

**Introduced by Senator Kuehl**

February 20, 2003

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An act to add Article 1.8 (commencing with Section 1103.20) to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 415, as introduced, Kuehl. Real property: radioactive contamination: disclosure.

Existing law requires a seller of real property, as specified, to make disclosures regarding natural hazards upon the transfer of that property, and sets forth the content and form of these disclosures in a Natural Hazard Transfer Disclosure Statement.

This bill would require a person or entity that sells, leases, subleases, otherwise transfers radioactive contaminated property, as defined, to provide the transferee with a specified written disclosure prior to the transfer that would describe the increased risk of cancer to which occupants of the property are expected to be exposed. The bill would specify that certain documents available from the Office of Solid Waste and Emergency Response of the United States Environmental Protection Agency are to be used in establishing the level of radioactive contamination to be disclosed. The bill would require that the risk be specific to the parcel being transferred, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 1.8 (commencing with Section 1103.20)  
2 is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil  
3 Code, to read:

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5 Article 1.8. Radioactive Contaminated Property

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7 1103.20. (a) A person or entity that sells, leases, subleases,  
8 otherwise transfers radioactive contaminated property shall  
9 provide the transferee with the written disclosure described in  
10 subdivision (b) prior to that transfer.

11 (b) The written disclosure required by this section shall be  
12 given in the following form, with the blanks appropriately filled:

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14 “This property is contaminated by radioactive waste.  
15 Despite cleanup and removal efforts, the remaining  
16 contamination will expose occupants of this property to an  
17 increased risk of cancer equivalent to one additional  
18 incidence of cancer for every \_\_\_\_\_ people exposed to this  
19 level of radioactivity.

20 To understand what this level of risk means to you, the  
21 United States Environmental Protection Agency (U.S.  
22 E.P.A.) generally requires contaminated sites to be cleaned up  
23 to a level that will result in one additional cancer for every  
24 1,000,000 people exposed to the level of contamination of  
25 that site, but may, under exceptional circumstances, allow the  
26 risk to be as high as one additional cancer for every 10,000  
27 people exposed.

28 The level of radioactive contamination on this property  
29 ñ\_\_\_\_\_ is☐ ñ\_\_\_\_\_ is not☐ within the ranges allowed by the  
30 U.S. E.P.A.”

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32 (c) (1) In establishing the level of radioactive contamination to  
33 be disclosed pursuant to subdivision (b), the person or entity shall  
34 use the documents described in this subdivision, which are  
35 available from the Office of Solid Waste and Emergency Response  
36 (OSWER) of the United States Environmental Protection Agency.

37 (2) The risk estimation shall utilize the most recent version of  
38 the “Preliminary Remediation Goals for Radionuclides electronic



1 calculator,” as described in the transmittal memorandum for this  
2 document (February, 2002; OSWER No. 9355.01-83A). Risk  
3 estimate calculations, sampling areas, and deviations from default  
4 values shall be in accordance with the “Screening Guidance of  
5 Radionuclides: User’s Guide” (October, 2000; OSWER No.  
6 9355.4-16A, NTIS Order Number PB2000 963307), and with the  
7 “Soil Screening Guidance for Radionuclides: Technical  
8 Background Document” (October, 2000; OSWER No.  
9 9355.4-16, NTIS Order Number PB2000 963306).

10 (3) The risk estimate shall be specific to the parcel being  
11 transferred, and may not be the average risk associated with the  
12 entire radioactive contaminated property.

13 (d) A person who is not an owner or operator, as those terms are  
14 defined in 42 U.S.C. Sec. 9601(20), and who is involved in the  
15 transfer of radioactive contaminated property subject to this  
16 section including, but not limited to, real estate agents and brokers,  
17 or mortgage brokers or bankers, are exempt from liability under  
18 this section if the notice provided pursuant to subdivision (b) is  
19 completed accurately and delivered to the transferee prior to the  
20 transfer of the property.

21 (e) For the purposes of this section:

22 (1) “Radioactive contaminated property” means real property  
23 that has radioactivity above background levels and is where  
24 activities were undertaken that were any of the following:

25 (A) Subject to a license issued pursuant to Chapter 8  
26 (commencing with Section 114960) of Part 9 of Division 104 of  
27 the Health and Safety Code.

28 (B) Subject to a license issued by the Nuclear Regulatory  
29 Commission pursuant to the Atomic Energy Act (42 U.S.C. Sec.  
30 2014 et seq.).

31 (C) By, or for, an unlicensed federal entity.

32 (2) “Background level” means the local level of radioactivity  
33 from nature without enhancement by human activity, coupled with  
34 the local level of fallout from nuclear weapons and nuclear testing  
35 and the local level of fallout from nuclear accidents that have  
36 occurred elsewhere, including, but not limited to, the nuclear  
37 accident at Chernobyl.

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