

SENATE BILL REPORT

SB 5385

**AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS
MARCH 4, 1991**

Brief Description: Changing land development regulations.

SPONSORS: Senators McMullen, McCaslin and Matson; by request of Department of Licensing.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: That Substitute Senate Bill No. 5385 be substituted therefor, and the substitute bill do pass.

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

Staff: Martin Lovinger (786-7443)

Hearing Dates: February 12, 1991; March 4, 1991

BACKGROUND:

Registration of land developments for sale to individual consumers is necessary to protect those consumers from fraudulent land sales. The Department of Licensing is the assigned regulatory agency. Local and county governments have become more sophisticated in preventing fraudulent land sales and are now handling most enforcement activities. The registration fee has not been raised from the original \$250 even though registration fees in other states are usually several thousand dollars. As a result, the program is no longer self-supporting. The Department of Licensing feels that the program as currently structured no longer serves the original purpose and should be amended to reflect current realities.

SUMMARY:

Developers and purchasers are responsible for enforcing the provisions of the Land Development Act. The Department of Licensing is eliminated as the enforcement agency. Registration of public offerings is eliminated. The amount of information that must be disclosed by developers to potential purchasers is expanded. The developer is liable for misrepresentations in the public offering if the developer had knowledge or with reasonable care should have known of the misrepresentation. Remedies for failure to comply include cancellation of the contract, actual damages, a percent of the sales price for failure to convey the public offering statement and all necessary amendments and a general cause of action for failure to comply with any provision of this chapter.

EFFECT OF PROPOSED SUBSTITUTE:

The requirements for the public offering statement have been clarified to resemble those under the Washington Condominium Act. Actual damages can be recovered by the consumer for failure of the developer to deliver the public offering statement. The percent of sales price penalty is eliminated. False, misleading or deceptive statements in advertising are prohibited if they are materially false, misleading or deceptive. A violation of this act is no longer automatically a violation of the Consumer Protection Act. Evidence of violations of this act will no longer be considered by the Attorney General in conjunction with the criminal provisions for false advertising or the provisions of the Consumer Protection Act. Developers and government agencies are required to give notice to purchasers of physical hazards discovered before disposition instead of hazards which included noise, safety and other nuisances. Any property located within a county or city that has adopted a comprehensive land use plan and development regulations under the Growth Management Act is excluded from coverage under this act.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The Department of Licensing is no longer needed to protect consumers from fraudulent land sales since enforcement by county authorities has become more sophisticated. The registration program no longer supports the cost of enforcement. The amount of information that is required to be disclosed has been expanded. Consumers have been provided with a cause of action to seek damages and injunctions. This bill is modeled after the Condominium Act. Growth management takes care of many problems. This bill is good for small developers.

TESTIMONY AGAINST: None

TESTIFIED: Marsha Long, Department of Licensing (pro); Glen Hudson, Washington Association of Realtors (pro); Marguerite Glover, Washington Association of Realtors (pro); Mark Triplett, Triplett and Associates, Inc. (pro)