

FINAL BILL REPORT

SHB 3071

C 114 L 08

Synopsis as Enacted

Brief Description: Harmonizing statutes that address the termination of condominiums.

Sponsors: By House Committee on Housing (originally sponsored by Representatives Goodman, Rodne and Williams).

House Committee on Housing

Senate Committee on Consumer Protection & Housing

Background:

The Horizontal Property Regimes Act (HPRA), enacted in 1963, governs the management of all residential condominiums built before July 1, 1990. The Washington Condominium Act (WCA), enacted in 1990, governs condominiums built in Washington after July 1, 1990.

There are a number of specific statutes within the WCA that also apply to condominiums built before July 1, 1990, including statutes that address titles and taxation, applicability of local ordinances, tort and contract liability, lien for assessments and association records, and definitions.

The HPRA and the WCA contain different policies and procedures regarding the termination and sale of condominiums for properties.

TERMINATION UNDER THE HORIZONTAL PROPERTY REGIMES ACT.

Percent Necessary to Terminate. Residential condominiums built before July 1, 1990, may be terminated only through an agreement by 100 percent of the condominium owners.

Also, the mortgagees and holders of all liens affecting any of the apartments must also consent that their mortgages and liens be transferred to the percentage of the undivided interest of that apartment owner in the property.

Property Owner Interests Post-Termination. After termination, the property is deemed to be owned in common by the apartment owners. For each owner, the undivided interest in the property owned in common is the percentage of the undivided interest previously owned by each owner in the common areas and facilities.

Sales of Terminated Condominiums. There is no specific method for selling terminated condominium properties in the HPRA.

TERMINATION UNDER THE WASHINGTON CONDOMINIUM ACT.

Percent Necessary to Terminate. Residential condominiums built after July 1, 1990, may be terminated by agreement of 80 percent of the condominium owners (unless the condominium declaration sets forth a greater requirement).

The agreement must contain a description of the manner in which creditors of the association will be paid or provided for.

Property Owner Interests Post-Termination. Interests of unit owners consist of the fair-market values of their units, limited common elements, and common element interests immediately before termination, as determined by one or more independent appraisers selected by the association. The appraisal decision must be disapproved within 30 days after distribution, by unit owners of units to which 25 percent of the votes in the association are allocated, or the decision becomes final.

The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair-market value of that unit owner's unit and common element interest by the total fair-market values of all the units and common elements.

Sales of Terminated Condominiums.

Property Not to be Sold.

If the real property is not to be sold following termination, title to all real property vests in the unit owners as tenants in common in proportion to their respective interests.

Property to be Sold.

- (1) The termination agreement may provide that all common elements and units be sold following termination and, if so, must set forth the minimum terms for the sale.
- (2) The association may contract for the sale of real property in the condominium. Title to the real property, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has the powers necessary and appropriate to effect the sale. Until the sale has concluded and proceeds distributed, the association continues to exist with all its previous powers.
- (3) The proceeds of any sale of real property, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units and creditors of the association as their interests may appear. After all creditors have been paid or provided for, the proceeds or assets may be disbursed to the owners.
- (4) Proceeds of the sale must be distributed to unit owners and lien holders according to their interests, in proportion to the respective interests of unit owners.

Suspension of Right of Partition. When several persons hold and are in possession of real property as tenants in common, an action may be maintained by one or more of them for a partition of that property, according to the respective rights of the persons with interests in the property. The right of partition is suspended if an agreement to sell condominium property is provided for in the termination agreement. The suspension continues unless and until:

- (1) no binding obligation to sell exists three months after the recording of the termination agreement;
- (2) the binding sale agreement is terminated; or
- (3) one year after the termination agreement is recorded.

Percentage Required to Amend Declaration. A definition for "60 percent of the apartment owners" is added to the HPRA to mean the apartment owners with 60 percent or more of the votes in accordance with the percentages assigned in the declaration to the apartments for voting purposes. This term exists once in the HPRA regarding how a condominium's declaration may be amended.

Summary:

The WCA Termination of Condominium subsections, which allow for termination of condominiums with 80 percent owner agreement and which include a number of other policies and procedures regarding the sale of properties, valuation of interests, and distribution of assets, is included in the list of statutes which also apply to condominiums built before July 1, 1990.

Subject to the rights of mortgagees and lien holders affected, condominium owners in buildings built prior to July 1, 1990, may choose to terminate, sell, value interests, and manage the distribution of proceeds from the condominium under either:

- (1) termination as provided for in the HPRA, which requires consent of 100 percent of owners and the ownership and interest policies described in the HPRA; or
- (2) termination as provided for in the WCA, which requires consent of 80 percent of owners and the ownership, sales, interest valuation, and suspension of partition policies as described in the WCA.

Percentage Required to Amend Declaration. A definition for "60 percent of the apartment owners" is added to the HPRA to mean the apartment owners with 60 percent or more of the votes in accordance with the percentages assigned in the declaration to the apartments for voting purposes. This term exists once in the HPRA regarding how a condominium's declaration may be amended.

Votes on Final Passage:

House	52	43
Senate	41	8

Effective: June 12, 2008