
HOUSE BILL 1477

State of Washington 59th Legislature 2005 Regular Session

By Representatives Kagi and Chase

Read first time 01/25/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to homeowners' associations; amending RCW
2 64.38.025, 64.38.035, and 64.38.040; and adding a new section to
3 chapter 64.38 RCW.

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

5 **Sec. 1.** RCW 64.38.025 and 1995 c 283 s 5 are each amended to read
6 as follows:

7 (1) Except as provided in the association's governing documents or
8 this chapter, the board of directors shall act in all instances on
9 behalf of the association. In the performance of their duties, the
10 officers and members of the board of directors shall exercise the
11 degree of care and loyalty required of an officer or director of a
12 corporation organized under chapter 24.03 RCW.

13 (2) The board of directors shall not act on behalf of the
14 association to amend the articles of incorporation, to take any action
15 that requires the vote or approval of the owners, to terminate the
16 association, to elect members of the board of directors, or to
17 determine the qualifications, powers, and duties, or terms of office of
18 members of the board of directors; but the board of directors may fill
19 vacancies in its membership of the unexpired portion of any term.

1 (3) Within thirty days after adoption by the board of directors of
2 any proposed regular or special budget of the association, the board
3 shall set a date for a meeting of the owners to consider ratification
4 of the budget not less than fourteen nor more than sixty days after
5 mailing of the summary. Except as otherwise provided in the governing
6 documents, the budget is ratified unless at that meeting the owners
7 ((of)) to whom a majority of the votes in the association are allocated
8 ((or any larger percentage specified in the governing documents))
9 reject the budget, in person or by proxy, ((the budget is ratified,))
10 whether or not a quorum is present. In the event the proposed budget
11 is rejected or the required notice is not given, the periodic budget
12 last ratified by the owners shall be continued until such time as the
13 owners ratify a subsequent budget proposed by the board of directors.

14 (4) Cumulative voting, as described in RCW 23B.07.280, may not be
15 used in the election or removal of members of the board of directors.

16 (5) The owners by a majority vote of the voting power in the
17 association present, in person or by proxy, and entitled to vote at any
18 meeting of the owners at which a quorum is present, may remove any
19 member of the board of directors with or without cause.

20 **Sec. 2.** RCW 64.38.035 and 1995 c 283 s 7 are each amended to read
21 as follows:

22 (1) A meeting of the association must be held at least once each
23 year. Special meetings of the association may be called by the
24 president, a majority of the board of directors, or by owners having
25 ten percent of the votes in the association. If the owners having ten
26 percent of the vote in the association request a special meeting, the
27 board shall take action within a reasonable time, not to exceed fifteen
28 days from receipt of the request, to set the time and place of the
29 special meeting, which must take place within forty-five days after the
30 request for a special meeting. Not less than fourteen nor more than
31 sixty days in advance of any meeting, the secretary or other officers
32 specified in the bylaws shall cause notice to be hand-delivered or sent
33 prepaid by first class United States mail to the mailing address of
34 each owner or to any other mailing address designated in writing by the
35 owner. The notice of any meeting shall state the time and place of the
36 meeting and the business to be placed on the agenda by the board of
37 directors for a vote by the owners, including the general nature of any

1 proposed amendment to the articles of incorporation, bylaws, any budget
2 or changes in the previously approved budget that result in a change in
3 assessment obligation, and any proposal to remove a director.

4 (2) Except as provided in this subsection, all meetings of the
5 board of directors shall be open for observation by all owners of
6 record and their authorized agents. The board of directors shall not
7 take official action on any matter of business through the use of
8 electronic communications or any other form of communication that does
9 not allow all owners and their authorized agents to observe the action.

10 The board of directors shall keep minutes of all actions taken by the
11 board, which shall be available to all owners. Upon the affirmative
12 vote in open meeting to assemble in closed session, the board of
13 directors may convene in closed executive session to consider personnel
14 matters; consult with legal counsel or consider communications with
15 legal counsel; and discuss likely or pending litigation, matters
16 involving possible violations of the governing documents of the
17 association, and matters involving the possible liability of an owner
18 to the association. The motion shall state specifically the purpose
19 for the closed session. Reference to the motion and the stated purpose
20 for the closed session shall be included in the minutes. The board of
21 directors shall restrict the consideration of matters during the closed
22 portions of meetings only to those purposes specifically exempted and
23 stated in the motion. No motion, or other action adopted, passed, or
24 agreed to in closed session may become effective unless the board of
25 directors, following the closed session, reconvenes in open meeting and
26 votes in the open meeting on such motion, or other action which is
27 reasonably identified. The requirements of this subsection shall not
28 require the disclosure of information in violation of law or which is
29 otherwise exempt from disclosure.

30 **Sec. 3.** RCW 64.38.040 and 1995 c 283 s 8 are each amended to read
31 as follows:

32 ((~~Unless~~)) A quorum for any meeting of the homeowners' association
33 is determined in accordance with quorum requirements specified in the
34 governing documents. If the governing documents do not specify ((a
35 different percentage)) quorum requirements, a quorum is present
36 throughout any meeting of the association if the owners to which

1 thirty-four percent of the votes of the association are allocated are
2 present in person or by proxy at the beginning of the meeting.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.38 RCW
4 to read as follows:

5 The provisions of this chapter apply to all homeowners'
6 associations, however organized. In the event of a conflict between
7 the provisions of this chapter and the provisions of law under which
8 the homeowners' association is organized, the provisions of this
9 chapter control.

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