

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5334

66th Legislature
2019 Regular Session

Passed by the Senate April 19, 2019
Yeas 47 Nays 0

President of the Senate

Passed by the House April 4, 2019
Yeas 93 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5334** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

1 interest rules and immunities described in this section apply
2 regardless of the form in which the association is organized.

3 (2) (a) Except as provided otherwise in RCW 64.90.300(5),
4 effective as of the transition meeting held in accordance with RCW
5 64.90.415(4), the board must be comprised of at least three members,
6 at least a majority of whom must be unit owners. However, the number
7 of board members need not exceed the number of units then in the
8 common interest community.

9 (b) Unless the declaration or organizational documents provide
10 for the election of officers by the unit owners, the board must elect
11 the officers.

12 (c) Unless provided otherwise in the declaration or
13 organizational documents, board members and officers must take office
14 upon adjournment of the meeting at which they were elected or
15 appointed or, if not elected or appointed at a meeting, at the time
16 of such election or appointment, and must serve until their successor
17 takes office.

18 (d) In determining the qualifications of any officer or board
19 member of the association, "unit owner" includes, unless the
20 declaration or organizational documents provide otherwise, any board
21 member, officer, member, partner, or trustee of any person, who is,
22 either alone or in conjunction with another person or persons, a unit
23 owner.

24 (e) Any officer or board member of the association who would not
25 be eligible to serve as such if he or she were not a board member,
26 officer, partner in, or trustee of such a person is disqualified from
27 continuing in office if he or she ceases to have any such affiliation
28 with that person or that person would have been disqualified from
29 continuing in such office as a natural person.

30 (3) Except when voting as a unit owner, the declarant may not
31 appoint or elect any person or to serve itself as a voting, ex
32 officio or nonvoting board member following the transition meeting.

33 (4) The board may not, without vote or agreement of the unit
34 owners:

35 (a) Amend the declaration, except as provided in RCW 64.90.285;

36 (b) Amend the organizational documents of the association;

37 (c) Terminate the common interest community;

38 (d) Elect members of the board, but may fill vacancies in its
39 membership not resulting from removal for the unexpired portion of

1 any term or, if earlier, until the next regularly scheduled election
2 of board members; or

3 (e) Determine the qualifications, powers, duties, or terms of
4 office of board members.

5 (5) The board must adopt budgets as provided in RCW 64.90.525.

6 (6) Except for committees appointed by the declarant pursuant to
7 special declarant rights, all committees of the association must be
8 appointed by the board. Committees authorized to exercise any power
9 reserved to the board must include at least two board members who
10 have exclusive voting power for that committee. Committees that are
11 not so composed may not exercise the authority of the board and are
12 advisory only.

13 **Sec. 102.** RCW 64.90.670 and 2018 c 277 s 415 are each amended to
14 read as follows:

15 (1) A declarant and any dealer warrants to a purchaser of a
16 condominium unit that the unit will be in at least as good condition
17 at the earlier of the time of the conveyance or delivery of
18 possession as it was at the time of contracting, except for
19 reasonable wear and tear and damage by casualty or condemnation.

20 (2) A declarant and any dealer impliedly warrants to a purchaser
21 of a condominium unit that the unit and the common elements in the
22 condominium are suitable for the ordinary uses of real estate of its
23 type and that any improvements made or contracted for by such
24 declarant or dealer will be:

25 (a) Free from defective materials;

26 (b) Constructed in accordance with ~~((sound))~~ engineering and
27 construction standards, including applicable building codes,
28 generally accepted in the state of Washington at the time of
29 construction; and

30 (c) Constructed in a workmanlike manner(~~;~~ and

31 ~~(d) Constructed in compliance with all laws then applicable to~~
32 ~~such improvements)).~~

33 (3) A declarant and any dealer warrants to a purchaser of a
34 condominium unit that may be used for residential use that an
35 existing use, continuation of which is contemplated by the parties,
36 does not violate applicable law at the earlier of the time of
37 conveyance or delivery of possession.

38 (4) Warranties imposed under this section may be excluded or
39 modified as specified in RCW 64.90.675.

1 (5) For purposes of this section, improvements made or contracted
2 for by an affiliate of a declarant are made or contracted for by the
3 declarant.

4 (6) Any conveyance of a condominium unit transfers to the
5 purchaser all of a declarant's or dealer's implied warranties of
6 quality.

7 (7)(a) In a proceeding for breach of any of the obligations
8 arising under this section, the ~~((plaintiff))~~ purchaser must show
9 that the alleged breach has adversely affected or will adversely
10 affect the performance of that portion of the unit or common elements
11 alleged to be in breach. Nothing in this section limits the ability
12 of a board to bring claims on behalf of two or more unit owners
13 pursuant to RCW 64.90.405(2)(d).

14 (b) ~~((As used in this subsection, an adverse effect must be more~~
15 ~~than technical and must be significant to a reasonable person.))~~ To
16 establish an adverse effect on performance, the ~~((person alleging the~~
17 ~~breach))~~ purchaser is ~~((not))~~ required to prove that the alleged
18 breach ~~((renders the unit or common element uninhabitable or unfit~~
19 ~~for its intended purpose))~~:

20 (i) Is more than technical;

21 (ii) Is significant to a reasonable person; and

22 (iii) Has caused or will cause physical damage to the unit or
23 common elements; has materially impaired the performance of
24 mechanical, electrical, plumbing, elevator, or similar building
25 equipment; or presents an actual, unreasonable safety risk to the
26 occupants of the condominium.

27 (8) Proof of breach of any obligation arising under this section
28 is not proof of damages. Damages awarded for a breach of ~~((an~~
29 ~~obligation))~~ a warranty arising under subsection (2) of this section
30 are the reasonable cost of repairs. However, if it is established
31 that the cost of such repairs is clearly disproportionate to the loss
32 in market value caused by the breach, damages are limited to the loss
33 in market value.

34 PART II — TECHNICAL CORRECTIONS

35 **Sec. 201.** RCW 64.90.010 and 2018 c 277 s 102 are each amended to
36 read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

1 (1) "Affiliate of a declarant" means any person who controls, is
2 controlled by, or is under common control with a declarant. For
3 purposes of this subsection:

4 (a) A person controls a declarant if the person:

5 (i) Is a general partner, managing member, officer, director, or
6 employer of the declarant;

7 (ii) Directly or indirectly or acting in concert with one or more
8 other persons, or through one or more subsidiaries, owns, controls,
9 holds with power to vote, or holds proxies representing more than
10 twenty percent of the voting interest in the declarant;

11 (iii) Controls in any manner the election or appointment of a
12 majority of the directors, managing members, or general partners of
13 the declarant; or

14 (iv) Has contributed more than twenty percent of the capital of
15 the declarant.

16 (b) A person is controlled by a declarant if the declarant:

17 (i) Is a general partner, managing member, officer, director, or
18 employer of the person;

19 (ii) Directly or indirectly or acting in concert with one or more
20 other persons, or through one or more subsidiaries, owns, controls,
21 holds with power to vote, or holds proxies representing more than
22 twenty percent of the voting interest in the person;

23 (iii) Controls in any manner the election or appointment of a
24 majority of the directors, managing members, or general partners of
25 the person; or

26 (iv) Has contributed more than twenty percent of the capital of
27 the person.

28 (c) Control does not exist if the powers described in this
29 subsection (1) are held solely as security for an obligation and are
30 not exercised.

