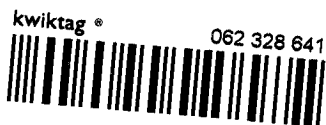


ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-263

"Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill 12-648 on first, amended first, and second readings, October 6, 1998, November 10, 1998 and December 1, 1998, respectively. On December 29, 1998, Bill 12-648 was vetoed by the Mayor. The Council overrode the Mayor's veto on January 5, 1999. As a result of the Council's override the bill became Act 12-625 and it was published in the February 26, 1999 edition of the D.C. Register (Vol. 46, page 2111). The Act was transmitted to Congress on February 10, 1999 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired, and the Act is now D.C. Law 12-263, effective April 20, 1999.



LINDA W. CROPP
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 10,11,12,22,23,24,25

Mar. 1,2,3,4,5,8,9,10,11,15,16,17,18,19,22,23,24,25

Apr. 12,13,14,15,19

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AN ACT

D.C. ACT 12-625

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 5, 1999

*Codification
District of
Columbia
Code
1999 Supp.*

To protect purchasers of residential real property by requiring certain disclosures by the sellers in connection with the transfer or sale of residential real property; to amend the District of Columbia Funeral Services Regulatory Act of 1984 to change the date in which an apprentice funeral director must be actively engaged in his or her duties before qualifying for a funeral director's license and the date in which the Mayor is to establish examinations to test persons for licensure as funeral directors; to amend the District of Columbia Procurement Practices Act of 1985 to provide that this Act shall not affect the authority of the Public Service Commission of the District of Columbia pursuant to An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes; and to amend An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, to allow the Public Service Commission of the District of Columbia to use its agency fund for expenses incurred and to allow the Commission to enter into contracts with the government and other public and private entities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998".

**New Chapter
9A,
Title 45**

Sec. 2. (a)(1) The provisions of this act shall apply only to the transfer or sale of real estate located in the District of Columbia consisting of not less than 1 nor more than 4 residential dwelling units, whether by sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase.

**New Section
45-951**

(2) This act shall apply only where the purchaser expresses, in writing, an intent to reside in the property to be transferred.

(b) The provisions of this act shall not apply to any of the following:

(1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of

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execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance;

(2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default;

(3) Transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure;

(4) Transfers by a nonoccupant fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

(5) Transfers from one cotenant to one or more other cotenants;

(6) Transfers made to the transferor's spouse, parent, grandparent, child, grandchild, or sibling, or any combination of the foregoing;

(7) Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment;

(8) Transfers or exchanges to or from any governmental entity; and

(9) Transfers made by a person of newly constructed residential property that has not been inhabited.

Sec. 3. (a) The transferor of any real property described in section 2(a) shall deliver to the prospective transferee a real property disclosure statement on a form to be approved by the Mayor. The written statement shall be signed by the transferor and shall be delivered to the prospective transferee within the following time limits:

New Section
45-952

(1) In the case of a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor; or

(2) In the case of a sale by an installment sales contract where a binding purchase agreement has not been executed, or in the case of a lease together with an option to purchase, before or at the time the prospective transferee executes the installment sales contract, or lease, as the case may be, with the transferor.

(b) With respect to any transfer subject to subsection (a) of this section, the transferor shall indicate compliance with this act either on the purchase agreement, the installment sales contract, the lease with an option to purchase, or any addendum attached to the purchase agreement, contract, or lease with an option to purchase, or on a separate document.

(c) Except as provided in subsection (d) of this section, if any disclosure required to be made by this act is delivered after the prospective transferee executes a purchase agreement,

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installment sales contract, or lease with an option to purchase, the prospective transferee may terminate any of the foregoing by delivering written notice of termination to the transferor not later than 5 calendar days after receipt of the disclosure statement by the prospective transferee, and any deposits made by the transferee to the transferor shall be promptly returned to the transferee.

