

# HOUSE BILL REPORT

## HB 2410

---

**As Reported by House Committee On:**  
Business & Financial Services

**Title:** An act relating to disclosure in real estate transactions of possible limits on reliance on permit exempt wells in future development.

**Brief Description:** Improving disclosure in real estate transactions of possible limits on reliance on permit exempt wells in future development.

**Sponsors:** Representatives Stanford, Tharinger, Lytton, Fitzgibbon and Upthegrove.

**Brief History:**

**Committee Activity:**

Business & Financial Services: 1/23/12, 1/24/12, 1/26/12, 1/27/12, 1/31/12 [DP].

**Brief Summary of Bill**

- Requires the seller disclosure statement for the sale of commercial and unimproved residential real estate to include additional information regarding water rights.

---

### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** Do pass. Signed by 7 members: Representatives Kirby, Chair; Kelley, Vice Chair; Blake, Hudgins, Hurst, Pedersen and Ryu.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Condotta, Kretz and Rivers.

**Staff:** Alexa Silver (786-7190).

**Background:**

In a sale of residential, unimproved residential, or commercial real estate, the seller must provide the buyer with a seller disclosure statement about the property unless the buyer waives it or the transaction is exempt. The disclosure forms are provided in statute. A disclosure statement regarding unimproved residential real estate contains information

---

*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.*

regarding title, water (household, irrigation, and sprinklers), sewer/septic, electricity, natural gas, flooding, soil stability, environmental issues, homeowners' associations, and other conditions or defects. The information related to water includes whether a water right permit, certificate, or claim is associated with household water supply for the property. A disclosure statement regarding commercial real estate contains information regarding title, water, sewer/septic, structures, systems, environmental issues, and other conditions or defects.

The seller must provide the disclosure statement within five business days of mutual acceptance of a written purchase agreement. The buyer may approve and accept the statement or rescind the purchase agreement. If the buyer fails to provide a written rescission notice to the seller within three business days, the disclosure is deemed approved and accepted. If the seller fails to provide the disclosure statement, the buyer has the right to rescind the transaction up until the date the transfer has closed. If the seller is late in providing the disclosure statement, the buyer retains the right to rescind for three days after receipt of the statement.

---

**Summary of Bill:**

In a sale of commercial real estate or unimproved residential real estate, the seller disclosure statement must indicate whether:

- a well drawing less than 5,000 gallons of water per day will supply water to the property; and
- the property will receive irrigation water from a well to irrigate a lawn or noncommercial garden that is less than half an acre.

In both circumstances, the disclosure form directs the seller to check with county or city officials to ensure that water is legally available for a new well.

In a sale of commercial real estate, the disclosure statement must also indicate whether there are water rights if the property is unimproved but intended for commercial or industrial use and is not served by a public water system. If there is a water right, the seller must attach a copy.

---

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) The goal of this bill is to bring clarity and reliability to the process when people buy real estate and expect a water supply. There are three ways to get water rights: hook up to a public water system, obtain a Department of Ecology (Department) permit, or obtain a small use exemption in rural areas. Many people rely on permit-exempt wells. However, the Department may have closed the basin or senior water rights may trump other rights. People may only learn that they cannot get a permit-exempt well when they apply for a building permit. The Yakima Basin is an adjudicated, over-appropriated basin. For those who bought property and then learned that water was unavailable, it was a life-changing situation. This approach would help prevent problems down the road and prevent misplaced investments. This bill is a work in progress.

(Opposed) The seller disclosure act was originally created for developed properties. Since then, sections have been created for vacant and commercial land. The questions in the disclosure forms all relate to the seller's actual knowledge and material defects. They are all subject matters where the seller is the correct source of information. The questions that the bill adds are phrased toward the buyer's intended use, which the seller would not know. The Department's rules limit or prohibit new wells in certain areas, and the Department is therefore in the best position to disclose that information.

**Persons Testifying:** (In support) Representative Stanford, prime sponsor; Suzanne Skinner, Center for Environmental Law and Policy; Evan Sheffels, Department of Ecology; and Dawn Vyvyan, Yakama Nation.

(Opposed) Bill Clarke, Washington Realtors.

**Persons Signed In To Testify But Not Testifying:** None.