

SENATE BILL REPORT

SB 5576

AS OF FEBRUARY 15, 1993

Brief Description: Requiring certain disclosures in the sale of residential real property.

SPONSORS: Senators Haugen, Winsley, Drew and Fraser

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Staff: Rod McAulay (786-7754)

Hearing Dates: February 19, 1993

BACKGROUND:

Specific statutes require that certain disclosures be made to purchasers of condominiums or "time-share" interests in real property. Other than common law principles regarding fraud and misrepresentation, however, there are no specific statutory requirements for disclosures to individuals purchasing other types of residential real property.

In some areas of the state, real estate listing agreements require that sellers complete a substantial list of disclosures about the condition of their property. It is believed, however, that since not all real estate transactions involve real estate agents and since there are recurring problems with regard to the disclosure of the status and location of septic systems, the issuance of required permits and the possibility of encroachments, that inexperienced buyers are not adequately alerted to potentially serious and costly problems.

SUMMARY:

When offering residential real property for sale, the owner, at the earliest time practicable, must disclose in writing to a prospective purchaser, to the best of the owner's knowledge, specific information regarding any septic system on the property, whether or not required building and occupancy permits have been issued, and whether the property lines have been surveyed and whether there are any encroachments. The "earliest time practicable" is defined.

The disclosure required by this act may be incorporated into any general disclosure form adopted by real estate brokers and agents. Delivery of the disclosure shall be in person or by mail.

The disclosure requirements of this act to not apply to transfers involving multiple housing units with more than four units; transfers made to secure a loan; transfers made as part

of an estate distribution, marriage dissolution, eminent domain proceeding, bankruptcy sale, foreclosure or other court-ordered process; or transfers made to persons other than individuals or to a co-owner, spouse or lineal relation.

Until five days following receipt of the disclosures required by this act, but prior to closing of any sale, the prospective purchaser may rescind any agreement to buy and receive a full refund of any deposit or earnest money. If the required disclosures are not made at least six days prior to closing, the purchaser may proceed with closing and the seller will be liable to the purchaser for any damages suffered by the purchaser resulting from the failure to make the required disclosures.

This act does not limit or abridge any other existing obligation on the seller to make disclosures to a purchaser in order to avoid fraud, misrepresentation or deceit.

Appropriation: none

Revenue: none

Fiscal Note: none requested