(d) Notwithstanding the provisions of subsection (c) of this section, the right of a transferee to terminate is waived if not exercised before the earliest of:

(1) The making of a written application to a lender for a mortgage loan or financing, provided that the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application;

(2) Settlement or the date of occupancy by the purchaser in the event of a sale;

or

(3) Occupancy in the event of a lease with option to purchase.

Sec. 4. (a) The transferor is not liable for any error, inaccuracy, or omission in any information delivered pursuant to this act if the error, inaccuracy, or omission was not within the actual personal knowledge of the transferor, or was based entirely on information provided by public agencies or provided by other persons specified in subsection (c) of this section and ordinary care was exercised in transmitting the information. It is not a violation of this act if the transferor fails to disclose information that could be obtained only through inspection or observation of inaccessible portions of real estate or could be discovered only by a person with expertise in a science or trade beyond the knowledge of the transferor.

New Section
45-953

(b) The delivery to a prospective transferee of any information required by this act to be disclosed to a prospective transferee by a public agency or other person specified in subsection (c) of this section shall be considered to comply with the requirements of this act and relieves the transferor of any further duty or liability under this act with respect to that item of information, unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information provided by the public agency or the person specified in subsection (c) of this section and knowingly fails to disclose such known defect or condition.

(c) The delivery to a prospective transferee of a report or opinion prepared by a licensed professional engineer, professional surveyor, home inspector, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, is sufficient compliance for application of the exemption provided in subsection (a) of this section if the information is provided upon the request of the prospective transferee (provided that nothing in this act shall be construed as imposing on the transferor any obligation to comply with the request), unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information contained in the report or opinion and knowingly fails to disclose the known defect or condition. In responding to a request by a prospective transferee, an expert may indicate, in writing, an understanding that the information

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provided will be used in fulfilling the requirements of section 6 and, if so, shall indicate the required disclosures, or parts of disclosures, to which the information being furnished applies. In furnishing the statement, the expert is not responsible for any items of information other than those expressly set forth in the statement.

Sec. 5. If information disclosed in accordance with this act becomes inaccurate as a result of any action, occurrence, or agreement after the delivery of the required disclosures, the resulting inaccuracy does not constitute a violation of this act. If at the time the disclosures are required to be made, an item of information required to be disclosed under this act is unknown or unavailable to the transferor, the transferor may comply with this act by advising a prospective purchaser of the fact that the information is unknown. The information provided to a prospective purchaser pursuant to this act shall be based upon the information available and actually known to the transferor.

**New Section
45-954**

Sec. 6. The residential real property disclosure statement approved by the Mayor shall contain the following:

**New Section
45-955**

- (1) A list of actually known defects or information concerning the following:
 - (A) Water and sewer systems;
 - (B) Insulation;
 - (C) Structural systems, including roof, walls, floors, foundation, and basement;
 - (D) Plumbing, electrical, heating, and air conditioning systems;
 - (E) History of infestation by rodents or wood-boring insects, if any;
 - (F) Appliances;
 - (G) Alarm system and intercom system;
 - (H) Garage door opener and remote control; and
 - (I) Fixtures; and
- (2) Any other information required by the Mayor to be published by rulemaking, provided that nothing in this act or in any rules shall be deemed to modify or amend section 17(f) of the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Code § 45-1936(f)).

Sec. 7. Each disclosure required by this act shall be made in good faith. For the purposes of this act, "good faith" means honesty in fact in the making of the disclosure.

**New Section
45-956**

Sec. 8. The specification of items for disclosure in this act does not limit or abridge any obligation for disclosure created by any other provision of statutory law regarding fraud, misrepresentation, or deceit in transfer transactions. If the transferor provides to the prospective transferee the residential real property disclosure statement required by this act (or the other

**New Section
45-957**

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information described in section 4(b) or (c)), any licensed agent of the transferor shall be deemed to have complied with the licensee's obligations under section 15a of the District of Columbia Real Estate Licensure Act of 1982, effective April 9, 1997 (D.C. Law 11-242; D.C. Code § 45-1934.1), to disclose to a customer material adverse facts concerning the physical condition of the property.