31 (2) "Allocated interests" means the following interests allocated
32 to each unit:

33 (a) In a condominium, the undivided interest in the common
34 elements, the common expense liability, and votes in the association;

35 (b) In a cooperative, the common expense liability, the ownership
36 interest, and votes in the association; and

37 (c) In a plat community and miscellaneous community, the common
38 expense liability and the votes in the association, and also the
39 undivided interest in the common elements if owned in common by the
40 unit owners rather than an association.

1 (3) "Assessment" means all sums chargeable by the association
2 against a unit, including any assessments levied pursuant to RCW
3 64.90.480, fines or fees levied or imposed by the association
4 pursuant to this chapter or the governing documents, interest and
5 late charges on any delinquent account, and all costs of collection
6 incurred by the association in connection with the collection of a
7 delinquent owner's account, including reasonable attorneys' fees.

8 (4) "Association" or "unit owners association" means the unit
9 owners association organized under RCW 64.90.400 and, to the extent
10 necessary to construe sections of this chapter made applicable to
11 common interest communities pursuant to RCW 64.90.080, 64.90.090, or
12 64.90.095, the association organized or created to administer such
13 common interest communities.

14 (5) "Ballot" means a record designed to cast or register a vote
15 or consent in a form provided or accepted by the association.

16 (6) "Board" means the body, regardless of name, designated in the
17 declaration, map, or organizational documents, with primary authority
18 to manage the affairs of the association.

19 (7) "Common elements" means:

20 (a) In a condominium or cooperative, all portions of the common
21 interest community other than the units;

22 (b) In a plat community or miscellaneous community, any real
23 estate other than a unit within a plat community or miscellaneous
24 community that is owned or leased either by the association or in
25 common by the unit owners rather than an association; and

26 (c) In all common interest communities, any other interests in
27 real estate for the benefit of any unit owners that are subject to
28 the declaration.

29 (8) "Common expense" means any expense of the association,
30 including allocations to reserves, allocated to all of the unit
31 owners in accordance with common expense liability.

32 (9) "Common expense liability" means the liability for common
33 expenses allocated to each unit pursuant to RCW 64.90.235.

34 (10) "Common interest community" means real estate described in a
35 declaration with respect to which a person, by virtue of the person's
36 ownership of a unit, is obligated to pay for a share of real estate
37 taxes, insurance premiums, maintenance, or improvement of, or
38 services or other expenses related to, common elements, other units,
39 or other real estate described in the declaration. "Common interest
40 community" does not include an arrangement described in RCW 64.90.110

1 or 64.90.115. A common interest community may be a part of another
2 common interest community.

3 (11) "Condominium" means a common interest community in which
4 portions of the real estate are designated for separate ownership and
5 the remainder of the real estate is designated for common ownership
6 solely by the owners of those portions. A common interest community
7 is not a condominium unless the undivided interests in the common
8 elements are vested in the unit owners.

9 (12) "Condominium notice" means the notice given to tenants
10 pursuant to subsection (13)(c) of this section.

11 (13)(a) "Conversion building" means a building:

12 (i) That at any time before creation of the common interest
13 community was lawfully occupied wholly or partially by a tenant or
14 subtenant for residential purposes pursuant to a rental agreement,
15 oral or written, express or implied, who did not receive a
16 condominium notice prior to entering into the rental agreement or
17 lawfully taking occupancy, whichever event occurred first; or

18 (ii) That at any time within the twelve months preceding the
19 first acceptance of an agreement with the declarant to convey, or the
20 first conveyance of, any unit in the building, whichever event
21 occurred first, to any person who was not a declarant or dealer, or
22 affiliate of a declarant or dealer, was lawfully occupied wholly or
23 partially by a tenant or subtenant for residential purposes pursuant
24 to a rental agreement, oral or written, express or implied, who did
25 not receive a condominium notice prior to entering into the rental
26 agreement or lawfully taking occupancy, whichever event occurred
27 first.

28 (b) A building in a common interest community is a conversion
29 building only if:

30 (i) The building contains more than two attached dwelling units
31 as defined in RCW 64.55.010(1); and

32 (ii) Acceptance of an agreement to convey, or conveyance of, any
33 unit in the building to any person who was not a declarant or dealer,
34 or affiliate of a declarant or dealer, did not occur prior to July 1,
35 2018.

36 (c) The notice referred to in (a)(i) and (ii) of this subsection
37 must be in writing and must state: "The unit you will be occupying
38 is, or may become, part of a common interest community and subject to
39 sale."

1 (14) "Convey" or "conveyance" means, with respect to a unit, any
2 transfer of ownership of the unit, including a transfer by deed or by
3 real estate contract and, with respect to a unit in a leasehold
4 common interest community or a proprietary lease in a cooperative, a
5 transfer by lease or assignment of the unit, but does not include the
6 creation, transfer, or release of a security interest.

7 (15) "Cooperative" means a common interest community in which the
8 real estate is owned by an association, each member of which is
9 entitled by virtue of the member's ownership interest in the
10 association and by a proprietary lease to exclusive possession of a
11 unit.

12 (16) "Dealer" means a person who, together with such person's
13 affiliates, owns or has a right to acquire either six or more units
14 in a common interest community or fifty percent or more of the units
15 in a common interest community containing more than two units.

16 (17) "Declarant" means:

17 (a) Any person who executes as declarant a declaration;

18 (b) Any person who reserves any special declarant right in a
19 declaration;

20 (c) Any person who exercises special declarant rights or to whom
21 special declarant rights are transferred of record. The holding or
22 exercise of rights to maintain sales offices, signs advertising the
23 common interest community, and models, and related right of access,
24 does not confer the status of being a declarant; or

25 (d) Any person who is the owner of a fee interest in the real
26 estate that is subjected to the declaration at the time of the
27 recording of an instrument pursuant to RCW 64.90.425 and who directly
28 or through one or more affiliates is materially involved in the
29 construction, marketing, or sale of units in the common interest
30 community created by the recording of the instrument.

31 (18) "Declarant control" means the right of the declarant or
32 persons designated by the declarant to appoint or remove any officer
33 or board member of the association or to veto or approve a proposed
34 action of any board or association, pursuant to RCW 64.90.415(1) (a).

35 (19) "Declaration" means the instrument, however denominated,
36 that creates a common interest community, including any amendments to
37 the instrument.

38 (20) "Development rights" means any right or combination of
39 rights reserved by a declarant in the declaration to:

1 (a) Add real estate or improvements to a common interest
2 community;

3 (b) Create units, common elements, or limited common elements
4 within a common interest community;

5 (c) Subdivide or combine units or convert units into common
6 elements;

7 (d) Withdraw real estate from a common interest community; or

8 (e) Reallocate limited common elements with respect to units that
9 have not been conveyed by the declarant.

10 (21) "Effective age" means the difference between the useful life
11 and remaining useful life.

12 (22) "Electronic transmission" or "electronically transmitted"
13 means any electronic communication (a) not directly involving the
14 physical transfer of a record in a tangible medium and (b) that may
15 be retained, retrieved, and reviewed by the sender and the recipient
16 of the communication, and that may be directly reproduced in a
17 tangible medium by a sender and recipient.

18 (23) "Eligible mortgagee" means the holder of a security interest
19 on a unit that has filed with the secretary of the association a
20 written request that it be given copies of notices of any action by
21 the association that requires the consent of mortgagees.

22 (24) "Foreclosure" means a statutory forfeiture or a judicial or
23 nonjudicial foreclosure of a security interest or a deed or other
24 conveyance in lieu of a security interest.

