

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

283P0477

SENATE COMMERCE ENGROSSED NO. **SB 97** - 1/22/2008

Introduced by: Senators Napoli, Albers, Gant, Gray, Greenfield, Lintz, McCracken, and Smidt (Orville) and Representatives Brunner, Haverly, Olson (Betty), Rave, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding property condition
2 disclosure statements.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-4-44 be amended to read as follows:

5 43-4-44. The following form shall be used for the property condition disclosure statement:

6 SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

7 (This disclosure shall be completed by the seller. This is a disclosure required by law. If you do
8 not understand this form, seek legal advice.)

9 Seller _____

10 Property Address _____

11 _____

12 This Disclosure Statement concerns the real property identified above situated in the City of

13 _____ County of _____, State of South Dakota.

14 THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE



1 DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY
 2 OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN
 3 THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR
 4 WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent
 5 representing any party in this transaction to provide a copy of this statement to any person or
 6 entity in connection with any actual or anticipated sale of the property.

7 IF ANY MATERIAL FACT CHANGES BEFORE CONVEYANCE OF TITLE TO THIS
 8 PROPERTY, THE SELLER MUST DISCLOSE SUCH MATERIAL FACT WITH A
 9 WRITTEN AMENDMENT TO THIS DISCLOSURE STATEMENT.

10 I. LOT OR TITLE INFORMATION

11 1. When did you purchase or build the home? _____

12 If the answer is yes to any of the following, please explain under additional comments or on an
 13 attached separate sheet.

14 _____

15 2. Were there any title problems when you purchased the property?

16 Yes ____ No ____

17 3. Are there any recorded liens or financial instruments against the property, other than a first
 18 mortgage?

19 Yes ____ No ____

20 4. Are there any unrecorded liens or financial instruments against the property, other than a
 21 first mortgage; or have any materials or services been provided in the past one hundred
 22 twenty days that would create a lien against the property under chapter 44-9?

23 Yes ____ No ____ Unknown ____

24 5. Are there any easements which have been granted in connection with the property (other

1 than normal utility easements for public water and sewer, gas and electric service, telephone
2 service, cable television service, drainage, and sidewalks)?

3 Yes ____ No ____ Unknown ____

4 6. Are there any problems related to establishing the lot lines/boundaries?

5 Yes ____ No ____ Unknown ____

6 7. Do you have a location survey in your possession or a copy of the recorded plat? If yes,
7 attach a copy.

8 Yes ____ No ____ Unknown ____

9 8. Are you aware of any encroachments or shared features, from or on adjoining property (i.e.
10 fences, driveway, sheds, outbuildings, or other improvements)?

11 Yes ____ No ____

12 9. Are you aware of any covenants or restrictions affecting the use of the property in
13 accordance with local law? If yes, attach a copy of the covenants and restrictions.

14 Yes ____ No ____

15 10. Are you aware of any current or pending litigation, foreclosure, zoning, building code or
16 restrictive covenant violation notices, mechanic's liens, judgments, special assessments,
17 zoning changes, or changes that could affect your property?

18 Yes ____ No ____

19 11. Is the property currently occupied by the owner?

20 Yes ____ No ____

21 12. Does the property currently receive the owner occupied tax reduction pursuant to SDCL ~~32-~~
22 ~~3-1~~ 10-13-39?

23 Yes ____ No ____

24 13. Is the property currently part of a property tax freeze for any reason?

1 Yes ____ No ____ Unknown ____

2 14. Is the property leased?

3 Yes ____ No ____

4 15. If leased, does the property use comply with local zoning laws?

5 Yes ____ No ____

6 16. Does this property or any portion of this property receive rent? If yes, how much \$ ____ and

7 how often ____?

8 Yes ____ No ____

9 17. Do you pay any mandatory fees or special assessments to a homeowners' or condominium

10 association?

11 Yes ____ No ____

12 If yes, what are the fees or assessments? \$ ____ per ____ (i.e. annually, semi-annually, monthly)

13 Payable to whom: _____

14 For what purpose? _____

15 18. Are you aware if the property has ever had standing water in either the front, rear, or side

16 yard more than forty-eight hours after heavy rain?

17 Yes ____ No ____

18 19. Is the property located in or near a flood plain?

19 Yes ____ No ____ Unknown ____

20 20. Are wetlands located upon any part of the property?

21 Yes ____ No ____ Unknown ____

22 II. STRUCTURAL INFORMATION

23 If the answer is yes to any of the following, please explain under additional comments or on an

24 attached separate sheet.

1 1. Are you aware of any water penetration problems in the walls, windows, doors, basement,
2 or crawl space?

3 Yes ____ No ____

4 2. What water damage related repairs, if any, have been made?

5 If any, when? _____

6 3. Are you aware if drain tile is installed on the property?

7 Yes ____ No ____

8 4. Are you aware of any interior cracked walls or floors, or cracks or defects in exterior
9 driveways, sidewalks, patios, or other hard surface areas?

10 Yes ____ No ____

11 What related repairs, if any, have been made?

12 _____

13 5. Are you aware of any roof leakage, past or present?

14 Yes ____ No ____

15 Type of roof covering: _____

16 Age: _____

17 What roof repairs, if any, have been made, when and by whom? _____

18 Describe any existing unrepaired damage to the roof: _____

19 6. Are you aware of insulation in:

20 the ceiling/attic? Yes ____ No ____

21 the walls? Yes ____ No ____

22 the floors? Yes ____ No ____

23 7. Are you aware of any pest infestation or damage, either past or present?

