

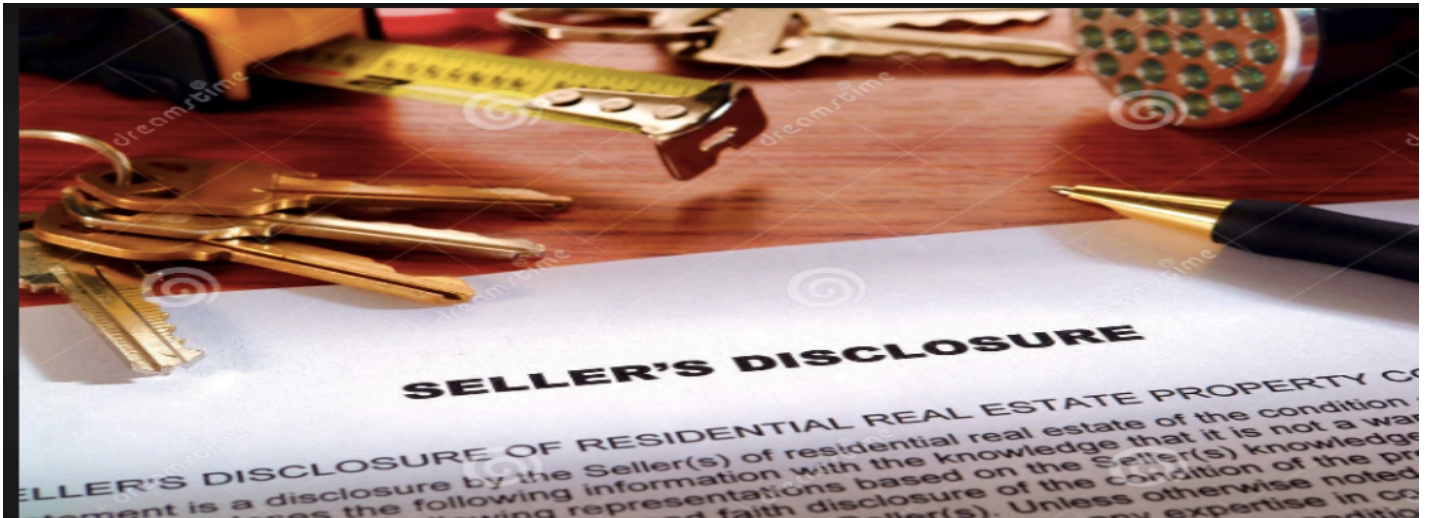
# TITLE 5

## Businesses and Professions

### CHAPTER 5-20.8

#### Real Estate Sales Disclosures

##### SECTION 5-20.8-1



**TITLE 5**  
**Businesses and Professions**

**CHAPTER 5-20.8**  
**Real Estate Sales Disclosures**

**SECTION 5-20.8-2**

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-1**

###### **§ 5-20.8-1. Definitions.**

When used in this chapter, unless the context indicates otherwise:

- (1) "Agent" means any individual or entity acting on behalf of a seller or buyer to effect the transfer of real estate. It includes listing agent, selling agent, buyer's agent, and their respective brokers.
- (2) "Agreement to transfer" means a purchase and sale agreement, installment sales contract, option to purchase agreement or other agreement intended to effect the transfer of real estate from a seller to a buyer.
- (3) "Buyer" means any individual or entity seeking to obtain title to real estate from a seller for consideration.
- (4) "Closing" means the time at which real estate is transferred from seller to buyer and consideration is delivered to the seller or to a settlement agent with the intention of imminent delivery upon the recording of pertinent documents and other ministerial acts associated with settlement.
- (5) "Deficient conditions" means any land restrictions, defect, malfunction, breakage, or unsound condition existing on, in, across or under the real estate of which the seller has knowledge.
- (6) "Real estate" means vacant land or real property and improvements consisting of a house or building containing one to four (4) dwelling units.
- (7) "Seller" means any individual or entity seeking to transfer title to real estate to a buyer for consideration.
- (8) "Transfer" means the sale or conveyance, exchange of, or option to purchase any real estate.

History of Section.

(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-2**

###### **§ 5-20.8-2. Disclosure requirements.**

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

(b)(1) The Rhode Island real estate commission may approve a form of written disclosure as required under this chapter or the seller may use a disclosure form substantially conforming to the requirements of this section. The following provisions shall appear conspicuously at the top of any written disclosure form: "Prior to the signing of an agreement to transfer real estate (vacant land or real property and improvements consisting of a house or building containing one to four (4) dwelling units), the seller is providing the buyer with this written disclosure of all deficient conditions of which the seller has knowledge. This is not a warranty by the seller that no other defective conditions exist, which there may or may not be. The buyer should estimate the cost of repair or replacement of deficient conditions prior to submitting an offer on this real estate. The buyer is advised not to rely solely upon the representation of the seller made in this disclosure, but to conduct any inspections or investigations which the buyer deems to be necessary to protect his or her best interest." Nothing contained in this section shall be construed to impose an affirmative duty on the seller to conduct inspections as to the condition of this real estate.

