
HOUSE BILL 1112

State of Washington

61st Legislature

2009 Regular Session

By Representatives Eddy, Roberts, Seaquist, Blake, White, Williams, Jacks, Dunshee, Simpson, and Moeller

Read first time 01/13/09. Referred to Committee on Judiciary.

1 AN ACT Relating to constraints on the installation of solar energy
2 systems; amending RCW 64.32.010, 64.34.020, 64.34.240, 64.34.304, and
3 64.38.010; adding new sections to chapter 64.32 RCW; adding a new
4 section to chapter 64.34 RCW; adding new sections to chapter 64.38 RCW;
5 and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that a significant
8 number of property owners have been prevented from starting the
9 production of renewable energy as envisioned in and permitted by
10 chapter 300, Laws of 2005 due to inaction by boards of directors, or
11 restraints included in documents governing homeowners', apartment, and
12 condominium associations. The visual impact of solar collectors on
13 roofs is similar to skylights. The legislature finds that production
14 of renewable energy is a national security priority as well as a
15 significant contributor to the reduction of global climate change. The
16 legislature intends to remove unnecessary constraints on property
17 owners who are willing to contribute their personal resources toward
18 these global, national, and statewide priorities.

1 **Sec. 2.** RCW 64.32.010 and 2008 c 114 s 3 are each amended to read
2 as follows:

3 As used in this chapter unless the context otherwise requires:

4 (1) "Apartment" means a part of the property intended for any type
5 of independent use, including one or more rooms or spaces located on
6 one or more floors (or part or parts thereof) in a building, or if not
7 in a building, a separately delineated place of storage or moorage of
8 a boat, plane, or motor vehicle, regardless of whether it is destined
9 for a residence, an office, storage or moorage of a boat, plane, or
10 motor vehicle, the operation of any industry or business, or for any
11 other use not prohibited by law, and which has a direct exit to a
12 public street or highway, or to a common area leading to such street or
13 highway. The boundaries of an apartment located in a building are the
14 interior surfaces of the perimeter walls, floors, ceilings, windows and
15 doors thereof, and the apartment includes both the portions of the
16 building so described and the air space so encompassed. If the
17 apartment is a separately delineated place of storage or moorage of a
18 boat, plane, or motor vehicle the boundaries are those specified in the
19 declaration. In interpreting declarations, deeds, and plans, the
20 existing physical boundaries of the apartment as originally constructed
21 or as reconstructed in substantial accordance with the original plans
22 thereof shall be conclusively presumed to be its boundaries rather than
23 the metes and bounds expressed or depicted in the declaration, deed or
24 plan, regardless of settling or lateral movement of the building and
25 regardless of minor variance between boundaries shown in the
26 declaration, deed, or plan and those of apartments in the building.

27 (2) "Apartment owner" means the person or persons owning an
28 apartment, as herein defined, in fee simple absolute or qualified, by
29 way of leasehold or by way of a periodic estate, or in any other manner
30 in which real property may be owned, leased or possessed in this state,
31 together with an undivided interest in a like estate of the common
32 areas and facilities in the percentage specified and established in the
33 declaration as duly recorded or as it may be lawfully amended.

34 (3) "Apartment number" means the number, letter, or combination
35 thereof, designating the apartment in the declaration as duly recorded
36 or as it may be lawfully amended.

37 (4) "Association of apartment owners" or "association" means all of
38 the apartment owners acting as a group in accordance with the bylaws

1 and with the declaration as it is duly recorded or as they may be
2 lawfully amended, or the board of directors or manager acting on behalf
3 of the apartment owners.

4 (5) "Board of directors" or "manager" means the individual or body,
5 regardless of name, with primary authority to manage the affairs of the
6 association.

7 (6) "Building" means a building, containing two or more apartments,
8 or two or more buildings each containing one or more apartments, and
9 comprising a part of the property.

