

SENATE BILL REPORT

SB 6000

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 25, 2009

Title: An act relating to real estate disclosure requirements regarding homeowners' associations.

Brief Description: Modifying real estate disclosure requirements regarding homeowners' associations.

Sponsors: Senators Fraser, Benton, Tom and Roach.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/24/09, 2/25/09 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 6000 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott and Schoesler.

Staff: Philip Brady (786-7460)

Background: A homeowners' association (HOA) is an organization consisting of the homeowners and property owners within a residential development. HOAs generally levy and collect assessments, manage and maintain common property for the benefit of the residents, and enforce covenants that govern developments. The authority to carry out these functions comes from governing documents including the declaration of covenants, conditions, and restrictions.

A seller of residential land must provide a buyer with a disclosure statement about the property unless the buyer waives the right to receive it. There are disclosure requirements for both improved and unimproved residential real property. These disclosure forms are specified in statute. The seller must check "yes," "no," or "don't know" in response to questions and may be required to explain some answers. The disclosures concern a variety of conditions, including existence of a homeowners association, its name, the size of regular periodic assessments, any pending special assessments, and the presence or absence of common areas.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): In addition to existing disclosure requirements, sellers must provide contact information for an officer, employee, or other authorized agent, if any, who can provide the association's most recent financial statement; minutes from meetings during the last year; a copy of the covenants, bylaws, and rules; and any fining policy.

Failure of an HOA to provide the requested information does not constitute failure or refusal by the seller to provide disclosure and does not invoke a three-day right of rescission.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): The seller is not required to provide the specified information concerning the HOA, but must provide a point of contact who can provide the specified information. Failure by the HOA to provide information is explicitly not failure or refusal to provide disclosure on the part of the seller, and does not invoke a right of rescission.

Appropriation: None.

Fiscal Note: Requested on February 22, 2009.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: OTHER: This would require the sellers to attach documents they can't compel the HOA to produce. There is an amendment coming to address some concerns that would require identification of a point of contact, not the information itself. It's good for the buyer to know if the HOA is recalcitrant too.

Persons Testifying: OTHER: Annette Fitzsimmons, Washington Realtors; Kathryn Hedrick, Community Associations Institute.