

OKLAHOMA RESIDENTIAL PROPERTY CONDITION DISCLOSURE ACT

(Title 60, O.S. Section 831 et seq.)
Effective July 1, 1995
(amended as of January 1, 2008)



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

3. Transfers by a fiduciary who is not an owner occupant of the subject property in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;

4. Transfers from one co-owner to one or more other co-owners;

5. Transfers made to a spouse, or to the person or persons in the lineal line of consanguinity of one or more of the owners;

6. Transfers between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;

7. Transfers made pursuant to mergers and from a subsidiary to a parent or the reverse;

8. Transfers or exchanges to or from any governmental entity; or

9. Transfers of a newly constructed, previously unoccupied dwelling.

B. Nothing in this act shall be construed to alter or change the requirements of Section 858-513 of Title 59 of the Oklahoma Statutes, regarding psychologically impacted real estate.

Section 839, Notices and acknowledgements

Any notices or acknowledgements required under this act need not be sworn to, verified or acknowledged.

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Section 837, Remedies

A. The purchaser may recover in a civil action only in the event of any of the following:

1. The failure of the seller to provide to the purchaser a disclaimer statement or a disclosure statement and any amendment prior to acceptance of an offer to purchase;

2. The failure of the seller to disclose in the disclosure statement or any amendment provided to the purchaser a defect which was actually known to the seller prior to acceptance of an offer to purchase; or

3. The failure of the real estate licensee to disclose to the purchaser any defects in the property actually known to the real estate licensee prior to acceptance of an offer to purchase and which were not included in the disclosure statement or any amendment provided to the purchaser.

B. The sole and exclusive civil remedy at common law or otherwise for a failure under subsection A of this section by the seller or the real estate licensee shall be an action for actual damages, including the cost of repairing the defect suffered by the purchaser as a result of a defect existing in the property as of the date of acceptance by the seller of an offer to purchase and shall not include the remedy of exemplary damages.

C. Any action brought under this act shall be commenced within two (2) years after the date of transfer of real property subject to this act.

D. In any civil action brought under this act, the prevailing party shall be allowed court costs and a reasonable attorney fee to be set by the court and to be collected as costs.

E. A transfer of a possessory interest in property subject to this act may not be invalidated solely because of the failure of any person to comply with this act.

F. This act applies to, regulates and determines rights, duties, obligations and remedies at common law or otherwise of the seller, the real estate licensee and the purchaser with respect to disclosure of defects in property and supplants and abrogates all common law liability, rights, duties, obligations and remedies therefore.

Section 838, Exemptions from application of act

A. This act does not apply to:

1. Transfers pursuant to court order, including, but not limited to, transfers pursuant to a writ of execution, transfers by eminent domain and transfers pursuant to an order for partition;

2. Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a mortgagee's

b. the approximation was clearly identified as such and was reasonable and based on the best information available to the seller, and

c. the approximation was not used to circumvent the disclosure requirements of this act;

2. The error, inaccuracy or omission was not within the actual knowledge of the seller; or

3. The disclosure was based on information provided by public agencies and the seller reasonably believed the information to be correct.

C. The delivery by a public agency of any information required to be disclosed by the seller of the property shall satisfy the requirements of this act as to the disclosures to which the information being furnished is applicable.

Section 836, Duties of real estate licensee

A. A real estate licensee representing or assisting a seller has the duty to obtain from the seller a disclaimer statement or a disclosure statement and any amendment required by the Residential Property Condition Disclosure Act and to make such statement available to potential purchasers prior to acceptance of an offer to purchase.

B. A real estate licensee representing or assisting a purchaser has the duty to obtain and make available to the purchaser a disclaimer statement or a disclosure statement and any amendment required by the Residential Property Condition Disclosure Act prior to the acceptance of an offer to purchase.

C. A real estate licensee has the duty to disclose to the purchaser any defects in the property actually known to the licensee which are not included in the disclosure statement or any amendment.

D. A real estate licensee who has complied with the requirements of subsections A, B and C of this section, as applicable, shall have no further duties to the seller or the purchaser regarding any disclosures required under the Residential Property Condition Disclosure Act.

A real estate licensee who has not complied with the requirements of subsections A, B and C of this section shall be subject to disciplinary action by the Oklahoma Real Estate Commission as set forth in paragraph 6 of Section 858-208 of Title 59 of the Oklahoma Statutes.

E. Real estate licensee has no duty to the seller or the purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in the disclaimer statement or the disclosure statement and any amendment.