

SENATE BILL REPORT

SSB 6283

AS PASSED SENATE, FEBRUARY 11, 1994

Brief Description: Disclosing real property information.

SPONSORS: Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley, Spanel, Quigley, Drew, Erwin, Fraser and Ludwig)

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Substitute Senate Bill No. 6283 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, McCaslin, Oke, Owen and Winsley.

Staff: Rod McAulay (786-7754)

Hearing Dates: February 1, 1994; February 4, 1994

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

It is believed that seller's disclosure statements should be required by law.

SUMMARY:

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 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 which 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. Licensed real estate salespersons may not be held liable for inaccuracies in the disclosure statement if they had no personal knowledge of the information, or if the information was provided by a public agency or by other persons providing information within the scope of their professional license or expertise.

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.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

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:

Should not include sales to or from DOT. Should not accept House amendments which add another administrative layer and cost to transactions. Might lull a buyer into thinking a survey is not needed.

TESTIFIED: Glen Hudson, WA Assn. of Realtors; David Cantu, counsel for Realtors Assn.; Linda DeBord, Realtors Assn.; Bill

Pestinger, DOT; Karen Flynn, Kitsap County Auditor; Nancy Wildemuth, Architects and Engineers Council

HOUSE AMENDMENT(S):

The exemptions from disclosure requirements are clarified and expanded.

The requirement to disclose knowledge of whether property is in a "hazard zone" is changed to "flood hazard zone."

It is made clear that the act does not create any new causes of action.

It is made clear that the right to rescind is at the sole discretion of the buyer.

An effective date of January 1, 1995, is added.