

# HOUSE BILL REPORT

## SSB 6000

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### As Passed House:

April 7, 2009

**Title:** An act relating to real estate disclosure requirements regarding homeowners' associations.

**Brief Description:** Modifying real estate disclosure requirements regarding homeowners' associations.

**Sponsors:** Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Fraser, Benton, Tom and Roach).

### Brief History:

#### Committee Activity:

Judiciary: 3/23/09, 3/26/09 [DP].

#### Floor Activity

Passed House: 4/7/09, 98-0.

### Brief Summary of Substitute Bill

- Requires sellers of residential real property to provide contact information for a homeowners' association, if any, in the seller's real estate disclosure statement.

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## HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

**Staff:** Courtney Barnes (786-7194)

### Background:

#### Seller's Disclosures in Residential Real Property Transactions.

A seller of residential real property must provide a buyer with a disclosure statement about the property unless the buyer waives the right to receive it. The disclosure requirement

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applies to both unimproved and improved residential real property. The disclosure forms are specified in statute and vary depending on whether the property has been improved. Generally, the disclosures concern title, water, sewer/septic systems, structural matters, systems and fixtures, homeowners' association/common interests, and other matters.

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.

#### Homeowners' Associations.

A homeowners' association is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An association typically arises from restrictive covenants recorded by a developer against property in a subdivision. An association is managed by a board of directors, elected by the members, once the developer relinquishes control. In general, the purpose of an association is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

A seller of residential real property is required to disclose whether the property is governed by a homeowners' association. If there is a homeowners' association, the seller must also provide the name of the association in the seller's disclosure statement.

#### **Summary of Bill:**

##### Seller's Disclosures in Residential Real Property Transactions.

In addition to existing required disclosures, a seller of residential real property must provide the contact information for an officer, director, employee, or other authorized agent, if any, who may provide the homeowners' association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available. This requirement applies to disclosures made in the sale of unimproved or improved residential real property.

#### Homeowners' Associations.

The failure of a homeowners' association or its officers to provide requested information, including the homeowners' association's financial statements, minutes, bylaws, fining policy, or other non-public information, does not constitute a seller's failure or refusal to provide a disclosure statement.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill adds to the real estate disclosure form by requiring the seller to provide the contact information for the homeowners' association so the prospective purchaser can request information from the association about the association's bylaws, fining policies, special assessments, and other important information. The goal of the bill is to minimize surprises to purchasers by allowing them to learn about the homeowners' association during the sale. The ability of a prospective purchaser to acquire information about an association may depend on the willingness of the association to share the information. There is a provision in the bill that protects sellers from the risk of rescission if a homeowners' association fails to provide requested information to a prospective buyer.

(Opposed) None.

**Persons Testifying:** Senator Fraser, prime sponsor; and Bob Mitchell, Washington Realtors.

**Persons Signed In To Testify But Not Testifying:** None.