



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0505/1
FFK:skw

2021 ASSEMBLY BILL 65

February 12, 2021 - Introduced by Representatives HORLACHER, ALLEN, BRANDTJEN, BROOKS, CALLAHAN, DITTRICH, GUNDRUM, JAGLER, KNODL, KRUG, KURTZ, MOSES, MURPHY, ORTIZ-VELEZ, PLUMER, RAMTHUN, SKOWRONSKI, WICHGERS and ZIMMERMAN, cosponsored by Senators BALLWEG, FELZKOWSKI, FEYEN, MARKLEIN, NASS and L. TAYLOR. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber** 709.03 (form) G4., G5., G6. and G7 and 709.033 (form) F10.
2 and F11.; **to amend** 709.02 (1), 709.05 (1), 709.03 (form) F8. and 709.033 (form)
3 E8.; and **to create** 709.03 (form) G4. and 709.033 (form) F10. of the statutes;
4 **relating to:** real estate disclosure reports.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, an owner selling residential real property or vacant land must give a prospective buyer a form, known as a real estate condition report for residential real property and known as the vacant land disclosure report for vacant land (real estate condition report), on which the owner discloses certain conditions of, and other information about, the real property. Current law provides that if a prospective buyer does not receive a real estate condition report within ten days after a contract of sale or option contract (contract) is accepted, the prospective buyer may rescind the contract by delivering written notice to the owner. Under the bill, a prospective buyer who rescinds a contract under such circumstances is also entitled to the return of any deposits or option fees the prospective buyer paid as part of the transaction.

Under current law, a prospective buyer is entitled to a completed copy of a real estate condition report, and if the buyer receives an incomplete report, the buyer may rescind the contract and is entitled to any deposits or option fees the buyer has paid as part of the transaction. The bill specifies that a real estate condition report is considered complete only if the seller has completed or otherwise provided information for each item on the report.

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Finally, the bill adds to the real estate condition report forms a requirement that the owner must indicate whether the owner is a foreign person for purposes of federal taxation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 709.02 (1) of the statutes is amended to read:

2 709.02 (1) In regard to transfers described in s. 709.01, the owner of the
3 property shall furnish, not later than 10 days after acceptance of a contract of sale
4 or option contract, to the prospective buyer of the property a completed copy of the
5 report under s. 709.03 or 709.033, whichever is applicable, subject to s. 709.035,
6 except that the owner may substitute for any entry information supplied by a
7 licensed engineer, professional land surveyor, as defined in s. 443.01 (7m), or
8 structural pest control operator, by an individual who is a qualified 3rd party, or by
9 a contractor about matters within the scope of the contractor's occupation, if the
10 information is in writing and is furnished on time and if the entry to which it relates
11 is identified, and except that the owner may substitute for any entry information
12 supplied by a public agency. Information that substitutes for an entry on the report
13 under s. 709.03 or 709.033 and that is supplied by a person specified in this section
14 may be submitted and certified on a supplemental report prepared by the person, as
15 long as the information otherwise satisfies the requirements under this section. A
16 report under s. 709.03 or 709.033 is considered complete only if the owner answered,
17 or supplied information under s. 709.035 for, each item on the report. A prospective
18 buyer who does not receive a report within the 10 days may, within 2 business days
19 after the end of that 10-day period, rescind the contract of sale or option contract by

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1 delivering a written notice of ~~reecision~~ rescission to the owner or to the owner’s agent
2 and is entitled to the return of any deposits or option fees paid in the transaction.

3 **SECTION 2.** 709.05 (1) of the statutes is amended to read:

4 709.05 (1) Except as provided in sub. (2) (b), if a buyer receives a report after
5 submission of a contract of sale or option contract to the owner or the owner’s agent,
6 the buyer may, after receipt of that report by the prospective buyer and before the
7 applicable deadline, rescind in writing a contract of sale or option contract if a defect,
8 as defined in the report, is disclosed, without any liability on his or her part, and a
9 buyer is entitled to the return of any deposits or option fees paid in the transaction.

10 A prospective buyer who receives a report that is incomplete or that contains an
11 inaccurate assertion that an item is not applicable and who is not aware of the defects
12 that the owner failed to disclose may, within 2 business days after receipt of that
13 report, rescind in writing a contract of sale or option contract without any liability
14 on his or her part and is entitled to the return of any deposits or option fees paid in
15 the transaction. A report under s. 709.03 or 709.033 is considered complete only if
16 the owner answered, or supplied information under s. 709.035 for, each item on the
17 report.

18 **SECTION 3.** 709.03 (form) F8. of the statutes is amended to read:

F8. Are Other than public rights of way, are you
aware of nonowners having rights to use
part of the property, including, but not lim-
ited to, private rights-of-way and ease-
ments other than recorded utility ease-
ments?

19 **SECTION 4.** 709.03 (form) G4. of the statutes is created to read:

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SECTION 4

G4. Is the owner a foreign person, as defined in 26 USC 1445 (f)? (E.g., a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate.)

Section 1445 of the Internal Revenue Code (26 USC 1445), also known as the Foreign Investment In Real Property Tax Act or FIRPTA, provides that a transferee (buyer) of a U.S. real property interest must be notified in writing and must withhold tax if the transferor (seller) is a foreign person, unless an exception under FIRPTA applies to the transfer.

1 **SECTION 5.** 709.03 (form) G4., G5., G6. and G7 of the statutes are renumbered
 2 709.03 (form) G5., G6., G7. and G8.

3 **SECTION 6.** 709.033 (form) E8. of the statutes is amended to read:

E8. ~~Are Other than public rights of way, are you~~ aware of nonowners having rights to use part of the property, including, but not limited to, private rights-of-way and easements other than recorded utility easements?

4 **SECTION 7.** 709.033 (form) F10. of the statutes is created to read:

F10. Is the owner a foreign person, as defined in 26 USC 1445 (f)? (E.g., a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate.)