(2) The disclosure form shall include the following information:

- (i) Seller Occupancy – (Length of Occupancy)
- (ii) Year Built
- (iii) Basement – (Seepage, Leaks, Cracks, etc. Defects)
- (iv) Sump Pump – (Operational, Location, and Defects)

- (v) Roof (Layers, Age and Defects)
- (vi) Fireplaces – (Number, Working and Maintenance, Defects)
- (vii) Chimney – (Maintenance History, Defects)
- (viii) Woodburning Stove – (Installation Date, Permit Received, Defects)
- (ix) Structural Conditions – (Defects)
- (x) Insulation – (Wall, Ceiling, Floor, UFFI)
- (xi) Termites or other Pests – (Treatment Company)
- (xii) Radon – (Test, Company) "Radon has been determined to exist in the State of Rhode Island. Testing for the presence of radon in residential real estate prior to purchase is advisable."
- (xiii) Electrical Service – (Imp. & Repairs, Electrical Service, Amps, Defects)
- (xiv) Heating System – (Type, Imp. & Repairs, Underground Tanks, Zones, Supplemental Heating, Defects)
- (xv) Air Conditioning – (Imp. & Repairs, Type, Defects)
- (xvi) Plumbing – (Imp. & Repairs, Defects)
- (xvii) Sewage System – (Assessment, Annual Fees, Type, Cesspool/Septic Location, Last Pumped, Maintenance History, Defects)

"Potential purchasers of real estate in the state of Rhode Island are hereby notified that many properties in the state are still serviced by cesspools as defined in Rhode Island general law chapter 23-19.15 (The Rhode Island Cesspool Phase-Out Act of 2007). Cesspools are a substandard and inadequate means of sewage treatment and disposal, and cesspools often contribute to groundwater and surface water contamination. Requirements for abandonment and replacement of high-risk cesspools as established in Rhode Island general law Chapter 23-19.15 are primarily based upon a cesspool's non-treatment of wastewater and the inherent risks to public health and the environment due to a cesspool's distance from a tidal water area, or a public drinking water resource. Purchasers should consult Rhode Island general law chapter 23-19.15 for specific cesspool abandonment or replacement requirements. An inspection of property served by an on-site sewage system by a qualified professional is recommended prior to purchase. Pursuant to Rhode Island general law § 5-20.8-13, potential purchasers shall be permitted a ten (10) day period to conduct an inspection of a property's sewage system to determine if a cesspool exists, and if so, whether it will be subject to the phase-out requirements as established in Rhode Island general law chapter 23-19.15.

(xviii) Water System – (Imp. & Repairs, Type, Defects) Private water supply (well). "The buyer understands that this property is, or will be served, by a private water supply (well) which may be susceptible to contamination and potentially harmful to health. If a public water supply is not available, the private water supply must be tested in accordance with regulations established by the Rhode Island department of health pursuant to § 23-1-5.3. The seller of that property is required to provide the buyer with a copy of any previous private water supply (well) testing results in the seller's possession and notify the buyer of any known problems with the private water supply (well)."

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

(xx) Property Tax

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

(xxii) Deed – (Type, Number of Parcels)

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

(xxiv) Restrictions – (Plat or Other)

(xxv) Building Permits

(xxvi) Minimum Housing – (Violations)

(xxvii) Flood Plain – (Flood Insurance)

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

(xxix) Multi-family or other Rental Property – (Rental Income)

(xxx) Pools & Equipment – (Type, Defects)

(xxxi) Lead Paint – (Inspection) Every buyer of residential real estate built prior to 1978 is hereby notified that those properties may have lead exposures that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced IQ behavioral problems, and impaired memory. The seller of that property is required to provide the buyer with a copy of any lead inspection report in the seller's possession and notify the buyer of any known lead poisoning problem. Environmental lead inspection is recommended prior to purchase.

(xxxii) Fire

(xxxiii) Hazardous Waste – (Asbestos and Other Contaminants)

(xxxiv) Miscellaneous

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

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

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

History of Section.

