
SENATE BILL 5741

State of Washington

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By Senators Wood and Winsley

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1 AN ACT Relating to public offering statements for condominiums; and
2 amending RCW 64.34.410, 64.34.443, and 64.34.232.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 64.34.410 and 1992 c 220 s 21 are each amended to read
5 as follows:

6 (1) A public offering statement shall contain the following
7 information:

8 (a) The name and address of the condominium;

9 (b) The name and address of the declarant;

10 (c) The name and address of the management company, if any;

11 (d) The relationship of the management company to the declarant, if
12 any;

13 (e) A list of up to the five most recent condominium projects
14 completed by the declarant or an affiliate of the declarant within the
15 past five years, including the names of the condominiums, their
16 addresses, and the number of existing units in each. For the purpose
17 of this section, a condominium is "completed" when any one unit therein
18 has been rented or sold;

19 (f) The nature of the interest being offered for sale;

1 (g) A brief description of the permitted uses and use restrictions
2 pertaining to the units and the common elements;

3 (h) A brief description of the permitted uses and use restrictions
4 pertaining to the units and common elements remaining unsold at the
5 time the interest is being offered for sale, and pertaining to the
6 rights reserved in the units and common elements by the declarant;

7 (i) The number of existing units in the condominium and the maximum
8 number of units that may be added to the condominium;

9 ~~((i))~~ (j) A list of the principal common amenities in the
10 condominium which materially affect the value of the condominium and
11 those that will or may be added to the condominium;

12 ~~((j))~~ (k) A list of the limited common elements assigned to the
13 units being offered for sale;

14 ~~((k))~~ (l) The identification of any real property not in the
15 condominium, the owner of which has access to any of the common
16 elements, and a description of the terms of such access;

17 ~~((l))~~ (m) The identification of any real property not in the
18 condominium to which unit owners have access and a description of the
19 terms of such access;

20 ~~((m))~~ (n) The status of construction of the units and common
21 elements, including estimated dates of completion if not completed;

22 ~~((n))~~ (o) The estimated current common expense liability for the
23 units being offered;

24 ~~((o))~~ (p) An estimate of any payment with respect to the common
25 expense liability for the units being offered which will be due at
26 closing;

27 ~~((p))~~ (q) The estimated current amount and purpose of any fees
28 not included in the common expenses and charged by the declarant or the
29 association for the use of any of the common elements;

30 ~~((q))~~ (r) Any assessments which have been agreed to or are known
31 to the declarant and which, if not paid, may constitute a lien against
32 any units or common elements in favor of any governmental agency;

33 ~~((r))~~ (s) The identification of any parts of the condominium,
34 other than the units, which any individual owner will have the
35 responsibility for maintaining;

36 ~~((s))~~ (t) If the condominium involves a conversion condominium,
37 the information required by RCW 64.34.415;

38 ~~((t))~~ (u) Whether timesharing is restricted or prohibited, and if
39 restricted, a general description of such restrictions;

1 ~~((u))~~ (v) A list of all development rights reserved to the
2 declarant and all special declarant rights reserved to the declarant,
3 together with the dates such rights must terminate, and a copy of or
4 reference by recording number to any recorded transfer of a special
5 declarant right;

6 ~~((v))~~ (w) A description of any material differences in terms of
7 furnishings, fixtures, finishes, and equipment between any model unit
8 available to the purchaser at the time the agreement for sale is
9 executed and the unit being offered;

10 ~~((w))~~ (x) Any liens on real property to be conveyed to the
11 association required to be disclosed pursuant to RCW 64.34.435(2)(b);

12 ~~((x))~~ (y) A list of any physical hazards known to the declarant
13 which particularly affect the condominium or the immediate vicinity in
14 which the condominium is located and which are not readily
15 ascertainable by the purchaser;

16 ~~((y))~~ (z) A brief description of any construction warranties to
17 be provided to the purchaser;

18 ~~((z))~~ (aa) Any building code violation citations received by the
19 declarant in connection with the condominium which have not been
20 corrected;

21 ~~((aa))~~ (bb) A statement of any unsatisfied judgments or pending
22 suits against the association, a statement of the status of any pending
23 suits material to the condominium of which the declarant has actual
24 knowledge, and a statement of any litigation brought by an owners'
25 association, unit owner, or governmental entity in which the declarant
26 or any affiliate of the declarant has been a defendant, arising out of
27 the construction, sale, or administration of any condominium within the
28 previous five years, together with the results thereof, if known;

29 ~~((bb))~~ (cc) Any rights of first refusal to lease or purchase any
30 unit or any of the common elements;

31 ~~((ee))~~ (dd) The extent to which the insurance provided by the
32 association covers furnishings, fixtures, and equipment located in the
33 unit;

