

SENATE BILL NO. 191

INTRODUCED BY R. ERICKSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SEPTIC SYSTEM DISCLOSURE STATEMENT ON REAL ESTATE DOCUMENTS; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, a properly designed, constructed, and maintained septic system can provide long-term, effective treatment of household wastewater and is key to the property value of a home or business; and

WHEREAS, a poorly maintained septic system may malfunction, damaging property and costing thousands of dollars to repair or replace;

WHEREAS, a poorly maintained septic system degrades water quality in ground water, streams, and rivers and can contaminate drinking water, especially if located near wells;

WHEREAS, a prospective property buyer needs to know if a property is served by a septic system, whether a septic system has been permitted by the county, and if a septic system has been maintained, repaired, or replaced; and

WHEREAS, a seller should not be liable for future failures or maintenance of a septic system unless the seller fails to disclose the required information to the buyer or does not agree to a requested inspection.

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Septic System Disclosure Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Inhabitable real property" means any real property that includes a building affixed to land. The building must be designed to be primarily occupied by humans, either as a dwelling or as a place of business.

(2) "Septic system" means any system where sewage, including wastewater, is collected in a tank or disposed of within the boundaries of the inhabitable real property being offered for sale.

1            NEW SECTION. **Section 3. Septic system disclosure statement on real estate documents --**  
2 **disclosure of permit -- immunity from liability.** (1) A septic system disclosure statement must be provided on  
3 at least one document, form, or application executed prior to or contemporaneously with an offer for the purchase  
4 and sale of inhabitable real property served by a septic system. The seller or seller's agent shall provide the  
5 following disclosure statement to the buyer, and the buyer shall acknowledge receipt of this disclosure statement  
6 by signing a copy of the disclosure statement:

7            "THIS PROPERTY INCLUDES A SEPTIC SYSTEM WHERE SEWAGE IS COLLECTED OR DISPOSED  
8 OF WITHIN THE BOUNDARIES OF THE PROPERTY. THE BUYER UNDERSTANDS THAT SEPTIC SYSTEMS  
9 REQUIRE REGULAR MAINTENANCE, REPAIR, AND REPLACEMENT TO PROTECT PUBLIC HEALTH,  
10 WATER QUALITY, AND PRIVATE PROPERTY. THE BUYER MAY REQUEST AN INSPECTION OF THE  
11 SEPTIC SYSTEM AND ANY ASSOCIATED DRAINFIELD OR INFRASTRUCTURE."

12            (2) If available after reasonable investigation, the seller or the seller's agent shall provide to the buyer  
13 prior to or upon entry into a contract for the purchase of the inhabitable real property:

- 14            (a) the county permit for the septic system;  
15            (b) pumping records or other records of septic system maintenance;  
16            (c) maps or diagrams indicating the location and design of the septic system;  
17            (d) records of repair or replacement of the septic system; and  
18            (e) well logs and water quality tests for the property.

19            (3) The furnishing of information pursuant to subsection (2) is not to be construed as a promise, warranty,  
20 or representation of any sort by the seller or the seller's agent as to the condition of the septic system. This  
21 section does not create a contingency on the purchase of the property or any right to rescind a contract for  
22 purchase unless the contingency or right to rescind is an express term of the applicable contract.

23            (4) A seller or seller's agent who complies with subsections (1) and (2) is not liable in any action related  
24 to the septic system.

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26            NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified  
27 as an integral part of Title 70, chapter 16, and the provisions of Title 70, chapter 16, apply to [sections 1 through  
28 3].

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30            NEW SECTION. **Section 5. Applicability.** [This act] applies to offers for the purchase and sale of

1 inhabitable real property made after [the effective date of this act].

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