
SENATE BILL 5850

State of Washington

52nd Legislature

1991 Regular Session

By Senator McCaslin.

Read first time February 26, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to the sale or transfer of condominiums; and
2 amending RCW 64.34.080.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 64.34.080 and 1989 c 43 s 1-111 are each amended to
5 read as follows:

6 (1) The court, upon finding as a matter of law that a contract or
7 contract clause was unconscionable at the time the contract was made,
8 may refuse to enforce the contract, enforce the remainder of the
9 contract without the unconscionable clause, or limit the application of
10 any unconscionable clause in order to avoid an unconscionable result.

11 (2) Whenever it is claimed, or appears to the court, that a
12 contract or any contract clause is or may be unconscionable, the
13 parties, in order to aid the court in making the determination, shall
14 be afforded a reasonable opportunity to present evidence as to:

15 (a) The commercial setting of the negotiations;

1 (b) Whether a party has knowingly taken advantage of the inability
2 of the other party reasonably to protect his or her interests by reason
3 of physical or mental infirmity, illiteracy, or inability to understand
4 the language of the agreement or similar factors;

5 (c) The effect and purpose of the contract or clause; (~~and~~)

6 (d) If a sale, any gross disparity at the time of contracting
7 between the amount charged for the real property and the value of the
8 real property measured by the price at which similar real property was
9 readily obtainable in similar transactions, but a disparity between the
10 contract price and the value of the real property measured by the price
11 at which similar real property was readily obtainable in similar
12 transactions does not, of itself, render the contract unconscionable;
13 and

14 (e) A unit owner in a condominium development or a member of a
15 condominium association may bring an action to enjoin any sale by a
16 financial institution of another unit in the same development or
17 association if the listed or accepted price of the sale contract is
18 more than fifteen percent below the highest appraised value of other
19 similar units in the development or association. A unit owner in a
20 condominium development or a member of a condominium association may
21 bring an action for rescission against any financial institution seller
22 or any purchaser from a financial institution of another unit in the
23 same development or association if the consideration received by the
24 seller is more than fifteen percent below the highest appraised value
25 of other similar units in the development or association. Such actions
26 must be brought within one calendar year of the sale or transfer. Such
27 contracts of sale or transfer by financial institutions are deemed
28 unconscionable as a matter of law.