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Chapter No. 500  
13/SS02/R302SG  
CRL 17B1TB

***SENATE BILL NO. 2171***

Originated in Senate

*Argued*

Secretary

SENATE BILL NO. 2171

AN ACT TO PROVIDE THAT SIZE OR AREA OF REAL PROPERTY SHALL NOT BE REQUIRED TO BE DISCLOSED BY ANY REAL ESTATE LICENSEE AND DISCLOSURE SHALL NOT BE CONSIDERED AS ANY WARRANTY OR GUARANTEE OF THE SIZE OR AREA INFORMATION; TO PROVIDE THAT A REAL ESTATE LICENSEE HAS NO DUTY TO THE SELLER OR PURCHASER TO CONDUCT AN INDEPENDENT INVESTIGATION OF THE SIZE OR AREA OF THE REAL PROPERTY; TO PROVIDE THAT A REAL ESTATE LICENSEE SHALL NOT BE SUBJECT TO LIABILITY FOR DAMAGES SUSTAINED WITH REGARD TO ANY CONFLICTING MEASUREMENTS OR OPINIONS OF SIZE OR AREA; TO PROVIDE THAT A REAL ESTATE LICENSEE MAY BE LIABLE ONLY WHEN HE KNOWINGLY VIOLATES THE DUTY TO DISCLOSE THE SOURCE OF THE INFORMATION; AND FOR RELATED PURPOSES.

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

**SECTION 1.** (1) (a) In connection with any real estate transaction, the size or area, in square footage or otherwise, of the subject property, if provided by any real estate licensee in accordance with paragraph (b) (i) and (ii), shall not be considered any warranty or guarantee of the size or area information, in square footage or otherwise, of the subject property.

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

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

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

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

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

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

(2) (a) If a real estate licensee has provided third-party information to any party to a real estate transaction concerning

size or area of the subject real property, a party to the real estate transaction may recover damages from the licensee in a civil action only when a licensee knowingly violates the duty to disclose the source of the information as required in this section. However, nothing in this act shall provide immunity from civil liability to any licensee who knowingly misrepresents the size or area of the subject real property.

(b) The sole and exclusive civil remedy at common law or otherwise for a violation of this section by a real estate licensee shall be an action for actual damages suffered by the party as a result of such violation and shall not include exemplary or punitive damages.

(c) For any real estate transaction commenced after the effective date of this section, any civil action brought pursuant to this section shall be commenced within two (2) years after the date of transfer of the subject real property.

(d) In any civil action brought pursuant to this section, the prevailing party shall be allowed court costs and reasonable attorney fees to be set by the court and collected as costs of the action.

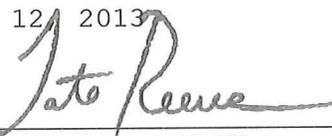
(e) A transfer of a possessory interest in real property subject to the provisions of this section may not be invalidated solely because of the failure of any person to comply with the provisions of this section.

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

**SECTION 2.** Section 1 shall be codified within Chapter 35, Title 73, Mississippi Code of 1972.

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE  
February 12, 2013

  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 5, 2013

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR

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