10 ((+6+)) (7) "Common areas and facilities", unless otherwise
11 provided in the declaration as duly recorded or as it may be lawfully
12 amended, includes:

13 (a) The land on which the building is located;

14 (b) The foundations, columns, girders, beams, supports, main walls,
15 roofs, halls, corridors, lobbys, stairs, stairways, fire escapes, and
16 entrances and exits of the building;

17 (c) The basements, yards, gardens, parking areas and storage
18 spaces;

19 (d) The premises for the lodging of janitors or persons in charge
20 of the property;

21 (e) The installations of central services such as power, light,
22 gas, hot and cold water, heating, refrigeration, air conditioning and
23 incinerating;

24 (f) The elevators, tanks, pumps, motors, fans, compressors, ducts
25 and in general all apparatus and installations existing for common use;

26 (g) Such community and commercial facilities as may be provided for
27 in the declaration as duly recorded or as it may be lawfully amended;

28 (h) All other parts of the property necessary or convenient to its
29 existence, maintenance and safety, or normally in common use.

30 ((+7+)) (8) "Common expenses" include:

31 (a) All sums lawfully assessed against the apartment owners by the
32 association of apartment owners;

33 (b) Expenses of administration, maintenance, repair, or replacement
34 of the common areas and facilities;

35 (c) Expenses agreed upon as common expenses by the association of
36 apartment owners;

37 (d) Expenses declared common expenses by the provisions of this

1 chapter, or by the declaration as it is duly recorded, or by the
2 bylaws, or as they may be lawfully amended.

3 ~~((+8))~~ (9) "Common profits" means the balance of all income,
4 rents, profits and revenues from the common areas and facilities
5 remaining after the deduction of the common expenses.

6 ~~((+9))~~ (10) "Declaration" means the instrument by which the
7 property is submitted to provisions of this chapter, as hereinafter
8 provided, and as it may be, from time to time, lawfully amended.

9 ~~((+10))~~ (11) "Governing documents" means the bylaws, declaration,
10 rules and regulations of the association of apartment owners, or other
11 written instrument by which the association has authority to exercise
12 any of the powers provided for in this chapter or to manage, maintain,
13 or otherwise affect the property under its jurisdiction.

14 (12) "Land" means the material of the earth, whatever may be the
15 ingredients of which it is composed, whether soil, rock, or other
16 substance, whether or not submerged, and includes free or occupied
17 space for an indefinite distance upwards as well as downwards, subject
18 to limitations upon the use of airspace imposed, and rights in the use
19 of the airspace granted, by the laws of this state or of the United
20 States.

21 ~~((+11))~~ (13) "Limited common areas and facilities" includes those
22 common areas and facilities designated in the declaration, as it is
23 duly recorded or as it may be lawfully amended, as reserved for use of
24 certain apartment or apartments to the exclusion of the other
25 apartments.

26 ~~((+12))~~ (14) "Majority" or "majority of apartment owners" means
27 the apartment owners with fifty-one percent or more of the votes in
28 accordance with the percentages assigned in the declaration, as duly
29 recorded or as it may be lawfully amended, to the apartments for voting
30 purposes.

31 ~~((+13))~~ (15) "Person" includes any individual, corporation,
32 partnership, association, trustee, or other legal entity.

33 ~~((+14))~~ (16) "Property" means the land, the building, all
34 improvements and structures thereon, all owned in fee simple absolute
35 or qualified, by way of leasehold or by way of a periodic estate, or in
36 any other manner in which real property may be owned, leased or
37 possessed in this state, and all easements, rights and appurtenances
38 belonging thereto, none of which shall be considered as a security or

1 security interest, and all articles of personalty intended for use in
2 connection therewith, which have been or are intended to be submitted
3 to the provisions of this chapter.

4 ~~((+15+))~~ (17) "Percent of the apartment owners" means the apartment
5 owners with the stated percent or more of the votes in accordance with
6 the percentages assigned in the declaration, as duly recorded or as it
7 may be lawfully amended, to the apartments for voting purposes.

8 (18) "Solar energy system" means any device or combination of
9 devices or elements which rely upon direct sunlight as an energy source
10 including, but not limited to, any substance or device which collects
11 sunlight for use in:

- 12 (a) The heating or cooling of a structure or building;
- 13 (b) The heating or pumping of water;
- 14 (c) Industrial, commercial, or agricultural processes; or
- 15 (d) The generation of electricity.

