

HOUSE BILL REPORT

SB 5741

As Passed House-Amended:

April 10, 1997

Title: An act relating to public offering statements for condominiums.

Brief Description: Requiring a statement of permitted uses and use restrictions for condominiums.

Sponsors: Senators Wood and Winsley.

Brief History:

Committee Activity:

Trade & Economic Development: 3/27/97, 4/3/97 [DPA].

Floor Activity:

Passed House-Amended: 4/10/97, 96-0.

HOUSE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 8 members: Representatives Van Luven, Chairman; Dunn, Vice Chairman; Voloria, Ranking Minority Member; Sheldon, Assistant Ranking Minority Member; Alexander; Ballasiotes; McDonald and Morris.

Staff: Kenny Pittman (786-7392).

Background: The Washington Condominium Act was enacted by the Legislature in 1989. The Washington Condominium Act deals with the legal creation of condominium property, the management of condominiums and the protection of condominium purchasers.

Under the Washington Condominium Act, sellers are required to provide a detailed public offering statement to purchasers. The public offering statement includes, but is not limited to, information on the developer of the condominium and management company, list of recent condominium projects of developer, type of interest being sold, permitted uses and use restrictions pertaining to the units, areas the purchaser will have responsibility for, and purchaser's right of first refusal to lease or purchase any unit or any of the common elements.

The federal Civil Rights Act of 1968, prohibits discrimination in real estate transactions based on sex, marital status, race, creed, color, or national origin. The

federal government allows states to assume primary enforcement responsibility of the Fair Housing Act if the state enacts fair housing laws that offer at least as much protection against discrimination as the federal law. The Washington law against discrimination has been deemed substantially equivalent to the federal law, and the state Human Rights Commission has the responsibility for enforcing fair housing laws in Washington.

Federal fair housing laws were amended in 1988 to prohibit discrimination based on familial status (families with children) and discrimination against persons with disabilities. An exception to the provision prohibiting discrimination based on familial status is made for housing for older persons. To qualify for the housing for older persons exemption the facility must: (1) be constructed with assistance from a governmental program designed to assist the elderly; or (2) meet **one** of the following requirements: (a) at least 80 percent of the units are occupied by at least one person 55 years of age or older and the facility provides significant facilities and services for older persons; **or** (b) 100 percent of the units are intended for and occupied by persons 62 years of age or older.

The Housing for Older Persons Act of 1995, amended the requirements of the 55 years of age and older exemption. The 1995 Act, eliminated the significant facilities requirement and allows greater flexibility regarding the type of facilities and services required to meet the housing for older persons exemption.

As amendments are made to federal law, state law must keep pace if the state is to continue to have primary enforcement responsibility. Without changes to the state law, the state Human Rights Commission only has authority to enforce the fair housing law as it existed prior to the federal amendments in 1995.

Summary of Bill: The public offering statement required under the Washington Condominium Act is revised to require: (1) a brief description of the restrictions on the renting or leasing of units by the seller or other unit owners; and (2) a notice that addresses compliance or noncompliance with the federal Housing for Older Persons Act of 1995.

The state anti-discrimination law is amended to reflect the changes made under the federal Housing for Older persons Act of 1995, regarding flexibility for the type of facilities and services required to qualify for the 55 and older exemption.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original) The potential purchaser of a condominium needs to know what the developer is going to do with the units that have not been sold. The information will help inform the purchasers before they invest in the property. This will reduce the potential for problems in this area between a seller and purchaser.

Testimony Against: (Original) Disclosure is key to all real estate transactions. The concern is that the language may have unintended consequences in the area of omissions and misrepresentations. We are not that far apart on this issue.

Testified: Russell Hermes, Riach, Gese, Seather & Watts (pro); James Pete-Middlebrooks, Attorney (con - original bill); and Terri Holvedt, Washington Association of Realtors (concerns - original bill).