a historic district, that fact must be disclosed to the buyer, together
16 with the notification that “property located in a historic district may be subject to construction,
17 expansion, or renovation limitations. Contact the local building inspection official for details.”

18 (vii) Restrictions — (Plat or Other)

19 (viii) Building Permits

20 (ix) Flood Plain — (Flood Insurance)

21 (x) Wetlands — The location of coastal wetlands, bay, freshwater wetlands, pond, marsh,
22 river bank, or swamp, as those terms are defined in chapter 1 of title 2, and the associated buffer
23 areas may impact future property development. The seller must disclose to the buyer any such
24 determination on all or part of the land made by the department of environmental management.

25 (xi) Hazardous Waste — (Asbestos and Other Contaminants)

26 (xii) Miscellaneous

27 (xiii) Farms — The disclosure shall inform the buyer that any farm(s) that may be in the
28 municipality are protected by the right to farm law.

29 (3) The disclosure form for the sale of real property and improvements consisting of a
30 house or building containing one to four (4) dwelling units shall include the following information:

31 (i) Seller Occupancy — (Length of Occupancy)

32 (ii) Year Built

33 (iii) Basement — (Seepage, Leaks, Cracks, etc. Defects)

34 (iv) Sump Pump — (Operational, Location, and Defects)

- 1 (v) Roof (Layers, Age, and Defects)
- 2 (vi) Fireplaces — (Number, Working and Maintenance, Defects)
- 3 (vii) Chimney — (Maintenance History, Defects)
- 4 (viii) Woodburning Stove — (Installation Date, Permit Received, Defects)
- 5 (ix) Structural Conditions — (Defects)
- 6 (x) Insulation — (Wall, Ceiling, Floor, UFFI)
- 7 (xi) Termites or other Pests — (Treatment Company)
- 8 (xii) Radon — (Test, Company) “Radon has been determined to exist in the State of Rhode
9 Island. Testing for the presence of radon in residential real estate prior to purchase is advisable.”
- 10 (xiii) Electrical Service — (Imp. & Repairs, Electrical Service, Amps, Defects,
11 Modifications)
- 12 (xiv) Heating System — (Type, Imp. & Repairs, Underground Tanks, Zones, Supplemental
13 Heating, Defects, Modifications)
- 14 (xv) Air Conditioning — (Imp. & Repairs, Type, Defects)
- 15 (xvi) Plumbing — (Imp. & Repairs, Defects, Modifications)
- 16 (xvii) Sewage System — (Assessment, Annual Fees, Type, Cesspool/Septic Location, Last
17 Pumped, Maintenance History, Defects)
- 18 “Potential purchasers of real estate in the state of Rhode Island are hereby notified that
19 many properties in the state are still serviced by cesspools as defined in Rhode Island general law
20 chapter 19.15 of title 23 (The Rhode Island cesspool act of 2007). Cesspools are a substandard and
21 inadequate means of sewage treatment and disposal, and cesspools often contribute to groundwater
22 and surface water contamination. Requirements for abandonment and replacement of high-risk
23 cesspools as established in chapter 19.15 of title 23 are primarily based upon a cesspool’s
24 nontreatment of wastewater and the inherent risks to public health and the environment due to a
25 cesspool’s distance from a tidal water area, or a public drinking water resource. Purchasers should
26 consult chapter 19.15 of title 23 for specific cesspool abandonment or replacement requirements.
27 An inspection of property served by an on-site sewage system by a qualified professional is
28 recommended prior to purchase. Pursuant to § 5-20.8-13, potential purchasers shall be permitted a
29 ten-day (10) period to conduct an inspection of a property’s sewage system to determine if a
30 cesspool exists, and if so, whether it will be subject to the phase-out requirements as established in
31 chapter 19.15 of title 23.”
- 32 (xviii) Water System — (Imp. & Repairs, Type, Defects) Private water supply (well). “The
33 buyer understands that this property is, or will be served, by a private water supply (well) which
34 may be susceptible to contamination and potentially harmful to health. If a public water supply is

1 not available, the private water supply must be tested in accordance with regulations established by
2 the Rhode Island department of health pursuant to § 23-1-5.3. The seller of that property is required
3 to provide the buyer with a copy of any previous private water supply (well) testing results in the
4 seller's possession and notify the buyer of any known problems with the private water supply
5 (well).”

