

# SENATE BILL REPORT

## SB 6202

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As of January 20, 2006

**Title:** An act relating to requiring arbitration for homeowners' association disputes.

**Brief Description:** Requiring arbitration to resolve homeowners' association disputes.

**Sponsors:** Senators Fairley and Schmidt.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 1/19/06.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Staff:** Jennifer Arnold (786-7471)

**Background:** Arbitration is a form of alternative dispute resolution to a court process. In an arbitration, disputing parties take their argument to a neutral third party, the arbitrator, for a binding decision. The arbitrator listens to witnesses and reviews documents before making a ruling. For arbitration proceedings conducted under RCW 7.04, the arbitrator's award is final and binding and may be enforced like a court judgment. Except in specific circumstances, there is generally no appeal from an arbitrator's award.

Currently, there is no statutory requirement for members of a homeowners' association to use arbitration to resolve civil actions or controversies. However, it is believed that arbitration could provide a less expensive and more efficient means to resolve conflict than a formal court trial in regards to disputes concerning homeowners' associations.

**Summary of Bill:** A homeowners' association board or the association owner, occupant, or tenant must use arbitration under RCW 7.04 to resolve any civil actions or controversies related to a homeowners' association dispute.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This will force the parties to the table and reduce the homeowners' expense in court costs. Currently, association boards use the dues paid by the homeowners to pay for their own attorneys and court costs in contesting matters raised by the homeowners; this bill would be an alternative means for conflict resolution.

**Testimony Against:** Alternative dispute resolution is a good idea, but contrary to this bill, mediation rather than arbitration should be used. Arbitration works better for dollar damages,

not injunctive relief. This is an issue that a task force on homeowners' associations should decide.

**Testimony Other:** This is a step in the right direction; however, there should be definitive adjudication in a court forum. It could be advantageous to add a civil penalty for failure to comply with the arbitrator's decision, to encourage compliance.

**Who Testified:** PRO: Tom Foley, homeowner; David Harrison, homeowner.

CON: John Garthwaite, homeowner; Terreny Leahy, Community Associations Institute.

OTHER: Todd Hobert, Washington Homeowner Coalition.