25 (25) "Full funding plan" means a reserve funding goal of
26 achieving one hundred percent fully funded reserves by the end of the
27 thirty-year study period described under RCW 64.90.550, in which the
28 reserve account balance equals the sum of the estimated costs
29 required to maintain, repair, or replace the deteriorated portions of
30 all reserve components.

31 (26) "Fully funded balance" means the current value of the
32 deteriorated portion, not the total replacement value, of all the
33 reserve components. The fully funded balance for each reserve
34 component is calculated by multiplying the current replacement cost
35 of that reserve component by its effective age, then dividing the
36 result by that reserve component's useful life. The sum total of all
37 reserve components' fully funded balances is the association's fully
38 funded balance.

39 (27) "Governing documents" means the organizational documents,
40 map, declaration, rules, or other written instrument by which the

1 association has the authority to exercise any of the powers provided
2 for in this chapter or to manage, maintain, or otherwise affect the
3 property under its jurisdiction.

4 (28) "Identifying number" means a symbol or address that
5 identifies only one unit or limited common element in a common
6 interest community.

7 (29) "Leasehold common interest community" means a common
8 interest community in which all or a portion of the real estate is
9 subject to a lease the expiration or termination of which will
10 terminate the common interest community or reduce its size.

11 (30) "Limited common element" means a portion of the common
12 elements allocated by the declaration or by operation of RCW
13 64.90.210 (1)(b) or (~~(+2)~~) (3) for the exclusive use of one or more,
14 but fewer than all, of the unit owners.

15 (31) "Map" means: (a) With respect to a plat community, the plat
16 as defined in RCW 58.17.020 and complying with the requirements of
17 Title 58 RCW, and (b) with respect to a condominium, cooperative, or
18 miscellaneous community, a map prepared in accordance with the
19 requirements of RCW 64.90.245.

20 (32) "Master association" means an organization described in RCW
21 64.90.300, whether or not it is also an association described in RCW
22 64.90.400.

23 (33) "Miscellaneous community" means a common interest community
24 in which units are lawfully created in a manner not inconsistent with
25 chapter 58.17 RCW and that is not a condominium, cooperative, or plat
26 community.

27 (34) "Nominal reserve costs" means that the current estimated
28 total replacement costs of the reserve components are less than fifty
29 percent of the annual budgeted expenses of the association, excluding
30 contributions to the reserve fund, for a condominium or cooperative
31 containing horizontal unit boundaries, and less than seventy-five
32 percent of the annual budgeted expenses of the association, excluding
33 contributions to the reserve fund, for all other common interest
34 communities.

35 (35) "Organizational documents" means the instruments filed with
36 the secretary of state to create an entity and the instruments
37 governing the internal affairs of the entity including, but not
38 limited to, any articles of incorporation, certificate of formation,
39 bylaws, and limited liability company or partnership agreement.

1 (36) "Person" means an individual, corporation, business trust,
2 estate, the trustee or beneficiary of a trust that is not a business
3 trust, partnership, limited liability company, association, joint
4 venture, public corporation, government, or governmental subdivision,
5 agency, or instrumentality, or any other legal entity.

6 (37) "Plat community" means a common interest community in which
7 units have been created by subdivision or short subdivision as both
8 are defined in RCW 58.17.020 and in which the boundaries of units are
9 established pursuant to chapter 58.17 RCW.

10 (38) "Proprietary lease" means a written and recordable lease
11 that is executed and acknowledged by the association as lessor and
12 that otherwise complies with requirements applicable to a residential
13 lease of more than one year and pursuant to which a member is
14 entitled to exclusive possession of a unit in a cooperative. A
15 proprietary lease governed under this chapter is not subject to
16 chapter 59.18 RCW except as provided in the declaration.

17 (39) "Purchaser" means a person, other than a declarant or a
18 dealer, which by means of a voluntary transfer acquires a legal or
19 equitable interest in a unit other than as security for an
20 obligation.

21 (40) "Qualified financial institution" means a bank, savings
22 association, or credit union whose deposits are insured by the
23 federal government.

24 (41) "Real estate" means any leasehold or other estate or
25 interest in, over, or under land, including structures, fixtures, and
26 other improvements and interests that by custom, usage, or law pass
27 with a conveyance of land though not described in the contract of
28 sale or instrument of conveyance. "Real estate" includes parcels with
29 or without upper or lower boundaries and spaces that may be filled
30 with air or water.

31 (42) "Real estate contract" has the same meaning as defined in
32 RCW 61.30.010.

33 (43) "Record," when used as a noun, means information inscribed
34 on a tangible medium or contained in an electronic transmission.

35 (44) "Remaining useful life" means the estimated time, in years,
36 before a reserve component will require major maintenance, repair, or
37 replacement to perform its intended function.

38 (45) "Replacement cost" means the estimated total cost to
39 maintain, repair, or replace a reserve component to its original
40 functional condition.

1 (46) "Reserve component" means a physical component of the common
2 interest community which the association is obligated to maintain,
3 repair, or replace, which has an estimated useful life of less than
4 thirty years, and for which the cost of such maintenance, repair, or
5 replacement is infrequent, significant, and impractical to include in
6 an annual budget.

7 (47) "Reserve study professional" means an independent person who
8 is suitably qualified by knowledge, skill, experience, training, or
9 education to prepare a reserve study in accordance with RCW 64.90.545
10 and 64.90.550. For the purposes of this subsection, "independent"
11 means a person who is not an employee, officer, or director, and has
12 no pecuniary interest in the declarant, association, or any other
13 party for whom the reserve study is prepared.

14 (48) "Residential purposes" means use for dwelling or
15 recreational purposes, or both.

16 (49) "Rule" means a policy, guideline, restriction, procedure, or
17 regulation of an association, however denominated, that is not set
18 forth in the declaration or organizational documents and governs the
19 conduct of persons or the use or appearance of property.

20 (50) "Security interest" means an interest in real estate or
21 personal property, created by contract or conveyance that secures
22 payment or performance of an obligation. "Security interest" includes
23 a lien created by a mortgage, deed of trust, real estate contract,
24 lease intended as security, assignment of lease or rents intended as
25 security, pledge of an ownership interest in an association, and any
26 other consensual lien or title retention contract intended as
27 security for an obligation.

28 (51) "Special declarant rights" means rights reserved for the
29 benefit of a declarant to:

30 (a) Complete any improvements indicated on the map or described
31 in the declaration or the public offering statement pursuant to RCW
32 64.90.610(1)(h);

33 (b) Exercise any development right;

34 (c) Maintain sales offices, management offices, signs advertising
35 the common interest community, and models;

36 (d) Use easements through the common elements for the purpose of
37 making improvements within the common interest community or within
38 real estate that may be added to the common interest community;

39 (e) Make the common interest community subject to a master
40 association;

1 (f) Merge or consolidate a common interest community with another
2 common interest community of the same form of ownership;

3 (g) Appoint or remove any officer or board member of the
4 association or any master association or to veto or approve a
5 proposed action of any board or association, pursuant to RCW
6 64.90.415(1);

7 (h) Control any construction, design review, or aesthetic
8 standards committee or process;

9 (i) Attend meetings of the unit owners and, except during an
10 executive session, the board;

11 (j) Have access to the records of the association to the same
12 extent as a unit owner.

13 (52) "Specially allocated expense" means any expense of the
14 association, including allocations to reserves, allocated to some or
15 all of the unit owners pursuant to RCW 64.90.480 (4) through (8).

16 (53) "Survey" has the same meaning as defined in RCW 58.09.020.

17 (54) "Tangible medium" means a writing, copy of a writing,
18 facsimile, or a physical reproduction, each on paper or on other
19 tangible material.

