

# SENATE BILL REPORT

## SB 6494

---

---

As Reported By Senate Committee On:  
Financial Institutions, Housing & Consumer Protection, February 2, 2006

**Title:** An act relating to a seller's real estate disclosure of proximity to farming.

**Brief Description:** Eliminating the requirement for a seller's real estate disclosure of proximity to farming.

**Sponsors:** Senators Kline, Rasmussen, Esser, Keiser, Poulsen and Oke.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 2/2/06 [DPS].

---

### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Majority Report:** That Substitute Senate Bill No. 6494 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benton, Ranking Minority Member; Benson, Brandland, Finkbeiner, Keiser, Schmidt and Spanel.

**Staff:** Jennifer Arnold (786-7471)

**Background:** Sellers of real property are required, by statute, to make certain disclosures to prospective buyers in order to put such buyers on notice of conditions, encumbrances, laws, and regulations affecting the property.

Under current law, sellers of real property, located within one mile of a farm or farm operation, are required to provide prospective buyers with the following notice statement: *"This notice is to inform prospective residents that the real property they are about to acquire lies within one mile of the property boundary of a farm. The farm may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Washington right to farm act."*

The Washington "Right to Farm Act" provides that, in general, agricultural activities conducted on farmland, if consistent with good agricultural practice and established prior to surrounding non-agricultural activities, are presumed to be reasonable and therefore do not constitute "nuisances" that may be prevented in a lawsuit. In a nuisance lawsuit, a plaintiff may sue a property owner based on the claim that the defendant makes unreasonable use of their property to the detriment of the plaintiff's property. These lawsuits may, for example, seek to prevent noise or odors.

**Summary of Substitute Bill:** The disclosure required to be made by sellers of real property in regards to farm proximity and farm practices is modified. It is no longer specified that the real property to be purchased lies within one mile of a farm, rather it is stated that the property

"*may lie within close proximity to a farm.*" The disclosure provides that "*the operation of a farm involves usual and customary agricultural practices,*" protected by the Right to Farm Act, in place of stating that the farm may generate usual and ordinary noise, dust, odors, and other associated conditions.

**Substitute Bill Compared to Original Bill:** The disclosure requirement for sellers of real property, relating to the proximity and operation of a farm, is not repealed, but modified; rather than stating that the property lies within one mile of farm, it provides that the property for sale may lie within close proximity of a farm.

**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.

**Testimony For:** This bill represents a compromise between the interested parties. It ensures that the notice provisions are more effective for both the sellers and the farming community, while at the same time providing prospective buyers with accurate notice.

**Testimony Against:** None.

**Who Testified:** PRO: Bob Mitchell, Washington Realtors.