HOUSE BILL REPORT
2SSB 5053

As Passed House - Amended:
February 27, 1996

Title: An act relating to real estate disclosure.

Brief Description: Disclosing real estate information.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators Haugen and Winsley).

Brief History:
Committee Activity:
Trade & Economic Development: 2/21/96, 2/22/96 [DPA].
Floor Activity:
Passed House - Amended: 2/27/96, 86-12.

HOUSE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 13 members: Representatives Van Luven, Chairman; Radcliff, Vice Chairman; D. Schmidt, Vice Chairman; Sheldon, Ranking Minority Member; Veloria, Assistant Ranking Minority Member; Backlund; Ballasiotes; Hatfield; Hickel; Mason; Sherstad; Skinner and Valle.

Staff: Kenny Pittman (786-7392).

Background: In 1994, the Legislature enacted laws requiring the disclosure of certain information on the sale of residential real estate. The state's disclosure law requires the seller to make an extensive list of disclosures concerning the property. The seller is required to deliver the disclosure statement to the buyer within five days of acceptance of a written buy/sell agreement. After delivery of the disclosure statement, the purchaser has up to three business days to rescind the transaction by providing a written statement to the seller.

Certain real estate transfers are exempt from the disclosure requirements, including transfers as a result of foreclosure, transfers by deed in lieu of foreclosure, and transfers by a lienholder who acquired the property through foreclosure.

The disclosure must be made in the form prescribed by state law. Among the items required to be disclosed are if there are underground storage tanks on the property, if

the property is in a designated flood hazard zone, if the property is in a designated flood plain, or if there are structural problems.

If the seller fails to provide the required disclosure statement, the buyer may rescind the transaction at any time up until the time the transfer has closed. No exception is made for this remedy, even if the disclosure statement is delivered late, but prior to closing.

The seller and any real estate salesperson or broker involved in the transaction are not liable for any error, inaccuracy, or omission in the required disclosure if they had no personal knowledge of the mistake. The disclosure law does not extinguish or impair any rights or remedies of the buyer under common law, statute, or contract.

Summary of Bill: The state's residential real property sellers disclosure law is amended to exempt the following from disclosure: (1) transfers resulting from a real estate contract forfeiture, or a sale by a lienholder who acquires title of the property from a real estate contract forfeiture; and (2) transfers of new residential construction, if the seller is a registered contractor, and if the buyer is the first purchaser and occupant of the residence.

The provisions of the seller disclosure law apply to exempt transfers of residential real property, if the seller provides the buyer a completed disclosure statement.

The seller disclosure form is established as the minimum information required for residential real estate disclosure. The requirement that the seller disclose if the property is located in a designated flood hazard zone is deleted. The seller must disclose if the property is subject to a sewer capacity charge.

The seller is required to submit the disclosure statement to the buyer not later than five business days after mutual acceptance of a written agreement to sell and purchase the property. Corrections to the disclosure statement must be completed at least three business days prior to the closing date. The buyer has no right of rescission if the seller takes action to correct the disclosure statement at least three business days prior to the closing date.

Sellers, real estate salespersons, or brokers are not liable for any error, inaccuracy, or omission in a disclosure statement, if they had no actual knowledge of the error, inaccuracy, or omission.

Technical changes are made to terminology and time lines for consistency. The bill clarifies that (1) remedies under the seller disclosure law do not extinguish or impair rights or remedies of a buyer against the seller or seller's agent under common law, statute, or contract; and (2) the seller must disclose knowledge of any slippage,

settling, or sliding of other structures or improvements located on the property; and (3) seller disclosure statement changes apply to transactions started after July 1, 1996.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This is a technical clean-up of the seller disclosure law. The need for seller disclosure is not needed for new construction sold by the contractor. New homes are covered by warranty.

Testimony Against: None.

Testified: Glen Hudson, Washington Association of Realtors (pro); and Brian Minnich, Building Industry Association of Washington (pro - as amended).