

HOUSE BILL REPORT

SSB 6283

As Reported By House Committee On:
Local Government

Title: An act relating to real estate disclosures.

Brief Description: Disclosing real property information.

Sponsors: Senators Haugen, Winsley, Spanel, Quigley, Drew, Erwin, Fraser and Ludwig.

Brief History:

Reported by House Committee on:
Local Government, February 25, 1994, DPA.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 11 members: Representatives H. Myers, Chair; Springer, Vice Chair; Edmondson, Ranking Minority Member; Reams, Assistant Ranking Minority Member; Dunshee; R. Fisher; Horn; Moak; Rayburn; Van Luven and Zellinsky.

Staff: Bill Lynch (786-7092).

Background: For most individuals, the purchase of a home or condominium is the most significant and largest financial transaction in which they will ever participate. Likewise, most persons will buy only a few homes during their entire life-span and not develop any expertise in guarding against potential problems which may cause serious financial and emotional hardship after the transaction has closed.

In order to assist buyers of residential real property, some real estate agencies have begun requiring sellers to complete disclosure forms in which the seller responds to a check-list of questions about various physical aspects of the property. Such disclosures can be of great assistance to a buyer in evaluating aspects of the property which may not be revealed by their own inspection. Matters such as the location and maintenance of on-site septic systems, structural leaks, history of dry rot or pest damage and similar matters may be critical to a decision to buy.

Seller's disclosure statements are not currently required by law.

Summary of Amended Bill: Within five days of the signing of an agreement for the purchase and sale of a residential property, the seller must provide to the buyer a real property transfer disclosure statement on a prescribed form. Residential property is defined to include single family dwellings, multiple dwellings with up to four units, residential condominiums, and residential time-share units.

The prescribed form requires disclosure, based upon the seller's personal knowledge, of matters relating to title, water sources and systems, sewer/septic systems, structural concerns, mechanical systems, community associations and geographical hazards. Within three business days of receipt, or other agreed duration of time, the buyer must either accept the disclosure statement or give written notice of rescission of the agreement for purchase. If a disclosure statement is not provided by the seller, the buyer may rescind the agreement to purchase at any time up until the transaction is closed. If the seller determines that the disclosure statement was not complete because of changed circumstances or new information, the seller must provide the buyer with an amended disclosure statement or correct the defects prior to closing. The delivery of an amended disclosure statement will reopen the time in which the buyer can rescind the purchase agreement for an additional three days.

The seller may not be held liable for inaccurate information in the disclosure statement if the seller had no personal knowledge of the inaccuracy. If the disclosure is based upon information provided by public agencies or other person providing information within the scope of their professional license or expertise such as architects, surveyors or pest inspectors, then the seller is not liable for inaccurate information unless the seller had personal knowledge of the inaccuracy. Licensed real estate salespersons and brokers may not be held liable for inaccuracies in the disclosure statement if they had no personal knowledge of the inaccuracy. If the information was provided by a public agency or by other persons providing information within the scope of their professional license or expertise, then the salesperson or broker is not liable for the inaccuracy unless the seller or broker had personal knowledge of the inaccuracy.

Violations of this act do not constitute a violation of the Consumer Protection Act. The act does not impair or extinguish any existing rights or remedies.

Amended Bill Compared to Substitute Bill: Family members are defined. Certain transactions in which disclosure statements are not needed, such as transfers from a

bankruptcy trustee or between partners, are exempted. The buyer may expressly waive the right to receive a disclosure statement. Language is added to clarify that no new rights or remedies are created other than the right to rescind the agreement in accordance with the bill's provisions. Other technical changes are made.

Fiscal Note: Not requested.

Effective Date of Amended Bill: This act shall take effect on January 1, 1995.

Testimony For: This addresses growing concerns by consumer groups and increasing number of lawsuits. Provides a balanced approach: protect buyers but does not expose seller to unjustified lawsuits.

Testimony Against: None.

Witnesses: Glen Hudson, Washington Association of Realtors; David Cantu, counsel for Realtors Association; and Kathy Robinett and Linda DeBord, Realtors Association.