

# HB1543



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1543

Introduced 2/15/2011, by Rep. Daniel V. Beiser

#### SYNOPSIS AS INTRODUCED:

765 ILCS 77/35

Amends the Residential Real Property Disclosure Act. Adds to the items in the disclosure list a statement concerning whether the owner is aware of the existence of toxic mold on the property.

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HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Residential Real Property Disclosure Act is  
5 amended by changing Section 35 as follows:

6 (765 ILCS 77/35)

7 Sec. 35. Disclosure report form. The disclosures required  
8 of a seller by this Act shall be made in the following form:

9 RESIDENTIAL REAL PROPERTY DISCLOSURE REPORT

10 NOTICE: THE PURPOSE OF THIS REPORT IS TO PROVIDE  
11 PROSPECTIVE BUYERS WITH INFORMATION ABOUT MATERIAL DEFECTS IN  
12 THE RESIDENTIAL REAL PROPERTY. THIS REPORT DOES NOT LIMIT THE  
13 PARTIES' RIGHT TO CONTRACT FOR THE SALE OF RESIDENTIAL REAL  
14 PROPERTY IN "AS IS" CONDITION. UNDER COMMON LAW, SELLERS WHO  
15 DISCLOSE MATERIAL DEFECTS MAY BE UNDER A CONTINUING OBLIGATION  
16 TO ADVISE THE PROSPECTIVE BUYERS ABOUT THE CONDITION OF THE  
17 RESIDENTIAL REAL PROPERTY EVEN AFTER THE REPORT IS DELIVERED TO  
18 THE PROSPECTIVE BUYER. COMPLETION OF THIS REPORT BY THE SELLER  
19 CREATES LEGAL OBLIGATIONS ON THE SELLER; THEREFORE THE SELLER  
20 MAY WISH TO CONSULT AN ATTORNEY PRIOR TO COMPLETION OF THIS  
21 REPORT.

22 Property Address: .....

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

1 Seller's Name: .....

2 This Report is a disclosure of certain conditions of the  
3 residential real property listed above in compliance with the  
4 Residential Real Property Disclosure Act. This information is  
5 provided as of ...(month) ...(day) ...(year), and does not  
6 reflect any changes made or occurring after that date or  
7 information that becomes known to the seller after that date.  
8 The disclosures herein shall not be deemed warranties of any  
9 kind by the seller or any person representing any party in this  
10 transaction.

11 In this form, "am aware" means to have actual notice or  
12 actual knowledge without any specific investigation or  
13 inquiry. In this form, "material defect" means a condition that  
14 would have a substantial adverse effect on the value of the  
15 residential real property or that would significantly impair  
16 the health or safety of future occupants of the residential  
17 real property unless the seller reasonably believes that the  
18 condition has been corrected.

19 The seller discloses the following information with the  
20 knowledge that even though the statements herein are not deemed  
21 to be warranties, prospective buyers may choose to rely on this  
22 information in deciding whether or not and on what terms to  
23 purchase the residential real property.

24 The seller represents that to the best of his or her actual  
25 knowledge, the following statements have been accurately noted  
26 as "yes" (correct), "no" (incorrect), or "not applicable" to

1 the property being sold. If the seller indicates that the  
2 response to any statement, except number 1, is yes or not  
3 applicable, the seller shall provide an explanation, in the  
4 additional information area of this form.

5 YES NO N/A

6 1. .... Seller has occupied the property  
7 within the last 12 months.  
8 (No explanation is needed.)

9 2. .... I am aware of flooding or recurring  
10 leakage problems in the crawl  
11 space or basement.

12 3. .... I am aware that the property is  
13 located in a flood plain or that I  
14 currently have flood hazard  
15 insurance on the property.

16 4. .... I am aware of material defects in  
17 the basement or foundation  
18 (including cracks and bulges).

19 5. .... I am aware of leaks or material  
20 defects in the roof, ceilings, or  
21 chimney.

22 6. .... I am aware of material defects in  
23 the walls or floors.

24 7. .... I am aware of material defects in  
25 the electrical system.

26 8. .... I am aware of material defects in

1 the plumbing system (includes  
2 such things as water heater, sump  
3 pump, water treatment system,  
4 sprinkler system, and swimming  
5 pool).

