
Judiciary Committee

HB 2490

Title: An act relating to the erection of a temporary fence or barrier near water bodies to protect children residing within a homeowners' association jurisdiction.

Brief Description: Allowing the erection of a temporary fence or barrier near water bodies to protect children residing within a homeowners' association jurisdiction.

Sponsors: Representatives Miloscia, Eickmeyer, Simpson and Schual-Berke.

Brief Summary of Bill

- Prohibits homeowners' associations from forbidding home owners who live next to a body of water from erecting a temporary fence or barrier, which is designed to ensure the safety of young children. The homeowners' association still retains the right to regulate the design of the fence or barrier.

Hearing Date: 2/1/02

Staff: Siovhan Sheridan-Ayala (786-7119); Edie Adams (786-7180).

Background:

A homeowners' association is an organization consisting of homeowners within a residential development, whose primary purpose is to provide and maintain community facilities and services for the common enjoyment of the residents. Homeowner's associations are often formed by land developers or planned developments pursuant to a contract or restrictive covenant. They give homeowners the ability to manage common areas (community centers, lakes, parks, roads).

Homeowners' associations serve three primary functions: levying and collecting assessments; managing and maintaining common property for the benefit of residents; and enforcing covenants that govern developments. They derive authority to carry out these functions from several documents, including the declaration of covenants, conditions, and restrictions (CC&R's), the association's bylaws and articles of incorporation, and the deeds to the property within a development.

Under Washington statutes, homeowners' associations have a variety of powers, including

the ability to adopt regulations, rules and bylaws. They may also adopt rules and regulations concerning property use and impose fines for violations.

If a homeowner purchases a home in a neighborhood governed by restrictive covenants, the homeowner consents to certain restrictions on their ability to alter their property in the future. A restrictive covenant can address specific restrictions placed on property or it can give a broad grant of authority to a homeowners' association. When the grant of power is broad, the Washington Supreme Court has limited the power of homeowners' associations to the ability to make decisions that are reasonable, non-arbitrary and made in good faith.

Summary of Bill:

A homeowners' association may not prohibit a homeowner who lives next to a body of water from erecting a temporary fence or barrier, which is designed to ensure the safety of young children. The homeowners' association still retains the right to regulate the design of the fence or barrier.

Appropriation: None.

Fiscal Note: Not Requested.

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