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AB-73 Real property: disclosure. (2015-2016)

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Assembly Bill No. 73

CHAPTER 548

An act to amend Section 1710.2 of the Civil Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 73, Waldron. Real property: disclosure.

Existing law requires certain disclosures to be made upon the transfer of residential property and prescribes the manner and form of the disclosures. Existing law provides that no cause of action arises against a real property owner or agent, or any agent of a transferee of real property, for the failure to disclose to the transferee the occurrence of an occupant's death upon the real property, as specified, or that an occupant of that property had or died from Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus. Existing law declares the Legislature's intent to occupy the field of regulation of disclosure related to deaths occurring upon real property and of AIDS in situations affecting the transfer of real property or any estate or interest in real property.

This bill would revise the above provisions to provide that the owner of real property, his or her agent, or an agent of a transferee of real property is not required to disclose the occurrence or manner of death of an occupant, as specified, or that an occupant of the property was living with human immunodeficiency virus (HIV) or died from AIDS-related complications. The bill would also delete the reference to AIDS from the declaration of legislative intent and instead refer to the HIV-positive status of a prior occupant in situations affecting the transfer of real property or any estate or interest in real property.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1710.2 of the Civil Code is amended to read:

1710.2. (a) (1) Subject to subdivision (d), an owner of real property or his or her agent, or any agent of a transferee of real property, is not required to disclose either of the following to the transferee, as these are not material facts that require disclosure:

(A) The occurrence of an occupant's death upon the real property or the manner of death where the death has occurred more than three years prior to the date the transferee offers to purchase, lease, or rent the real property.

(B) That an occupant of that property was living with human immunodeficiency virus (HIV) or died from AIDS-related complications.

(2) As used in this section:

(A) "Agent" includes any person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code.

(B) "Transferee" includes a purchaser, lessee, or renter of real property.

(3) No cause of action shall arise against an owner or his or her agent or any agent of a transferee for not disclosing facts pursuant to paragraph (1).

(b) It is the intent of the Legislature to occupy the field of regulation of disclosure related to either of the following:

(1) Deaths occurring upon real property.

(2) The HIV-positive status of a prior occupant in situations affecting the transfer of real property or any estate or interest in real property.

(c) This section shall not be construed to alter the law relating to disclosure pertaining to any other physical or mental condition or disease, and this section shall not relieve any owner or agent of any obligation to disclose the physical condition of the premises.

(d) This section shall not be construed to immunize an owner or his or her agent from making an intentional misrepresentation in response to a direct inquiry from a transferee or a prospective transferee of real property, concerning deaths on the real property.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect HIV and AIDS patients and the HIV/AIDS community from discrimination in real property transactions that may otherwise impose severe emotional distress, it is necessary for this act to take effect immediately.