34 ~~((dd))~~ (ee) A notice which describes a purchaser's right to
35 cancel the purchase agreement or extend the closing under RCW
36 64.34.420, including applicable time frames and procedures;

37 ~~((ee))~~ (ff) Any reports or statements required by RCW 64.34.415
38 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering
39 statement of a condominium in connection with which a final certificate

1 of occupancy was issued more than sixty calendar months prior to the
2 preparation of the public offering statement whether or not the
3 condominium is a conversion condominium as defined in RCW
4 64.34.020(10);

5 ~~((ff))~~ (gg) A list of the documents which the prospective
6 purchaser is entitled to receive from the declarant before the
7 rescission period commences;

8 ~~((gg))~~ (hh) A notice which states: A purchaser may not rely on
9 any representation or express warranty unless it is contained in the
10 public offering statement or made in writing signed by the declarant or
11 by any person identified in the public offering statement as the
12 declarant's agent;

13 ~~((hh))~~ (ii) A notice which states: This public offering
14 statement is only a summary of some of the significant aspects of
15 purchasing a unit in this condominium and the condominium documents are
16 complex, contain other important information, and create binding legal
17 obligations. You should consider seeking the assistance of legal
18 counsel; and

19 ~~((ii))~~ (jj) Any other information and cross-references which the
20 declarant believes will be helpful in describing the condominium to the
21 recipients of the public offering statement, all of which may be
22 included or not included at the option of the declarant.

23 (2) The public offering statement shall include copies of each of
24 the following documents: The declaration, the survey map and plans,
25 the articles of incorporation of the association, bylaws of the
26 association, rules and regulations, if any, current or proposed budget
27 for the association, and the balance sheet of the association current
28 within ninety days if assessments have been collected for ninety days
29 or more.

30 If any of the foregoing documents listed in this subsection are not
31 available because they have not been executed, adopted, or recorded,
32 drafts of such documents shall be provided with the public offering
33 statement, and, before closing the sale of a unit, the purchaser shall
34 be given copies of any material changes between the draft of the
35 proposed documents and the final documents.

36 (3) The disclosures required by subsection (1)(g), ~~((j))~~ (k),
37 ~~((r))~~ (s), ~~((t))~~ (u), ~~((u))~~ (v), and ~~((bb))~~ (cc) of this
38 section shall also contain a reference to specific sections in the
39 condominium documents which further explain the information disclosed.

1 (4) The disclosures required by subsection (1)(~~(dd)~~) (ee),
2 (~~(gg)~~) (hh), and (~~(hh)~~) (ii) of this section shall be located at
3 the top of the first page of the public offering statement and be typed
4 or printed in ten-point bold face type size.

5 (5) A declarant shall promptly amend the public offering statement
6 to reflect any material change in the information required by this
7 section.

8 **Sec. 2.** RCW 64.34.443 and 1989 c 428 s 2 are each amended to read
9 as follows:

10 (1) Express warranties made by any seller to a purchaser of a unit,
11 if relied upon by the purchaser, are created as follows:

12 (a) Any written affirmation of fact or promise which relates to the
13 unit, its use, or rights appurtenant thereto, area improvements to the
14 condominium that would directly benefit the unit, or the right to use
15 or have the benefit of facilities not located in the condominium
16 creates an express warranty that the unit and related rights and uses
17 will conform to the affirmation or promise;

18 (b) Any model or written description of the physical
19 characteristics of the condominium at the time the purchase agreement
20 is executed, including plans and specifications of or for improvements,
21 creates an express warranty that the condominium will conform to the
22 model or description except pursuant to RCW 64.34.410(1)(v);

23 (c) Any written description of the quantity or extent of the real
24 property comprising the condominium, including plats or surveys,
25 creates an express warranty that the condominium will conform to the
26 description, subject to customary tolerances; and

27 (d) A written provision that a buyer may put a unit only to a
28 specified use is an express warranty that the specified use is lawful.

29 (2) Neither formal words, such as "warranty" or "guarantee," nor a
30 specific intention to make a warranty are necessary to create an
31 express warranty of quality, but a statement purporting to be merely an
32 opinion or commendation of the real estate or its value does not create
33 a warranty. A purchaser may not rely on any representation or express
34 warranty unless it is contained in the public offering statement or
35 made in writing signed by the declarant or declarant's agent identified
36 in the public offering statement. This section may not be construed to
37 limit a declarant's liability for misrepresentations contained in, or

1 omissions from, the public offering statement required under RCW
2 64.34.405(1).

3 (3) Any conveyance of a unit transfers to the purchaser all express
4 warranties of quality made by previous sellers.