20 (55) "Timeshare" has the same meaning as defined in RCW
21 64.36.010.

22 (56) "Transition meeting" means the meeting held pursuant to RCW
23 64.90.415(4).

24 (57)(a) "Unit" means a physical portion of the common interest
25 community designated for separate ownership or occupancy, the
26 boundaries of which are described pursuant to RCW 64.90.225(1)(d).

27 (b) If a unit in a cooperative is owned by a unit owner or is
28 sold, conveyed, voluntarily or involuntarily encumbered, or otherwise
29 transferred by a unit owner, the interest in that unit that is owned,
30 sold, conveyed, encumbered, or otherwise transferred is the right to
31 possession of that unit under a proprietary lease, coupled with the
32 allocated interests of that unit, and the association's interest in
33 that unit is not affected.

34 (c) Except as provided in the declaration, a mobile home or
35 manufactured home for which title has been eliminated pursuant to
36 chapter 65.20 RCW is part of the unit described in the title
37 elimination documents.

38 (58)(a) "Unit owner" means (i) a declarant or other person that
39 owns a unit or (ii) a lessee of a unit in a leasehold common interest
40 community whose lease expires simultaneously with any lease the

1 expiration or termination of which will remove the unit from the
2 common interest community, but does not include a person having an
3 interest in a unit solely as security for an obligation.

4 (b) "Unit owner" also means the vendee, not the vendor, of a unit
5 under a recorded real estate contract.

6 (c) In a condominium, plat community, or miscellaneous community,
7 the declarant is the unit owner of any unit created by the
8 declaration. In a cooperative, the declarant is treated as the unit
9 owner of any unit to which allocated interests have been allocated
10 until that unit has been conveyed to another person.

11 (59) "Useful life" means the estimated time during which a
12 reserve component is expected to perform its intended function
13 without major maintenance, repair, or replacement.

14 (60) "Writing" does not include an electronic transmission.

15 (61) "Written" means embodied in a tangible medium.

16 **Sec. 202.** RCW 64.90.025 and 2018 c 277 s 105 are each amended to
17 read as follows:

18 (1) A building, fire, health, or safety statute, ordinance, or
19 regulation may not impose any requirement upon any structure in a
20 common interest community that it would not impose upon a physically
21 identical development under a different form of ownership.

22 (2) A zoning, subdivision, or other land use statute, ordinance,
23 or regulation may not prohibit the condominium or cooperative form of
24 ownership or impose any requirement upon a condominium or cooperative
25 or miscellaneous community that it would not impose upon a physically
26 identical development under a different form of ownership.

27 (3) Chapter 58.17 RCW does not apply to the creation of a
28 condominium or a cooperative. This chapter must not be construed to
29 permit the creation of a condominium or cooperative or miscellaneous
30 community on a lot, tract, or parcel of land that could not be sold
31 or transferred without violating chapter 58.17 RCW.

32 (4) Except as provided in subsections (1), (2), and (3) of this
33 section, this chapter does not invalidate or modify any provision of
34 any building, zoning, subdivision, or other statute, ordinance, rule,
35 or regulation governing the use of real estate.

36 (5) This section does not prohibit a county legislative authority
37 from requiring the review and approval of declarations and amendments
38 to declarations and of termination agreements executed pursuant to
39 RCW 64.90.290(2) by the county assessor solely for the purpose of

1 allocating the assessed value and property taxes. The review by the
2 assessor must be done in a reasonable and timely manner.

3 **Sec. 203.** RCW 64.90.075 and 2018 c 277 s 116 are each amended to
4 read as follows:

5 (1) Except as provided otherwise in this section, this chapter
6 applies to all common interest communities created within this state
7 on or after July 1, 2018. Chapters (~~(59.18)~~) 58.19, 64.32, 64.34, and
8 64.38 RCW do not apply to common interest communities created on or
9 after July 1, 2018.

10 (2) Unless the declaration provides that this entire chapter is
11 applicable, a plat community or miscellaneous community that is not
12 subject to any development right is subject only to RCW 64.90.020,
13 64.90.025, and 64.90.030, if the community: (a) Contains no more than
14 twelve units; and (b) provides in its declaration that the annual
15 average assessment of all units restricted to residential purposes,
16 exclusive of optional user fees and any insurance premiums paid by
17 the association, may not exceed three hundred dollars, as adjusted
18 pursuant to RCW 64.90.065.

19 (3) The exemption provided in subsection (2) of this section
20 applies only if:

21 (a) The declarant reasonably believes in good faith that the
22 maximum stated assessment will be sufficient to pay the expenses of
23 the association for the community; and

24 (b) The declaration provides that the assessment may not be
25 increased above the limitation in subsection (2) of this section
26 prior to the transition meeting without the consent of unit owners,
27 other than the declarant, holding ninety percent of the votes in the
28 association.

29 (4) Except as otherwise provided in RCW 64.90.080, this chapter
30 does not apply to any common interest community created within this
31 state on or after July 1, 2018, if:

32 (a) That common interest community is made part of a common
33 interest community created in this state prior to July 1, 2018,
34 pursuant to a right expressly set forth in the declaration of the
35 preexisting common interest community; and

36 (b) The declaration creating that common interest community
37 expressly subjects that common interest community to the declaration
38 of the preexisting common interest community pursuant to such right
39 described in (a) of this subsection.

1 **Sec. 204.** RCW 64.90.080 and 2018 c 277 s 117 are each amended to
2 read as follows:

3 (1) Except for a nonresidential common interest community
4 described in RCW 64.90.100, RCW 64.90.095 (~~and~~), 64.90.405(1) (b)
5 and (c), 64.90.525 and 64.90.545 apply, and any inconsistent
6 provisions of chapter (~~59.18~~) 58.19, 64.32, 64.34, or 64.38 RCW do
7 not apply, to a common interest community created in this state
8 before July 1, 2018.

9 (2) Except to the extent provided in this subsection, the
10 sections listed in subsection (1) of this section apply only to
11 events and circumstances occurring on or after July 1, 2018, and do
12 not invalidate existing provisions of the governing documents of
13 those common interest communities. To protect the public interest,
14 RCW 64.90.095 and 64.90.525 supersede existing provisions of the
15 governing documents of all plat communities and miscellaneous
16 communities previously subject to chapter 64.38 RCW.

17 **Sec. 205.** RCW 64.90.090 and 2018 c 277 s 119 are each amended to
18 read as follows:

19 (1) Chapter 64.32 RCW does not apply to condominiums created on
20 or after July 1, 1990, and except as otherwise provided in subsection
21 (2) of this section, chapter 64.34 RCW does not apply to condominiums
22 created on or after July 1, 2018.

23 (2) RCW 64.34.405, 64.34.410, 64.34.415, 64.34.417, 64.34.418,
24 and 64.34.420 continue to apply, and RCW 64.90.605, 64.90.610,
25 64.90.615, 64.90.620, 64.90.625, 64.90.630, and 64.90.635 do not
26 apply, to any public offering statement first delivered to a
27 prospective purchaser prior to July 1, 2018, for any common interest
28 community created on or after July 1, 2018. A declarant or dealer who
29 first delivered a public offering statement to a prospective
30 purchaser pursuant to chapter 64.34 RCW prior to July 1, 2018, is not
31 required to deliver a new or amended public offering statement to
32 that purchaser pursuant to this act.

