

By Mr. Golden, petition (accompanied by bill, Senate, No. 61) of William B. Golden, Robert A Durand, Joseph B. McIntyre, Patricia G. Fiero and Frank M. Hynes for legislation to require notice by sellers of real estate concerning frequency of flooding and rate of erosion. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT REQUIRING NOTICE BY SELLERS OF REAL ESTATE CONCERNING
FREQUENCY OF FLOODING AND RATE OF EROSION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 183 of the General Laws is hereby amended by inserting
2 after section 66 the following section: —

3 Section 67. Prospective purchasers of residential real estate,
4 located in the designated coastal zone as defined in the Massa-
5 chusetts coastal zone management program, of four or less units
6 which is occupied or to be occupied in whole or in part by the
7 prospective purchaser shall be notified about the risk of flooding
8 and erosion, where applicable, as follows:

9 (a) The director of the coastal zone management office of the
10 executive office of environmental affairs shall, by May first,
11 nineteen hundred and ninety-one, prepare a standard notification
12 form as is necessary to inform prospective purchasers of said real
13 estate (1) that said real estate, or any portion thereof, is located
14 within Zone A or Zone V on the current flood insurance rate map
15 issued by the federal emergency management agency or its
16 successor, or, if none has been issued, within a special flood hazard
17 area on the current flood hazard boundary map issued by said
18 agency or its successor, and (2) of the average annual rate of
19 erosion of the shoreline in the vicinity of such real estate.

20 (b) Such form shall be accompanied by copies of the relevant
21 sheets of the flood insurance rate map, flood hazard boundary

22 map, and shoreline change map which is available at the
23 Massachusetts coastal zone management office. Such form and
24 maps shall not be required if no portion of such real estate is
25 located within Zone A or Zone V of a special flood hazard area,
26 as shown on the current flood insurance rate map or flood hazard
27 boundary map, and no portion of such real estate is located within
28 one hundred feet of the line of mean high water of the ocean, a
29 tidal watercourse or a tidal body of water.

30 (c) Effective with respect to purchase and sale agreements signed
31 after July first, nineteen hundred and ninety-one, all persons
32 selling such real estate shall, prior to the signing of the purchase
33 and sale agreement, provide a copy of the form and maps prepared
34 pursuant to subsections (a) and (b) to the prospective purchaser.
35 Any real estate agent involved in the sale shall also be responsible
36 for assuring that the prospective purchaser receives such form and
37 maps prior to the signing of the purchase and sale agreement. If
38 such form and maps are provided less than ten days before the
39 signing of the purchase and sale agreement, the prospective
40 purchaser shall be entitled to rescind the purchase and sale
41 agreement without penalty, and recover any deposit paid
42 thereunder, by written notice given to the prospective seller at any
43 time before or within ten days after such form and maps are
44 provided, provided that such right of rescission shall be
45 extinguished upon the recording of deed.

46 (d) No seller of residential real estate as specified in paragraph
47 one of this subsection, or any real estate agent involved in said
48 transaction shall be liable for any damages or costs incurred from
49 erosion or flooding on the property, provided that the buyer has
50 been provided the information specified in subsections (a), (b),
51 and (c) of this Section in accordance with the procedure specified
52 in Subsection (c).

53 Any person who fails to comply with the provisions of this
54 section shall be liable for all damage caused by his or her failure
55 to comply. A violation of this section by a person engaged in the
56 conduct of trade or commerce shall also be considered an unfair
57 or deceptive act or practice within the meaning of section two of
58 chapter ninety-three A.