

SENATE BILL REPORT

SB 5569

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, February 27, 2003

Title: An act relating to implied warranties under the condominium act.

Brief Description: Requiring specific statements regarding implied warranties under the condominium act.

Sponsors: Senators Winsley, Reardon and Benton.

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 2/20/03, 2/27/03 [DPS].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5569 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice and Zarelli.

Staff: Elizabeth Mitchell (786-7430)

Background: A public offering statement is completed by the declarant or dealer offering a condominium for sale.

A declarant or dealer warrants that a condominium unit is free from defective materials and is constructed in accordance with sound engineering and construction standards.

A declarant or dealer may not generally disclaim this warrant on a residential condominium; however, the declarant or dealer may disclaim liability for a specified defect in an instrument signed by the purchaser.

Summary of Substitute Bill: A declarant or dealer may disclaim liability for specified defects and failures in an instrument signed by the purchaser if this information is also included in the public offering statement.

Substitute Bill Compared to Original Bill: Disclosed defects are not required to be known to be in existence by the declarant or dealer at the time of the purchase. A declarant or dealer may disclaim liability for specified defects and failures in an instrument signed by the purchaser if this information is also included in the public offering statement.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The many documents received by the buyer of a condominium can be confusing. Warranties for specified defects should be clearly stated in the public offering statement.

Testimony Against: This bill increases liability for developers since they can only claim specific defects known to be in existence at the time of the disclaimer. A recent court decision provided that developers could disclaim liability not only for specific, known defects, but also for future unspecified defects.

Testified: Sandi Swarthout, WA Homeowners Coalition (pro); David Merchant, WA Homeowners Coalition (pro); Timothy Harris, BIAW (con).