33 **Sec. 206.** RCW 64.90.225 and 2018 c 277 s 206 are each amended to
34 read as follows:

35 (1) The declaration must contain:

36 (a) The names of the common interest community and the
37 association and, immediately following the initial recital of the
38 name of the community, a statement that the common interest community

1 is a condominium, cooperative, plat community, or miscellaneous
2 community;

3 (b) A legal description of the real estate included in the common
4 interest community;

5 (c) A statement of the number of units that the declarant has
6 created and, if the declarant has reserved the right to create
7 additional units, the maximum number of such additional units;

8 (d) In all common interest communities, a reference to the
9 recorded map creating the units and common elements, if any, subject
10 to the declaration, and in a common interest community other than a
11 plat community, the identifying number of each unit created by the
12 declaration, a description of the boundaries of each unit if and to
13 the extent they are different from the boundaries stated in RCW
14 64.90.210(1)(a), and with respect to each existing unit, and if known
15 at the time the declaration is recorded, the (i) approximate square
16 footage, (ii) number of whole or partial bathrooms, (iii) number of
17 rooms designated primarily as bedrooms, and (iv) level or levels on
18 which each unit is located. The data described in this subsection
19 (1)(d)(ii) and (iii) may be omitted with respect to units restricted
20 to nonresidential use;

21 (e) A description of any limited common elements, other than
22 those specified in RCW 64.90.210 (1)(b) and (~~(+2)~~) (3);

23 (f) A description of any real estate that may be allocated
24 subsequently by the declarant as limited common elements, other than
25 limited common elements specified in RCW 64.90.210 (1)(b) and (~~(+2)~~)
26 (3), together with a statement that they may be so allocated;

27 (g) A description of any development right and any other special
28 declarant rights reserved by the declarant, and, if the boundaries of
29 the real estate subject to those rights are fixed in the declaration
30 pursuant to (h)(i) of this subsection, a description of the real
31 property affected by those rights, and a time limit within which each
32 of those rights must be exercised;

33 (h) If any development right may be exercised with respect to
34 different parcels of real estate at different times, a statement to
35 that effect together with:

36 (i) Either a statement fixing the boundaries of those portions
37 and regulating the order in which those portions may be subjected to
38 the exercise of each development right or a statement that no
39 assurances are made in those regards; and

1 (ii) A statement as to whether, if any development right is
2 exercised in any portion of the real estate subject to that
3 development right, that development right must be exercised in all or
4 in any other portion of the remainder of that real estate;

5 (i) Any other conditions or limitations under which the rights
6 described in (g) of this subsection may be exercised or will lapse;

7 (j) An allocation to each unit of the allocated interests in the
8 manner described in RCW 64.90.235;

9 (k) Any restrictions on alienation of the units, including any
10 restrictions on leasing that exceed the restrictions on leasing units
11 that boards may impose pursuant to RCW 64.90.510(9)(c) and on the
12 amount for which a unit may be sold or on the amount that may be
13 received by a unit owner on sale, condemnation, or casualty loss to
14 the unit or to the common interest community, or on termination of
15 the common interest community;

16 (l) A cross-reference by recording number to the map for the
17 units created by the declaration;

18 (m) Any authorization pursuant to which the association may
19 establish and enforce construction and design criteria and aesthetic
20 standards as provided in RCW 64.90.505;

21 (n) All matters required under RCW 64.90.230, 64.90.235,
22 64.90.240, 64.90.275, 64.90.280, and 64.90.410;

23 (o) A statement on the first page of the declaration whether the
24 common interest community is subject to this chapter.

25 (2) All amendments to the declaration must contain a cross-
26 reference by recording number to the declaration and to any prior
27 amendments to the declaration. All amendments to the declaration
28 adding units must contain a cross-reference by recording number to
29 the map relating to the added units and set forth all information
30 required under subsection (1) of this section with respect to the
31 added units.

32 (3) The declaration may contain any other matters the declarant
33 considers appropriate, including any restrictions on the uses of a
34 unit or the number or other qualifications of persons who may occupy
35 units.

36 **Sec. 207.** RCW 64.90.245 and 2018 c 277 s 210 are each amended to
37 read as follows:

1 (1) A map is required for all common interest communities. For
2 purposes of this chapter, a map must be construed as part of the
3 declaration.

4 (2) With the exception of subsections (1), (3), (4), and (14) of
5 this section, this section does not apply to a plat as defined in RCW
6 58.17.020.

7 (3) The map for a common interest community must be executed by
8 the declarant and recorded concurrently with, and contain cross-
9 references by recording number to, the declaration.

10 (4) An amendment to a map for a common interest community must be
11 executed by the same party or parties authorized or required to
12 execute an amendment to the declaration, contain cross-references by
13 recording number to the declaration and any amendments to the
14 declaration, and be recorded concurrently with an amendment to the
15 declaration. With respect to a plat community, (a) any amendment to
16 the map must be prepared and recorded in compliance with the
17 requirements, processes, and procedures in chapter 58.17 RCW and of
18 the local subdivision ordinances of the city, town, or county in
19 which the plat community is located, and (b) any amendment to the
20 declaration must conform to the map as so approved and recorded.

21 (5) A map for a cooperative may be prepared by a licensed land
22 surveyor, and may be incorporated into the declaration to satisfy
23 subsection (3) of this section and RCW 64.90.225(1)(d). If the map
24 for a cooperative is not prepared by a licensed land surveyor, the
25 map need not contain the certification required in subsection (6)(a)
26 of this section.

27 (6) The map for a common interest community must be clear and
28 legible and must contain:

29 (a) If the map is a survey, a certification by a licensed land
30 surveyor in substantially the following form:

31 SURVEYOR CERTIFICATE: This map correctly represents a survey made
32 by me or under my direction in conformance with the requirements of
33 the Survey Recording Act at the request of (name of party
34 requesting the survey) on (date). I hereby certify that this
35 map for (name of common interest community) is based upon an
36 actual survey of the property herein described; that the bearings and
37 distances are correctly shown; that all information required by the
38 Washington Uniform Common Interest Ownership Act is supplied herein;
39 and that all horizontal and vertical boundaries of the units, (1) to

1 the extent determined by the walls, floors, or ceilings thereof, or
2 other physical monuments, are substantially completed in accordance
3 with said map, or (2) to the extent such boundaries are not defined
4 by physical monuments, such boundaries are shown on the map.
5 (Surveyor's name, signature, license or certificate number, and
6 acknowledgment)

7 (b) If the map is not a survey, a certification in substantially
8 the following form:

9 DECLARANT CERTIFICATE: I hereby certify on behalf of
10 (declarant) that this map for (name of common interest
11 community) was made by me or under my direction in conformance with
12 the requirements of RCW 64.90.245; that all information required by
13 the Washington Uniform Common Interest Ownership Act is supplied
14 herein; and that all horizontal and vertical boundaries of the units,
15 (1) to the extent determined by the walls, floors, or ceilings
16 thereof, or other physical monuments, are substantially completed in
17 accordance with said map, or (2) to the extent such boundaries are
18 not defined by physical monuments, such boundaries are shown on the
19 map. (Declarant's name, signature, and acknowledgment)

20 (c) A declaration by the declarant in substantially the following
21 form:

22 DECLARANT DECLARATION: The undersigned owner or owners of the
23 interest in the real estate described herein hereby declare this map
24 and dedicate the same for a common interest community named
25 (name of common interest community), a (type of community), as
26 that term is defined in the Washington Uniform Common Interest
27 Ownership Act, solely to meet the requirements of the Washington
28 Uniform Common Interest Ownership Act and not for any public purpose.
29 This map and any portion thereof is restricted by law and the
30 Declaration for (name of common interest community), recorded
31 under (name of county in which the common interest community is
32 located) County Recording No. (recording number). (Declarant's
33 name, signature, and acknowledgment)

34 (7) Each map filed for a common interest community, and any
35 amendments to the map, must be in the style, size, form, and quality
36 as prescribed by the recording authority of the county where filed,
37 and a copy must be delivered to the county assessor.

