

By: Senator(s) Boyd, Sparks, Michel,
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To: Business and Financial
Institutions; Judiciary,
Division A

SENATE BILL NO. 2647

1 AN ACT TO AMEND SECTION 73-35-4.1, MISSISSIPPI CODE OF 1972,
2 TO REVISE LIABILITY FOR A REAL ESTATE LICENSEE REGARDING
3 DISCLOSURE OF THE SIZE OR AREA OF PROPERTY; TO AMEND SECTIONS
4 89-1-505 AND 89-1-523, MISSISSIPPI CODE OF 1972, TO REVISE
5 LIABILITY FOR CERTAIN REQUIRED REAL ESTATE DISCLOSURES; TO AMEND
6 SECTION 89-1-527, MISSISSIPPI CODE OF 1972, TO REVISE LIABILITY
7 FOR THE FAILURE TO DISCLOSE NONMATERIAL FACT; AND FOR RELATED
8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 73-35-4.1, Mississippi Code of 1972, is
11 amended as follows:

12 73-35-4.1. (1) (a) In connection with any real estate
13 transaction, the size or area, in square footage or otherwise, of
14 the subject property, if provided by any real estate licensee in
15 accordance with paragraph (b) (i) and (ii), shall not be considered
16 any warranty or guarantee of the size or area information, in
17 square footage or otherwise, of the subject property.

18 (b) (i) If a real estate licensee provides any party
19 to a real estate transaction with third-party information
20 concerning the size or area, in square footage or otherwise, of



21 the subject property involved in the transaction, the licensee
22 shall identify the source of the information.

23 (ii) For the purposes of this section,
24 "third-party information" means:

- 25 1. An appraisal or any measurement
26 information prepared by a licensed appraiser;
- 27 2. A surveyor developer's plan prepared by a
28 licensed surveyor;
- 29 3. A tax assessor's public record; or
- 30 4. A builder's plan used to construct or
31 market the property.

32 (c) A real estate licensee has no duty to the seller or
33 purchaser of real property to conduct an independent investigation
34 of the size or area, in square footage or otherwise, of a subject
35 property, or to independently verify the accuracy of any
36 third-party information.

37 (d) A real estate licensee who has complied with the
38 requirements of this section, as applicable, shall have no further
39 duties to the seller or purchaser of real property regarding
40 disclosed or undisclosed property size or area information, and
41 shall not be subject to liability to any party for any damages
42 sustained with regard to any conflicting measurements or opinions
43 of size or area, including exemplary or punitive damages.

44 * * *



45 (* * *2) The provisions of this section shall apply to,
46 regulate and determine the rights, duties, obligations and
47 remedies, at common law or otherwise, of the seller marketing the
48 seller's real property for sale through a real estate licensee,
49 and of the purchaser of real property offered for sale through a
50 real estate licensee, with respect to disclosure of third-party
51 information concerning the subject real property's size or area,
52 in square footage or otherwise, and this section hereby supplants
53 and abrogates all common-law liability, rights, duties,
54 obligations and remedies of all parties therefor.

55 **SECTION 2.** Section 89-1-505, Mississippi Code of 1972, is
56 amended as follows:

57 89-1-505. (1) Neither the transferor nor any listing or
58 selling agent shall be liable for any error, inaccuracy or
59 omission of any information delivered pursuant to Sections
60 89-1-501 through 89-1-523 * * *.

61 (2) The delivery of any information required to be disclosed
62 by Sections 89-1-501 through 89-1-523 to a prospective transferee
63 by a public agency or other person providing information required
64 to be disclosed pursuant to Sections 89-1-501 through 89-1-523
65 shall be deemed to comply with the requirements of Sections
66 89-1-501 through 89-1-523 and shall relieve the transferor or any
67 listing or selling agent of any further duty under Sections
68 89-1-501 through 89-1-523 with respect to that item of
69 information.



70 (3) The delivery of a report or opinion prepared by a
71 licensed engineer, land surveyor, geologist, structural pest
72 control operator, contractor or other expert, dealing with matters
73 within the scope of the professional's license or expertise, shall
74 be sufficient compliance for application of the exemption provided
75 by subsection (1) * * *.

76 **SECTION 3.** Section 89-1-523, Mississippi Code of 1972, is
77 amended as follows:

78 89-1-523. No transfer subject to Sections 89-1-501 through
79 89-1-523 shall be invalidated solely because of the failure of any
80 person to comply with any provision of Sections 89-1-501 through
81 89-1-523. * * *

82 **SECTION 4.** Section 89-1-527, Mississippi Code of 1972, is
83 amended as follows:

84 89-1-527. (1) The fact or suspicion that real property is
85 or was:

86 (a) The site of a natural death, suicide, homicide or
87 felony crime (except for illegal drug activity that affects the
88 physical condition of the property, its physical environment or
89 the improvements located thereon);

90 (b) The site of an act or occurrence that had no effect
91 on the physical condition of the property, its physical
92 environment or the improvements located thereon;

93 (c) Owned or occupied by a person affected or exposed
94 to any disease not known to be transmitted through common



95 occupancy of real estate including, but not limited to, the human
96 immunodeficiency virus (HIV) and the acquired immune deficiency
97 syndrome (AIDS);
98 does not constitute a material fact that must be disclosed in a
99 real estate transaction. A failure to disclose such nonmaterial
100 facts or suspicions shall not give rise to a criminal, civil or
101 administrative action against the owner of such real property, a
102 licensed real estate broker or any affiliated licensee of the
103 broker.

104 (2) A failure to disclose in any real estate transaction any
105 information that is provided or maintained, or is required to be
106 provided or maintained, in accordance with Section 45-33-21
107 through Section 45-33-57, shall not give rise to a cause of action
108 against an owner of real property, a licensed real estate broker
109 or any affiliated licensee of the broker. Likewise, no cause of
110 action shall arise against any licensed real estate broker or
111 affiliated licensee of the broker for revealing information to a
112 seller or buyer of real estate in accordance with Section 45-33-21
113 through Section 45-33-57. Any factors related to this subsection,
114 if known to a property owner or licensee shall be disclosed if
115 requested by a consumer.

116 (3) Failure to disclose any of the facts or suspicions of
117 facts described in subsections (1) and (2) shall not be grounds
118 for the termination or rescission of any transaction in which real
119 property has been or will be transferred or leased. * * *



120 **SECTION 5.** This act shall take effect and be in force from
121 and after July 1, 2023.

