



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2462

Introduced 02/17/05, by Rep. Susana A Mendoza

SYNOPSIS AS INTRODUCED:

New Act

Creates the Residential Real Property Homestead Exemptions Disclosure Act. Requires the sellers of residential real property to disclose to the buyers of the property the amount of each homestead exemption that applies to the seller's ownership of the property. Sets forth the requirements and procedures for making the disclosure. Provides that a buyer may void the sales contract if the disclosure is defective. Provides that no action for a violation of the Act may be commenced more than one year after the date of the buyers occupancy or the date that the instrument of conveyance is recorded, whichever is less. Requires a copy of this Act must be included with each disclosure. Contains other provisions. Effective immediately.

LRB094 08914 BDD 39134 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Residential Real Property Homestead Exemptions Disclosure Act.

6 Section 5. Purpose. The purpose of this Act is to require,
7 at the time of contracting, the sellers of residential real
8 estate to provide to the buyers the dollar amount reduction of
9 each homestead exemption applicable to the real property. This
10 information is important to the buyer due to the fact that
11 buyer may not qualify for each of the homestead exemptions and
12 the annual amount of property taxes to be paid is a factor in
13 determining if that real property is affordable.

14 Section 10. Definitions. As used in this Act, unless the
15 context otherwise requires the following terms have the meaning
16 given in this Section:

17 "Residential real property" means real property improved
18 with not less than one nor more than 6 residential dwelling
19 units, units in residential cooperatives, or condominium
20 units.

21 "Seller" means every person who is an owner, beneficiary of
22 a trust, contract purchaser, or lessee of a ground lease, who
23 has an interest (legal or equitable) in residential real
24 property.

25 "Prospective buyer" means any person or entity negotiating
26 or offering to become an owner or lessee of residential real
27 property by means of a transfer for value to which this Act
28 applies.

29 "Homestead exemptions" means any exemption from property
30 taxes as provided in Sections 15-170, 15-172, 15-175, and
31 15-176 of the Property Tax Code.

1 Section 15. Applicability. Except as provided in Section
2 20, this Act applies to any transfer by sale, exchange,
3 installment land sale contract, assignment of beneficial
4 interest, lease with an option to purchase, ground lease, or
5 assignment of ground lease of residential real property.

6 Section 20. Inapplicability. The provisions of this Act do
7 not apply to any of the following:

8 (1) Transfers pursuant to court order, including, but not
9 limited to, transfers ordered by a probate court in
10 administration of an estate, transfers between spouses
11 resulting from a judgment of dissolution of marriage or legal
12 separation, transfers pursuant to an order of possession,
13 transfers by a trustee in bankruptcy, transfers by eminent
14 domain, and transfers resulting from a decree for specific
15 performance.

16 (2) Transfers from a mortgagor to a mortgagee by deed in
17 lieu of foreclosure or consent judgment, transfer by judicial
18 deed issued pursuant to a foreclosure sale to the successful
19 bidder or the assignee of a certificate of sale, transfer by a
20 collateral assignment of a beneficial interest of a land trust,
21 or a transfer by a mortgagee or a successor in interest to the
22 mortgagee's secured position or a beneficiary under a deed in
23 trust who has acquired the real property by deed in lieu of
24 foreclosure, consent judgment or judicial deed issued pursuant
25 to a foreclosure sale.

26 (3) Transfers by a fiduciary in the course of the
27 administration of a decedent's estate, guardianship estate,
28 conservatorship, or trust.

29 (4) Transfers from one co-owner to one or more other
30 co-owners.

31 (5) Transfers pursuant to testate or intestate succession.

32 (6) Transfers made to a spouse or to a person or persons in
33 the lineal line of consanguinity of one or more of the sellers.

34 (7) Transfers to or from any governmental entity.

1 Section 25. Duties of seller. A seller of residential real
2 property shall complete all applicable items in the disclosure
3 document described in Sections 35 and 40 of this Act. The
4 seller shall deliver to the prospective buyer the written
5 disclosure statement required by this Act before the signing of
6 a written agreement by the seller and prospective buyer that
7 would, subject to the satisfaction of any negotiated
8 contingencies, require the prospective buyer to accept a
9 transfer of the residential real property.

10 Section 30. Liability of seller. The seller is not liable
11 for any error, inaccuracy, or omission of any information
12 delivered pursuant to this Act if (i) the seller had no
13 knowledge of the error, inaccuracy, or omission, or (ii) the
14 error, inaccuracy, or omission was based on information
15 provided by a public agency.

16 Section 35. Disclosure supplement. If, prior to closing,
17 any seller has actual knowledge of an error, inaccuracy, or
18 omission in any prior disclosure document after delivery of
19 that disclosure document to a prospective buyer, that seller
20 shall supplement the prior disclosure document with a written
21 supplemental disclosure.

22 Section 40. Disclosure report form. The disclosures
23 required of a seller by this Act shall be made in the following
24 form:

25 RESIDENTIAL REAL PROPERTY HOMESTEAD EXEMPTION DISCLOSURE
26 REPORT

27 NOTICE: THE PURPOSE OF THIS REPORT IS TO PROVIDE
28 PROSPECTIVE BUYERS WITH INFORMATION ABOUT HOMESTEAD EXEMPTIONS
29 APPLICABLE TO THE RESIDENTIAL REAL PROPERTY. SELLERS WHO
30 DISCLOSE HOMESTEAD EXEMPTIONS MAY BE UNDER A CONTINUING

1 OBLIGATION TO ADVISE THE PROSPECTIVE BUYERS ABOUT THE CONDITION
 2 OF THE RESIDENTIAL REAL PROPERTY EVEN AFTER THE REPORT IS
 3 DELIVERED TO THE PROSPECTIVE BUYER. COMPLETION OF THIS REPORT
 4 BY THE SELLER CREATES LEGAL OBLIGATIONS ON THE SELLER;
 5 THEREFORE THE SELLER MAY WISH TO CONSULT AN ATTORNEY PRIOR TO
 6 COMPLETION OF THIS REPORT.