1 (8) Each map prepared for a common interest community in
2 compliance with this chapter, and any amendments to the map, must
3 show or state:

4 (a) The name of the common interest community and, immediately
5 following the name of the community, a statement that the common
6 interest community is a condominium, cooperative, or miscellaneous
7 community as defined in this chapter. A local jurisdiction may also
8 require that the name of a plat community on the survey, plat, or map
9 be followed by a statement that the common interest community is a
10 plat community as defined in this chapter;

11 (b) A legal description of the land in the common interest
12 community;

13 (c) As to a condominium, a survey of the land in the condominium,
14 and as to a cooperative, a survey or a drawing of the land included
15 in the entire cooperative that complies with the other requirements
16 of this section;

17 (d) If the boundaries of land subject to the development right to
18 withdraw are fixed in the declaration or an amendment to the
19 declaration pursuant to RCW 64.90.225(1)(h)(i), and subject to the
20 provisions of the declaration, an amendment to the map if not
21 contained in the initial recorded map, the legal description and
22 boundaries of that land, labeled "MAY BE WITHDRAWN FROM THE [COMMON
23 INTEREST COMMUNITY];

24 (e) If the boundaries of land subject to the development right to
25 add units that will result in the reallocation of allocated interests
26 is fixed in the declaration or an amendment to the declaration
27 pursuant to RCW 64.90.225(1)(h)(i), and subject to the provisions of
28 the declaration, the legal description and boundaries of that land,
29 labeled "SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT
30 IN A REALLOCATION OF ALLOCATED INTERESTS";

31 (f) The location and dimensions of all existing buildings
32 containing or comprising units;

33 (g) The extent of any encroachments by or upon any portion of the
34 common interest community;

35 (h) To the extent feasible, the location and dimensions of all
36 recorded easements serving or burdening any portion of the common
37 interest community and any unrecorded easements of which a surveyor
38 or declarant knows or reasonably should have known;

39 (i) The location and dimensions of vertical unit boundaries;

1 (j) The location with reference to an established datum of
2 horizontal unit boundaries, and that unit's identifying number. With
3 respect to a cooperative, miscellaneous community, or condominium for
4 which the horizontal boundaries are not defined by physical
5 monuments, reference to an established datum is not required if the
6 location of the horizontal boundaries of a unit is otherwise
7 reasonably described or depicted;

8 (k) The legal description and the location and dimensions of any
9 real estate in which the unit owners will own only an estate for
10 years, labeled as "LEASEHOLD REAL ESTATE";

11 (l) The distance between any noncontiguous parcels of real estate
12 comprising the common interest community;

13 (m) The general location of any existing principal common
14 amenities listed in a public offering statement under RCW
15 64.90.610(1)(k);

16 (n) The general location of porches, decks, balconies, patios,
17 storage facilities, moorage spaces, or parking spaces that are
18 allocated as limited common elements, and any applicable identifying
19 number or designation; and

20 (o) As to any survey, all other matters customarily shown on land
21 surveys.

22 (9) The map for a common interest community may also show the
23 anticipated approximate location and dimensions of any contemplated
24 improvement to be constructed anywhere within the common interest
25 community, and any contemplated improvement shown must be labeled
26 either "MUST BE BUILT" or "NEED NOT BE BUILT."

27 (10) The map for a common interest community must identify any
28 unit in which the declarant has reserved the right to create
29 additional units or common elements under RCW 64.90.250(3).

30 (11) Unless the declaration provides otherwise, any horizontal
31 boundary of part of a unit located outside a building has the same
32 elevation as the horizontal boundary of the inside part and need not
33 be depicted on the map.

34 (12) Upon exercising any development right, the declarant must
35 record either new maps necessary to conform to the requirements of
36 subsections (3), (4), (6), and (8) of this section, or new
37 certifications of any map previously recorded if that map otherwise
38 conforms to the requirements of subsections (3), (4), (6), and (8) of
39 this section.

1 (13) Any survey and the surveyor certifications required under
2 this section must be made by a licensed surveyor.

3 (14) As to a plat community, the information required under
4 subsections (6)(a) and (c), (8)(d) through (g), (k), (m), and (n),
5 (9), and (10) of this section is required, but may be shown on a map
6 incorporated in or attached to the declaration, and need not be shown
7 on the plat community map. Any such map is deemed a map for purposes
8 of applying the provisions of this section, and the declarant must
9 provide the certification required under subsection (6)(b) of this
10 section.

11 (15) In showing or projecting the location and dimensions of the
12 vertical boundaries of a unit located in a building, it is not
13 necessary to show the thickness of the walls constituting the
14 vertical boundaries or otherwise show the distance of those vertical
15 boundaries either from the exterior surface of the building
16 containing that unit or from adjacent vertical boundaries of other
17 units if: (a) The walls are designated to be the vertical boundaries
18 of that unit; (b) the unit is located within a building, the location
19 and dimensions of the building having been shown on the map under
20 subsection (8)(f) of this section; and (c) the graphic general
21 location of the vertical boundaries are shown in relation to the
22 exterior surfaces of that building and to the vertical boundaries of
23 other units within that building.

24 **Sec. 208.** RCW 64.90.285 and 2018 c 277 s 218 are each amended to
25 read as follows:

26 (1)(a) Except in cases of amendments that may be executed by: A
27 declarant under subsection (10) of this section, RCW 64.90.240(2),
28 64.90.245(12), 64.90.250, or 64.90.415(2)(d); the association under
29 RCW 64.90.030, 64.90.230(5), 64.90.240(3), 64.90.260(1), or 64.90.265
30 or subsection (11) of this section; or certain unit owners under RCW
31 64.90.240(2), 64.90.260(1), 64.90.265(2), or 64.90.290(2), and except
32 as limited by subsections (4), (6), (7), (8), and (12) of this
33 section, the declaration may be amended only by vote or agreement of
34 unit owners of units to which at least sixty-seven percent of the
35 votes in the association are allocated, unless the declaration
36 specifies a different percentage not to exceed ninety percent for all
37 amendments or for specific subjects of amendment. For purposes of
38 this section, "amendment" means any change to the declaration,

1 including adding, removing, or modifying restrictions contained in a
2 declaration.

3 (b) If the declaration requires the approval of another person as
4 a condition of its effectiveness, the amendment is not valid without
5 that approval; however, any right of approval may not result in an
6 expansion of special declarant rights reserved in the declaration or
7 violate any other section of this chapter, including RCW 64.90.015,
8 64.90.050, 64.90.055, and 64.90.060.

9 (2) In the absence of fraud, any action to challenge the validity
10 of an amendment adopted by the association may not be brought more
11 than one year after the amendment is recorded.

12 (3) Every amendment to the declaration must be recorded in every
13 county in which any portion of the common interest community is
14 located and is effective only upon recordation. An amendment, except
15 an amendment pursuant to RCW 64.90.260(1), must be indexed in the
16 grantee's index in the name of the common interest community and the
17 association and in the grantor's index in the name of the parties
18 executing the amendment.

