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SENATE BILL 6602

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State of Washington

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By Senators Wood, Prentice, Hale, Haugen, Sellar, Winsley, Roach,  
Fraser, Sutherland and Cantu

Read first time 01/19/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to public offering statements for condominiums; and  
2 amending RCW 64.34.410, 64.34.443, and 64.34.232.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 64.34.410 and 1992 c 220 s 21 are each amended to read  
5 as follows:

6 (1) A public offering statement shall contain the following  
7 information:

8 (a) The name and address of the condominium;

9 (b) The name and address of the declarant;

10 (c) The name and address of the management company, if any;

11 (d) The relationship of the management company to the declarant, if  
12 any;

13 (e) A list of up to the five most recent condominium projects  
14 completed by the declarant or an affiliate of the declarant within the  
15 past five years, including the names of the condominiums, their  
16 addresses, and the number of existing units in each. For the purpose  
17 of this section, a condominium is "completed" when any one unit therein  
18 has been rented or sold;

19 (f) The nature of the interest being offered for sale;

1 (g) A brief description of the permitted uses and use restrictions  
2 pertaining to the units and the common elements;

3 (h) A brief description of the permitted uses and use restrictions  
4 pertaining to the units and common elements remaining unsold at the  
5 time the interest is being offered for sale, and pertaining to the  
6 rights reserved in the units and common elements by the declarant;

7 (i) The number of existing units in the condominium and the maximum  
8 number of units that may be added to the condominium;

9 ~~((i))~~ (j) A list of the principal common amenities in the  
10 condominium which materially affect the value of the condominium and  
11 those that will or may be added to the condominium;

12 ~~((j))~~ (k) A list of the limited common elements assigned to the  
13 units being offered for sale;

14 ~~((k))~~ (l) The identification of any real property not in the  
15 condominium, the owner of which has access to any of the common  
16 elements, and a description of the terms of such access;

17 ~~((l))~~ (m) The identification of any real property not in the  
18 condominium to which unit owners have access and a description of the  
19 terms of such access;

20 ~~((m))~~ (n) The status of construction of the units and common  
21 elements, including estimated dates of completion if not completed;

22 ~~((n))~~ (o) The estimated current common expense liability for the  
23 units being offered;

24 ~~((o))~~ (p) An estimate of any payment with respect to the common  
25 expense liability for the units being offered which will be due at  
26 closing;

27 ~~((p))~~ (q) The estimated current amount and purpose of any fees  
28 not included in the common expenses and charged by the declarant or the  
29 association for the use of any of the common elements;

30 ~~((q))~~ (r) Any assessments which have been agreed to or are known  
31 to the declarant and which, if not paid, may constitute a lien against  
32 any units or common elements in favor of any governmental agency;

33 ~~((r))~~ (s) The identification of any parts of the condominium,  
34 other than the units, which any individual owner will have the  
35 responsibility for maintaining;

36 ~~((s))~~ (t) If the condominium involves a conversion condominium,  
37 the information required by RCW 64.34.415;

38 ~~((t))~~ (u) Whether timesharing is restricted or prohibited, and if  
39 restricted, a general description of such restrictions;

1       ~~((u))~~ (v) A list of all development rights reserved to the  
2 declarant and all special declarant rights reserved to the declarant,  
3 together with the dates such rights must terminate, and a copy of or  
4 reference by recording number to any recorded transfer of a special  
5 declarant right;

6       ~~((v))~~ (w) A description of any material differences in terms of  
7 furnishings, fixtures, finishes, and equipment between any model unit  
8 available to the purchaser at the time the agreement for sale is  
9 executed and the unit being offered;

10       ~~((w))~~ (x) Any liens on real property to be conveyed to the  
11 association required to be disclosed pursuant to RCW 64.34.435(2)(b);

12       ~~((x))~~ (y) A list of any physical hazards known to the declarant  
13 which particularly affect the condominium or the immediate vicinity in  
14 which the condominium is located and which are not readily  
15 ascertainable by the purchaser;

16       ~~((y))~~ (z) A brief description of any construction warranties to  
17 be provided to the purchaser;

18       ~~((z))~~ (aa) Any building code violation citations received by the  
19 declarant in connection with the condominium which have not been  
20 corrected;

21       ~~((aa))~~ (bb) A statement of any unsatisfied judgments or pending  
22 suits against the association, a statement of the status of any pending  
23 suits material to the condominium of which the declarant has actual  
24 knowledge, and a statement of any litigation brought by an owners'  
25 association, unit owner, or governmental entity in which the declarant  
26 or any affiliate of the declarant has been a defendant, arising out of  
27 the construction, sale, or administration of any condominium within the  
28 previous five years, together with the results thereof, if known;

29       ~~((bb))~~ (cc) Any rights of first refusal to lease or purchase any  
30 unit or any of the common elements;

