
HOUSE BILL 1576

State of Washington

66th Legislature

2019 Regular Session

By Representatives Senn, Irwin, Goodman, Griffey, Ryu, Chapman, and Barkis

Read first time 01/24/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to construction defect actions; and adding a new
2 section to chapter 64.50 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.50
5 RCW to read as follows:

6 (1)(a) In the event the board of directors, pursuant to RCW
7 64.90.405, institutes an action asserting defects in the construction
8 of two or more residences, common elements, or common areas, this
9 section applies.

10 (b) The board of directors shall substantially comply with the
11 provisions of this section.

12 (2) Prior to the service of the summons and complaint on any
13 defendant with respect to an action governed by this section, the
14 board of directors shall provide notice to homeowners and to each
15 construction professional against whom an action is proposed, convene
16 a meeting of homeowners to consider whether to bring an action, and
17 secure the vote of the majority of the homeowners to proceed with the
18 action.

19 (3) The notice provided to homeowners and to each construction
20 professional against whom an action is proposed shall include:

1 (a) A general description of the alleged defects with reasonable
2 specificity, the relief sought, a good faith estimate of the benefits
3 and risks involved, the expenses and fees that the board of directors
4 anticipates will be incurred in prosecuting the action, and any other
5 pertinent information;

6 (b) A general description of the process and outcome following
7 service of the notice of claim under RCW 64.50.020; and

8 (c) Notice of the meeting of the homeowners to consider whether
9 to bring an action.

10 (4) (a) The meeting of homeowners must be held within forty-five
11 days of the date the notice was provided, in accordance with RCW
12 64.90.515, to homeowners. A quorum is not required at the meeting.

13 (b) The construction professional against whom the construction
14 defect action is proposed, who may be the declarant or any other
15 person or entity included within the definition of construction
16 professional, as defined in RCW 64.50.010, shall be invited to attend
17 and shall have an opportunity to address the homeowners concerning
18 the alleged construction defects.

19 (c) The presentation at the meeting by the construction
20 professional or the construction professional's designee or designees
21 may, but is not required to, include an offer to remedy any defect in
22 accordance with this chapter.

23 (5) (a) The board of directors may initiate an action only after
24 the meeting of the homeowners to consider whether to bring an action
25 and only if authorized by a majority of the homeowners. More than a
26 simple majority vote may not be required in the governing documents
27 or in any contract or agreement. Such approval is not required if the
28 alleged construction defect pertains to a facility that is intended
29 and used for nonresidential purposes and if the cost to repair the
30 alleged defect does not exceed one hundred thousand dollars or when
31 the association is the contracting party for the performance of labor
32 or purchase of services or materials.

33 (b) Notwithstanding any other provision of law, a homeowner's
34 vote shall be submitted only once and may be obtained in any written
35 format confirming the homeowner's vote to approve or reject the
36 proposed action. The association shall maintain a record of all votes
37 until the conclusion of the action, including all appeals, if any.

38 (c) (i) For purposes of calculating the total number of eligible
39 votes and the number of votes needed for the required majority vote

1 under this section only, the residences owned by a development party
2 are excluded.

3 (ii) As used in this subsection (5)(c), "development party" means
4 a contractor, subcontractor, developer, or builder responsible for
5 any part of the design, construction, or repair of any portion of the
6 common interest community and any of that party's affiliates; and
7 "affiliate" includes an entity controlled or owned, in whole or in
8 part, by any person that controls or owns a development party or by
9 the spouse of a development party.

10 (6) For purposes of this section, "action" has the same meaning
11 as set forth in RCW 64.50.010.

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