

CERTIFICATION OF ENROLLMENT

SENATE BILL 5741

55th Legislature
1997 Regular Session

Passed by the Senate April 21, 1997
YEAS 44 NAYS 0

President of the Senate

Passed by the House April 10, 1997
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5741** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5741

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senators Wood and Winsley

Read first time 02/10/97. Referred to Committee on Financial
Institutions, Insurance & Housing.

1 AN ACT Relating to public offering statements for condominiums; and
2 amending RCW 64.34.410, 64.34.232, and 49.60.222.

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 restrictions, if any, on the renting
4 or leasing of units by the declarant or other unit owners, together
5 with the rights, if any, of the declarant to rent or lease at least a
6 majority of units;

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; and

23 (kk) A notice that addresses compliance or noncompliance with the
24 housing for older persons act of 1995, P.L. 104-76, as enacted on
25 December 28, 1995.

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

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

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

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

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

12 **Sec. 2.** RCW 64.34.232 and 1992 c 220 s 10 are each amended to read
13 as follows:

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

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

24 (a) The name of the condominium and a legal description and a
25 survey of the land in the condominium and of any land that may be added
26 to the condominium;

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

30 (c) The boundaries of any land subject to development rights,
31 labeled "SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION";
32 any land that may be added to the condominium shall also be labeled
33 "MAY BE ADDED TO THE CONDOMINIUM"; any land that may be withdrawn from
34 the condominium shall also be labeled "MAY BE WITHDRAWN FROM THE
35 CONDOMINIUM";

36 (d) The extent of any encroachments by or upon any portion of the
37 condominium;

1 (e) To the extent feasible, the location and dimensions of all
2 recorded easements serving or burdening any portion of the condominium
3 and any unrecorded easements of which a surveyor knows or reasonably
4 should have known, based on standard industry practices, while
5 conducting the survey;

6 (f) Subject to the provisions of subsection (8) of this section,
7 the location and dimensions of any vertical unit boundaries not shown
8 or projected on plans recorded (~~((pursuant to))~~) under subsection (4) of
9 this section and that unit's identifying number;

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

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

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

19 (j) The general location of any existing principal common amenities
20 listed in a public offering statement (~~((pursuant to))~~) under RCW
21 64.34.410(1)((+i)) (j) and any limited common elements, including
22 limited common element porches, balconies, patios, parking spaces, and
23 storage facilities, but not including the other limited common elements
24 described in RCW 64.34.204 (2) and (4);

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

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

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

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

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

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

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

8 (6) Upon exercising any development right, the declarant shall
9 record either a new survey map and plans necessary to conform to the
10 requirements of subsections (1), (2), and (3) of this section or new
11 certifications of a survey map and plans previously recorded if the
12 documents otherwise conform to the requirements of those subsections.

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

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

28 **Sec. 3.** RCW 49.60.222 and 1995 c 259 s 3 are each amended to read
29 as follows:

30 (1) It is an unfair practice for any person, whether acting for
31 himself, herself, or another, because of sex, marital status, race,
32 creed, color, national origin, families with children status, the
33 presence of any sensory, mental, or physical disability, or the use of
34 a trained guide dog or service dog by a disabled person:

35 (a) To refuse to engage in a real estate transaction with a person;

36 (b) To discriminate against a person in the terms, conditions, or
37 privileges of a real estate transaction or in the furnishing of
38 facilities or services in connection therewith;

1 (c) To refuse to receive or to fail to transmit a bona fide offer
2 to engage in a real estate transaction from a person;

3 (d) To refuse to negotiate for a real estate transaction with a
4 person;

5 (e) To represent to a person that real property is not available
6 for inspection, sale, rental, or lease when in fact it is so available,
7 or to fail to bring a property listing to his or her attention, or to
8 refuse to permit the person to inspect real property;

9 (f) To discriminate in the sale or rental, or to otherwise make
10 unavailable or deny a dwelling, to any person; or to a person residing
11 in or intending to reside in that dwelling after it is sold, rented, or
12 made available; or to any person associated with the person buying or
13 renting;

14 (g) To make, print, circulate, post, or mail, or cause to be so
15 made or published a statement, advertisement, or sign, or to use a form
16 of application for a real estate transaction, or to make a record or
17 inquiry in connection with a prospective real estate transaction, which
18 indicates, directly or indirectly, an intent to make a limitation,
19 specification, or discrimination with respect thereto;

20 (h) To offer, solicit, accept, use, or retain a listing of real
21 property with the understanding that a person may be discriminated
22 against in a real estate transaction or in the furnishing of facilities
23 or services in connection therewith;

24 (i) To expel a person from occupancy of real property;

25 (j) To discriminate in the course of negotiating, executing, or
26 financing a real estate transaction whether by mortgage, deed of trust,
27 contract, or other instrument imposing a lien or other security in real
28 property, or in negotiating or executing any item or service related
29 thereto including issuance of title insurance, mortgage insurance, loan
30 guarantee, or other aspect of the transaction. Nothing in this section
31 shall limit the effect of RCW 49.60.176 relating to unfair practices in
32 credit transactions; or

33 (k) To attempt to do any of the unfair practices defined in this
34 section.