(P.L. 1992, ch. 425, § 1; P.L. 1993, ch. 397, § 4; P.L. 1999, ch. 419, § 1; P.L. 2002, ch. 161, § 2; P.L. 2002, ch. 162, § 2; P.L. 2004, ch. 313, § 1; P.L. 2004, ch. 600, § 1; P.L. 2007, ch. 136, § 2; P.L. 2007, ch. 233, § 2; P.L. 2008, ch. 58, § 1; P.L. 2008, ch. 252, § 1; P.L. 2009, ch. 249, § 1; P.L. 2009, ch. 264, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-6**

###### **§ 5-20.8-3. Exemptions.**

The following transfers are exempt from the provisions of this chapter:

- (1) Transfer pursuant to a court order, including, but not limited to, transfer ordered by a probate court in administration of an estate, transfer pursuant to a writ of execution, transfer by a trustee in bankruptcy, transfer by eminent domain, and transfer resulting from a decree for specific performance.
- (2) Transfer to a mortgagee by a mortgagor or pursuant to a foreclosure sale, or transfer by a mortgagee who has so acquired the real estate.
- (3) Transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (4) Transfer from one co-owner to one or more other co-owners.
- (5) Transfer made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.
- (6) Transfer between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to that decree.
- (7) Transfer from any governmental entity.
- (8) Transfer of any new unoccupied dwelling unit from a builder or developer.
- (9) Transfer by a relocation company.
- (10) Transfer of title with no consideration.

History of Section.

(P.L. 1992, ch. 425, § 1.)



# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-7**

###### **§ 5-20.8-4. Buyer's rights to inspection.**

(a) Every contract for the purchase and sale of real estate shall provide that a potential purchaser or potential purchasers shall be permitted a ten (10) day period, exclusive of Saturdays, Sundays and holidays, to conduct inspections of the property and any structures thereon before the purchaser(s) becomes obligated under the contract to purchase. The parties have the right to mutually agree upon a different period of time; provided, a potential purchaser may waive this right to inspection in writing.

(b) Failure to include the provision required in subsection (a) of this section in the purchase and sale agreement for real estate does not create any defect in title.

(c) Failure to include in the purchase and sale agreement the provision required in subsection (a) of this section shall entitle the purchaser to void the purchase and sale agreement by providing notice, in writing, to the seller prior to the transfer of the title at a closing.

History of Section.

(P.L. 1992, ch. 425, § 1; P.L. 2012, ch. 375, § 1; P.L. 2012, ch. 394, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-8**

###### **§ 5-20.8-5. Real estate disclosure form acknowledgement – Inclusion in real estate sales agreements – Penalty for violation.**

(a) Every agreement for the purchase and sale of residential real estate located in the state shall contain an acknowledgement that a completed real estate disclosure form has been provided to the buyer by the seller.

(b) Failure to provide the seller disclosure form to the buyer does not void the agreement nor create any defect in title. Each violation of this statute by the seller and/or his or her agent is subject to a civil penalty in the amount of one hundred dollars (\$100) per occurrence.

History of Section.  
(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-9**

###### **§ 5-20.8-6. Disclosure of psychologically impacted property.**

(a) The fact or suspicion that real property may be or is psychologically impacted is not a material fact requiring disclosure in any real estate transaction. "Psychologically impacted" means an impact being the result of facts or suspicions including, but not limited to, the following:

(1) That an occupant of real property is now or has been suspected to be infected or is infected or has been infected with Human Immunodeficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome, or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupying of a dwelling place; or

(2) That the real property was or has been, at any time, suspected of being the site of a homicide, other felony, or suicide.

(b)(1) No cause of action shall arise against the seller of the real property or his or her agent for failure to disclose to the buyer that the real property was psychologically impacted as defined in this chapter.

(2) Under no circumstances shall this provision be interpreted as or used as authorization for an agent or seller to make any misrepresentation of fact or false statement.

History of Section.

(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-10**

###### **§ 5-20.8-7. Public agency notification.**

Any information required to be disclosed by this chapter to a prospective buyer by a public agency is deemed to comply with the requirements of this chapter and relieves the seller or agent of any further duty under this chapter as to that item of information.

History of Section.  
(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-11**

###### **§ 5-20.8-8. Expert report.**

(a) The delivery of a report or opinion prepared by an engineer, land surveyor, geologist, home inspector, pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, is sufficient compliance to qualify for the exemption provided by § 5-20.8-9. An expert may indicate, in writing, that the information provided will be used in fulfilling the requirements of this section.

(b) A home inspector, pest control operator or contractor who has provided and/or prepared a report or opinion, per subsection (a) of this section, may not solicit, in writing or otherwise, to perform work on the property which has been the subject of the inspection to either a buyer or seller who has executed a purchase and sales agreement for the sale/transfer of the property. Nothing in this section restricts a buyer or seller from contacting the home inspector, pest control operator or contractor for this work to be performed. Nothing in this section restricts the solicitation of work by that home inspector, pest control operator or contractor, after the closing on the property as defined in § 5-20.8-1.

