

SENATE BILL REPORT

SB 5168

As Reported by Senate Committee On:
Law & Justice, January 31, 2019

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: Senators Hasegawa and Saldaña.

Brief History:

Committee Activity: Law & Justice: 1/28/19, 1/31/19 [DPS].

Brief Summary of First Substitute Bill

- Requires reasonable notice and a fair opportunity to be heard by the board of directors before the association may impose and collect charges for late payments of assessments.
- Harmonizes the provisions for homeowners' associations and condominium unit owners' associations.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5168 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Tim Ford (786-7423)

Background: A homeowners' association is a corporation, unincorporated association, or other legal entity where each member is an owner of residential real property located within the association's jurisdiction. Described in the governing documents, by virtue of membership or ownership of property, each member is obligated to pay real property taxes, insurance premiums, maintenance costs, or for real property improvements in common areas.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Similarly, for condominiums, a unit owner's association performs many of the same functions and has many of the same duties.

Both types of associations may impose and collect charges for late payments of assessments after notice and an opportunity to be heard by the board of directors. Procedures may be provided in the bylaws or rules and regulations adopted by the board of directors. They may also levy reasonable fines in accordance with an established schedule adopted by the board of directors and furnished to the owners. Currently, neither the homeowners' association statutes nor the Condominium Act specify how much notice must be given in these circumstances.

The powers of each of these associations are provided in statute and in their respective governing documents. Those powers are most often exercised by boards of directors who must exercise care and loyalty in the performance of those duties.

Summary of Bill (First Substitute): Before a homeowners' association or unit owners' association may impose and collect charges for late payments of assessments, the owner must be given reasonable notice and an opportunity to be heard by the board of directors or their designee. The the opportunity to be heard must be fair.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Removes the requirement to provide a 45-day notice prior to imposing and collecting charges, and replaces it with reasonable notice.
- Removes the requirement for an impartial opportunity to be heard by the board, and retains a fair opportunity.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is to address some racism where fixes would be required of persons of color that were very expensive, and the residents were given a very limited time to make the fix. The fixes were not necessary but required financing which is not easy to obtain in just two weeks.

OTHER: There are approximately two million Washington State residents living in homeowner or condo associations. The 45-day notice should be changed to be reasonable, mostly because there may be an emergency where something needs to be fixed and payment needs to be made right away. The opportunity to be heard should be changed from impartial to just fair, because the board of directors are also owners in the association and using the terminology of impartial may require use of a third party to mediate any disagreement.

Persons Testifying: PRO: Senator Bob Hasegawa, Prime Sponsor.

OTHER: Krystelle Purkey, Washington State Chapter of Community Associations Institute.

Persons Signed In To Testify But Not Testifying: No one.