

2018 Regular Session

HOUSE BILL NO. 617

BY REPRESENTATIVE HILFERTY

REAL ESTATE: Modifies relative to transfers of interest and property disclosure forms

1 AN ACT

2 To amend and reenact R.S. 9:3196(introductory paragraph) and (1)(c), 3197(A), (B), and  
3 (7), and 3198(A)(2)(b) and (c) and (E)(1); relative to the transfer of residential real  
4 property and property disclosure forms; to provide relative to definitions; to provide  
5 relative to instances in which a seller is not liable; to provide for technical changes;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:3196(introductory paragraph) and (1)(c), 3197(A), (B), and (7), and  
9 3198(A)(2)(b) and (c) and (E)(1) are hereby amended and reenacted to read as follows:

10 §3196. Definitions

11 As used in this Chapter, the following terms ~~shall~~ have the meanings  
12 hereinafter ascribed to them:

13 (1) "Known defect" means a condition found within the property that was  
14 actually known by the seller and that results in any of the following:

15 \* \* \*

16 (c) If not repaired, removed, or replaced, significantly shortens the expected  
17 normal life of the ~~premises~~ property.

18 \* \* \*

19 §3197. Applicability; exemptions

1           A. ~~On and after July 1, 2004, the~~ The provisions of this Chapter shall apply  
2           to the transfer of any interest in residential real property, whether by sale, exchange,  
3           bond for deed, lease with option to purchase, or any other option to purchase,  
4           including transactions in which the assistance of a real estate licensee is utilized and  
5           those in which such assistance is not utilized.

6           B. The provisions of this Chapter shall not apply to any of the following:

7   \*       \*       \*

8           (7) Transfers from the succession executor or administrator pursuant to  
9           testate or intestate succession.

10   \*       \*       \*

11       §3198. Duties of the seller; delivery of property disclosure document; termination  
12           of real estate contract; information contained in document and inaccuracies;  
13           required disclosure of information relative to homeowners' associations;  
14           liability of seller

15           A.

16   \*       \*       \*

17           (2)

18   \*       \*       \*

19           (b) Included with the property disclosure documents required by this Section  
20           shall be a statement of ~~acknowledgment~~ as to whether or not an illegal laboratory for  
21           the production or manufacturing of methamphetamine was ~~in operation on the~~  
22           purchasing ever located on the property.

23           (c) Included with the property disclosure documents required by this Section  
24           shall be a statement of ~~acknowledgment~~ as to whether or not a cavity created within  
25           a salt stock by dissolution with water lies underneath the property and whether or not  
26           the purchasing property is within two thousand six hundred forty feet of a solution  
27           mining injection well.

28   \*       \*       \*

1           E. A seller shall not be liable for any error, inaccuracy, or omission of any  
2 information required to be delivered to the purchaser in a property disclosure  
3 document if either of the following conditions exists:

4           (1) The error, inaccuracy, or omission was not a willful misrepresentation  
5 according to the best of the seller's information, knowledge, and belief of a known  
6 defect as defined in R.S. 9:3196.

7                                   \*       \*       \*

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 617 Original

2018 Regular Session

Hilferty

**Abstract:** Modifies relative to transfers of interests and property disclosure statements with respect to residential real property.

Present law defines "known defect". Proposed law amends the definition in present law.

Present law provides that the provisions of present law apply to all transfers of interest in residential real property occurring on and after July 1, 2004, whether or not the assistance of a real estate licensee is utilized. Proposed law retains present law.

Present law provides certain transfers of interest are exempt from the provisions of present law. One such exemption in present law is relative to a transfer of interest pursuant to a testate or intestate succession.

Proposed law amends present law to add that such transfer of interest is with respect to the succession executory or administrator.

Present law requires certain statements to be included in a property disclosure document. One such statement should be relative to whether certain illegal drug activity was in operation on the purchasing property.

Proposed law amends present law to provide for the statements in present law to be an acknowledgment. Requires the acknowledgment to include whether such illegal activity was ever located on the property.

Present law exempts a seller from liability for any error, inaccuracy, or omission of any information in the disclosure if the error, inaccuracy, or omission was not a willful misrepresentation of the seller.

Proposed law amends present law to provide the seller's exemption from liability for any error, inaccuracy, or omission of any information if such fallacy was not a willful misrepresentation of the seller with respect to a known defect as defined in present law.

(Amends R.S. 9:3196(intro. para.) and (1)(c), 3197(A), (B), and (7), and 3198(A)(2)(b) and (c) and (E)(1))