31       ~~((ee))~~ (dd) The extent to which the insurance provided by the  
32 association covers furnishings, fixtures, and equipment located in the  
33 unit;

34       ~~((dd))~~ (ee) A notice which describes a purchaser's right to  
35 cancel the purchase agreement or extend the closing under RCW  
36 64.34.420, including applicable time frames and procedures;

37       ~~((ee))~~ (ff) Any reports or statements required by RCW 64.34.415  
38 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering  
39 statement of a condominium in connection with which a final certificate

1 of occupancy was issued more than sixty calendar months prior to the  
2 preparation of the public offering statement whether or not the  
3 condominium is a conversion condominium as defined in RCW  
4 64.34.020(10);

5 ~~((ff))~~ (gg) A list of the documents which the prospective  
6 purchaser is entitled to receive from the declarant before the  
7 rescission period commences;

8 ~~((gg))~~ (hh) A notice which states: A purchaser may not rely on  
9 any representation or express warranty unless it is contained in the  
10 public offering statement or made in writing signed by the declarant or  
11 by any person identified in the public offering statement as the  
12 declarant's agent;

13 ~~((hh))~~ (ii) A notice which states: This public offering  
14 statement is only a summary of some of the significant aspects of  
15 purchasing a unit in this condominium and the condominium documents are  
16 complex, contain other important information, and create binding legal  
17 obligations. You should consider seeking the assistance of legal  
18 counsel; and

19 ~~((ii))~~ (jj) Any other information and cross-references which the  
20 declarant believes will be helpful in describing the condominium to the  
21 recipients of the public offering statement, all of which may be  
22 included or not included at the option of the declarant.

23 (2) The public offering statement shall include copies of each of  
24 the following documents: The declaration, the survey map and plans,  
25 the articles of incorporation of the association, bylaws of the  
26 association, rules and regulations, if any, current or proposed budget  
27 for the association, and the balance sheet of the association current  
28 within ninety days if assessments have been collected for ninety days  
29 or more.

30 If any of the foregoing documents listed in this subsection are not  
31 available because they have not been executed, adopted, or recorded,  
32 drafts of such documents shall be provided with the public offering  
33 statement, and, before closing the sale of a unit, the purchaser shall  
34 be given copies of any material changes between the draft of the  
35 proposed documents and the final documents.

36 (3) The disclosures required by subsection (1)(g), ~~((j))~~ (k),  
37 ~~((r))~~ (s), ~~((t))~~ (u), ~~((u))~~ (v), and ~~((bb))~~ (cc) of this  
38 section shall also contain a reference to specific sections in the  
39 condominium documents which further explain the information disclosed.

1 (4) The disclosures required by subsection (1)(~~(dd)~~) (ee),  
2 (~~(gg)~~) (hh), and (~~(hh)~~) (ii) of this section shall be located at  
3 the top of the first page of the public offering statement and be typed  
4 or printed in ten-point bold face type size.

5 (5) A declarant shall promptly amend the public offering statement  
6 to reflect any material change in the information required by this  
7 section.

8 **Sec. 2.** RCW 64.34.443 and 1989 c 428 s 2 are each amended to read  
9 as follows:

10 (1) Express warranties made by any seller to a purchaser of a unit,  
11 if relied upon by the purchaser, are created as follows:

12 (a) Any written affirmation of fact or promise which relates to the  
13 unit, its use, or rights appurtenant thereto, area improvements to the  
14 condominium that would directly benefit the unit, or the right to use  
15 or have the benefit of facilities not located in the condominium  
16 creates an express warranty that the unit and related rights and uses  
17 will conform to the affirmation or promise;

18 (b) Any model or written description of the physical  
19 characteristics of the condominium at the time the purchase agreement  
20 is executed, including plans and specifications of or for improvements,  
21 creates an express warranty that the condominium will conform to the  
22 model or description except pursuant to RCW 64.34.410(1)(v);

23 (c) Any written description of the quantity or extent of the real  
24 property comprising the condominium, including plats or surveys,  
25 creates an express warranty that the condominium will conform to the  
26 description, subject to customary tolerances; and

27 (d) A written provision that a buyer may put a unit only to a  
28 specified use is an express warranty that the specified use is lawful.

29 (2) Neither formal words, such as "warranty" or "guarantee," nor a  
30 specific intention to make a warranty are necessary to create an  
31 express warranty of quality, but a statement purporting to be merely an  
32 opinion or commendation of the real estate or its value does not create  
33 a warranty. A purchaser may not rely on any representation or express  
34 warranty unless it is contained in the public offering statement or  
35 made in writing signed by the declarant or declarant's agent identified  
36 in the public offering statement. This section may not be construed to  
37 limit a declarant's liability for misrepresentations contained in, or

1 omissions from, the public offering statement required under RCW  
2 64.34.405(1).

3 (3) Any conveyance of a unit transfers to the purchaser all express  
4 warranties of quality made by previous sellers.

