

HOUSE BILL REPORT

SSB 6749

As Passed House:
February 28, 2010

Title: An act relating to the transfer of commercial real estate.

Brief Description: Concerning the transfer of commercial real estate.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Fraser and Honeyford).

Brief History:

Committee Activity:

Commerce & Labor: 2/19/10, 2/23/10 [DP].

Floor Activity:

Passed House: 2/28/10, 96-0.

Brief Summary of Substitute Bill

- Requires sellers of commercial real estate to provide buyers with a disclosure statement, which is similar to the required disclosure statement for sellers of residential real property.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152).

Background:

A seller of residential land must provide a buyer with a disclosure statement about the land unless the buyer waives the right to receive it. The disclosure requirement applies to sales of unimproved residential land and improved residential land.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The disclosure forms are specified in statute. The disclosure for unimproved residential land concerns title, water, sewer/septic systems, electrical/gas, flooding, soil stability, environmental, and homeowners' association/common interests. The disclosure for improved residential land concerns title, water, sewer/on-site sewage system, structural, systems and fixtures, homeowners' association/common interests, environmental, and manufactured and mobile homes.

The disclosure statement must be provided within five business days, or as otherwise agreed to, after mutual acceptance of a written purchase agreement between a buyer and a seller. Within three business days of receiving the disclosure statement, the buyer has the right to approve and accept the statement or rescind the agreement for purchase. If the seller fails to provide the statement, the buyer may rescind the transaction until the transfer has closed. If the disclosure statement is delivered late, the buyer's right to rescind expires three days after receipt of the statement.

Transfers to a buyer who expressly waives receipt of the disclosure statement are excluded. However, if the answer to any of the questions in the "Environmental" section would be "yes," the buyer may not waive receipt of that section.

Summary of Bill:

A seller of commercial real estate must provide a buyer with a disclosure statement about the land unless the buyer waives the right to receive it. The disclosure for commercial real estate concerns title and legal, water, sewer/on-site sewage, structural, systems and fixtures, and environmental.

"Commercial real estate" is defined as a fee title interest or possessory estate in real property located in this state except an interest in real property which is: (1) improved with one single-family residential unit or one multifamily structure with four or less residential units; (2) unimproved and the maximum permitted development is one to four residential units or structures under the county or city zoning ordinances or comprehensive plan applicable to that real estate; (3) classified as farm and agricultural land or timber land for assessment purposes; or (4) improved with single-family residential units such as condominiums, townhouses, timeshares, or stand-alone houses in a subdivision that may be legally sold, leased, or otherwise disposed of on a unit-by-unit basis.

The disclosure statement must be provided within five business days, or as otherwise agreed to, after mutual acceptance of a written purchase agreement between a buyer and a seller. Within three business days of receiving the disclosure statement, the buyer has the right to approve and accept the statement or rescind the agreement for purchase. If the seller fails to provide the statement, the buyer may rescind the transaction until the transfer has closed. If the disclosure statement is delivered late, the buyer's right to rescind expires three days after receipt of the statement.

Only sellers of residential land are required to provide notice to a buyer that the property for sale may be located in close proximity to a farm and that the farm's operation involves customary practices that are protected under the Washington Right to Farm Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will provide helpful clarity to buyers and sellers of property. The existing definitions for unimproved and improved real property are confusing and the cause of major litigation. Efforts in the past to change these definitions have failed. The only real solution was to create a new form for commercial real estate. With this bill, Washington will be the first state to have this. The form is different from the forms for residential real property because the nature of commercial real estate transactions is different. The new form has more emphasis on environmental matters, for example.

(Opposed) None.

Persons Testifying: Senator Fraser, prime sponsor; and Bill Clark and Annie Fitzsimmons, Washington Realtors.

Persons Signed In To Testify But Not Testifying: None.