16 A solar energy system may be used for purposes in addition to the
17 collection of solar energy. These uses include, but are not limited
18 to, serving as a structural member or part of a roof of a building or
19 structure and serving as a window or wall.

20 NEW SECTION. Sec. 3. (1) The association may not impair the
21 ability of an apartment owner to install, construct, maintain, or use
22 a solar energy system on his or her apartment.

23 (2) Any provision in the governing documents that impairs the
24 ability of an apartment owner to install, construct, maintain, or use
25 a solar energy system on his or her apartment is void and
26 unenforceable.

27 (3) If the governing documents require the association to approve
28 the installation or use of a solar energy system, the application for
29 approval must be processed and approved by the association in the same
30 manner as an application for an architectural modification to the
31 property, and application processing may not be willfully avoided or
32 delayed with the purpose of unreasonably preventing installation or use
33 of the solar energy system.

34 (4) Treatment of solar energy systems in the governing documents
35 must be reasonable when compared to the manner in which comparable
36 systems are treated in the same governing documents.

1 NEW SECTION. **Sec. 4.** An act of the association or provision in
2 the governing documents is deemed to impair the installation,
3 construction, maintenance, or use of a solar energy system if it:

4 (1) Unreasonably delays or prevents installation, construction,
5 maintenance, or use;

6 (2) Unreasonably increases the cost of installation, construction,
7 maintenance, or use;

8 (3) Decreases designed energy production by more than five percent;
9 or

10 (4) Precludes the use of a solar energy system.

11 NEW SECTION. **Sec. 5.** Any fee or cost imposed on an apartment
12 owner by the association is deemed unreasonable if it is not reasonable
13 in comparison to the fees or costs charged by the local government
14 jurisdiction for the permit processing of similar systems or the value
15 derived from system use.

16 **Sec. 6.** RCW 64.34.020 and 2008 c 115 s 8 are each amended to read
17 as follows:

18 In the declaration and bylaws, unless specifically provided
19 otherwise or the context requires otherwise, and in this chapter:

20 (1) "Affiliate" means any person who controls, is controlled by, or
21 is under common control with the referenced person. A person
22 "controls" another person if the person: (a) Is a general partner,
23 officer, director, or employer of the referenced person; (b) directly
24 or indirectly or acting in concert with one or more other persons, or
25 through one or more subsidiaries, owns, controls, holds with power to
26 vote, or holds proxies representing, more than twenty percent of the
27 voting interest in the referenced person; (c) controls in any manner
28 the election of a majority of the directors of the referenced person;
29 or (d) has contributed more than twenty percent of the capital of the
30 referenced person. A person "is controlled by" another person if the
31 other person: (i) Is a general partner, officer, director, or employer
32 of the person; (ii) directly or indirectly or acting in concert with
33 one or more other persons, or through one or more subsidiaries, owns,
34 controls, holds with power to vote, or holds proxies representing, more
35 than twenty percent of the voting interest in the person; (iii)
36 controls in any manner the election of a majority of the directors of

1 the person; or (iv) has contributed more than twenty percent of the
2 capital of the person. Control does not exist if the powers described
3 in this subsection are held solely as security for an obligation and
4 are not exercised.

5 (2) "Allocated interests" means the undivided interest in the
6 common elements, the common expense liability, and votes in the
7 association allocated to each unit.

8 (3) "Assessment" means all sums chargeable by the association
9 against a unit including, without limitation: (a) Regular and special
10 assessments for common expenses, charges, and fines imposed by the
11 association; (b) interest and late charges on any delinquent account;
12 and (c) costs of collection, including reasonable attorneys' fees,
13 incurred by the association in connection with the collection of a
14 delinquent owner's account.

15 (4) "Association" or "unit owners' association" means the unit
16 owners' association organized under RCW 64.34.300, or the board of
17 directors acting on behalf of the unit owners.

18 (5) "Board of directors" means the body, regardless of name, with
19 primary authority to manage the affairs of the association.

