

HOUSE BILL REPORT

HB 2795

As Reported By House Committee On:
Local Government

Title: An act relating to the protection of real estate purchasers.

Brief Description: Protecting real estate purchasers.

Sponsors: Representatives Peery, H. Myers and Zellinsky.

Brief History:

Reported by House Committee on:
Local Government, February 4, 1994, DPS.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives H. Myers, Chair; Springer, Vice Chair; Edmondson, Ranking Minority Member; Reams, Assistant Ranking Minority Member; Dunshee; R. Fisher; Moak; Rayburn; Van Luven and Zellinsky.

Minority Report: Do not pass. Signed by 1 member: Representative Horn.

Staff: Bill Lynch (786-7092).

Background: The purchase of a home is usually the largest financial transaction that a person makes during the course of his or her lifetime. In order to assist buyers of residential real property, some real estate agencies require sellers to complete disclosure forms that ask questions about various physical aspects of the property. Consumers have also purchased homes and later discovered that extensive work was performed on the homes without building permits. These consumers may have to spend large amounts of money to bring the newly purchased homes into compliance with the building codes.

Summary of Substitute Bill: Within five business days after signing an agreement for the purchase and sale of residential real 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, certain residential condominiums, and certain residential time-share units.

The prescribed form requires disclosure, based upon the seller's actual knowledge at the time of disclosure, of matters relating to: title, water sources and systems, sewer/septic systems, structure, systems and fixtures, community associations, geological hazards, and environmental hazards.

Within three business days of receipt of the disclosure statement, or other agreed upon period of time, the buyer must either accept the disclosure statement or rescind the agreement for purchase and sale of the property. If the buyer decides to rescind the agreement, the buyer must deliver written notice of the rescission to the seller within the three-day period. The buyer is entitled to immediate return of all deposits and other considerations paid to the seller and the purchase and sale agreement is considered void. If the buyer does not provide written notice to the seller within the three-day period, the disclosure statement is considered to be accepted by the buyer.

If the disclosure statement was delivered to the buyer, and it is no longer accurate because of changed circumstances or new information, the seller must provide the buyer with an amended disclosure statement. The delivery of an amended disclosure statement reopens the time in which the buyer can rescind the purchase agreement for an additional three days. If the closing date is scheduled to occur within this additional three-day period, the closing date must be extended until the end of the three-day period. The buyer cannot rescind the agreement if the seller corrects or repairs the adverse change prior to the closing date. An amended disclosure statement is not required if the seller takes corrective action before the closing date so that the statement is accurate.

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. After the property transfer has closed, the seller's obligation to provide the disclosure statement and the buyer's remedies terminate. If an event occurs or becomes known after the property transfer has closed, the seller is not required to amend the disclosure statement and the buyer is not allowed to rescind the transaction even if the event or occurrence makes the disclosure statement inaccurate.

The seller or real estate salesperson cannot be held liable for inaccurate information in the disclosure statement if

the seller or salesperson had no personal knowledge of the error, or if the disclosure was based upon information provided by public agencies or persons acting within the scope of their professional license or expertise.

Any action based upon a violation of the real property transfer disclosure statement requirements must be brought within one year of the date of closing of the sale. A violation of these provisions does not constitute a violation of the Washington Consumer Protection Act.

County assessors, as part of the physical appraisal process, are required to notify the local building officials of any increase in the size of the building and any other significant modifications that are apparent from an exterior inspection of the building since the last physical appraisal.

A copy of the verification of final inspection must be transmitted by the issuing authority to the county auditor and recorded in the real property records. The verification of final inspection must include the county assessor's parcel number. The existence of verifications of final inspection that are recorded must be disclosed as an attachment to every title insurance report provided to the purchasers of real property, but the title insurer is not required to include these verifications within the coverage of the title insurance contract.

Substitute Bill Compared to Original Bill: A seller is not required to fill out an amended disclosure statement if the seller takes corrective action so that the disclosure statement is accurate before closing. Technical amendments are also made.

Fiscal Note: Not requested.

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

Testimony For: Better consumer protection is needed for homebuyers. The disclosure statement will put a buyer on notice of potential problems. Better disclosure on the existence of permits is essential for homebuyers to know if work is done according to code.

Testimony Against: Verifications of final inspection should not be recorded. It clutters the public records and has limited value.

Witnesses: (pro, with concerns over recording verifications of final inspection): Glen Hudson, Washington Realtors

Association; and Chet Wainhouse and Curt Johnson, Washington
Land Title Association.