

HOUSE BILL 637

By Maggart

AN ACT to amend Tennessee Code Annotated, Title 36
and Title 66, relative to divorce.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-4-103(b), is amended by designating the first sentence of the subsection as subdivision (1), by adding the following language to be designated as subdivision (2), and by designating the remainder of the subsection as subdivision (3):

(2) If the marital property includes real property owned during the marriage either jointly by the parties or individually by one of the parties and such property was used as the primary residence by the parties during the marriage, not later than sixty (60) days from the date the complaint for divorce was filed and prior to the court affirming, ratifying or incorporating in a decree any agreement between the parties regarding the division of marital property, the court shall require that all of the following elements with respect to such property be procured after the date the complaint for divorce was filed by both parties collectively or individually:

(A) A completed and signed real estate disclosure form as prescribed by the general assembly in § 66-5-210 signed by both parties collectively or individually;

(B) A copy of a Comprehensive Loss Underwriting Exchange report, commonly known as a C.L.U.E. report, obtained from either a licensed insurance agent with access to such reports or ChoicePoint Consumer Disclosure, P.O. Box 105108, Atlanta, GA 30348-5108, or 1-866-527-2600 (toll free); all personal

identifying information in this document shall be filed with the clerk under seal and shall not be a public record;

(C) A copy of a home inspection report issued pursuant to the provisions of title 62, chapter 6, part 3; a wood destroying insects and organisms report, commonly known as a termite letter, issued by a charter commercial pest control operator in accordance with the provisions of title 62, chapter 21, part 1; and, a copy of an independent appraisal of the property that expressly addresses the data obtained pursuant to subdivisions (A), (B) and (C);

(D) The written results of a title search conducted on the property. If any liens or other encumbrances have been recorded or filed against the title to such property, including but not limited to any liens for back taxes, the parties shall provide to the court evidence that the parties understand the ramifications of not individually obtaining nor granting a clear title to the property prior to the court affirming, ratifying or incorporating in a decree an agreement regarding the division of marital property; and

(E) If the property will continue to be used as the primary residence of one of the parties after entry of the final divorce decree and one party will become the sole fee simple owner of the property for such purposes, that party shall provide to the court evidence, satisfactory to the court, that such party has pursued every possible financial avenue necessary to obtain or determine whether the party will qualify or has been qualified to individually refinance or otherwise obtain a mortgage loan or loans or home equity line of credit on the property that releases or shall release the other party as a co-borrower from individual financial liability for any and all mortgage loans or home equity lines of

credit on the property that are outstanding or unsatisfied and unreleased before entry of the final divorce decree.

SECTION 2. Tennessee Code Annotated, Section 36-4-103(a)(2), is amended by adding the following language after the first sentence:

Provided, the parties shall not be authorized to waive any of the requirements necessary to be presented to the court in accordance with subdivision (b)(2).

SECTION 3. Tennessee Code Annotated, Section 36-4-121, is amended by adding the following language as a new, appropriately designated subsection:

() If the marital property includes real property owned during the marriage either jointly by the parties or individually by one of the parties and such property was used as the primary residence by the parties during the marriage, then prior to calculating or otherwise determining value and equitably dividing, distributing or assigning the marital property between the parties as provided in this section, the court shall require that both parties collectively or individually meet all of the provisions of § 36-4-103(b)(2) to the satisfaction of the court. The time frame within which such information shall be submitted to the court shall be at the court's discretion.

SECTION 4. Tennessee Code Annotated, Section 36-4-131(a), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

(2) When the parties participate in mediation pursuant to the provisions of this section, if the marital property includes real property owned during the marriage either jointly by the parties or individually by one of the parties and such property was used as the primary residence by the parties during the marriage, the mediator shall require the parties either collectively or individually to meet all of the provisions of § 36-4-103(b)(2),

to the satisfaction of the mediator. Any such information shall be submitted to the mediator no later than five (5) business days before the first mediation session.

SECTION 5. Tennessee Code Annotated, Section 66-5-209, is amended by adding the following language at the end of subdivision (6):

provided however, the parties to a divorce shall be required to complete the disclosure form and file the form with the court in accordance with § 36-4-103(b)(2)(A);

SECTION 6. This act shall take effect upon becoming the law, the public welfare requiring it and shall apply to any petition for divorce filed on or after the effective date of this act. In addition, this act shall also apply to any pending petition for divorce filed less than sixty (60) days prior to the effective date of this act.