20 (6) "Common elements" means all portions of a condominium other
21 than the units.

22 (7) "Common expenses" means expenditures made by or financial
23 liabilities of the association, together with any allocations to
24 reserves.

25 (8) "Common expense liability" means the liability for common
26 expenses allocated to each unit pursuant to RCW 64.34.224.

27 (9) "Condominium" means real property, portions of which are
28 designated for separate ownership and the remainder of which is
29 designated for common ownership solely by the owners of those portions.
30 Real property is not a condominium unless the undivided interests in
31 the common elements are vested in the unit owners, and unless a
32 declaration and a survey map and plans have been recorded pursuant to
33 this chapter.

34 (10) "Contribution rate" means, in a reserve study as described in
35 RCW 64.34.380, the amount contributed to the reserve account so that
36 the association will have cash reserves to pay major maintenance,
37 repair, or replacement costs without the need of a special assessment.

1 (11) "Conversion condominium" means a condominium (a) that at any
2 time before creation of the condominium was lawfully occupied wholly or
3 partially by a tenant or subtenant for residential purposes pursuant to
4 a rental agreement, oral or written, express or implied, for which the
5 tenant or subtenant had not received the notice described in (b) of
6 this subsection; or (b) that, at any time within twelve months before
7 the conveyance of, or acceptance of an agreement to convey, any unit
8 therein other than to a declarant or any affiliate of a declarant, was
9 lawfully occupied wholly or partially by a residential tenant of a
10 declarant or an affiliate of a declarant and such tenant was not
11 notified in writing, prior to lawfully occupying a unit or executing a
12 rental agreement, whichever event first occurs, that the unit was part
13 of a condominium and subject to sale. "Conversion condominium" shall
14 not include a condominium in which, before July 1, 1990, any unit
15 therein had been conveyed or been made subject to an agreement to
16 convey to any transferee other than a declarant or an affiliate of a
17 declarant.

18 (12) "Conveyance" means any transfer of the ownership of a unit,
19 including a transfer by deed or by real estate contract and, with
20 respect to a unit in a leasehold condominium, a transfer by lease or
21 assignment thereof, but shall not include a transfer solely for
22 security.

23 (13) "Dealer" means a person who, together with such person's
24 affiliates, owns or has a right to acquire either six or more units in
25 a condominium or fifty percent or more of the units in a condominium
26 containing more than two units.

27 (14) "Declarant" means:

28 (a) Any person who executes as declarant a declaration as defined
29 in subsection (16) of this section; or

30 (b) Any person who reserves any special declarant right in the
31 declaration; or

32 (c) Any person who exercises special declarant rights or to whom
33 special declarant rights are transferred; or

34 (d) Any person who is the owner of a fee interest in the real
35 property which is subjected to the declaration at the time of the
36 recording of an instrument pursuant to RCW 64.34.316 and who directly
37 or through one or more affiliates is materially involved in the

1 construction, marketing, or sale of units in the condominium created by
2 the recording of the instrument.

3 (15) "Declarant control" means the right of the declarant or
4 persons designated by the declarant to appoint and remove officers and
5 members of the board of directors, or to veto or approve a proposed
6 action of the board or association, pursuant to RCW 64.34.308 (4) or
7 (5).

8 (16) "Declaration" means the document, however denominated, that
9 creates a condominium by setting forth the information required by RCW
10 64.34.216 and any amendments to that document.

11 (17) "Development rights" means any right or combination of rights
12 reserved by a declarant in the declaration to: (a) Add real property
13 or improvements to a condominium; (b) create units, common elements, or
14 limited common elements within real property included or added to a
15 condominium; (c) subdivide units or convert units into common elements;
16 (d) withdraw real property from a condominium; or (e) reallocate
17 limited common elements with respect to units that have not been
18 conveyed by the declarant.

19 (18) "Dispose" or "disposition" means a voluntary transfer or
20 conveyance to a purchaser or lessee of any legal or equitable interest
21 in a unit, but does not include the transfer or release of a security
22 interest.

23 (19) "Effective age" means the difference between useful life and
24 remaining useful life.

