

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0273

SENATE BILL NO. 63

Introduced by: The Committee on Commerce at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to add certain energy efficiency disclosures to the property
2 condition disclosure statement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-4-44 be amended to read as follows:

5 43-4-44. The following form shall be used for the property condition disclosure statement:

6 SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

7 (This disclosure shall be completed by the seller. This is a disclosure required by law. If you do
8 not understand this form, seek legal advice.)

9 Seller

10 _____

11 Property Address

12 _____

13 _____

14 This Disclosure Statement concerns the real property identified above situated in the City of

15 _____ County of _____, State of South Dakota.



1 THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE
 2 DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY
 3 OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN
 4 THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR
 5 WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent
 6 representing any party in this transaction to provide a copy of this statement to any person or
 7 entity in connection with any actual or anticipated sale of the property.

8 IF ANY MATERIAL FACT CHANGES BEFORE CONVEYANCE OF TITLE TO THIS
 9 PROPERTY, THE SELLER MUST DISCLOSE SUCH MATERIAL FACT WITH A
 10 WRITTEN AMENDMENT TO THIS DISCLOSURE STATEMENT.

11 I. LOT OR TITLE INFORMATION

12 1. When did you purchase or build the home?

13 _____

14 If the answer is yes to any of the following, please explain under additional comments or on an
 15 attached separate sheet.

16 _____

17 2. Were there any title problems when you purchased the property?

18 Yes ____ No ____

19 3. Are there any recorded liens or financial instruments against the property, other than a first
 20 mortgage?

21 Yes ____ No ____

22 4. Are there any unrecorded liens or financial instruments against the property, other than a
 23 first mortgage; or have any materials or services been provided in the past one hundred
 24 twenty days that would create a lien against the property under chapter 44-9?

1 Yes ____ No ____ Unknown ____

2 5. Are there any easements which have been granted in connection with the property (other
3 than normal utility easements for public water and sewer, gas and electric service, telephone
4 service, cable television service, drainage, and sidewalks)?

5 Yes ____ No ____ Unknown ____

6 6. Are there any problems related to establishing the lot lines/boundaries?

7 Yes ____ No ____ Unknown ____

8 7. Do you have a location survey in your possession or a copy of the recorded plat? If yes,
9 attach a copy.

10 Yes ____ No ____ Unknown ____

11 8. Are you aware of any encroachments or shared features, from or on adjoining property (i.e.
12 fences, driveway, sheds, outbuildings, or other improvements)?

13 Yes ____ No ____

14 9. Are you aware of any covenants or restrictions affecting the use of the property in
15 accordance with local law? If yes, attach a copy of the covenants and restrictions.

16 Yes ____ No ____

17 10. Are you aware of any current or pending litigation, foreclosure, zoning, building code or
18 restrictive covenant violation notices, mechanic's liens, judgments, special assessments,
19 zoning changes, or changes that could affect your property?

20 Yes ____ No ____

21 11. Is the property currently occupied by the owner?

22 Yes ____ No ____

23 12. Does the property currently receive the owner occupied tax reduction pursuant to SDCL 10-
24 13-39?

1 Yes ____ No ____

2 13. Is the property currently part of a property tax freeze for any reason?

3 Yes ____ No ____ Unknown ____

4 14. Is the property leased?

5 Yes ____ No ____

6 15. If leased, does the property use comply with local zoning laws?

7 Yes ____ No ____

8 16. Does this property or any portion of this property receive rent? If yes, how much \$____ and
9 how often ____?

10 Yes ____ No ____

11 17. Do you pay any mandatory fees or special assessments to a homeowners' or condominium
12 association?

13 Yes ____ No ____

14 If yes, what are the fees or assessments? \$ ____ per ____ (i.e. annually, semi-annually, monthly)

15 Payable to whom:

16 _____

17 For what purpose?

18 _____

19 18. Are you aware if the property has ever had standing water in either the front, rear, or side
20 yard more than forty-eight hours after heavy rain?

21 Yes ____ No ____

22 19. Is the property located in or near a flood plain?

23 Yes ____ No ____ Unknown ____

24 20. Are wetlands located upon any part of the property?

1 Yes ____ No ____ Unknown ____

2 II. STRUCTURAL INFORMATION

3 If the answer is yes to any of the following, please explain under additional comments or on an
4 attached separate sheet.

5 1. Are you aware of any water penetration problems in the walls, windows, doors, basement,
6 or crawl space?

7 Yes ____ No ____

8 2. What water damage related repairs, if any, have been made?