19 (4) Except to the extent expressly permitted or required under
20 this chapter, an amendment may not create or increase special
21 declarant rights, increase the number of units, change the boundaries
22 of any unit, or change the allocated interests of a unit without the
23 consent of unit owners to which at least ninety percent of the votes
24 in the association are allocated, including the consent of any unit
25 owner of a unit, the boundaries of which or allocated interest of
26 which is changed by the amendment.

27 (5) Amendments to the declaration required to be executed by the
28 association must be executed by any authorized officer of the
29 association who must certify in the amendment that it was properly
30 adopted.

31 (6) The declaration may require a higher percentage of unit owner
32 approval for an amendment that is intended to prohibit or materially
33 restrict the uses of units permitted under the applicable zoning
34 ordinances, or to protect the interests of members of a defined class
35 of owners, or to protect other legitimate interests of the
36 association or its members. Subject to subsection (13) of this
37 section, a declaration may not require, as a condition for amendment,
38 approval by more than ninety percent of the votes in the association
39 or by all but one unit owner, whichever is less. An amendment

1 approved under this subsection must provide reasonable protection for
2 a use permitted at the time the amendment was adopted.

3 (7) The time limits specified in the declaration pursuant to RCW
4 64.90.225(1)(g) within which reserved development rights must be
5 exercised may be extended, and additional development rights may be
6 created, if persons entitled to cast at least eighty percent of the
7 votes in the association, including eighty percent of the votes
8 allocated to units not owned by the declarant, agree to that action.
9 The agreement is effective thirty days after an amendment to the
10 declaration reflecting the terms of the agreement is recorded unless
11 all the persons holding the affected special declarant rights, or
12 security interests in those rights, record a written objection within
13 the thirty-day period, in which case the amendment is void, or
14 consent in writing at the time the amendment is recorded, in which
15 case the amendment is effective when recorded.

16 (8) A provision in the declaration creating special declarant
17 rights that have not expired may not be amended without the consent
18 of the declarant.

19 (9) If any provision of this chapter or the declaration requires
20 the consent of a holder of a security interest in a unit as a
21 condition to the effectiveness of an amendment to the declaration,
22 the consent is deemed granted if a refusal to consent in a record is
23 not received by the association within sixty days after the
24 association delivers notice of the proposed amendment to the holder
25 at an address for notice provided by the holder or mails the notice
26 to the holder by certified mail, return receipt requested, at that
27 address. If the holder has not provided an address for notice to the
28 association, the association must provide notice to the address in
29 the security interest of record.

30 (10) Upon thirty-day advance notice to unit owners, the declarant
31 may, without a vote of the unit owners or approval by the board,
32 unilaterally adopt, execute, and record a corrective amendment or
33 supplement to the governing documents to correct a mathematical
34 mistake, an inconsistency, or a scrivener's error, or clarify an
35 ambiguity in the governing documents with respect to an objectively
36 verifiable fact including, without limitation, recalculating the
37 undivided interest in the common elements, the liability for common
38 expenses, or the number of votes in the unit owners' association
39 appertaining to a unit, within five years after the recordation or
40 adoption of the governing document containing or creating the

1 mistake, inconsistency, error, or ambiguity. Any such amendment or
2 supplement may not materially reduce what the obligations of the
3 declarant would have been if the mistake, inconsistency, error, or
4 ambiguity had not occurred.

5 (11) Upon thirty-day advance notice to unit owners, the
6 association may, upon a vote of two-thirds of the members of the
7 board, without a vote of the unit owners, adopt, execute, and record
8 an amendment to the declaration for the following purposes:

9 (a) To correct or supplement the governing documents as provided
10 in subsection (10) of this section;

11 (b) To remove language and otherwise amend as necessary to effect
12 the removal of language purporting to forbid or restrict the
13 conveyance, encumbrance, occupancy, or lease to: Individuals of a
14 specified race, creed, color, sex, or national origin; individuals
15 with sensory, mental, or physical disabilities; and families with
16 children or any other legally protected classification;

17 (c) To remove language and otherwise amend as necessary to effect
18 the removal of language that purports to impose limitations on the
19 power of the association beyond the limit authorized in RCW
20 64.90.405(~~((1)-(u))~~) (3)(a) to deal with the declarant that are more
21 restrictive than the limitations imposed on the power of the
22 association to deal with other persons; and

23 (d) To remove any other language and otherwise amend as necessary
24 to effect the removal of language purporting to limit the rights of
25 the association or its unit owners in direct conflict with this
26 chapter.

27 (12) If the declaration requires that amendments to the
28 declaration may be adopted only if the amendment is signed by a
29 specified number or percentage of unit owners and if the common
30 interest community contains more than twenty units, such requirement
31 is deemed satisfied if the association obtains such signatures or the
32 vote or agreement of unit owners holding such number or percentage.

33 (13)(a) If the declaration requires that amendments to the
34 declaration may be adopted only by the vote or agreement of unit
35 owners of units to which more than sixty-seven percent of the votes
36 in the association are allocated, and the percentage required is
37 otherwise consistent with this chapter, the amendment is approved if:

38 (i) The approval of the percentage specified in the declaration
39 is obtained;

1 (ii)(A) Unit owners of units to which at least sixty-seven
2 percent of the votes in the association are allocated vote for or
3 agree to the proposed amendment;

4 (B) A unit owner does not vote against the proposed amendment;
5 and

6 (C) Notice of the proposed amendment, including notice that the
7 failure of a unit owner to object may result in the adoption of the
8 amendment, is delivered to the unit owners holding the votes in the
9 association that have not voted or agreed to the proposed amendment
10 and no written objection to the proposed amendment is received by the
11 association within sixty days after the association delivers notice;
12 or

13 (iii)(A) Unit owners of units to which at least sixty-seven
14 percent of the votes in the association are allocated vote for or
15 agree to the proposed amendment;

16 (B) At least one unit owner objects to the proposed amendment;
17 and

18 (C) Pursuant to an action brought by the association in the
19 county in which the common interest community is situated against all
20 objecting unit owners, the court finds, under the totality of
21 circumstances including, but not limited to, the subject matter of
22 the amendment, the purpose of the amendment, the percentage voting to
23 approve the amendment, and the percentage objecting to the amendment,
24 that the amendment is reasonable.

25 (b) If the declaration requires the affirmative vote or approval
26 of any particular unit owner or class of unit owners as a condition
27 of its effectiveness, the amendment is not valid without that vote or
28 approval.

29 **Sec. 209.** RCW 64.90.405 and 2018 c 277 s 302 are each amended to
30 read as follows:

31 (1) An association must:

32 (a) Adopt organizational documents;

33 (b) Adopt budgets as provided in RCW 64.90.525;

34 (c) Impose assessments for common expenses and specially
35 allocated expenses on the unit owners as provided in RCW 64.90.080(1)
36 and 64.90.525;

37 (d) Prepare financial statements as provided in RCW 64.90.530;
38 and

1 (e) Deposit and maintain the funds of the association in accounts
2 as provided in RCW 64.90.530.

