

ENGROSSED HOUSE  
BILL NO. 1319

By: Tibbs and Nance of the  
House

and

Brogdon of the Senate

An Act relating to property; amending 60 O.S. 2001, Sections 833 and 837, which relate to the Residential Property Condition Disclosure Act; adding certain disclosure requirement; clarifying available remedies; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2001, Section 833, is amended to read as follows:

Section 833. A. A seller of property located in this state shall deliver, or cause to be delivered, to the purchaser of such property one of the following:

1. A written property disclaimer statement on a form established by rule by the Oklahoma Real Estate Commission which states that the seller:

a. has never occupied the property and makes no disclosures concerning the condition of the property, and

b. has no actual knowledge of any defect; or

2. A written property condition disclosure statement on a form established by rule by the Oklahoma Real Estate Commission which shall include the information set forth in subsection B of this section.

B. 1. The disclosure statement shall include an identification of items and improvements which are included in the sale of the property and whether such items or improvements are in normal working order. The disclosures required shall also include a

statement of whether the seller has actual knowledge of defects or information in relation to the following:

- a. water and sewer systems, including the source of household water, water treatment systems, sprinkler systems, occurrence of water in the heating and air conditioning ducts, water seepage or leakage, drainage or grading problems and flood zone status,
- b. structural systems, including the roof, walls, floors, foundation and any basement,
- c. plumbing, electrical, heating and air conditioning systems,
- d. infestation or damage of wood-destroying organisms,
- e. major fire or tornado damage,
- f. land use matters,
- g. existence of hazardous or regulated materials and other conditions having an environmental impact,
- h. existence of prior manufacturing of methamphetamine,
- i. any other defects known to the seller, and
- ~~i.~~ j. other matters the Oklahoma Real Estate Commission deems appropriate.

2. The disclosure statement shall include the following notices to the purchaser in bold and conspicuous type:

- a. "The information and statements contained in this disclosure statement are declarations and representations of the seller and are not the representations of the real estate licensee.",
- b. "The information contained in this disclosure statement is not intended to be a part of any contract between the purchaser and the seller.", and
- c. "The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any

inspections or warranties the purchaser may wish to obtain."

C. Either the disclaimer statement or the disclosure statement required by this section must be completed, signed and dated by the seller. The date of completion on either statement may not be more than one hundred eighty (180) days prior to the date of receipt of the statement by the purchaser.

D. The Oklahoma Real Estate Commission shall develop by rule the forms for the residential property condition disclaimer and the residential property condition disclosure statement. After development of the initial forms, the Oklahoma Real Estate Commission may amend by rule the forms as is necessary and appropriate.

Such forms shall be made available upon request irrespective of whether the person requesting a disclaimer or disclosure form is represented by a real estate licensee.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 837, is amended to read as follows:

Section 837. A. The purchaser may recover in a civil action only in the event of any of the following:

1. The failure of the seller to provide to the purchaser a disclaimer statement or a disclosure statement and any amendment prior to acceptance of an offer to purchase;

2. The failure of the seller to disclose in the disclosure statement or any amendment provided to the purchaser a defect which was actually known to the seller prior to acceptance of an offer to purchase; or

3. The failure of the real estate licensee to disclose to the purchaser any defects in the property actually known to the real estate licensee prior to acceptance of an offer to purchase and which were not included in the disclosure statement or any amendment provided to the purchaser.

B. The sole and exclusive civil remedy at common law or otherwise for a failure under subsection A of this section by the seller or the real estate licensee shall be an action for actual damages, including the cost of repairing the defect, suffered by the purchaser as a result of a defect existing in the property as of the date of acceptance by the seller of an offer to purchase and shall not include the remedy of exemplary damages.

C. Any action brought under this act shall be commenced within two (2) years after the date of transfer of real property subject to this act.

D. In any civil action brought under this act, the prevailing party shall be allowed court costs and a reasonable attorney fee to be set by the court and to be collected as costs.

E. A transfer of a possessory interest in property subject to this act may not be invalidated solely because of the failure of any person to comply with this act.

F. This act applies to, regulates and determines rights, duties, obligations and remedies at common law or otherwise of the seller, the real estate licensee and the purchaser with respect to disclosure of defects in property and supplants and abrogates all common law liability, rights, duties, obligations and remedies therefore.

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 26th day of February,  
2003.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2003.

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Presiding Officer of the Senate