

By Senator Latvala

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1 A bill to be entitled
2 An act relating to residential property sales;
3 creating s. 689.263, F.S.; defining terms; requiring a
4 seller of residential property to provide written
5 notification to a prospective buyer of the seller's
6 intent to retain subsurface rights; providing
7 requirements for the form for such notification;
8 specifying a timeframe for rescission of a contract
9 under certain circumstances; specifying the
10 jurisdiction and venue for enforcement; providing
11 penalties; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 689.263, Florida Statutes, is created to
16 read:

17 689.263 Sale of residential property; disclosure of
18 seller's intent to retain subsurface rights.-

19 (1) As used in this section, the term:

20 (a) "Residential property" includes real estate on which
21 there is located, or will be located, a single-family dwelling,
22 duplex, triplex, quadruplex, or condominium.

23 (b) "Subsurface rights" includes rights to the phosphate,
24 minerals, metals, petroleum, or oil that is or may be in, on, or
25 under land being transferred to the prospective purchaser.

26 (2) Notwithstanding any other provision of law, a seller
27 who intends to retain subsurface rights as part of a contract or
28 deed for the sale of residential property shall provide to the
29 prospective purchaser and, if applicable, his or her real estate

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30 agent written notice that the seller intends to retain such
 31 property interest. The prospective purchaser must receive a copy
 32 of the written notice at least 3 business days before entering
 33 into a sales contract for the purchase of the residential
 34 property and must acknowledge receipt of the written notice by
 35 his or her signature.

36 (3) The written notice required under this section shall be
 37 provided on a sheet of paper that is 8 1/2 inches by 11 inches,
 38 may not address another subject, must be double-spaced, and must
 39 include the following information in a font size of at least 12
 40 points:

41
 42 RETENTION OF SUBSURFACE RIGHTS
 43

44 AS REQUIRED BY FLORIDA LAW,(SELLER'S NAME).....
 45 HEREBY PROVIDES 3 BUSINESS DAYS' NOTICE TO(PROSPECTIVE
 46 PURCHASER'S NAME)..... THAT THE SELLER, AS PART OF THE TRANSFER
 47 OF THE RESIDENTIAL PROPERTY LOCATED AT(PROPERTY
 48 ADDRESS)....., INTENDS TO SEVER, RETAIN, RESERVE, OR OTHERWISE
 49 KEEP CERTAIN SUBSURFACE RIGHTS AS PART OF THE SALE OF THAT
 50 PROPERTY. THESE RIGHTS MAY INCLUDE THE RIGHT TO PHOSPHATE,
 51 MINERALS, METALS, PETROLEUM, OR OIL THAT MIGHT BE IN, ON, OR
 52 UNDER THE RESIDENTIAL PROPERTY. BY THIS NOTICE, THE PROSPECTIVE
 53 PURCHASER MAY RENEGOTIATE THE CONTRACT TERMS TO REFLECT THE
 54 DIMINUTION OF VALUE RESULTING FROM THE SEVERANCE OF THESE
 55 SUBSURFACE PROPERTY INTERESTS.

56
 57 (4) A purchaser has 3 business days after the contract or
 58 deed is fully executed to rescind the contract or deed if the

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59 seller failed to provide the notice as required by this section.
60 The rescission must be provided in writing to the seller.

61 (5) If a court establishes that proper notice as required
62 by this section was not given to the prospective purchaser, the
63 court shall issue an order declaring that the provision in the
64 contract or deed which severed, retained, or reserved the
65 property interest is void.

66 (6) Jurisdiction and venue for enforcement of this section
67 is in the circuit court of the county where the subject real
68 property is located.

69 (7) A seller who knowingly violates this section commits a
70 misdemeanor of the first degree, punishable as provided in s.
71 775.082 or s. 775.083.

72 Section 2. This act shall take effect July 1, 2014.