

SENATE BILL REPORT

SB 6608

As of February 7, 2002

Title: An act relating to condominium purchases.

Brief Description: Resolving disputes concerning condominium purchases.

Sponsors: Senators Prentice, Rossi, West, Hale and Winsley.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 2/7/02.

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Staff: Matthew Adams (786-7784)

Background: Residential condominiums have common and separate ownership. A document, called the declaration, creates a condominium by setting forth required information. Any person or group executing the declaration is commonly referred to as the declarant.

Washington's Condominium Act governs the construction, sale, financing, and management of residential condominiums. Among other provisions, the act provides buyers with implied warranties of quality from the seller. Condominiums must be constructed free of defective materials, in a workmanlike manner, and in accordance with sound construction and engineering standards and applicable law.

In addition, the Condominium Act has provisions relating to the disclaimer of implied warranties of quality. The act prohibits a general disclaimer of implied warranties of quality by the purchaser. A declarant and any dealer may, however, disclaim liability for a specific defect or failure to comply with applicable law when the defect or failure became the basis of the bargain. This disclaimer must be contained in a document signed by purchaser.

Any right or obligation created by the Condominium Act is enforceable by judicial proceedings. No provision exists, however, for alternative dispute resolution.

Residential condominiums help to provide affordable housing and to satisfy the Growth Management Act's density requirements. There is concern about rising costs of litigation, insurance premiums, and sale prices, while the number of new condominium starts is decreasing.

Summary of Bill: Agreements between a condominium declarant/seller and all original condominium buyers are binding upon the owners' association and subsequent buyers. The parties may resolve a dispute by arbitration through a written agreement signed by the buyer.

An agreement may provide a builder with the rights of notice and cure of defects. Any legal proceeding based upon an alleged breach of a warranty of quality is subject to the buyer's or association's compliance with notice and cure requirements.

General warranty disclaimers must be in writing and signed by the buyer. Any disclaimers relating to structural elements, building code provisions affecting life, safety, or habitability must specify the defect, legal noncompliance, or construction category affected by the disclaimer.

Appropriation: None.

Fiscal Note: Not requested.

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