25 (20) "Eligible mortgagee" means the holder of a mortgage on a unit
26 that has filed with the secretary of the association a written request
27 that it be given copies of notices of any action by the association
28 that requires the consent of mortgagees.

29 (21) "Foreclosure" means a forfeiture or judicial or nonjudicial
30 foreclosure of a mortgage or a deed in lieu thereof.

31 (22) "Fully funded balance" means the value of the deteriorated
32 portion of all the reserve components. The fully funded balance for
33 each reserve component is calculated by multiplying the current
34 replacement cost of that reserve component by its effective age, then
35 dividing the result by that reserve component's useful life. The sum
36 total of all reserve components' fully funded balances is the
37 association's fully funded balance.

1 (23) "Governing documents" means the bylaws, declaration of
2 covenants, conditions, and restrictions, rules and regulations of the
3 association, or other written instrument by which the association has
4 authority to exercise any of the powers provided for in this chapter or
5 to manage, maintain, or otherwise affect the property under its
6 jurisdiction.

7 ~~((24))~~ (24) "Identifying number" means the designation of each unit in a
8 condominium.

9 ~~((24))~~ (25) "Leasehold condominium" means a condominium in which
10 all or a portion of the real property is subject to a lease, the
11 expiration or termination of which will terminate the condominium or
12 reduce its size.

13 ~~((25))~~ (26) "Limited common element" means a portion of the
14 common elements allocated by the declaration or by operation of RCW
15 64.34.204 (2) or (4) for the exclusive use of one or more but fewer
16 than all of the units.

17 ~~((26))~~ (27) "Master association" means an organization described
18 in RCW 64.34.276, whether or not it is also an association described in
19 RCW 64.34.300.

20 ~~((27))~~ (28) "Mortgage" means a mortgage, deed of trust or real
21 estate contract.

22 ~~((28))~~ (29) "Person" means a natural person, corporation,
23 partnership, limited partnership, trust, governmental subdivision or
24 agency, or other legal entity.

25 ~~((29))~~ (30) "Purchaser" means any person, other than a declarant
26 or a dealer, who by means of a disposition acquires a legal or
27 equitable interest in a unit other than (a) a leasehold interest,
28 including renewal options, of less than twenty years at the time of
29 creation of the unit, or (b) as security for an obligation.

30 ~~((30))~~ (31) "Real property" means any fee, leasehold or other
31 estate or interest in, over, or under land, including structures,
32 fixtures, and other improvements thereon and easements, rights and
33 interests appurtenant thereto which by custom, usage, or law pass with
34 a conveyance of land although not described in the contract of sale or
35 instrument of conveyance. "Real property" includes parcels, with or
36 without upper or lower boundaries, and spaces that may be filled with
37 air or water.

1 ~~((+31+))~~ (32) "Remaining useful life" means the estimated time, in
2 years, that a reserve component can be expected to continue to serve
3 its intended function.

4 ~~((+32+))~~ (33) "Replacement cost" means the current cost of
5 replacing, repairing, or restoring a reserve component to its original
6 functional condition.

7 ~~((+33+))~~ (34) "Residential purposes" means use for dwelling or
8 recreational purposes, or both.

9 ~~((+34+))~~ (35) "Reserve components" means common elements whose cost
10 of maintenance, repair, or replacement is infrequent, significant, and
11 impractical to include in an annual budget.

12 ~~((+35+))~~ (36) "Reserve study professional" means an independent
13 person suitably qualified by knowledge, skill, experience, training, or
14 education to prepare a reserve study in accordance with RCW 64.34.380
15 and 64.34.382.

16 ~~((+36+))~~ (37) "Solar energy system" means any device or combination
17 of devices or elements which rely upon direct sunlight as an energy
18 source including, but not limited to, any substance or device which
19 collects sunlight for use in:

20 (a) The heating or cooling of a structure or building;

21 (b) The heating or pumping of water;

22 (c) Industrial, commercial, or agricultural processes; or

23 (d) The generation of electricity.

24 A solar energy system may be used for purposes in addition to the
25 collection of solar energy. These uses include, but are not limited
26 to, serving as a structural member or part of a roof of a building or
27 structure and serving as a window or wall.