9 If any, when?

10 _____

11 3. Are you aware if drain tile is installed on the property?

12 Yes ____ No ____

13 4. Are you aware of any interior cracked walls or floors, or cracks or defects in exterior
14 driveways, sidewalks, patios, or other hard surface areas?

15 Yes ____ No ____

16 What related repairs, if any, have been made?

17 _____

18 5. Are you aware of any roof leakage, past or present?

19 Yes ____ No ____

20 Type of roof covering:

21 _____

22 Age:

23 _____

24 What roof repairs, if any, have been made, when and by whom?

1 _____

2 Describe any existing unrepaired damage to the roof:

3 _____

4 6. Are you aware of insulation in:

5 the ceiling/attic? Yes ____ No ____

6 the walls? Yes ____ No ____

7 the floors? Yes ____ No ____

8 7. Are you aware of any pest infestation or damage, either past or present?

9 Yes ____ No ____

10 8. Are you aware of the property having been treated for any pest infestation or damage?

11 Yes ____ No ____

12 If yes, who treated it and when?

13 _____

14 9. Are you aware of any work upon the property which required a building, plumbing,
15 electrical, or any other permit?

16 Yes ____ No ____

17 If yes, describe the work:

18 _____

19 Was a permit obtained? Yes ____ No ____

20 Was the work approved by an inspector? Yes ____ No ____

21 10. Are you aware of any past or present damage to the property (i.e. fire, smoke, wind, floods,
22 hail, or snow)?

23 Yes ____ No ____

24 If yes, describe

1 _____

2 Have any insurance claims been made?

3 Yes ____ No ____ Unknown ____

4 Was an insurance payment received?

5 Yes ____ No ____ Unknown ____

6 Has the damage been repaired?

7 Yes ____ No ____

8 If yes, describe in detail:

9 _____

10 _____

11 11. Are you aware of any problems with sewer blockage or backup, past or present?

12 Yes ____ No ____

13 12. Are you aware of any drainage, leakage, or runoff from any sewer, septic tank, storage tank,
14 or drain on the property into any adjoining lake, stream, or waterway?

15 Yes ____ No ____

16 If yes, describe in detail:

17 _____

18 _____

19 III. SYSTEMS/UTILITIES INFORMATION

20	NONE/NOT		NOT	
21	INCLUDED	WORKING	WORKING	
22	1. 220 Volt Service	_____	_____	_____
23	2. Air Exchanger	_____	_____	_____
24	3. Air Purifier	_____	_____	_____
25	4. Attic Fan	_____	_____	_____

1	5. Burglar Alarm and Security System	_____	_____	_____
2	6. Ceiling Fan	_____	_____	_____
3	7. Central Air - Electric	_____	_____	_____
4	8. Central Air - Water Cooled	_____	_____	_____
5	9. Cistern	_____	_____	_____
6	10. Dishwasher	_____	_____	_____
7	11. Disposal	_____	_____	_____
8	12. Doorbell	_____	_____	_____
9	13. Fireplace	_____	_____	_____
10	14. Fireplace Insert	_____	_____	_____
11	15. Garage Door/Opener Control(s)	_____	_____	_____
12	16. Garage Wiring	_____	_____	_____
13	17. Heating System	_____	_____	_____
14	18. Hot Tub, Whirlpool, and Controls	_____	_____	_____
15	19. Humidifier	_____	_____	_____
16	20. Intercom	_____	_____	_____
17	21. Light Fixtures	_____	_____	_____
18	22. Microwave/Hood	_____	_____	_____
19	23. Plumbing and Fixtures	_____	_____	_____
20	24. Pool and Equipment	_____	_____	_____
21	25. Propane Tank	_____	_____	_____
22	26. Radon System	_____	_____	_____
23	27. Sauna	_____	_____	_____
24	28. Septic/Leaching Field	_____	_____	_____
25	29. Sewer Systems/Drains	_____	_____	_____
26	30. Smoke/Fire Alarm	_____	_____	_____
27	31. Solar House - Heating	_____	_____	_____
28	32. Sump Pump(s)	_____	_____	_____
29	33. Switches and Outlets	_____	_____	_____

- 1 34. Underground Sprinkler and Heads _____
- 2 35. Vent Fan _____
- 3 36. Water Heater - Electric or Gas _____
- 4 37. Water Purifier _____
- 5 38. Water Softener - Leased or Owned _____
- 6 39. Well and Pump _____
- 7 40. Wood Burning Stove _____

IV. ENERGY EFFICIENCY

9 1. Does the house contain an Energy Star certified:

10 a. Water heater?

