

State of Wisconsin



2021 Senate Bill 73

Date of enactment: **December 3, 2021**
Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 96

AN ACT *to renumber* 709.03 (form) G4., G5., G6. and G7 and 709.033 (form) F10. and F11.; *to amend* 709.02 (1), 709.05 (1), 709.03 (form) F8. and 709.033 (form) E8.; and *to create* 709.03 (form) G4. and 709.033 (form) F10. of the statutes; **relating to:** real estate disclosure reports.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 709.02 (1) of the statutes is amended to read:

709.02 (1) In regard to transfers described in s. 709.01, the owner of the property shall furnish, not later than 10 days after acceptance of a contract of sale or option contract, to the prospective buyer of the property a completed copy of the report under s. 709.03 or 709.033, whichever is applicable, subject to s. 709.035, except that the owner may substitute for any entry information supplied by a licensed engineer, professional land surveyor, as defined in s. 443.01 (7m), or structural pest control operator, by an individual who is a qualified 3rd party, or by a contractor about matters within the scope of the contractor's occupation, if the information is in writing and is furnished on time and if the entry to which it relates is identified, and except that the owner may substitute for any entry information supplied by a public agency. Information that substitutes for an entry on the report under s. 709.03 or 709.033 and that is supplied by a person specified in this section may be submitted and certified on a supplemental report prepared by the person, as long as the information otherwise satisfies the requirements under this section. A report under s. 709.03 or 709.033 is considered complete only if the owner

answered, or supplied information under s. 709.035 for each item on the report. A prospective buyer who does not receive a report within the 10 days may, within 2 business days after the end of that 10-day period, rescind the contract of sale or option contract by delivering a written notice of ~~recission~~ rescission to the owner or to the owner's agent and is entitled to the return of any deposits or option fees paid in the transaction.

SECTION 2. 709.05 (1) of the statutes is amended to read:

709.05 (1) Except as provided in sub. (2) (b), if a buyer receives a report after submission of a contract of sale or option contract to the owner or the owner's agent, the buyer may, after receipt of that report by the prospective buyer and before the applicable deadline, rescind in writing a contract of sale or option contract if a defect, as defined in the report, is disclosed, without any liability on his or her part, and a buyer is entitled to the return of any deposits or option fees paid in the transaction. A prospective buyer who receives a report that is incomplete or that contains an inaccurate assertion that an item is not applicable and who is not aware of the defects that the owner failed to disclose may, within 2 business days after receipt of that report, rescind in writing a contract of sale or option contract without any liability on his or her part and is entitled to the return of any deposits or option fees

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

paid in the transaction. A report under s. 709.03 or 709.033 is considered complete only if the owner answered, or supplied information under s. 709.035 for each item on the report.

SECTION 3. 709.03 (form) F8. of the statutes is amended to read:
709.03 (form)

F8. ~~Are Other than public rights-of-way, are~~ you aware of non-owners having rights to use part of the property, including, but not limited to, private rights-of-way and easements other than recorded utility easements?

SECTION 4. 709.03 (form) G4. of the statutes is created to read:
709.03 (form)

G4. Is the owner a foreign person, as defined in 26 USC 1445 (f)? (E.g., a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate.)
Section 1445 of the Internal Revenue Code (26 USC 1445), also known as the Foreign Investment In Real Property Tax Act or FIRPTA, provides that a transferee (buyer) of a U.S. real property interest must be notified in writing and must withhold tax if the transferor (seller) is a foreign person, unless an exception under FIRPTA applies to the transfer.

SECTION 5. 709.03 (form) G4., G5., G6. and G7 of the statutes are renumbered 709.03 (form) G5., G6., G7. and G8.
SECTION 6. 709.033 (form) E8. of the statutes is amended to read:
709.033 (form)

E8. ~~Are Other than public rights-of-way, are~~ you aware of non-owners having rights to use part of the property, including, but not limited to, private rights-of-way and easements other than recorded utility easements?

SECTION 7. 709.033 (form) F10. of the statutes is created to read:
709.033 (form)

F10. Is the owner a foreign person, as defined in 26 USC 1445 (f)? (E.g., a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate.)
Section 1445 of the Internal Revenue Code (26 USC 1445), also known as the Foreign Investment In Real Property Tax Act or FIRPTA, provides that a transferee (buyer) of a U.S. real property interest must be notified in writing and must withhold tax if the transferor (seller) is a foreign person, unless an exception under FIRPTA applies to the transfer.

SECTION 8. 709.033 (form) F10. and F11. of the statutes are renumbered 709.033 (form) F11. and F12.

SECTION 9. Nonstatutory provisions.

(1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS. Notwithstanding s. 709.035, a property owner who furnished to a prospective buyer of the property an original or amended report before the effective date of this subsection need only submit an amended report with respect to the information required under s.

709.03 (form), 2019 stats., or by s. 709.033 (form), 2019 stats.

SECTION 10. Initial applicability.

(1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS. This act first applies to reports that are furnished on the effective date of this subsection.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.