28 (38) "Special declarant rights" means rights reserved for the
29 benefit of a declarant to: (a) Complete improvements indicated on
30 survey maps and plans filed with the declaration under RCW 64.34.232;
31 (b) exercise any development right under RCW 64.34.236; (c) maintain
32 sales offices, management offices, signs advertising the condominium,
33 and models under RCW 64.34.256; (d) use easements through the common
34 elements for the purpose of making improvements within the condominium
35 or within real property which may be added to the condominium under RCW
36 64.34.260; (e) make the condominium part of a larger condominium or a
37 development under RCW 64.34.280; (f) make the condominium subject to a
38 master association under RCW 64.34.276; or (g) appoint or remove any

1 officer of the association or any master association or any member of
2 the board of directors, or to veto or approve a proposed action of the
3 board or association, during any period of declarant control under RCW
4 64.34.308(4).

5 ~~((+37))~~ (39) "Timeshare" shall have the meaning specified in the
6 timeshare act, RCW 64.36.010(11).

7 ~~((+38))~~ (40) "Unit" means a physical portion of the condominium
8 designated for separate ownership, the boundaries of which are
9 described pursuant to RCW 64.34.216(1)(d). "Separate ownership"
10 includes leasing a unit in a leasehold condominium under a lease that
11 expires contemporaneously with any lease, the expiration or termination
12 of which will remove the unit from the condominium.

13 ~~((+39))~~ (41) "Unit owner" means a declarant or other person who
14 owns a unit or leases a unit in a leasehold condominium under a lease
15 that expires simultaneously with any lease, the expiration or
16 termination of which will remove the unit from the condominium, but
17 does not include a person who has an interest in a unit solely as
18 security for an obligation. "Unit owner" means the vendee, not the
19 vendor, of a unit under a real estate contract.

20 ~~((+40))~~ (42) "Useful life" means the estimated time, in years,
21 that a reserve component can be expected to serve its intended
22 function.

23 **Sec. 7.** RCW 64.34.240 and 1989 c 43 s 2-111 are each amended to
24 read as follows:

25 Subject to the provisions of the declaration and other provisions
26 of law, a unit owner:

27 (1) May make any improvements or alterations to the owner's unit
28 that do not affect the structural integrity or mechanical or electrical
29 systems or lessen the support of any portion of the condominium;

30 (2) May not change the appearance of the common elements or the
31 exterior appearance of a unit without permission of the association;

32 (3) After acquiring an adjoining unit or an adjoining part of an
33 adjoining unit may, with approval of the board of directors, remove or
34 alter any intervening partition or create apertures therein, even if
35 the partition in whole or in part is a common element, if those acts do
36 not adversely affect the structural integrity or mechanical or
37 electrical systems or lessen the support of any portion of the

1 condominium. Removal of partitions or creation of apertures under this
2 subsection is not a relocation of boundaries. The board of directors
3 shall approve a unit owner's request, which request shall include the
4 plans and specifications for the proposed removal or alteration, under
5 this subsection within thirty days, or within such other period
6 provided by the declaration, unless the proposed alteration does not
7 comply with this chapter or the declaration or impairs the structural
8 integrity or mechanical or electrical systems in the condominium. The
9 failure of the board of directors to act upon a request within such
10 period shall be deemed approval thereof;

11 (4) May install, construct, maintain, and use a solar energy system
12 on the owner's unit. If the governing documents require the
13 association to approve the installation or use of a solar energy
14 system, the application for approval must be processed and approved by
15 the association in the same manner as an application for an
16 architectural modification to the property, and application processing
17 may not be willfully avoided or delayed with the purpose of
18 unreasonably preventing installation or use of the solar energy system.

