

CHAPTER 145
FORMERLY
HOUSE BILL NO. 133
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 36, Title 6 of the Delaware Code by creating a new Subchapter III as follows:

Subchapter III. New Home Buyers Fire Protection Act

§ 3681 Definitions.

As used in this subchapter:

(1) "Builder" means any individual, trustee, partnership, corporation, or other entity contracting with an owner for the construction of a new dwelling.

(2) "Buyer" means any individual, trustee, partnership, corporation, or other entity purchasing any estate or interest in a new dwelling.

(3) "New dwelling" means a new one- or two-family residential dwelling, not previously occupied, and constructed for residential use.

§ 3682 Disclosure of automatic fire sprinkler system information.

At the time of or prior to agreeing to final pricing for construction of a new dwelling with a buyer, a builder shall provide the buyer with a copy of written materials prepared and promulgated by the Office of the State Fire Marshal which detail the benefits an automatic fire sprinkler system. At the same time, a builder shall provide written materials including the costs associated with the installation and maintenance of an automatic fire sprinkler system. The buyer shall acknowledge receipt of the written materials in writing. Upon request of the buyer, the builder shall, at the buyer's expense, install an automatic fire sprinkler system or other requested fire suppression system.

§ 3683 Remedies and penalties.

(a) In addition to any remedies the buyer may have at law or in equity, whenever it appears to the Attorney General or Director of the Division of Consumer Protection that a person has engaged in, is engaging in or is about to engage in any act or omission in violation of this subchapter, the Attorney General or Director of the Division of Consumer Protection may institute a court proceeding or administrative proceeding in accordance with the process in subchapter II of Chapter 25 of Title 29. However, upon a finding that any person has willfully violated this subchapter, the person shall pay for the first offense a civil penalty not less than \$75 nor more than \$150, and for each subsequent offense, a civil penalty not less than \$100 nor more than \$250. For purposes of this subchapter, a willful violation occurs when the person committing the violation knew or should have known that the conduct was of the nature prohibited by this subchapter.

(b) The remedies and penalties provided for in this section are not exclusive and shall be in addition to any other procedures, rights or remedies which exist with respect to any other provisions of law including, but not limited to, criminal prosecutions and actions brought by private parties under common or statutory law or both. However, there shall be no liability or cause of action against a real estate licensee licensed under Title 24, Chapter 29 of the Delaware Code or real estate brokerage arising out of or related to a builder failing to provide the information required by this subchapter or for the content of the information. Additionally, there shall be no liability or cause of action against any nonprofit builder using 0% financing to the buyer.

Section 2. Amend § 2578, Title 6 of the Delaware Code as follows:

§ 2578 Property condition report form.

(a) The Delaware Real Estate Commission shall develop a standard form or forms to be used as the Seller's Disclosure of Real Property Condition Report, for the disclosure of the condition of residential real property. This form or forms for different circumstances shall be promulgated and amended from time to time by the Real Estate Commission, including such additional relevant content as the Commission deems appropriate.

(b) The form for new construction shall include the following:

“An automatic fire sprinkler system or other fire suppression systems may be available. For further information, visit www.statefiremarshall.delaware.gov.”

(c) Each form shall also include the following:

"The cost of repairing and repaving the streets adjacent to the property is paid for by (check one):

____ The property owner(s), estimated fees: \$____ .

____ Delaware Department of Transportation or the State.

____ Unknown.

Note to Buyer: Repairing and repaving of the streets can be very costly."

(d) Each form shall also include the results of the radon test or tests required to be disclosed by § 2572A of this title.

Section 3. This Act shall apply to any contract for the construction of a new dwelling entered into on or after January 1st of the year following the Office of State Fire Marshal's preparation and promulgation of the written materials referenced in Section 3682.

Approved August 06, 2015