

HOUSE BILL REPORT

SSB 5053

As Passed House - Amended:

April 6, 1995

Title: An act relating to real estate disclosure.

Brief Description: Modifying real estate disclosure provisions.

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

Brief History:

Committee Activity:

Trade & Economic Development: 3/20/95, 3/22/95 [DPA].

Floor Activity:

Amended.

Passed House: 4/6/95, 92-3.

HOUSE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 11 members: Representatives Van Luven, Chairman; Radcliff, Vice Chairman; D. Schmidt, Vice Chairman; Veloria, Assistant Ranking Minority Member; Backlund; 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 business days of acceptance of a written buy/sell agreement.

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: the presence of underground storage tanks on the property; flood hazard zone designation; or structural problems.

If the seller fails to provide a disclosure statement as required, the buyer may rescind the transaction at any time up until 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 residential real property disclosure law is amended to exempt 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 no later than five business days after mutual acceptance of a written agreement to sale 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.

A seller, real estate salesperson or broker is not liable for any error, inaccuracy, or omission in a disclosure statement if he or she had no **actual** knowledge of the error, inaccuracy, or omission.

Technical changes are made to terminology and time lines for consistency. The bill clarifies: 1) that 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) that seller disclosure statement changes apply to transactions started after the effective date of this bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed, with the exception of amendments to the disclosure form which take effect January 1, 1996.

Testimony For: The bill cleans up the law and makes it easier to work with. The information on the location of flood hazard zones is not readily available. The other changes in the bill are mostly technical and for consistency purposes. We need to exempt contractors that sell new homes. The form is not applicable to new construction.

Testimony Against: None.

Testified: (Pro) Senator Mary Margaret Haugen, Sponsor; and Glen Hudson, Washington Association of Realtors. (Pro with amendment) Suzie Rao, Building Industry Association of Washington.