6 (xix) Domestic Hot Water — (Imp. & Repairs, Type, Defects, Capacity of Tank)

7 (xx) Property Tax

8 (xxi) Easements and Encroachments — The seller of the real estate is required to provide
9 the buyer with a copy of any previous surveys of the real estate that are in the seller's possession
10 and notify the buyer of any known easements, encroachments, covenants, or restrictions of the
11 seller's real estate. If the seller knows that the real estate has a conservation easement or other
12 conservation or preservation restriction as defined in § 34-39-1, the seller is required to disclose
13 that information and provide the buyer with a copy of any documentation in the seller's possession
14 regarding the conservation and preservation restrictions. A buyer may wish to have a boundary or
15 other survey independently performed at his or her own expense.

16 (xxii) Deed — (Type, Number of Parcels)

17 (xxiii) Zoning — (Permitted use, Classification) “Buyers of real estate in the state of Rhode
18 Island are legally obligated to comply with all local real estate ordinances; including, but not limited
19 to, ordinances on the number of unrelated persons who may legally reside in a dwelling, as well as
20 ordinances on the number of dwelling units permitted under the local zoning ordinances.” If the
21 subject property is located in a historic district, that fact must be disclosed to the buyer, together
22 with the notification that “property located in a historic district may be subject to construction,
23 expansion, or renovation limitations. Contact the local building inspection official for details.”

24 (xxiv) Restrictions — (Plat or Other)

25 (xxv) Building Permits

26 (xxvi) Minimum Housing — (Violations)

27 (xxvii) Flood Plain — (Flood Insurance)

28 (xxviii) Wetlands — The location of coastal wetlands, bay, freshwater wetlands, pond,
29 marsh, river bank, or swamp, as those terms are defined in chapter 1 of title 2, and the associated
30 buffer areas may impact future property development. The seller must disclose to the buyer any
31 such determination on all or part of the land made by the department of environmental management.

32 (xxix) Multi-family or other Rental Property — (Rental Income)

33 (xxx) Pools & Equipment — (Type, Defects)

34 (xxxi) Lead Paint — (Inspection) Every buyer of residential real estate built prior to 1978

1 is hereby notified that those properties may have lead exposures that may place young children at
2 risk of developing lead poisoning. Lead poisoning in young children may produce permanent
3 neurological damage, including learning disabilities, reduced IQ behavioral problems, and
4 impaired memory. The seller of that property is required to provide the buyer with a copy of any
5 lead inspection report in the seller's possession and notify the buyer of any known lead poisoning
6 problem. Environmental lead inspection is recommended prior to purchase.

7 (xxxii) Fire

8 (xxxiii) Hazardous Waste — (Asbestos and Other Contaminants)

9 (xxxiv) Miscellaneous

10 (xxxv) Farms — The disclosure shall inform the buyer that any farm(s) that may be in the
11 municipality are protected by the right to farm law.

12 (xxxvi) Mold — (Type, repairs, alterations, modifications).

13 (xxxvii) Ventilation system modifications.

14 (xxxviii) Moisture penetration and damage.

15 (c) Any agreement to transfer real estate shall contain an acknowledgement that a
16 completed real estate disclosure form has been provided to the buyer by the seller in accordance
17 with the provisions of this section.

18 (d) The Rhode Island real estate commission has the right to amend the seller disclosure
19 requirements by adding or deleting requirements when there is a determination that health, safety,
20 or legal needs require a change. Any change to requirements shall be a rule change, subject to the
21 administrative procedures act, chapter 35 of title 42. The power of the commission to amend the
22 written disclosure requirements shall be liberally construed so as to allow additional information to
23 be provided as to the structural components, housing systems, and other property information as
24 required by this chapter.

25 SECTION 2. This act shall take effect upon passage.

=====
LC001424
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE SALES
DISCLOSURES

- 1 This act would establish separate disclosure requirements for the sale of vacant land and
- 2 for the sale of real property and improvements consisting of a house or building containing one to
- 3 four (4) dwelling units.
- 4 This act would take effect upon passage.

=====
LC001424
=====