7 AMOUNT HOMESTEAD EXEMPTION

- 8
- 9 Senior Citizens Homestead Exemption
- 10 (35 ILCS 200/15-170)
- 11 Senior Citizens Assessment Freeze Homestead
- 12 Exemption ("Senior Freeze") (35 ILCS 200/15-172)
- 13 General Homestead Exemption
- 14 (35 ILCS 200/15-175)
- 15 Alternative General Homestead Exemption
- 16 (35 ILCS 200/15-176)

17 County in which the residential real property is
 18 located:.....

19 Real Estate Permanent Index Number:.....

20 Property Address:.....

21 City, State & Zip Code:.....

22 Seller's Name:.....

23 This Report is a disclosure of certain homestead exemptions
 24 applicable to the residential real property listed above in
 25 compliance with the Residential Real Property Homestead
 26 Exemptions Disclosure Act. This information is provided as of
 27 ... (month) ... (day) ... (year), and does not reflect any
 28 changes made or occurring after that date or information that
 29 becomes known to the seller after that date.

30 Seller certifies that seller has prepared this statement
 31 and certifies that the information provided is based on actual
 32 knowledge of the seller without any specific investigation or
 33 inquiry on the part of the seller. The seller hereby authorizes

1 any person representing any principal in this transaction to
2 provide a copy of this report, and to disclose any information
3 in the report, to any person in connection with any actual or
4 anticipated sale of the property.

5 Seller: Date:

6 Seller: Date:

7 Prospective Buyer: Date: Time:

8 Prospective Buyer: Date: Time:

9 Section 45. Material defect. If homestead exemptions are
10 disclosed in the Residential Real Property Homestead
11 Exemptions Disclosure Report, after acceptance by the
12 prospective buyer of an offer or counter-offer made by a seller
13 or after the execution of an offer made by a prospective buyer
14 that is accepted by the seller for the conveyance of the
15 residential real property, then the prospective buyer may,
16 within 3 business days after receipt of that report by the
17 prospective buyer, terminate the contract or other agreement
18 without any liability or recourse except for the return to the
19 prospective buyer of all earnest money deposits or down
20 payments paid by the prospective buyer in the transaction. If
21 homestead exemptions are disclosed in a supplement to this
22 disclosure document, the prospective buyer shall not have a
23 right to terminate unless the homestead exemptions results from
24 an error, inaccuracy, or omission of which the seller had
25 actual knowledge at the time the prior disclosure document was
26 completed and signed by the seller. The right to terminate the
27 contract, however, shall no longer exist after the conveyance
28 of the residential real property. For purposes of this Act, the
29 termination shall be deemed to be made when written notice of
30 termination is personally delivered to at least one of the
31 sellers identified in the contract or other agreement or when
32 deposited, certified or registered mail, with the United States
33 Postal Service, addressed to one of the sellers at the address

1 indicated in the contract or agreement, or, if there is not an
2 address contained therein, then at the address indicated for
3 the residential real property on the report.

4 Section 50. Other obligations. This Act is not intended to
5 limit or modify any obligation to disclose created by any other
6 statute or that may exist in common law in order to avoid
7 fraud, misrepresentation, or deceit in the transaction.

8 Section 55. Delivery. Delivery of the Residential Real
9 Property Homestead Exemption Disclosure Report provided by
10 this Act shall be by:

11 (1) personal or facsimile delivery to the prospective
12 buyer;

13 (2) depositing the report with the United States Postal
14 Service, postage prepaid, first class mail, addressed to the
15 prospective buyer at the address provided by the prospective
16 buyer or indicated on the contract or other agreement; or

17 (3) depositing the report with an alternative delivery
18 service such as Federal Express, UPS, or Airborne, delivery
19 charges prepaid, addressed to the prospective buyer at the
20 address provided by the prospective buyer or indicated on the
21 contract or other agreement.

22 For purposes of this Act, delivery to one prospective buyer
23 is deemed delivery to all prospective buyers. Delivery to an
24 authorized individual acting on behalf of a prospective buyer
25 constitutes delivery to all prospective buyers. Delivery of the
26 report is effective upon receipt by the prospective buyer.
27 Receipt may be acknowledged on the report, acknowledged in an
28 agreement for the conveyance of the residential real property,
29 or shown in any other verifiable manner.

30 Section 60. Violations and damages. If the seller fails or
31 refuses to provide the disclosure document prior to the
32 conveyance of the residential real property, the buyer shall
33 have the right to terminate the contract. A person who

1 knowingly violates or fails to perform any duty prescribed by
2 any provision of this Act or who discloses any information on
3 the Residential Real Property Homestead Exemptions Disclosure
4 Report that he knows to be false shall be liable in the amount
5 of actual damages and court costs, and the court may award
6 reasonable attorney fees incurred by the prevailing party.

7 Section 65. Limitation. No action for violation of this Act
8 may be commenced later than one year from the earlier of the
9 date of possession, date of occupancy, or date of recording of
10 an instrument of conveyance of the residential real property.

11 Section 70. Copy of Act on form. A copy of this Act,
12 excluding Section 35, must be printed on or as a part of the
13 Residential Real Property Homestead Exemptions Disclosure
14 Report form.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.