

# SENATE BILL REPORT

## SB 5895

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As Reported By Senate Committee On:  
Consumer Protection & Housing, February 22, 2007

**Title:** An act relating to seller disclosure of information concerning residential real property.

**Brief Description:** Regarding sellers' disclosures for residential real property sales.

**Sponsors:** Senators Fraser, Swecker, Tom, Shin, Kline, McCaslin, Kilmer, Jacobsen, Delvin and Honeyford.

**Brief History:**

**Committee Activity:** Consumer Protection & Housing: 2/16/07, 2/22/07 [DPS].

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### SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

**Majority Report:** That Substitute Senate Bill No. 5895 be substituted therefor, and the substitute bill do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Haugen, Jacobsen, Kilmer and Tom.

**Staff:** Alison Mendiola (786-7483)

**Background:** A seller of residential land must provide a buyer with a disclosure statement about the property unless the buyer waives the right to receive it. This disclosure requirement only applies to land with one to four dwelling units, condominiums and timeshares, and manufactured or mobile homes that are personal property.

This disclosure form is specified in statute. The seller must check "yes", "no" or "don't know" in response to questions and may be required to explain some answers. The disclosures concern title water, sewer/septic systems, structural matters, systems and fixtures, common interest matters, and general matters.

If the seller fails to provide the required disclosure, the buyer may rescind the transaction until the transfer has closed. If the disclosure statement is delivered late, the buyer's right to rescind expires three days after the receipt of the statement.

Unimproved vacant land zoned for residential use is not subject to the seller disclosure statement requirement.

**Summary of Bill:** Sellers of unimproved residential real property zoned for single-family dwelling units must complete a seller disclosure statement, unless they are otherwise exempt.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

This disclosure form is modeled after the seller disclosure form that is used for improved residential property.

The general disclosure section is renamed environmental and the seller is asked whether the property has been used for commercial or industrial purposes, if there is any soil or ground water contamination, are there any transmission poles installed, maintained or buried on the property, and whether the property has ever been used as a dumping site (legally or illegally).

Sellers must disclose whether there is a private road or easement for access to the property, whether any water rights (domestic or irrigation) are associated with the property, and if so, have such rights been assigned, transferred, or changed.

Exemptions from the seller disclosure statement are revised. A bank that has foreclosed on a property must provide a buyer with a completed seller disclosure statement, and if any of the seller's answers are "yes" under the environmental section, the buyer may not waive receipt of the environmental section of the seller disclosure statement.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Consumer Protection & Housing):** The definition of "unimproved residential real property" is modified. The proposed exemption for property classified as farm or agricultural or timber land is eliminated. It is clarified that the seller disclosure statement is to be completed by seller of residential real property (regardless if the land is unimproved but zoned for residential use or improved). Language addressing water rights (both domestic and irrigated) is modified to read: "Has all or any portion of the water rights not been used for five or more successive years. If yes, please explain." The question regarding whether the property is in a designated flood plain is reworded to read: "Are there any shorelines, wetlands, floodplains, or critical areas on the property?"

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: There have been newspaper stories of people buying vacant land zoned for residential use only to discover later that the land is toxic. Currently, sellers of such land are not required to disclose this information through the seller disclosure form (Form 17); it's only optional. Also, if a bank is selling a foreclosed property, it doesn't have to disclose known toxic problems. This bill creates a new statutory seller disclosure form for vacant land zoned for residential use, with language that has been worked out by all parties, although some technical changes are needed. For example, the definition of vacant land shouldn't exempt farm or agricultural land. This doesn't mean a buyer shouldn't investigate the land, but rather requires a seller to disclose what he or she knows about the land. There is no increased duty on real estate agents. The primary motivation to clean up toxic property is real estate sales, but this is primarily seen in the commercial arena. Requiring a disclosure for residential property will help spur toxic clean up on land zoned for residential use.

**Persons Testifying:** PRO: Senator Fraser, prime sponsor; Bill Riley, Bill Clarke, Washington Realtors; Jim Pendowski, Department of Ecology.