Sec. 9. Any disclosure made pursuant to this act may be amended in writing by the transferor, but the amendment is subject to the requirements of section 3.

**New Section
45-958**

Sec. 10. Delivery of a disclosure statement required by this act shall be by personal delivery, facsimile delivery, or by registered mail to the prospective transferee. Execution by the transferor of a facsimile counterpart of the disclosure statement shall be considered to be execution of the original.

**New Section
45-959**

Sec. 11. A transfer subject to this act shall not be invalidated solely because of the failure of any person to comply with any provisions of this act.

**New Section
45-960**

Sec. 12. The duty to comply with this act is imposed on a transferor, and not on any real estate agent or real estate broker of a transferor. A real estate agent or real estate broker of a transferor shall not be liable for any error, inaccuracy or omission in any information delivered to any prospective transferee, or for any failure of a transferor to deliver any information or a real property disclosure statement to the prospective transferee, or for any violation of this act by a transferor, unless such real estate agent or real estate broker knowingly acts in concert with such transferor to commit fraud.

**New Section
45-961**

Sec. 13. Nongermane amendments.

(a) Section 6 of the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Code § 2-2805), is amended as follows:

**Section
2-2805**

(1) Subsection (b)(2) is amended by striking the date "1983" and inserting the date "1990" in its place.

(2) Subsection (b)(5) is amended by striking the date "1992" and inserting the date "1998" in its place.

(b) Section 320 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1183.20), is amended by adding a new subsection (1) to read as follow:

**Section
1-1183.20**

"(1) Nothing in this act shall affect the authority of the District of Columbia Public Service Commission pursuant to section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June

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thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 938; D.C. Code § 43-401 *passim*)."

(c) Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 938; D.C. Code § 43-401 *passim*), is amended as follows:

(1) Paragraph 42 (D.C. Code § 43-612) is amended by adding a new subsection (c) to read as follows:

Section
43-612

"(c) Nothing in this act shall be construed to prevent the Commission from using the Public Service Commission Agency Fund for the payment of any and all expenses that it incurs in the performance of its duties."

(2) Paragraph 95 (D.C. Code § 43-408) is amended as follows:

Section
43-408

(A) By designating the existing text as subsection (a); and

(B) By adding a new subsection (b) to read as follows:

"(b) The Commission is authorized to enter into contracts with the District government, the United States government, and other public and private entities for goods and services, as needed, to achieve its purposes in carrying out its statutory duties."

Sec. 14. (a) With regard to sections 2 through 12 of this act, the Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

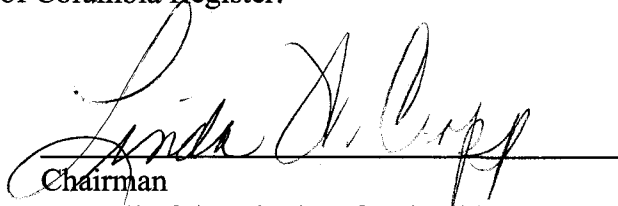
(b) With regard to section 13(a) of this act, the Council does not anticipate a negative fiscal impact to the District budget.

(c) Section 13(b) and (c) of this act shall have no fiscal impact on the District of Columbia Budget and Financial Plan.

Sec. 15. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule

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Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia

VETOED

Mayor
District of Columbia
December 29, 1998

COUNCIL OVERRIDE: 1-5-99



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD THIRTEEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B12-648

ITEM ON CONSENT CALENDAR

COUNCIL OVERRIDE, 1-5-99

ACTION & DATE

VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ALL PRESENT

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Orange				
Allen					Evans					Patterson				
Ambrose					Graham					Schwartz				
Brazil					Jarvis									
Catania					Mendelson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

January 12, 1999
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE
RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Orange				
Allen					Evans					Patterson				
Ambrose					Graham					Schwartz				
Brazil					Jarvis									
Catania					Mendelson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

Secretary to the Council

Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE
RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Orange				
Allen					Evans					Patterson				
Ambrose					Graham					Schwartz				
Brazil					Jarvis									
Catania					Mendelson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date