6 9. .... I am aware of material defects in  
7 the well or well equipment.

8 10. .... I am aware of unsafe conditions in  
9 the drinking water.

10 11. .... I am aware of material defects in  
11 the heating, air conditioning, or  
12 ventilating systems.

13 12. .... I am aware of material defects in  
14 the fireplace or woodburning  
15 stove.

16 13. .... I am aware of material defects in  
17 the septic, sanitary sewer, or  
18 other disposal system.

19 14. .... I am aware of unsafe concentrations  
20 of radon on the premises.

21 15. .... I am aware of unsafe concentrations  
22 of or unsafe conditions relating  
23 to asbestos on the premises.

24 16. .... I am aware of unsafe concentrations  
25 of or unsafe conditions relating  
26 to lead paint, lead water pipes,

1 lead plumbing pipes or lead in  
2 the soil on the premises.

3 17. .... I am aware of mine subsidence,  
4 underground pits, settlement,  
5 sliding, upheaval, or other earth  
6 stability defects on the  
7 premises.

8 18. .... I am aware of current infestations  
9 of termites or other wood boring  
10 insects.

11 19. .... I am aware of a structural defect  
12 caused by previous infestations  
13 of termites or other wood boring  
14 insects.

15 20. .... I am aware of underground fuel  
16 storage tanks on the property.

17 21. .... I am aware of boundary or lot line  
18 disputes.

19 22. .... I have received notice of violation  
20 of local, state or federal laws  
21 or regulations relating to this  
22 property, which violation has not  
23 been corrected.

24 23. .... I am aware that this property has  
25 been used for the manufacture  
26 of methamphetamine as

1 defined in Section 10 of  
 2 the Methamphetamine Control  
 3 and Community Protection Act.  
 4 24. ... .. I am aware of the presence of  
 5 toxic mold.

6 Note: These disclosures are not intended to cover the  
 7 common elements of a condominium, but only the actual  
 8 residential real property including limited common elements  
 9 allocated to the exclusive use thereof that form an integral  
 10 part of the condominium unit.

11 Note: These disclosures are intended to reflect the current  
 12 condition of the premises and do not include previous problems,  
 13 if any, that the seller reasonably believes have been  
 14 corrected.

15 If any of the above are marked "not applicable" or "yes",  
 16 please explain here or use additional pages, if necessary:

17 .....  
 18 .....  
 19 .....

20 Check here if additional pages used: .....

21 Seller certifies that seller has prepared this statement  
 22 and certifies that the information provided is based on the  
 23 actual notice or actual knowledge of the seller without any  
 24 specific investigation or inquiry on the part of the seller.  
 25 The seller hereby authorizes any person representing any  
 26 principal in this transaction to provide a copy of this report,

1 and to disclose any information in the report, to any person in  
2 connection with any actual or anticipated sale of the property.

3 Seller: ..... Date: .....

4 Seller: ..... Date: .....

5 THE PROSPECTIVE BUYER IS AWARE THAT THE PARTIES MAY CHOOSE  
6 TO NEGOTIATE AN AGREEMENT FOR THE SALE OF THE PROPERTY SUBJECT  
7 TO ANY OR ALL MATERIAL DEFECTS DISCLOSED IN THIS REPORT ("AS  
8 IS"). THIS DISCLOSURE IS NOT A SUBSTITUTE FOR ANY INSPECTIONS  
9 OR WARRANTIES THAT THE PROSPECTIVE BUYER OR SELLER MAY WISH TO  
10 OBTAIN OR NEGOTIATE. THE FACT THAT THE SELLER IS NOT AWARE OF A  
11 PARTICULAR CONDITION OR PROBLEM IS NO GUARANTEE THAT IT DOES  
12 NOT EXIST. THE PROSPECTIVE BUYER IS AWARE THAT HE MAY REQUEST  
13 AN INSPECTION OF THE PREMISES PERFORMED BY A QUALIFIED  
14 PROFESSIONAL.

15 Prospective Buyer: ..... Date: ..... Time: ....

16 Prospective Buyer: ..... Date: ..... Time: ....

17 (Source: P.A. 96-232, eff. 8-11-09.)