

SENATE BILL REPORT

SHB 1495

**AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS,
FEBRUARY 19, 1992**

Brief Description: Changing land development regulations.

SPONSORS: House Committee on Commerce & Labor (originally sponsored by Representatives Heavey and Hargrove; by request of Department of Licensing).

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chairman; Roach, Vice Chairman; Madsen, and Sutherland.

Staff: Rod McAulay (786-7754)

Hearing Dates: April 1, 1991; April 4, 1991; February 19, 1992

BACKGROUND:

In 1974, the Land Development Act was passed in an attempt to protect consumers from fraudulent land sales. The Department of Licensing is designated as the regulatory agent.

Under the act, developers are required to file a public offering statement with the department when selling lots in a development composed of at least ten lots. The act does not apply to developments if the lots are five acres or larger; if the lots are improved with a residential, industrial, or commercial building; or if the seller is legally obligated to construct a building on the lot within two years.

A public offering statement must include, among other things, a general description of the development, significant terms of encumbrances and liens affecting the development, information concerning all improvements, and a description of hazards existing on and around the development.

If a developer fails to comply with the act, the department may seek a cease and desist order prohibiting the developer from selling lots in the development until the requirements are satisfied. The act does not authorize civil damages.

SUMMARY:

Registration of a public offering statement with the Department of Licensing is no longer required. A developer is required to provide a purchaser with a public offering

statement at least two days prior to the closing of a sale. A developer's failure to comply with this requirement may result in imposition of the following penalties against the developer: liability for actual damages; an injunctive order prohibiting future sales; and voidance of all sales agreements made with the purchaser(s) who did not receive the statement. In addition to an injured party's claims against a developer, the Attorney General may file an action, on behalf of the state, seeking injunctive relief.

The act applies to all lots which are part of a development of 26 or more lots and which are not included under an exception. In addition to current exceptions, a developer is excepted from compliance with the act if the development is located in a city that was incorporated prior to January 1, 1974; the development is in a city or a county that has adopted a comprehensive land use plan; or there are fewer than nine lots remaining in a development which otherwise required compliance.

In addition to current requirements, the public offering statement must include material terms and conditions of membership in any homeowner's association, a statement that the developer has or has not received all required approvals and permits, and a copy of the plat map and certificate. Notice of a purchaser's rights under this act must be printed in bold-face type at the top of the statement.

Other than the developer, a person who compiled the offering statement is not liable for misrepresentations contained in the report unless he or she had actual knowledge of the misrepresentations at the time the report was compiled. The developer is liable for misrepresentations in the report if, at the time the report was compiled, the builder knew or in the exercise of reasonable care, should have known, of the misrepresentation.

A violation of this chapter is a per se violation of the Consumer Protection Act. The Attorney General may bring an action in the name of the state, but no private right of action or action by any county prosecutor is allowed.

SUMMARY OF PROPOSED SENATE AMENDMENT:

A reference to a repealed section is corrected.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The need for registration is declined. Local governments are more sophisticated in regulating land development. The Consumer Protection Act provisions have been restored.

TESTIMONY AGAINST: None

TESTIFIED: Marcia Tadaoo-Long, Department of Licensing; Mark Triplett, building industry; Glen Hudson, Washington Association of Realtors