

CHAPTER 306—S.F.No. 2697

An act relating to real property; establishing disclosure requirements for sellers of residential real estate; proposing coding for new law in Minnesota Statutes, chapter 513.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [513.52] DEFINITIONS.

Subdivision 1. SCOPE. For purposes of sections 513.52 to 513.60, the terms defined in this section have the meanings given them.

Subd. 2. PROSPECTIVE BUYER. "Prospective buyer" means a person negotiating or offering to acquire for value legal or equitable title, or the right to acquire legal or equitable title, to residential real property.

Subd. 3. REAL ESTATE LICENSEE. "Real estate licensee" means a person licensed under chapter 82.

Subd. 4. RESIDENTIAL REAL PROPERTY OR RESIDENTIAL REAL ESTATE. "Residential real property" or "residential real estate" means property occupied as, or intended to be occupied as, a single-family residence, including a unit in a common interest community as defined in section 515B.1-103, clause (10), regardless of whether the unit is in a common interest community not subject to chapter 515B.

Subd. 5. SELLER. "Seller" means a person who owns legal or equitable title to residential real property.

Sec. 2. [513.53] APPLICABILITY.

The seller disclosure requirements in sections 513.52 to 513.60 apply to the transfer of any interest in residential real estate, whether by sale, exchange, deed, contract for deed, lease with an option to purchase, or any other option.

Sec. 3. [513.54] EXCEPTIONS.

The seller disclosure requirements in sections 513.52 to 513.60 do not apply to any of the following:

- (1) real property that is not residential real property;
- (2) a gratuitous transfer;
- (3) a transfer pursuant to a court order;
- (4) a transfer to a government or governmental agency;
- (5) a transfer by foreclosure or deed in lieu of foreclosure;
- (6) a transfer to heirs or devisees of a decedent;
- (7) a transfer from a cotenant to one or more other cotenants;
- (8) a transfer made to a spouse, parent, grandparent, child, or grandchild of the seller;

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(9) a transfer between spouses resulting from a decree of marriage dissolution or from a property settlement agreement incidental to that decree;

(10) a transfer of newly constructed residential property that has not been inhabited;

(11) an option to purchase a unit in a common interest community, until exercised;

(12) a transfer to a person who controls or is controlled by the grantor as those terms are defined with respect to a declarant under section 515B.1-103, clause (2);

(13) a transfer to a tenant who is in possession of the residential real property; or

(14) a transfer of special declarant rights under section 515B.3-104.

Sec. 4. [513.55] GENERAL DISCLOSURE REQUIREMENTS.

Subdivision 1. CONTENTS. (a) Before signing an agreement to sell or transfer residential real property, the seller shall make a written disclosure to the prospective buyer. The disclosure must include all material facts pertaining to adverse physical conditions in the property of which the seller is aware that could adversely and significantly affect:

(1) an ordinary buyer's use and enjoyment of the property; or

(2) any intended use of the property of which the seller is aware.

(b) The disclosure must be made in good faith and based upon the best of the seller's knowledge at the time of the disclosure.

Subd. 2. DISCLOSURE TO LICENSEE. A seller may provide the written disclosure required under sections 513.52 to 513.60 to a real estate licensee representing or assisting the prospective buyer. The written disclosure provided to the real estate licensee representing or assisting the prospective buyer is considered to have been provided to the prospective buyer. If the written disclosure is provided to the real estate licensee representing or assisting the prospective buyer, the real estate licensee shall provide a copy to the prospective buyer.

Sec. 5. [513.56] DISCLOSURE NOT REQUIRED.

Subdivision 1. GENERAL. Section 513.55 does not create a duty to disclose the fact that residential property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

Subd. 2. OFFENDERS. Section 513.55 does not create a duty to disclose information regarding an offender who is required to register under section 243.166, or

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about whom notification is made under that section, if the seller, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting the local law enforcement agency where the property is located or the department of corrections. This section does not create a duty to disclose any facts described in subdivision 1 and this subdivision for property that is not residential real property.

