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SENATE BILL 6319

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Bailey, Roach, Sheldon, Braun, and Angel

Read first time 01/21/14. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the definition of residential real property in  
2 homeowners' associations; reenacting and amending RCW 64.38.010; and  
3 creating a new section.

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

5 **Sec. 1.** RCW 64.38.010 and 2011 c 189 s 7 are each reenacted and  
6 amended to read as follows:

7 For purposes of this chapter:

8 (1) "Assessment" means all sums chargeable to an owner by an  
9 association in accordance with RCW 64.38.020.

10 (2) "Baseline funding plan" means establishing a reserve funding  
11 goal of maintaining a reserve account balance above zero dollars  
12 throughout the thirty-year study period described under RCW 64.38.065.

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

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

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

1 (6) "Contribution rate" means, in a reserve study as described in  
2 RCW ((~~64.34.380~~)) 64.38.065, the amount contributed to the reserve  
3 account so that the association will have cash reserves to pay major  
4 maintenance, repair, or replacement costs without the need of a special  
5 assessment.

6 (7) "Effective age" means the difference between the estimated  
7 useful life and remaining useful life.

8 (8) "Full funding plan" means setting a reserve funding goal of  
9 achieving one hundred percent fully funded reserves by the end of the  
10 thirty-year study period described under RCW 64.38.065, in which the  
11 reserve account balance equals the sum of the deteriorated portion of  
12 all reserve components.

13 (9) "Fully funded balance" means the current value of the  
14 deteriorated portion, not the total replacement value, of all the  
15 reserve components. The fully funded balance for each reserve  
16 component is calculated by multiplying the current replacement cost of  
17 the reserve component by its effective age, then dividing the result by  
18 the reserve component's useful life. The sum total of all reserve  
19 components' fully funded balances is the association's fully funded  
20 balance.

21 (10) "Governing documents" means the articles of incorporation,  
22 bylaws, plat, declaration of covenants, conditions, and restrictions,  
23 rules and regulations of the association, or other written instrument  
24 by which the association has the authority to exercise any of the  
25 powers provided for in this chapter or to manage, maintain, or  
26 otherwise affect the property under its jurisdiction.

27 (11) "Homeowners' association" or "association" means a  
28 corporation, unincorporated association, or other legal entity, each  
29 member of which is an owner of residential real property located within  
30 the association's jurisdiction, as described in the governing  
31 documents, and by virtue of membership or ownership of property is  
32 obligated to pay real property taxes, insurance premiums, maintenance  
33 costs, or for improvement of real property other than that which is  
34 owned by the member. "Homeowners' association" does not mean an  
35 association created under chapter 64.32 or 64.34 RCW.

36 (12) "Lot" means a physical portion of the real property located  
37 within an association's jurisdiction designated for separate ownership.

1 (13) "Owner" means the owner of a lot, but does not include a  
2 person who has an interest in a lot solely as security for an  
3 obligation. "Owner" also means the vendee, not the vendor, of a lot  
4 under a real estate contract.

5 (14) "Remaining useful life" means the estimated time, in years,  
6 before a reserve component will require major maintenance, repair, or  
7 replacement to perform its intended function.

8 (15) "Replacement cost" means the current cost of replacing,  
9 repairing, or restoring a reserve component to its original functional  
10 condition.

11 (16) "Reserve component" means a common element whose cost of  
12 maintenance, repair, or replacement is infrequent, significant, and  
13 impractical to include in an annual budget.

14 (17) "Reserve study professional" means an independent person who  
15 is suitably qualified by knowledge, skill, experience, training, or  
16 education to prepare a reserve study in accordance with RCW ((~~64.34.380~~  
17 ~~and 64.34.382~~) 64.38.065 and 64.38.070).

18 (18) "Residential real property" means any real property, the use  
19 of which is limited by law, covenant or otherwise to primarily  
20 residential or recreational purposes. However, a marina slip that is  
21 incorporated as its own community association, such as, but not limited  
22 to, a separate condominium association, is not considered "residential  
23 real property" for the purposes of this chapter.

24 (19) "Significant assets" means that the current replacement value  
25 of the major reserve components is seventy-five percent or more of the  
26 gross budget of the association, excluding the association's reserve  
27 account funds.

28 (20) "Useful life" means the estimated time, between years, that  
29 major maintenance, repair, or replacement is estimated to occur.

30 NEW SECTION. **Sec. 2.** This act applies both retroactively and  
31 prospectively.

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