

1                   A bill to be entitled

2       An act relating to residential property sales;  
3       creating s. 689.263, F.S.; providing definitions;  
4       requiring a seller of residential property to provide  
5       written notification to a prospective purchaser of the  
6       seller's intent to retain subsurface rights; providing  
7       the form for such notification; providing for  
8       rescission of a contract under certain circumstances;  
9       providing a cause of action and a remedy for failure  
10      to provide notification; specifying jurisdiction and  
11      venue for enforcement; providing that failure to  
12      provide notice does not affect the title or  
13      insurability of the residential property; providing an  
14      effective date.

15  
16   Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1.   Section 689.263, Florida Statutes, is created  
19   to read:

20       689.263   Sale of residential property; disclosure of  
21   seller's intent to retain subsurface rights.—

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

23       (a)   "Residential property" includes any real estate which,  
24   at the time of the sale, is zoned for residential use.

25       (b)   "Subsurface rights" includes rights to the phosphate,  
26   minerals, metals, natural gas, petroleum, or oil that is or may

27 be in, on, or under any land being transferred to a prospective  
28 purchaser.

29 (2) A seller who intends to retain any subsurface rights  
30 as part of a contract or deed for the sale of residential  
31 property, or a seller who has previously transferred or has  
32 knowledge concerning the prior transfer of such rights, shall  
33 provide to the prospective purchaser, and the prospective  
34 purchaser's real estate agent if the prospective purchaser is  
35 using a real estate agent, written notification of the property  
36 interest that the seller is seeking to retain or that was  
37 previously severed. The seller, or the seller's agent, if  
38 applicable, shall notify the prospective purchaser by providing  
39 notice under subsection (3) at least 3 business days before  
40 entering into any sales contract for the purchase of the  
41 residential property, and the prospective purchaser must  
42 acknowledge receipt of the written notification by his or her  
43 signature.

44 (3) The written notice required under subsection (2) shall  
45 be provided on a sheet of paper that is 8 1/2 inches by 11  
46 inches, shall address no other subject, shall be double-spaced,  
47 and shall include substantially the following information in a  
48 font size of at least 14 points:

50 RETENTION OF SUBSURFACE RIGHTS

51  
52 AS REQUIRED BY SECTION 689.263, FLORIDA STATUTES, ... (SELLER'S

53 NAME)... HEREBY PROVIDES 3 BUSINESS DAYS' NOTICE TO  
54 ...(PROSPECTIVE PURCHASER'S NAME)... THAT THE SELLER, AS PART OF  
55 THE TRANSFER OF THE PROPERTY LOCATED AT ...(PROPERTY  
56 ADDRESS)..., INTENDS TO SEVER, RETAIN, RESERVE, OR OTHERWISE  
57 KEEP CERTAIN SUBSURFACE RIGHTS AS PART OF THE SALE OF THAT  
58 PROPERTY, HAS PREVIOUSLY TRANSFERRED SUCH RIGHTS, OR HAS  
59 KNOWLEDGE CONCERNING THE PRIOR TRANSFER OF SUCH RIGHTS. THESE  
60 RIGHTS MAY INCLUDE THE RIGHT TO PHOSPHATE, MINERALS, METALS,  
61 NATURAL GAS, PETROLEUM, OR OIL THAT MIGHT BE IN, ON, OR UNDER  
62 THE PROPERTY.

63  
64 I/WE ACKNOWLEDGE RECEIPT OF THIS NOTICE.

65  
66 ...(Signature of prospective purchaser)...  
67

68 (4) A purchaser has 3 business days after the contract is  
69 fully executed to rescind the contract if a seller fails to  
70 provide notice as required by this section. The rescission  
71 notification must be provided in writing to the seller or the  
72 seller's agent, if applicable. If the purchaser rescinds the  
73 contract, the rescission is the purchaser's sole remedy.

74 (5) If proper notice is not provided to the purchaser and  
75 agent, if applicable, and if the seller retains the subsurface  
76 rights, the severance of the subsurface estate is voidable by  
77 the purchaser. However, if the subsurface rights were  
78 subsequently conveyed by the seller, the purchaser is entitled

79 to damages as if the seller had failed to provide notice as  
80 required by this section. If proper notice was not provided to  
81 the purchaser, and if the seller has sold or otherwise  
82 transferred the subsurface rights to a wholly or partially owned  
83 subsidiary, the purchaser has a cause of action against the  
84 seller and is entitled to actual damages or \$5,000 in liquidated  
85 damages, whichever is greater, plus all costs of the action and  
86 reasonable attorney fees. Relief under this subsection is the  
87 only remedy authorized by law.

88 (6) Jurisdiction and venue for enforcement of this section  
89 is in the circuit court of the county where the residential  
90 property is located.

91 (7) The failure to provide notice required by this section  
92 does not affect title to the residential property or its  
93 insurability. This subsection does not apply to the holder of  
94 subsurface rights, whose title may be impacted by this section.

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