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## Civil Rights & Judiciary Committee

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### SSB 5168

**Brief Description:** Modifying notice and opportunity provisions relating to certain enforcement actions taken by a homeowners' or condominium association.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Hasegawa and Saldaña).

#### Brief Summary of Substitute Bill

- Amends provisions in the Homeowners' Association Act and the Condominium Act concerning the power of an association to levy fines for violations of the governing documents and regulations to require that owners be given reasonable notice for a fair opportunity to be heard.

**Hearing Date:** 2/26/20

**Staff:** Cece Clynch (786-7195).

#### Background:

A homeowners' association (HOA) is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An HOA is typically created by a land developer or builder of a planned residential development pursuant to a declaration of covenants, conditions, and restrictions. An HOA is not required to organize as a particular legal entity. Generally, the powers and duties of an HOA in Washington created before July 1, 2018, are defined by: (1) the Homeowners' Association Act (Act); (2) the HOA's declaration, bylaws, rules, and other governing documents; and (3) the law governing the HOA's legal entity, such as the state Business Corporation Act or Nonprofit Corporation Act.

Under the Washington Condominium Act (WCA), a unit owners' association must be organized no later than the date the first unit is conveyed and must take the form of a profit or nonprofit association. The membership of the association consists exclusively of all the unit owners. As with HOAs, condominium associations are managed by a board of directors elected by the unit

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owners. Generally, the powers and duties of a condominium association created before July 1, 2018, are defined by the WCA, the governing documents specific to a particular association, and the laws governing the association's legal entity.

Pursuant to identical language in both the Act and the WCA, an association may, among other things, impose and collect charges for late payments of assessments and, after notice and an opportunity to be heard by the Board or by the representative designated by the Board, and in accordance with the procedures as provided in the governing documents and regulations adopted by the Board, levy reasonable fines in accordance with a previously established schedule adopted by the Board and furnished to the owners for violation of the bylaws, rules, and regulations of the association.

Enacted in 2018, the Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to residential common interest communities (CICs) created on or after that date. "Common interest community" includes condominiums and plat communities, sometimes also referred to as homeowners' associations. Under the WUCIOA, an association may collect reasonable charges for late payments of assessments and, after notice and opportunity to be heard, impose and collect reasonable fines for violations in accordance with a previously established schedule of fines adopted by the board and furnished to the owners.

**Summary of Bill:**

Identical provisions in the Homeowners' Association Act and the Washington Condominium Act with respect to levying fines for violations are amended to require:

- that the notice be reasonable; and
- that the opportunity to be heard be fair.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.