

SENATE BILL REPORT

SB 6460

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 3, 2010

Title: An act relating to preparation charges for condominium resale certificates.

Brief Description: Increasing the charge limit for the preparation of condominium resale certificates.

Sponsors: Senators Marr and Fraser.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/27/10, 2/02/10, 2/03/10 [DP, DNP, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senator Benton, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Parlette and Schoesler.

Staff: Alison Mendiola (786-7483)

Background: When selling a condominium unit, the unit owner is to provide the purchaser with a resale certificate prior to entering into any contract for the sale or conveyance of the unit. A resale certificate is not required if: (1) delivery of a public offering statement is required, or (2) the unit owner is otherwise exempt from providing a resale certificate, such as when the unit is sold under foreclosure.

A resale certificate is signed by an officer or authorized agent of the condominium association and the certificate is based on the books and records of the association, including:

- a statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;
- a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from

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- the selling unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;
- a statement, which must be current to within 45 days, of any common expenses or special assessments against any unit in the condominium that are past due over 30 days;
 - a statement, which must be current to within 45 days, of any obligation of the association which is past due over 30 days;
 - a statement of any other fees payable by unit owners;
 - a statement of any anticipated repair or replacement cost in excess of 5 percent of the annual budget of the association that has been approved by the board of directors;
 - a statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;
 - the annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;
 - a balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which must be current to within 120 days;
 - the current operating budget of the association;
 - a statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;
 - a statement describing any insurance coverage provided for the benefit of unit owners;
 - a statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;
 - a statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;
 - a statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;
 - a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof;
 - a copy of the declaration, the bylaws, the rules or regulations of the association, the association's current reserve study, if any, and any other information reasonably requested by mortgagees of prospective purchasers of units;
 - a statement as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and
 - if the association does not have a reserve study, then a disclosure as proscribed by law.

When a unit owner requests a resale certificate and provides any fee as may be required, the association is to provide the certificate within ten days of the request.

A reasonable charge for a resale certificate may not exceed \$150.

Summary of Bill: A reasonable charge for a resale certificate may not exceed \$275 and may be adjusted for inflation based on the consumer price index.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The statute that caps the amount an association can charge for the preparation of resale certificate does not adequately reflect the time and costs to create the certificate as the requirements have increased since the cap was placed in statute. Of the 25 states that require a resale certificate, only four states regulate the fee an association may charge. Having the unit owner pay for the certificate keeps the cost low for the whole association. The average certificate is 200 pages; it's not a source of income for the association.

Persons Testifying: PRO: Senator Marr, prime sponsor; Kathryn Hedrick, Community Associations Institute; Jim Comin, CDC Management Services; Julianne Rossiter, Trestle Community Management.