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**Commerce & Labor Committee**

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**HB 1439**

**Brief Description:** Requiring seller disclosure of the presence of uncertified wood stoves or uncertified fireplace inserts.

**Sponsors:** Representatives Kenney, Conway, Chandler, Tom, Kagi, Wood and Wallace.

**Brief Summary of Bill**

- Requires a seller of residential real property to include disclosures about uncertified wood stove and fireplace inserts on the disclosure statement given to the buyer.

**Hearing Date:** 1/14/04

**Staff:** Chris Cordes (786-7103).

**Background:**

Real Property Transfer Disclosure Statements

Sellers of residential real property must, under certain circumstances, provide the buyer with a seller disclosure statement. 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).
- a mobile or manufactured home that is personal property.

The seller is not required to provide the disclosure statement if the buyer has waived the right to receive it.

The statute specifies the format and questions that the seller must answer. The form includes a statement that disclosure is being made concerning existing material facts or defects based on the seller's actual knowledge of the property at the time the form is completed. The disclosures pertain to:

- title;
- water;
- sewer/on-site sewer system;
- common interest (homeowners' association and/or assessments);
- general (drainage, material damage from fire, floods, etc., hazardous materials, radio towers); and
- manufactured and mobile homes (alterations).

In addition, disclosures must be made concerning the following unless the property is new construction that has not been occupied:

- structural (roof, additions, remodeling, including information about defects in various amenities such as wood stoves and fireplaces); and
- systems and fixtures (electrical, plumbing, heating and cooling, etc.).

Unless the buyer waives his or her rights, the seller must make the required disclosure not later than five business days after mutual acceptance of a written purchase agreement and must comply with specified obligations to update the information provided. The buyer has three business days, or other time period agreed to, from the seller's delivery of the disclosure statement to rescind the purchase agreement. The buyer's other option is to accept and approve the disclosure statement.

After a sale closes (the buyer has paid the purchase price or down payment and the conveyance document has been delivered and recorded), the seller's obligation to deliver the disclosure statement and the buyer's rights under the disclosure law terminate.

#### Regulation of Wood Stoves and Fireplace Inserts

Under the Washington Clean Air Act (Act), only certified wood stoves or fireplace inserts may be sold. The Act requires these stoves and inserts to meet a specified particulate air contaminant emission standard under test methodologies of the U.S. Environmental Protection Agency. Department of Ecology rules define a wood stove as "certified" if it meets the required emission performance standards when tested by an accredited independent laboratory and is labeled as required. A person violating the Washington Clear Air Act is subject to civil and criminal penalties.

A \$30 fee is imposed on the retail sale of a wood stove or fireplace insert, to be collected in conjunction with retail sales tax. This fee is to be used to fund a wood stove education program and for enforcement of the wood stove program.

#### **Summary of Bill:**

The residential real property transfer disclosure statement form is amended to include questions about uncertified wood stoves or fireplace inserts. When a seller of residential real property provides this disclosure, the seller must respond to questions about whether the property has an uncertified wood stove or fireplace insert, whether the wood stove or fireplace insert is subject to a registration or fee program, whether the wood stove or fireplace insert is currently registered, and whether applicable fees have been paid.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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