

HOUSE BILL REPORT

SSB 5168

As Reported by House Committee On: Civil Rights & Judiciary

Title: An act relating to providing notice before certain enforcement actions taken by a homeowners' or condominium association.

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 History:

Committee Activity:

Civil Rights & Judiciary: 2/26/20, 2/28/20 [DP].

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.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 15 members: Representatives Kilduff, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

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

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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 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.

Staff Summary of Public Testimony:

(In support) This bill has been in the Senate for several years. Ideally, it should have been included in the Washington Uniform Common Interest Ownership Act, but that language was already locked in. The idea for this bill was raised by the Commission on African American Affairs. There have been instances in which fines have been weaponized as a tool to get rid of some members of an association. In one association, four families were forced out when they could not come up with substantial sums of money for repairs in the short amount of time allowed.

The Community Association Institute supports this bill. It has been a work in progress for five years, during which time significant changes have been made as a result of some good compromises. The original 45-day requirement has been stricken, as has the requirement that the hearings be "impartial." It is recognized that hearings must be fair, but there was fear that an impartial requirement might necessitate that a third party hear every case.

(Opposed) None.

Persons Testifying: Senator Hasegawa, prime sponsor; and Krystelle Purkey, Washington State Community Association Institute.

Persons Signed In To Testify But Not Testifying: None.