19 **Sec. 8.** RCW 64.34.304 and 2008 c 115 s 9 are each amended to read
20 as follows:

21 (1) Except as provided in subsection (2) of this section, and
22 subject to the provisions of the declaration, the association may:

23 (a) Adopt and amend bylaws, rules, and regulations;

24 (b) Adopt and amend budgets for revenues, expenditures, and
25 reserves, and impose and collect assessments for common expenses from
26 unit owners;

27 (c) Hire and discharge or contract with managing agents and other
28 employees, agents, and independent contractors;

29 (d) Institute, defend, or intervene in litigation or administrative
30 proceedings in its own name on behalf of itself or two or more unit
31 owners on matters affecting the condominium;

32 (e) Make contracts and incur liabilities;

33 (f) Regulate the use, maintenance, repair, replacement, and
34 modification of common elements;

35 (g) Cause additional improvements to be made as a part of the
36 common elements;

1 (h) Acquire, hold, encumber, and convey in its own name any right,
2 title, or interest to real or personal property, but common elements
3 may be conveyed or subjected to a security interest only pursuant to
4 RCW 64.34.348;

5 (i) Grant easements, leases, licenses, and concessions through or
6 over the common elements and petition for or consent to the vacation of
7 streets and alleys;

8 (j) Impose and collect any payments, fees, or charges for the use,
9 rental, or operation of the common elements, other than limited common
10 elements described in RCW 64.34.204 (2) and (4), and for services
11 provided to unit owners;

12 (k) Impose and collect charges for late payment of assessments
13 pursuant to RCW 64.34.364(13) and, after notice and an opportunity to
14 be heard by the board of directors or by such representative designated
15 by the board of directors and in accordance with such procedures as
16 provided in the declaration or bylaws or rules and regulations adopted
17 by the board of directors, levy reasonable fines in accordance with a
18 previously established schedule thereof adopted by the board of
19 directors and furnished to the owners for violations of the
20 declaration, bylaws, and rules and regulations of the association;

21 (l) Impose and collect reasonable charges for the preparation and
22 recording of amendments to the declaration, resale certificates
23 required by RCW 64.34.425, and statements of unpaid assessments;

24 (m) Provide for the indemnification of its officers and board of
25 directors and maintain directors' and officers' liability insurance;

26 (n) Assign its right to future income, including the right to
27 receive common expense assessments, but only to the extent the
28 declaration provides;

29 (o) Join in a petition for the establishment of a parking and
30 business improvement area, participate in the rate payers' board or
31 other advisory body set up by the legislative authority for operation
32 of a parking and business improvement area, and pay special assessments
33 levied by the legislative authority on a parking and business
34 improvement area encompassing the condominium property for activities
35 and projects which benefit the condominium directly or indirectly;

36 (p) Establish and administer a reserve account as described in RCW
37 64.34.380;

38 (q) Prepare a reserve study as described in RCW 64.34.380;

1 (r) Exercise any other powers conferred by the declaration or
2 bylaws;

3 (s) Exercise all other powers that may be exercised in this state
4 by the same type of corporation as the association; and

5 (t) Exercise any other powers necessary and proper for the
6 governance and operation of the association.

7 (2) The declaration may not impose limitations on the power of the
8 association to deal with the declarant which are more restrictive than
9 the limitations imposed on the power of the association to deal with
10 other persons.

11 (3) The association may not impair the ability of a unit owner to
12 install, construct, maintain, or use a solar energy system on his or
13 her unit.

14 (a) An act of the association or provision in the governing
15 documents is deemed to impair the installation, construction,
16 maintenance, or use of a solar energy system if it:

17 (i) Unreasonably delays or prevents installation, construction,
18 maintenance, or use;

19 (ii) Unreasonably increases the cost of installation, construction,
20 maintenance, or use;

21 (iii) Decreases designed energy production by more than five
22 percent; or

23 (iv) Precludes the use of a solar energy system.

24 (b) Any fee or cost imposed on a unit owner by the association is
25 deemed unreasonable if it is not reasonable in comparison to the fees
26 or costs charged by the local government jurisdiction for the permit
27 processing of similar systems or the value derived from system use.

28 NEW SECTION. Sec. 9. A new section is added to chapter 64.34 RCW
29 to read as follows:

30 (1) Any provision in the governing documents that impairs the
31 ability of a unit owner to install, construct, maintain, or use a solar
32 energy system on his or her unit is void and unenforceable.