35 (2) For the purposes of this chapter discrimination based on the
36 presence of any sensory, mental, or physical disability or the use of
37 a trained guide dog or service dog by a blind, deaf, or physically
38 disabled person includes:

1 (a) A refusal to permit, at the expense of the disabled person,
2 reasonable modifications of existing premises occupied or to be
3 occupied by such person if such modifications may be necessary to
4 afford such person full enjoyment of the dwelling, except that, in the
5 case of a rental, the landlord may, where it is reasonable to do so,
6 condition permission for a modification on the renter agreeing to
7 restore the interior of the dwelling to the condition that existed
8 before the modification, reasonable wear and tear excepted;

9 (b) To refuse to make reasonable accommodation in rules, policies,
10 practices, or services when such accommodations may be necessary to
11 afford a person with the presence of any sensory, mental, or physical
12 disability and/or the use of a trained guide dog or service dog by a
13 blind, deaf, or physically disabled person equal opportunity to use and
14 enjoy a dwelling; or

15 (c) To fail to design and construct covered multifamily dwellings
16 and premises in conformance with the federal fair housing amendments
17 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws
18 or regulations pertaining to access by persons with any sensory,
19 mental, or physical disability or use of a trained guide dog or service
20 dog. Whenever the requirements of applicable laws or regulations
21 differ, the requirements which require greater accessibility for
22 persons with any sensory, mental, or physical disability shall govern.

23 Nothing in (a) or (b) of this subsection shall apply to: (i) A
24 single-family house rented or leased by the owner if the owner does not
25 own or have an interest in the proceeds of the rental or lease of more
26 than three such single-family houses at one time, the rental or lease
27 occurred without the use of a real estate broker or salesperson, as
28 defined in RCW 18.85.010, and the rental or lease occurred without the
29 publication, posting, or mailing of any advertisement, sign, or
30 statement in violation of subsection (1)(g) of this section; or (ii)
31 rooms or units in dwellings containing living quarters occupied or
32 intended to be occupied by no more than four families living
33 independently of each other if the owner maintains and occupies one of
34 the rooms or units as his or her residence.

35 (3) Notwithstanding any other provision of this chapter, it shall
36 not be an unfair practice or a denial of civil rights for any public or
37 private educational institution to separate the sexes or give
38 preference to or limit use of dormitories, residence halls, or other

1 student housing to persons of one sex or to make distinctions on the
2 basis of marital or families with children status.

3 (4) Except pursuant to subsection (2)(a) of this section, this
4 section shall not be construed to require structural changes,
5 modifications, or additions to make facilities accessible to a disabled
6 person except as otherwise required by law. Nothing in this section
7 affects the rights, responsibilities, and remedies of landlords and
8 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
9 post and enforce reasonable rules of conduct and safety for all tenants
10 and their guests, provided that chapters 59.18 and 59.20 RCW are only
11 affected to the extent they are inconsistent with the nondiscrimination
12 requirements of this chapter. Nothing in this section limits the
13 applicability of any reasonable federal, state, or local restrictions
14 regarding the maximum number of occupants permitted to occupy a
15 dwelling.

16 (5) Notwithstanding any other provision of this chapter, it shall
17 not be an unfair practice for any public establishment providing for
18 accommodations offered for the full enjoyment of transient guests as
19 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
20 families with children status. Nothing in this section shall limit the
21 effect of RCW 49.60.215 relating to unfair practices in places of
22 public accommodation.

23 (6) Nothing in this chapter prohibiting discrimination based on
24 families with children status applies to housing for older persons as
25 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
26 Sec. 3607(b)(1) through (3), as amended by the housing for older
27 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.
28 Nothing in this chapter authorizes requirements for housing for older
29 persons different than the requirements in the federal fair housing
30 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as
31 amended by the housing for older persons act of 1995, P.L. 104-76, as
32 enacted on December 28, 1995.

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