

HOUSE BILL REPORT

HB 2274

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to establishing consumer protections for owners of solicited real estate.

Brief Description: Establishing consumer protections for owners of solicited real estate.

Sponsors: Representatives Donaghy, Connors, Walen, Ramel and Barnard.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/17/24, 1/31/24 [DPS].

Brief Summary of Substitute Bill

- Provides a property owner with the right to an appraisal and the right to cancel a purchase contract, with certain conditions, for solicited real estate transactions.
- Requires the purchase contract for solicited real estate transactions to include a statement about the property owner's rights.
- Provides for enforcement under the Consumer Protection Act.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman, Connors, Donaghy, Hackney, Ryu, Sandlin, Santos and Volz.

Staff: Megan Mulvihill (786-7304).

Background:

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

Washington law requires that real property is conveyed by deed. There are different types of deeds, but generally a deed must:

- be in writing;
- include consideration or be a gift;
- include a legal description of the property;
- be signed by the grantor in front of an authorized party, i.e., a notary; and
- be delivered to the grantee with the intent to pass title.

While many real estate transactions involve a real estate agent, the decision to use a real estate agent is at the discretion of the buyer or seller. A real estate agent must have a written agreement with their client to perform real estate brokerage services. Real estate agents have certain duties to their client, including:

- being loyal to the client by taking no action that would be adverse or detrimental to the client;
- disclosing in a timely manner any conflicts of interest;
- advising the client to get expert advice on matters relating to the transaction beyond the agent's expertise;
- refraining from disclosing confidential information about the client, except under subpoena or court order, even after termination of the relationship; and
- making a good faith effort to find a property for a buyer or to sell the property for a seller.

Summary of Substitute Bill:

When a property owner is solicited for the purchase of their property through public advertising or written, electronic, or in-person contact, and the property is not currently available or listed on the real estate market, the property owner has certain rights. The property owner has the right to an appraisal by a licensed appraiser, the right to receive notice from the potential buyer of the right to an appraisal, and the right to cancel the purchase contract without penalty or further obligation under certain conditions.

For property owners who wish to exercise their right to an appraisal:

- The property owner may select the appraiser, and the buyer is responsible for the expense.
- The appraisal must be ordered within three business days after the execution of the purchase contract, and the property owner must notify the buyer of the appraisal.
- The property owner has the right to cancel the purchase contract within four business days after the appraisal is received.

For property owners who do not wish to receive an appraisal, the property owner has the right to cancel the purchase contract within 10 business days after execution of the contract.

In the event the property owner wishes to cancel, the property owner must send a notice of

cancellation to the buyer by mail, telegram, email, or other means of written communication. Notice of cancellation is considered given when mailed, filed, emailed, or if sent by other means, when delivered to the buyer's designated place of business.

Purchase contracts for these types of solicited real estate transactions must state clearly in at least 10 point boldface type, and the seller must affirmatively acknowledge, that the seller has the right to an appraisal and has a right to cancel.

Solicited real estate transactions in which a buyer or seller is represented by a licensed real estate agent are exempt from the requirements established by the act. Violations are enforced under the Consumer Protection Act.

Substitute Bill Compared to Original Bill:

The substitute bill exempts solicited real estate transactions in which the buyer or seller is represented by a licensed real estate broker.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) People need time and information to make a decision about whether to sell their home when someone reaches out to them to buy their property, and this legislation ensures that. Appraisers exist to provide transparency and consumer protections, and they stand ready to ensure people are protected. In general, the concept of establishing protections for property owners is supported. However, the current language is quite broad and as drafted would regulate basic practices in the real estate market, potentially affecting every buyer and seller. It is recommended to define the class of protected sellers and buyers. Inquiries are important in a healthy real estate market, including from real estate agents.

(Opposed) None.

Persons Testifying: Representative Brandy Donaghy, prime sponsor; Riley Benge, Washington Realtors; and Tony Sermonti.

Persons Signed In To Testify But Not Testifying: None.