

1 HOUSE BILL NO. 296
2 INTRODUCED BY K. SEEKINS-CROWE, E. BUTTREY, R. FITZGERALD, C. KNUDSEN, M. BERTOGLIO, J.
3 KARLEN
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO SALES OF RESIDENTIAL REAL
6 PROPERTY; REQUIRING SELLERS OF RESIDENTIAL REAL PROPERTY TO PROVIDE A WRITTEN
7 DISCLOSURE STATEMENT; PROVIDING REQUIREMENTS FOR THE DISCLOSURE STATEMENT;
8 PROVIDING EXEMPTIONS; PROVIDING FOR A BUYER'S RIGHT TO RESCIND; REVISING DEFINITIONS;
9 AND AMENDING SECTION 37-51-102, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1
14 through 5] the following definitions apply:

15 (1) "Adverse material fact" ~~means a condition, malfunction, or problem that would have a materially~~
16 ~~adverse effect on the monetary value of real property, that affects the structural integrity of any improvements~~
17 ~~located on the real property, or that presents a documented health risk to occupants of the real property or~~
18 ~~would impair the health or safety of future occupants of the real property~~ means a fact that should be
19 recognized by a broker or salesperson as being significant enough to affect a person's decision to enter into a
20 contract to buy or sell real property and may be a fact that:

21 (a) materially affects the value, affects the structural integrity, or presents a documented health risk
22 to occupants of the property; or

23 (b) materially affects the buyer's ability or intent to perform the buyer's obligations under a
24 proposed or existing contract.

25 (2) "Buyer" means one or more persons who are attempting to acquire an ownership interest in
26 real property.

27 (3) "Contract" means a real estate purchase contract between a buyer and a seller for the sale,
28 conveyance, or exchange of real property, the option to purchase real property, or a lease with an option to

1 purchase real property.

2 (4) "Disclosure statement" means the statement described in [section 2(1)].

3 (5) "Offer to purchase" means an offer to transfer real property made by a buyer pursuant to a
4 written contract.

5 (6) "Person" means an individual, corporation, limited liability company, partnership, association,
6 trust, or other legal entity or any combination of these.

7 (7) "Residential real property" means real property that is improved by a building or other structure
8 designed or intended for occupancy as a residence and that has one to four dwelling units or an individually
9 owned unit in a structure of any size and includes:

10 (a) real property that has a combined residential and commercial use;

11 (b) a manufactured home that has been declared an improvement to real property under 15-1-116;

12 and

13 (c) a condominium as defined in 70-23-102(7).

14 (8) "Seller" means one or more persons who are attempting to transfer an ownership interest in
15 real property.

16 (9) "Transfer" means a sale or conveyance of, exchange of, or option to purchase by written
17 instrument an ownership interest in real property for consideration.

18

19 **NEW SECTION. Section 2. Seller disclosure -- statement.** (1) In any transfer of residential real
20 property in the state, the seller shall provide a disclosure statement to a buyer disclosing any adverse material
21 facts that concern the residential real property and of which the seller has actual knowledge. The disclosure
22 statement must be provided by the seller prior to or contemporaneously with the execution of a contract, either
23 directly or via the real estate agent or other authorized representative of the seller, and must be provided to the
24 buyer or the real estate agent or other authorized representative of the buyer. The disclosure statement must
25 contain, at a minimum, any of the following information of which the seller has actual knowledge:

26 (a) matters affecting legal ownership or title to the residential real property or the seller's ability to
27 transfer the residential real property;

28 (b) matters affecting water service to the residential real property or the water source serving the