Subd. 3. INSPECTIONS. (a) Except as provided in paragraph (b), a seller is not required to disclose information relating to the physical condition of the real property if a written report that discloses the information has been prepared by a qualified third party and provided to the prospective buyer. For purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the seller, or prospective buyer, reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report.

(b) A seller shall disclose to the prospective buyer material facts known by the seller that contradict any information included in a written report under paragraph (a) if a copy of the report is provided to the seller.

Sec. 6. [513.57] LIABILITY FOR ERROR, INACCURACY, OR OMISSION.

Subdivision 1. NO LIABILITY. Unless the prospective buyer and seller agree to the contrary in writing, a seller is not liable for any error, inaccuracy, or omission of any information delivered under sections 513.52 to 513.60 if the error, inaccuracy, or omission was not within the personal knowledge of the seller, or was based entirely on information provided by other persons as specified in section 513.58, subdivision 3, and ordinary care was exercised in transmitting the information. It is not a violation of sections 513.52 to 513.60 if the seller fails to disclose information that could be obtained only through inspection or observation of inaccessible portions of the real estate or could be discovered only by a person with expertise in a science or trade beyond the knowledge of the seller.

Subd. 2. LIABILITY. A seller who fails to make a disclosure as required by sections 513.52 to 513.60 and was aware of the condition of the real property is liable to the prospective buyer. A person injured by a violation of this section may bring a civil action and recover damages and receive other equitable relief as determined by the court. An action under this subdivision must be commenced within two years after the date on which the prospective buyer closed the purchase or transfer of the real property.

Subd. 3. OTHER ACTIONS. Nothing in sections 513.52 to 513.60 precludes liability for an action based on fraud, negligent misrepresentation, or other actions allowed by law.

Sec. 7. [513.58] AMENDMENT TO DISCLOSURE.

Subdivision 1. NOTICE. A seller must notify the prospective buyer in writing as soon as reasonably possible, but in any event before closing, if the seller learns that the

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seller's disclosure required by section 513.55 was inaccurate.

Subd. 2. FAILURE TO NOTIFY; LIABILITY. A seller who fails to notify the prospective buyer of any amendments to the initial disclosure required under subdivision 1 is liable to the prospective buyer as provided in section 513.57.

Sec. 8. [513.59] TRANSFER NOT INVALIDATED.

A transfer subject to sections 513.52 to 513.60 is not invalidated solely because of the failure of any person to comply with a provision of those sections. This section does not prevent a court from ordering a rescission of the transfer.

Sec. 9. [513.60] WAIVER.

The written disclosure required under sections 513.52 to 513.60 may be waived if the seller and the prospective buyer agree in writing. Waiver of the disclosure required under sections 513.52 to 513.60 does not waive, limit, or abridge any obligation for seller disclosure created by any other law.

Sec. 10. EFFECTIVE DATE.

This act is effective January 1, 2003, and applies to purchase agreements entered into on or after that date.

Presented to the governor March 28, 2002

Signed by the governor April 1, 2002, 9:08 a.m.

CHAPTER 307—S.F.No. 3315

An act relating to insurance; making certain changes involving the joint underwriting association's procedures; providing continuation coverage for certain life insurance; modifying scope of provisions regulating credit insurance; providing for health care administrative simplification; amending Minnesota Statutes 2000, sections 61A.092, subdivision 6; 62B.01; 62F.04, by adding a subdivision; 62J.51, subdivision 19; 62J.535, subdivision 2, by adding subdivisions; 62J.581; repealing Minnesota Statutes 2000, sections 62F.04, subdivision 1a; 62J.535, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

JOINT UNDERWRITING ASSOCIATION

Section 1. Minnesota Statutes 2000, section 62F.04, is amended by adding a subdivision to read:

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