5 **Sec. 3.** RCW 64.34.232 and 1992 c 220 s 10 are each amended to read  
6 as follows:

7 (1) A survey map and plans executed by the declarant shall be  
8 recorded simultaneously with, and contain cross-references by recording  
9 number to, the declaration and any amendments. The survey map and  
10 plans must be clear and legible and contain a certification by the  
11 person making the survey or the plans that all information required by  
12 this section is supplied. All plans filed shall be in such style,  
13 size, form and quality as shall be prescribed by the recording  
14 authority of the county where filed, and a copy shall be delivered to  
15 the county assessor.

16 (2) Each survey map shall show or state:

17 (a) The name of the condominium and a legal description and a  
18 survey of the land in the condominium and of any land that may be added  
19 to the condominium;

20 (b) The boundaries of all land not subject to development rights,  
21 or subject only to the development right to withdraw, and the location  
22 and dimensions of all existing buildings containing units on that land;

23 (c) The boundaries of any land subject to development rights,  
24 labeled "SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION";  
25 any land that may be added to the condominium shall also be labeled  
26 "MAY BE ADDED TO THE CONDOMINIUM"; any land that may be withdrawn from  
27 the condominium shall also be labeled "MAY BE WITHDRAWN FROM THE  
28 CONDOMINIUM";

29 (d) The extent of any encroachments by or upon any portion of the  
30 condominium;

31 (e) To the extent feasible, the location and dimensions of all  
32 recorded easements serving or burdening any portion of the condominium  
33 and any unrecorded easements of which a surveyor knows or reasonably  
34 should have known, based on standard industry practices, while  
35 conducting the survey;

36 (f) Subject to the provisions of subsection (8) of this section,  
37 the location and dimensions of any vertical unit boundaries not shown

1 or projected on plans recorded (~~(pursuant to)~~) under subsection (4) of  
2 this section and that unit's identifying number;

3 (g) The location with reference to an established datum of any  
4 horizontal unit boundaries not shown or projected on plans recorded  
5 (~~(pursuant to)~~) under subsection (4) of this section and that unit's  
6 identifying number;

7 (h) The location and dimensions of any real property in which the  
8 unit owners will own only an estate for years, labeled as "leasehold  
9 real property";

10 (i) The distance between any noncontiguous parcels of real property  
11 comprising the condominium;

12 (j) The general location of any existing principal common amenities  
13 listed in a public offering statement (~~(pursuant to)~~) under RCW  
14 64.34.410(1)(~~(i)~~) (j) and any limited common elements, including  
15 limited common element porches, balconies, patios, parking spaces, and  
16 storage facilities, but not including the other limited common elements  
17 described in RCW 64.34.204 (2) and (4);

18 (k) In the case of real property not subject to development rights,  
19 all other matters customarily shown on land surveys.

20 (3) A survey map may also show the intended location and dimensions  
21 of any contemplated improvement to be constructed anywhere within the  
22 condominium. Any contemplated improvement shown must be labeled either  
23 "MUST BE BUILT" or "NEED NOT BE BUILT."

24 (4) To the extent not shown or projected on the survey map, plans  
25 of the existing units must show or project:

26 (a) Subject to the provisions of subsection (8) of this section,  
27 the location and dimensions of the vertical boundaries of each unit,  
28 and that unit's identifying number;

29 (b) Any horizontal unit boundaries, with reference to an  
30 established datum, and that unit's identifying number; and

31 (c) Any units in which the declarant has reserved the right to  
32 create additional units or common elements under RCW 64.34.236(3),  
33 identified appropriately.

34 (5) Unless the declaration provides otherwise, the horizontal  
35 boundaries of part of a unit located outside of a building have the  
36 same elevation as the horizontal boundaries of the inside part and in  
37 such case need not be depicted on the survey map and plans.

38 (6) Upon exercising any development right, the declarant shall  
39 record either a new survey map and plans necessary to conform to the

1 requirements of subsections (1), (2), and (3) of this section or new  
2 certifications of a survey map and plans previously recorded if the  
3 documents otherwise conform to the requirements of those subsections.

4 (7) Any survey map, plan, or certification required by this section  
5 shall be made by a licensed surveyor.

6 (8) In showing or projecting the location and dimensions of the  
7 vertical boundaries of a unit under subsections (2)(f) and (4)(a) of  
8 this section, it is not necessary to show the thickness of the walls  
9 constituting the vertical boundaries or otherwise show the distance of  
10 those vertical boundaries either from the exterior surface of the  
11 building containing that unit or from adjacent vertical boundaries of  
12 other units if: (a) The walls are designated to be the vertical  
13 boundaries of that unit; (b) the unit is located within a building, the  
14 location and dimensions of the building having been shown on the survey  
15 map under subsection (2)(b) of this section; and (c) the graphic  
16 general location of the vertical boundaries are shown in relation to  
17 the exterior surfaces of that building and to the vertical boundaries  
18 of other units within that building.

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