11 Yes No Unknown

12 b. Heating system (furnace, heat pump, or other)?

13 Yes No Unknown

14 c. Cooling system (air conditioner, heat pump, or other)?

15 Yes No Unknown

16 d. Other Energy Star appliances (optional)?

17 Yes No Unknown

18 If yes, please list the appliances: _____

19 2. Is this an Energy Star certified house?

20 Yes No Unknown

21 3. Does the house comply with the International Energy Conservation Code of 2006?

22 Yes No Unknown

23 4. Has the house obtained any other energy efficiency certification?

24 Yes No Unknown

25 If yes, please list the certifications: _____

1 5. Attach information regarding the amount of usage and cost of electricity, natural gas,
 2 propane, or heating oil for each of the most recent twelve months the house was occupied.

3 ~~IV.~~ V. HAZARDOUS CONDITIONS

4 Are you aware of any existing hazardous conditions of the property and are you aware of any
 5 tests having been performed?

		EXISTING CONDITIONS		TESTS PERFORMED	
		YES	NO	YES	NO
6					
7					
8	1. Methane Gas	_____	_____	_____	_____
9	2. Lead Paint	_____	_____	_____	_____
10	3. Radon Gas (House)	_____	_____	_____	_____
11	4. Radon Gas (Well)	_____	_____	_____	_____
12	5. Radioactive Materials	_____	_____	_____	_____
13	6. Landfill, Mineshaft	_____	_____	_____	_____
14	7. Expansive Soil	_____	_____	_____	_____
15	8. Mold	_____	_____	_____	_____
16	9. Toxic Materials	_____	_____	_____	_____
17	10. Urea Formaldehyde Foam Insulations	_____	_____	_____	_____
18	11. Asbestos Insulation	_____	_____	_____	_____
19	12. Buried Fuel Tanks	_____	_____	_____	_____
20	13. Chemical Storage Tanks	_____	_____	_____	_____
21	14. Fire Retardant Treated Plywood	_____	_____	_____	_____
22	15. Production of Methamphetamines	_____	_____	_____	_____

23 If the answer is yes to any of the questions above, please explain in additional comments or on
 24 an attached separate sheet.

25 ~~V.~~ VI. MISCELLANEOUS INFORMATION

26 1. Is the street or road located at the end of the driveway to the property public or private?
 27 Public _____ Private _____

- 1 2. Is there a written road maintenance agreement?
- 2 If yes, attach a copy of the maintenance agreement.
- 3 Yes _____ No _____
- 4 3. When was the fireplace/wood stove/chimney flue last cleaned? _____
- 5 4. Within the previous twelve months prior to signing this document, are you aware of any of
- 6 the following occurring on the subject property ?
- 7 a. A human death by homicide or suicide? If yes, explain:
- 8 _____
- 9 Yes _____ No _____
- 10 b. Other felony committed against the property or a person on the property? If yes, explain:
- 11 _____
- 12 Yes _____ No _____
- 13 5. Is the water source public or private (select one) ?
- 14 6. If private, what is the date and result of the last water test? _____
- 15 7. Is the sewer system public _____ or private _____ (select one)?
- 16 8. If private, what is the date of the last time the septic tank was pumped? _____
- 17 9. Are there broken window panes or seals?
- 18 Yes _____ No _____
- 19 If yes, specify: _____
- 20 10. Are there any items attached to the property that will not be left, such as: towel bars,
- 21 mirrors, swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines,
- 22 swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, etc.
- 23 Yes _____ No _____
- 24 If yes, please list _____

1 11. Are you aware of any other material facts or problems that have not been disclosed on this
2 form?

3 Yes _____ No _____

4 If yes, explain: _____

5 ~~VII.~~ VII. ADDITIONAL COMMENTS (ATTACH ADDITIONAL PAGES IF
6 NECESSARY)

7 _____
8 _____

9 CLOSING SECTION

10 The Seller hereby certifies that the information contained herein is true and correct to the best
11 of the Seller's information, knowledge, and belief as of the date of the Seller's signature below.

12 If any of these conditions change before conveyance of title to this property, the change will be
13 disclosed in a written amendment to this disclosure statement.

14 SELLER _____ DATE _____

15 SELLER _____ DATE _____

16 THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE
17 AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE
18 CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS
19 IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE
20 BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

21 I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our
22 signature(s) below. Any agent representing any party to this transaction makes no
23 representations and is not responsible for any conditions existing in the property.

24 BUYER _____ DATE _____

1 BUYER _____ DATE _____