24 Yes ____ No ____

- 1 8. Are you aware of the property having been treated for any pest infestation or damage?
2 Yes ____ No ____
3 If yes, who treated it and when? _____
- 4 9. Are you aware of any work upon the property which required a building, plumbing,
5 electrical, or any other permit?
6 Yes ____ No ____
7 If yes, describe the work: _____
8 Was a permit obtained? Yes _____
9 Was the work approved by an inspector? Yes ____ No ____
- 10 10. Are you aware of any past or present damage to the property (i.e. fire, smoke, wind, floods,
11 hail, or snow)?
12 Yes ____ No ____
13 If yes, describe _____
- 14 Have any insurance claims been made?
15 Yes ____ No ____ Unknown ____
16 Was an insurance payment received?
17 Yes ____ No ____ Unknown ____
18 Has the damage been repaired?
19 Yes ____ No ____
20 If yes, describe in detail: _____
21 _____
- 22 11. Are you aware of any problems with sewer blockage or backup, past or present?
23 Yes ____ No ____
- 24 12. Are you aware of any drainage, leakage, or runoff from any sewer, septic tank, storage tank,

1 or drain on the property into any adjoining lake, stream, or waterway?

2 Yes ____ No ____

3 If yes, describe in detail: _____

4 _____

5 III. SYSTEMS/UTILITIES INFORMATION

6		NONE/NOT		NOT
7		INCLUDED	WORKING	WORKING
8	1. 220 Volt Service	_____	_____	_____
9	2. Air Exchanger	_____	_____	_____
10	3. Air Purifier	_____	_____	_____
11	4. Attic Fan	_____	_____	_____
12	5. Burglar Alarm and Security System	_____	_____	_____
13	6. Ceiling Fan	_____	_____	_____
14	7. Central Air - Electric	_____	_____	_____
15	8. Central Air - Water Cooled	_____	_____	_____
16	9. Cistern	_____	_____	_____
17	10. Dishwasher	_____	_____	_____
18	11. Disposal	_____	_____	_____
19	12. Doorbell	_____	_____	_____
20	13. Fireplace	_____	_____	_____
21	14. Fireplace Insert	_____	_____	_____
22	15. Garage Door/Opener Control(s)	_____	_____	_____
23	16. Garage Wiring	_____	_____	_____
24	17. Heating System	_____	_____	_____
25	18. Hot Tub, Whirlpool, and Controls	_____	_____	_____
26	19. Humidifier	_____	_____	_____
27	20. Intercom	_____	_____	_____
28	21. Light Fixtures	_____	_____	_____

1	22. Microwave/Hood	_____	_____	_____
2	23. Plumbing and Fixtures	_____	_____	_____
3	24. Pool and Equipment	_____	_____	_____
4	25. Propane Tank	_____	_____	_____
5	26. Radon System	_____	_____	_____
6	27. Sauna	_____	_____	_____
7	28. Septic/Leaching Field	_____	_____	_____
8	29. Sewer Systems/Drains	_____	_____	_____
9	30. Smoke/Fire Alarm	_____	_____	_____
10	31. Solar House - Heating	_____	_____	_____
11	32. Sump Pump(s)	_____	_____	_____
12	33. Switches and Outlets	_____	_____	_____
13	34. Underground Sprinkler and Heads	_____	_____	_____
14	35. Vent Fan	_____	_____	_____
15	36. Water Heater - Electric or Gas	_____	_____	_____
16	37. Water Purifier	_____	_____	_____
17	38. Water Softener - Leased or Owned	_____	_____	_____
18	39. Well and Pump	_____	_____	_____
19	40. Wood Burning Stove	_____	_____	_____

20

21

22

IV. HAZARDOUS CONDITIONS

23 Are you aware of any existing hazardous conditions of the property and are you aware of any
 24 tests having been performed?

25

EXISTING CONDITIONS	TESTS PERFORMED
---------------------	-----------------

26

YES	NO	YES	NO
-----	----	-----	----

27

1. Methane Gas	_____	_____	_____	_____
----------------	-------	-------	-------	-------

1 a. A human death by homicide or suicide? If yes, explain:

2 _____

3 Yes _____ No _____

4 b. Other felony committed against the property or a person on the property? If yes, explain:

5 _____

6 Yes _____ No _____

7 5. Is the water source public or private (select one) ?

8 6. If private, what is the date and result of the last water test?

9 _____

10 7. Is the sewer system public _____ or private _____ (select one)?

11 8. If private, what is the date of the last time the septic tank was pumped? _____

12 9. Are there broken window panes or seals?

13 Yes _____ No _____

14 If yes, specify: _____

15 10. Are there any items attached to the property that will not be left, such as: towel bars,
16 mirrors, swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines,
17 swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, etc.

18 Yes _____ No _____

19 If yes, please list _____

20 11. Are you aware of any other material facts or problems that have not been disclosed on this
21 form?

22 Yes _____ No _____

23 If yes, explain: _____

24 VI. ADDITIONAL COMMENTS (ATTACH ADDITIONAL PAGES IF NECESSARY)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

CLOSING SECTION

The Seller hereby certifies that the information contained herein is true and correct to the best of the Seller's information, knowledge, and belief as of the date of the Seller's signature below.

If any of these conditions change before conveyance of title to this property, the change will be disclosed in a written amendment to this disclosure statement.

SELLER _____ DATE _____

SELLER _____ DATE _____

THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our signature(s) below. Any agent representing any party to this transaction makes no representations and is not responsible for any conditions existing in the property.

BUYER _____ DATE _____

BUYER _____ DATE _____