History of Section.

(P.L. 1992, ch. 425, § 1; P.L. 1996, ch. 408, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-12**

###### **§ 5-20.8-9. Seller and agent liability.**

Neither the seller nor agent is liable for any error, inaccuracy, or omission of any information delivered pursuant to this chapter if the error, inaccuracy, or omission was not within the personal knowledge of the seller or agent, was based on information timely provided pursuant to §§ 5-20.8-7 and 5-20.8-8 and ordinary care was exercised in obtaining and transmitting it.

History of Section.  
(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-13**

###### **§ 5-20.8-10. Subsequent acts.**

If information disclosed in accordance with this chapter is subsequently rendered inaccurate as a result of any act, passage of time, occurrence, or agreement subsequent to the delivery of the required disclosures, the resulting inaccuracy does not constitute a violation of this chapter. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the seller, the seller shall so state, and may use an approximation in responding.

History of Section.  
(P.L. 1992, ch. 425, § 1.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-14**

###### **§ 5-20.8-11. Lead inspection requirement.**

(a) Every contract for the purchase and sale of residential real estate (1-4 family) built prior to 1978 located in the state shall provide that potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct a risk assessment or inspection for the presence of lead exposure hazards before becoming obligated under the contract to purchase.

(b) Failure to include the provision required in subsection (a) of this section in the purchase and sale agreement for residential real estate does not create any defect in title; provided, that each violation of this section by the seller or his or her agent is subject to a civil penalty of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(c) Failure to provide inspection results and/or educational materials pursuant to department regulations required by § 23-24.6-16(a) does not create any defect in title; provided, that each violation of this section by the seller or his or her agent is subject to a civil penalty of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(d) Failure to include the purchase and sale agreement provision required in subsection (a) of this section, failure to provide inspection results pursuant to § 23-24.6-16(a), or inspection results which show a lead exposure hazard as defined at § 23-24.6-4(12) entitle the purchaser to void the purchase and sale agreement by providing notice, in writing, to the seller prior to the transfer of the title at closing.

History of Section.  
(P.L. 1994, ch. 389, § 2.)



# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-15**

###### **§ 5-20.8-12. Private well testing requirement.**

(a) Every contract for the purchase and sale of real estate located in the state, and which is served by a private water supply (well), shall provide that potential purchasers shall be permitted a ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct the testing pursuant to department regulations required by § 23-1-5.3 before becoming obligated under the contract to purchase. The test results may be provided by the seller pursuant to the standards in the regulations.

(b) Failure to include the provision required in subsection (a) of this section in the purchase and sale agreement for real estate does not create any defect in title.

(c) Failure to provide the results of any previous testing of a private water supply (well) servicing the property does not create any defect in title.

(d) Failure to include the purchase and sale agreement provision required in subsection (a) of this section; failure to provide previous testing results of a private water supply (well) servicing the property; or testing results which show a contaminant level or levels in excess of those established by department regulation pursuant to § 23-1-5.3 entitle the purchaser to void the purchase and sale agreement by providing notice, in writing, to the seller prior to the transfer of the title at the closing.

(e) The prospective buyer shall pay for the collection and analysis of the water samples and a qualified opinion relating to the portability of the water, unless otherwise agreed in writing.

History of Section.

(P.L. 2002, ch. 161, § 3; P.L. 2002, ch. 162, § 3.)

# **TITLE 5**

## **Businesses and Professions**

### **CHAPTER 5-20.8**

#### **Real Estate Sales Disclosures**

##### **SECTION 5-20.8-16**

###### **§ 5-20.8-13. Cesspool inspection requirement.**

(a) Every contract for the purchase and sale of real estate which is or may be served by a private cesspool, shall provide that potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct an inspection of a property's on-site sewage system, before becoming obligated under the contract to purchase, to determine if a cesspool exists, and if so, whether it will be subject to the phase-out requirements as established in Rhode Island general law chapter 23-19.15.

(b) Failure to include the provision required in subsection (a) in the purchase and sale agreement for real estate does not create any defect in title.

(c) Failure to provide the results of any previous inspection of a cesspool servicing the property does not create any defect in title.

(d) Failure to include the purchase and sale agreement provision required in subsection (a) of this section or failure to provide previous inspection results of a cesspool servicing the property entitles the purchaser to void the purchase and sale agreement by providing notice in writing to the seller prior to the transfer of the title at closing.

History of Section.

(P.L. 2007, ch. 136, § 3; P.L. 2007, ch. 233, § 3.)