

HOUSE BILL REPORT

SHB 1634

As Amended by the Senate

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

Brief Description: Changing the residential property seller disclosure statement.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chandler, Kenney, Berkey, Wood, Holmquist, Crouse, Tom, Edwards and Rockefeller).

Brief History:

Committee Activity:

Commerce & Labor: 2/19/03, 3/4/03 [DPS].

Floor Activity:

Passed House: 3/14/03, 94-0.

Senate Amended.

Passed Senate: 4/14/03, 47-1.

Brief Summary of Substitute Bill

- Revises the Real Property Transfer Disclosure Statement in areas relating to water, irrigation, and on-site sewer systems, leased systems, structural deficiencies, and new and manufactured homes.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

Staff: Matt Cooper (786-7106).

Background:

Sellers of residential real property must provide the buyer with a disclosure statement concerning their property unless the buyer waives the right to receive it. This disclosure requirement applies only to residential real property transfers. "Residential real

property" means:

- real property with one to four dwelling units;
- residential condominiums and timeshares (except when subject to other disclosure laws); and
- mobile or manufactured homes that are personal property.

Sellers must disclose all known information concerning the property that is the subject of the sale. The statute specifies the form that must be used for the disclosure. The seller checks "yes" or "no" to questions and may explain some answers concerning the condition of the property at the time the form is completed. The disclosures pertain to:

- title;
- water;
- sewer/septic system;
- structural (roof, additions, remodeling, including information about defects in various amenities such as wood stoves and fireplaces);
- systems and fixtures (electrical, plumbing, heating and cooling, etc.);
- common interest (homeowners' association and/or assessments); and
- general (settling, soil or water problems, previous damage, hazardous materials).

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 licensee 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. The disclosure law, however, does not waive any rights or remedies of the buyer under common law, statute, or contract.

Summary of Substitute Bill:

The Real Property Transfer Disclosure Statement (Statement) is revised for readability to require certain additional disclosures and to delete certain disclosures currently required. Internal references to the Statement are changed to "Seller Disclosure Statement."

There are numerous changes to the wording of the Statement to make it easier to read and understand and to make terminology usage consistent with that used by other state agencies.

Information on the following must be disclosed, whether apparent or not:

- the ownership of the well or water system;
- the source of the water for any irrigation systems;
- any on-site sewer system maintenance more frequent than once a year;
- any sewer costs beyond regular monthly bills;
- any basement leaking or flooding;
- any defects in the siding;
- any leased equipment or systems, such as a security system or satellite dish; and
- any alterations made to a manufactured home.

Information on the following is no longer required to be disclosed:

- any prior home inspections conducted; and
- any problems with standing water on the property.

The seller of a new home that has not been occupied does not have to complete the section of the disclosure statement concerning structural information.

An acknowledgment is added that real estate licensees are not responsible for any inaccuracies in the disclosure statement and that the disclosure statement is not intended to be included as a part of the written agreement between the parties.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment requires that sellers disclose the existence of any radio towers that may cause interference with telephone reception and makes wording changes for clarity and consistency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The seller's disclosure statement is important to buyers and sellers of real estate, as well as to real estate professionals. Accurate information is the key to good decisions and good real estate transactions. The changes to this statement will make the information more complete and make the form easier to read and understand. A greater understanding of the questions by the seller will lead to more accurate information for the buyer.

The real estate industry has worked together to understand what parts of the statement need to be changed and have worked together to reach agreement on how to edit those

parts. These changes will make it easier for sellers to fill out the form accurately and for buyers to understand the information they are receiving.

The present version of the form does not work for all sellers. The section on the structural information does not work for builders who are selling new homes. The information on the structure that a builder provides for a new home can be confusing to buyers.

Testimony Against: None.

Testified: Representative Tom, prime sponsor; Bob Mitchell, Washington Association of Realtors; and Timothy Harris, Building Industry of Washington.