

SENATE BILL REPORT

SSB 6749

As Passed Senate, February 16, 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: Labor, Commerce & Consumer Protection: 2/02/10 [DPS].

Passed Senate: 2/16/10, 48-0.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 6749 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Honeyford, King and Kline.

Staff: Ingrid Mungia (786-7423)

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.

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 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.

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.

Transfer to a buyer who expressly waives receipt of the disclosure statement is exempt. 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 Substitute 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, water, sewer/on-site sewage, structure, systems and fixtures and environmental.

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.

A seller of residential real property, currently the statute only states real property, must make available to a buyer a statement 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.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This bill was developed to address commercial property transactions. The bill addresses the needs of a commercial transaction. In the existing seller disclosure act, there is a discloser statement requirement. There is a flaw in the definition of unimproved residential real property that causes a difficult situation between a seller and a buyer. A less sophisticated seller is taken advantage of by a more sophisticated buyer. This bill will fill in the cap for the single item of property not covered by the existing sellers disclosure act. There will now be disclosures for unimproved and improved residential real property and commercial real estate.

Persons Testifying: PRO: Bob Mitchell, Washington Commercial Association of Realtors; Annette Fitzsimmons, Washington Realtors.