33 (2) Treatment of solar energy systems in the governing documents
34 must be reasonable when compared to the manner in which comparable
35 systems are treated in the same governing documents.

1 **Sec. 10.** RCW 64.38.010 and 1995 c 283 s 2 are each amended to read
2 as follows:

3 For purposes of this chapter:

4 (1) "Homeowners' association" or "association" means a corporation,
5 unincorporated association, or other legal entity, each member of which
6 is an owner of residential real property located within the
7 association's jurisdiction, as described in the governing documents,
8 and by virtue of membership or ownership of property is obligated to
9 pay real property taxes, insurance premiums, maintenance costs, or for
10 improvement of real property other than that which is owned by the
11 member. "Homeowners' association" or "association" includes the board
12 of directors acting on behalf of the owners of residential real
13 property under this chapter, but does not mean an association created
14 under chapter 64.32 or 64.34 RCW.

15 (2) "Governing documents" means the articles of incorporation,
16 bylaws, plat, declaration of covenants, conditions, and restrictions,
17 rules and regulations of the association, or other written instrument
18 by which the association has the authority to exercise any of the
19 powers provided for in this chapter or to manage, maintain, or
20 otherwise affect the property under its jurisdiction.

21 (3) "Board of directors" or "board" means the body, regardless of
22 name, with primary authority to manage the affairs of the association.

23 (4) "Common areas" means property owned, or otherwise maintained,
24 repaired or administered by the association.

25 (5) "Common expense" means the costs incurred by the association to
26 exercise any of the powers provided for in this chapter.

27 (6) "Residential real property" means any real property, the use of
28 which is limited by law, covenant or otherwise to primarily residential
29 or recreational purposes.

30 (7) "Solar energy system" means any device or combination of
31 devices or elements which rely upon direct sunlight as an energy source
32 including, but not limited to, any substance or device which collects
33 sunlight for use in:

34 (a) The heating or cooling of a structure or building;

35 (b) The heating or pumping of water;

36 (c) Industrial, commercial, or agricultural processes; or

37 (d) The generation of electricity.

1 A solar energy system may be used for purposes in addition to the
2 collection of solar energy. These uses include, but are not limited
3 to, serving as a structural member or part of a roof of a building or
4 structure and serving as a window or wall.

5 NEW SECTION. Sec. 11. (1) The association may not impair the
6 ability of an owner to install, construct, maintain, or use a solar
7 energy system on his or her property.

8 (2) Any provision in the governing documents that impairs the
9 ability of an owner to install, construct, maintain, or use a solar
10 energy system on his or her property is void and unenforceable.

11 (3) If the governing documents require the association to approve
12 the installation or use of a solar energy system, the application for
13 approval must be processed and approved by the association in the same
14 manner as an application for an architectural modification to the
15 property, and application processing may not be willfully avoided or
16 delayed with the purpose of unreasonably preventing installation or use
17 of the solar energy system.

18 (4) Treatment of solar energy systems in the governing documents
19 must be reasonable when compared to the manner in which comparable
20 systems are treated in the same governing documents.

21 NEW SECTION. Sec. 12. An act of the association or provision in
22 the governing documents is deemed to impair the installation,
23 construction, maintenance, or use of a solar energy system if it:

24 (1) Unreasonably delays or prevents installation, construction,
25 maintenance, or use;

26 (2) Unreasonably increases the cost of installation, construction,
27 maintenance, or use;

28 (3) Decreases designed energy production by more than five percent;
29 or

30 (4) Precludes the use of a solar energy system.

31 NEW SECTION. Sec. 13. Any fee or cost imposed on an owner by the
32 association is deemed unreasonable if it is not reasonable in
33 comparison to the fees or costs charged by the local government
34 jurisdiction for the permit processing of similar systems or the value
35 derived from system use.

1 NEW SECTION. **Sec. 14.** Sections 3 through 5 of this act are each
2 added to chapter 64.32 RCW.

3 NEW SECTION. **Sec. 15.** Sections 11 through 13 of this act are each
4 added to chapter 64.38 RCW.

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