

HOUSE BILL REPORT

HB 2751

As Reported by House Committee On:
Local Government & Housing

Title: An act relating to the residential real property seller disclosure statement.

Brief Description: Changing the residential real property seller disclosure statement.

Sponsors: Representatives Dunshee, Mulliken and Berkey.

Brief History:

Committee Activity:

Local Government & Housing: 2/5/02, 2/6/02 [DP].

Brief Summary of Bill

- Amends the residential real property seller disclosure statement.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass. Signed by 6 members: Representatives Dunshee, Chair; Edwards, Vice Chair; Berkey, Hatfield, Kirby and Sullivan.

Minority Report: Without recommendation. Signed by 5 members: Representatives Mulliken, Ranking Minority Member; Crouse, DeBolt, Dunn and Mielke.

Staff: Amy Wood (786-7127).

Background:

In 1994 the Legislature enacted laws requiring sellers of residential real property to make a list of disclosures concerning their property, which they are required to deliver to a buyer within five business days of acceptance of a written buy/sell agreement. The disclosures must be made in the form prescribed by statute.

Certain transfers are exempt from the disclosure requirements, including transfers as a result of foreclosure, transfers by deed in lieu of foreclosure, and transfers by a lienholder who acquired the property through foreclosure.

If the seller fails to provide a disclosure as required, the buyer may rescind the transaction at any time up until the transfer has closed. If the disclosure statement is delivered late, the right of the buyer to rescind the agreement to buy expires three days after receipt of a late delivered disclosure statement.

The seller and any real estate broker involved in the transaction are not liable for any error, inaccuracy, or omission in the required disclosure if they had no actual knowledge of the mistake. However, the disclosure law does not waive any rights or remedies of the buyer under common law, statute or contract.

Summary of Bill:

- Language and sentence structure are revised for clarity.
- The seller's disclosure regarding whether there is adequate year around potable water supply is limited to the period of seller's ownership of the property.
- Question regarding if the water source is not publicly owned, when was it last tested for water quality is added.
- Question regarding whether an outdoor sprinkler system is connected to irrigation water is added.
- Question regarding whether the roof has leaked is limited to the period of seller's ownership of the property.
- Question regarding whether the roof has been repaired is deleted.
- Question regarding whether the basement has flooded or leaked is added.
- Question regarding whether there have been any conversions, additions or remodeling is limited to the period of seller's ownership of the property.
- Question regarding the age of the house or year built is deleted.
- Question regarding whether all contractors, subcontractors, suppliers and laborers have been paid is added.
- Question regarding whether there has been any settling, slippage, or sliding is limited to the period of seller's ownership of the property.
- Question regarding whether any pest or dry rot inspection was done and by whom is deleted.
- Question regarding whether the security system, tanks, satellite dish or other, are leased is added.
- Question regarding whether any local planning agency has designated the property as a "frequently flooded area" is added.
- Questions regarding alterations or additions to manufactured and mobile homes for which title has not been eliminated are added.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This bill has been a work in progress over the last four years. Many realtors and attorneys have been meeting to identify areas that were inadvertently omitted or are no longer necessary to make a more complete disclose form for the benefit of the buyer. The last changes were made in 1996. There are many nonsubstantive grammar revisions to enhance readability and clarity. In addition, there are some substantive changes. For example, the bill limits many time periods to actual ownership. Currently, many sellers simply answer "don't know" to questions involving time periods prior to their ownership. This bill will eliminate the uncertainty and protect sellers from having to disclose information that they have no actual knowledge of.

Testimony Against: New construction should have their own forms more applicable to new construction. For example, requiring that sellers disclose whether subcontractors and laborers have been paid is disadvantageous to sellers of new construction. Because many new homes are sold before completion, the answer to this question would be no. A no, would scare many prospective buyers. Also disclosures regarding mold are too broad, and should be limited to buyers concerns regarding toxic molds.

Testified: (In support) Representative Dunshee, prime sponsor; and Bob Mitchell, Washington Association of Realtors.

(Opposed) Jodi Slavik, Building Industry Association of Washington.