5 **Sec. 3.** RCW 64.34.232 and 1992 c 220 s 10 are each amended to read
6 as follows:

7 (1) A survey map and plans executed by the declarant shall be
8 recorded simultaneously with, and contain cross-references by recording
9 number to, the declaration and any amendments. The survey map and
10 plans must be clear and legible and contain a certification by the
11 person making the survey or the plans that all information required by
12 this section is supplied. All plans filed shall be in such style,
13 size, form and quality as shall be prescribed by the recording
14 authority of the county where filed, and a copy shall be delivered to
15 the county assessor.

16 (2) Each survey map shall show or state:

17 (a) The name of the condominium and a legal description and a
18 survey of the land in the condominium and of any land that may be added
19 to the condominium;

20 (b) The boundaries of all land not subject to development rights,
21 or subject only to the development right to withdraw, and the location
22 and dimensions of all existing buildings containing units on that land;

23 (c) The boundaries of any land subject to development rights,
24 labeled "SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION";
25 any land that may be added to the condominium shall also be labeled
26 "MAY BE ADDED TO THE CONDOMINIUM"; any land that may be withdrawn from
27 the condominium shall also be labeled "MAY BE WITHDRAWN FROM THE
28 CONDOMINIUM";

29 (d) The extent of any encroachments by or upon any portion of the
30 condominium;

31 (e) To the extent feasible, the location and dimensions of all
32 recorded easements serving or burdening any portion of the condominium
33 and any unrecorded easements of which a surveyor knows or reasonably
34 should have known, based on standard industry practices, while
35 conducting the survey;

36 (f) Subject to the provisions of subsection (8) of this section,
37 the location and dimensions of any vertical unit boundaries not shown

1 or projected on plans recorded (~~(pursuant to)~~) under subsection (4) of
2 this section and that unit's identifying number;

3 (g) The location with reference to an established datum of any
4 horizontal unit boundaries not shown or projected on plans recorded
5 (~~(pursuant to)~~) under subsection (4) of this section and that unit's
6 identifying number;

7 (h) The location and dimensions of any real property in which the
8 unit owners will own only an estate for years, labeled as "leasehold
9 real property";

10 (i) The distance between any noncontiguous parcels of real property
11 comprising the condominium;

12 (j) The general location of any existing principal common amenities
13 listed in a public offering statement (~~(pursuant to)~~) under RCW
14 64.34.410(1)(~~(i)~~) (j) and any limited common elements, including
15 limited common element porches, balconies, patios, parking spaces, and
16 storage facilities, but not including the other limited common elements
17 described in RCW 64.34.204 (2) and (4);

18 (k) In the case of real property not subject to development rights,
19 all other matters customarily shown on land surveys.

20 (3) A survey map may also show the intended location and dimensions
21 of any contemplated improvement to be constructed anywhere within the
22 condominium. Any contemplated improvement shown must be labeled either
23 "MUST BE BUILT" or "NEED NOT BE BUILT."

24 (4) To the extent not shown or projected on the survey map, plans
25 of the existing units must show or project:

26 (a) Subject to the provisions of subsection (8) of this section,
27 the location and dimensions of the vertical boundaries of each unit,
28 and that unit's identifying number;

29 (b) Any horizontal unit boundaries, with reference to an
30 established datum, and that unit's identifying number; and

31 (c) Any units in which the declarant has reserved the right to
32 create additional units or common elements under RCW 64.34.236(3),
33 identified appropriately.

34 (5) Unless the declaration provides otherwise, the horizontal
35 boundaries of part of a unit located outside of a building have the
36 same elevation as the horizontal boundaries of the inside part and in
37 such case need not be depicted on the survey map and plans.

38 (6) Upon exercising any development right, the declarant shall
39 record either a new survey map and plans necessary to conform to the

1 requirements of subsections (1), (2), and (3) of this section or new
2 certifications of a survey map and plans previously recorded if the
3 documents otherwise conform to the requirements of those subsections.

4 (7) Any survey map, plan, or certification required by this section
5 shall be made by a licensed surveyor.

6 (8) In showing or projecting the location and dimensions of the
7 vertical boundaries of a unit under subsections (2)(f) and (4)(a) of
8 this section, it is not necessary to show the thickness of the walls
9 constituting the vertical boundaries or otherwise show the distance of
10 those vertical boundaries either from the exterior surface of the
11 building containing that unit or from adjacent vertical boundaries of
12 other units if: (a) The walls are designated to be the vertical
13 boundaries of that unit; (b) the unit is located within a building, the
14 location and dimensions of the building having been shown on the survey
15 map under subsection (2)(b) of this section; and (c) the graphic
16 general location of the vertical boundaries are shown in relation to
17 the exterior surfaces of that building and to the vertical boundaries
18 of other units within that building.

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