

# HOUSE BILL REPORT

## SSB 5895

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### As Passed House:

April 4, 2007

**Title:** An act relating to seller disclosure of information concerning residential real property.

**Brief Description:** Regarding sellers' disclosures for residential real property sales.

**Sponsors:** By Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Fraser, Swecker, Tom, Shin, Kline, McCaslin, Kilmer, Jacobsen, Delvin and Honeyford).

### Brief History:

#### Committee Activity:

Commerce & Labor: 3/16/07, 3/23/07 [DP].

#### Floor Activity:

Passed House: 4/4/07, 94-1.

### Brief Summary of Substitute Bill

- Requires a seller of unimproved residential land to complete a seller's disclosure statement.
- Makes changes to the required disclosure statement for sellers of both unimproved and improved residential land.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Green, Moeller and Williams.

**Staff:** Sarah Beznoska (786-7109).

### Background:

In 1994, the Legislature enacted a requirement that a disclosure statement be provided as part of a residential land sale. A seller of residential land must provide a buyer with a disclosure statement about the land unless the buyer waives the right to receive it. The disclosure

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requirement only applies to land with one to four dwelling units, a residential condominium, a residential timeshare, or a mobile or manufactured home that is personal property.

Unimproved land zoned for residential use is not subject to the seller disclosure statement requirement.

The disclosure form is specified in statute. The disclosures concern title, water, sewer systems, structural matters, systems and fixtures, common interest matters, and general matters.

The disclosure statement must be provided within five business days, or as otherwise agreed to, after mutual acceptance of a written purchase agreement between a buyer and a seller.

Within three business days of receiving the disclosure statement, the buyer has the right to approve and accept the statement or rescind the agreement for purchase. If the seller fails to provide the statement, the buyer may rescind the transaction until the transfer has closed. If the disclosure statement is delivered late, the buyer's right to rescind expires three days after receipt of the statement.

The seller and any licensed real estate salesperson or broker is not liable for error, inaccuracy, or omission in the disclosure statement if the seller or real estate salesperson or broker had no actual knowledge of the error, inaccuracy, or omission. This includes situations where information provided by public agencies, or other professionals is relied on. The statute provides that the Consumer Protection Act does not apply to violations. The statute preserves a right of action against the seller or against any agent acting for the seller under common law, statute, or contract.

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### **Summary of Bill:**

In addition to sellers of improved residential land, sellers of unimproved land zoned for residential use must complete a disclosure statement, unless they are otherwise exempt.

A separate disclosure statement is created for sellers of unimproved residential land. The disclosure statement is similar to the statement required of sellers of improved residential land, but contains some additional questions. For unimproved land, sellers must disclose if there is a water connection or hook-up charge and whether there is a certificate of water availability. The seller must also disclose if there are defects in the operation of the water system. For unimproved land, there are also additional disclosures related to septic systems, electrical and gas connections, soil stability, legal disputes, the property's classification as forest land, and development-related permit applications submitted to government agencies.

Disclosures are also added to the current disclosure statement for sellers of improved residential land and to the corresponding disclosure statement for sellers of unimproved residential land. Sellers must disclose whether there is a private road or easement for access to the property, whether any water rights (domestic or irrigation) are associated with the property, and, if so, whether the rights have been assigned, transferred, or changed. Sellers

must disclose whether all or any portion of the water rights have not been used for five or more successive years.

The general disclosure section is renamed environmental and the seller is asked whether there are any shorelines, wetlands, floodplains, or critical areas on the property. Sellers must disclose whether the property has been used for commercial or industrial purposes, whether there is any soil or ground water contamination, whether there are any transmission poles installed, maintained, or buried on the property, and whether the property has ever been used as a dumping site (legally or illegally).

Exemptions from the seller disclosure statement are revised. A bank that has foreclosed on a property must provide a buyer with a completed seller disclosure statement. In addition, if any of the seller's answers are "yes" under the environmental section, the buyer must not waive receipt of the environmental section of the seller disclosure statement.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) This bill was controversial last session, but it has been worked out. This is a statewide bill because it is the product of input from many stakeholders.

Real estate is a big investment and disclosure is important. This bill does not create a new requirement for a seller to do a study of the property. If a seller knows about toxics on their property, the seller should disclose that and this bill requires that. The bill also provides that no one is exempt from the environmental section of the disclosure statement. Creating an entirely new form for unimproved property, instead of using the same form as for improved property, was in response to concerns raised by realtors. A separate form is easier for the seller, buyer, and agent.

There is a sophisticated system for commercial real estate, but it is not the same at the residential level. Not all residential sites are reported to the Department of Ecology and the seller knows the property best. This bill will make people aware of issues with the property and will avoid harm to the public.

(Opposed) None.

**Persons Testifying:** (In Support) Senator Fraser, prime sponsor; Peter Konet, Department of Ecology; and Phil Harlan, Washington Realtors.

**Persons Signed In To Testify But Not Testifying:** Larry Stout, Washington Realtors.