3 (2) Except as provided otherwise in subsection (4) of this
4 section and subject to the provisions of the declaration, the
5 association may:

6 (a) Amend organizational documents and adopt and amend rules;
7 (b) Amend budgets under RCW 64.90.525;
8 (c) Hire and discharge managing agents and other employees,
9 agents, and independent contractors;

10 (d) Institute, defend, or intervene in litigation or in
11 arbitration, mediation, or administrative proceedings or any other
12 legal proceeding in its own name on behalf of itself or two or more
13 unit owners on matters affecting the common interest community;

14 (e) Make contracts and incur liabilities subject to subsection
15 (4) of this section;

16 (f) Regulate the use, maintenance, repair, replacement, and
17 modification of common elements;

18 (g) Cause additional improvements to be made as a part of the
19 common elements;

20 (h) Acquire, hold, encumber, and convey in its own name any
21 right, title, or interest to real estate or personal property, but:

22 (i) Common elements in a condominium, plat community, or
23 miscellaneous community may be conveyed or subjected to a security
24 interest pursuant to RCW 64.90.465 only; and

25 (ii) Part of a cooperative may be conveyed, or all or part of a
26 cooperative may be subjected to a security interest pursuant to RCW
27 64.90.465 only;

28 (i) Grant easements, leases, licenses, and concessions through or
29 over the common elements and petition for or consent to the vacation
30 of streets and alleys;

31 (j) Impose and collect any reasonable payments, fees, or charges
32 for:

33 (i) The use, rental, or operation of the common elements, other
34 than limited common elements described in RCW 64.90.210 (1)(b) and
35 (3);

36 (ii) Services provided to unit owners; and

37 (iii) Moving in, moving out, or transferring title to units to
38 the extent provided for in the declaration;

39 (k) Collect assessments and impose and collect reasonable charges
40 for late payment of assessments;

- 1 (l) Enforce the governing documents and, after notice and
2 opportunity to be heard, impose and collect reasonable fines for
3 violations of the governing documents in accordance with a previously
4 established schedule of fines adopted by the board of directors and
5 furnished to the owners;
- 6 (m) Impose and collect reasonable charges for the preparation and
7 recordation of amendments to the declaration, resale certificates
8 required under RCW 64.90.640, lender questionnaires, or statements of
9 unpaid assessments;
- 10 (n) Provide for the indemnification of its officers and board
11 members, to the extent provided in RCW 23B.17.030;
- 12 (o) Maintain directors' and officers' liability insurance;
- 13 (p) Subject to subsection (4) of this section, assign its right
14 to future income, including the right to receive assessments;
- 15 (q) Join in a petition for the establishment of a parking and
16 business improvement area, participate in the ratepayers' board or
17 other advisory body set up by the legislative authority for operation
18 of a parking and business improvement area, and pay special
19 assessments levied by the legislative authority on a parking and
20 business improvement area encompassing the condominium property for
21 activities and projects that benefit the condominium directly or
22 indirectly;
- 23 (r) Establish and administer a reserve account as described in
24 RCW 64.90.535;
- 25 (s) Prepare a reserve study as described in RCW 64.90.545;
- 26 (t) Exercise any other powers conferred by the declaration or
27 organizational documents;
- 28 (u) Exercise all other powers that may be exercised in this state
29 by the same type of entity as the association;
- 30 (v) Exercise any other powers necessary and proper for the
31 governance and operation of the association;
- 32 (w) Require that disputes between the association and unit owners
33 or between two or more unit owners regarding the common interest
34 community, other than those governed by chapter 64.50 RCW, be
35 submitted to nonbinding alternative dispute resolution as a
36 prerequisite to commencement of a judicial proceeding; and
- 37 (x) Suspend any right or privilege of a unit owner who fails to
38 pay an assessment, but may not:
- 39 (i) Deny a unit owner or other occupant access to the owner's
40 unit;

1 (ii) Suspend a unit owner's right to vote; or
2 (iii) Withhold services provided to a unit or a unit owner by the
3 association if the effect of withholding the service would be to
4 endanger the health, safety, or property of any person.
5 (3) The declaration may not limit the power of the association
6 beyond the limit authorized in subsection (2)(w) of this section to:
7 (a) Deal with the declarant if the limit is more restrictive than
8 the limit imposed on the power of the association to deal with other
9 persons; or
10 (b) Institute litigation or an arbitration, mediation, or
11 administrative proceeding against any person, subject to the
12 following:
13 (i) The association must comply with chapter 64.50 RCW, if
14 applicable, before instituting any proceeding described in chapter
15 64.50 RCW in connection with construction defects; and
16 (ii) The board must promptly provide notice to the unit owners of
17 any legal proceeding in which the association is a party other than
18 proceedings involving enforcement of rules or to recover unpaid
19 assessments or other sums due the association.
20 (4) Any borrowing by an association that is to be secured by an
21 assignment of the association's right to receive future income
22 pursuant to subsection (2)(e) and (p) of this section requires
23 ratification by the unit owners as provided in this subsection.
24 (a) The board must provide notice of the intent to borrow to all
25 unit owners. The notice must include the purpose and maximum amount
26 of the loan, the estimated amount and term of any assessments
27 required to repay the loan, a reasonably detailed projection of how
28 the money will be expended, and the interest rate and term of the
29 loan.
30 (b) In the notice, the board must set a date for a meeting of the
31 unit owners, which must not be less than fourteen and no more than
32 (~~sixty~~) fifty days after mailing of the notice, to consider
33 ratification of the borrowing.
34 (c) Unless at that meeting, whether or not a quorum is present,
35 unit owners holding a majority of the votes in the association or any
36 larger percentage specified in the declaration reject the proposal to
37 borrow funds, the association may proceed to borrow the funds in
38 substantial accordance with the terms contained in the notice.

1 (5) If a tenant of a unit owner violates the governing documents,
2 in addition to exercising any of its powers against the unit owner,
3 the association may:

4 (a) Exercise directly against the tenant the powers described in
5 subsection (2)(1) of this section;

6 (b) After giving notice to the tenant and the unit owner and an
7 opportunity to be heard, levy reasonable fines against the tenant and
8 unit owner for the violation; and

9 (c) Enforce any other rights against the tenant for the violation
10 that the unit owner as the landlord could lawfully have exercised
11 under the lease or that the association could lawfully have exercised
12 directly against the unit owner, or both; but the association does
13 not have the right to terminate a lease or evict a tenant unless
14 permitted by the declaration. The rights referred to in this
15 subsection (5)(c) may be exercised only if the tenant or unit owner
16 fails to cure the violation within ten days after the association
17 notifies the tenant and unit owner of that violation.

18 (6) Unless a lease otherwise provides, this section does not:

19 (a) Affect rights that the unit owner has to enforce the lease or
20 that the association has under other law; or

21 (b) Permit the association to enforce a lease to which it is not
22 a party in the absence of a violation of the governing documents.

23 (7) The board may determine whether to take enforcement action by
24 exercising the association's power to impose sanctions or commencing
25 an action for a violation of the governing documents, including
26 whether to compromise any claim for unpaid assessments or other claim
27 made by or against it.

28 (8) The board does not have a duty to take enforcement action if
29 it determines that, under the facts and circumstances presented:

30 (a) The association's legal position does not justify taking any
31 or further enforcement action;

32 (b) The covenant, restriction, or rule being enforced is, or is
33 likely to be construed as, inconsistent with law;

34 (c) Although a violation may exist or may have occurred, it is
35 not so material as to be objectionable to a reasonable person or to
36 justify expending the association's resources; or

37 (d) It is not in the association's best interests to pursue an
38 enforcement action.

39 (9) The board's decision under subsections (7) and (8) of this
40 section to not pursue enforcement under one set of circumstances does

1 not prevent the board from taking enforcement action under another
2 set of circumstances, but the board may not be arbitrary or
3 capricious in taking enforcement action.

4 **Sec. 210.** RCW 64.90.445 and 2018 c 277 s 310 are each amended to
5 read as follows:

6 (1) The following requirements apply to unit owner meetings:

7 (a) A meeting of the association must be held at least once each
8 year. Failure to hold an annual meeting does not cause a forfeiture
9 or give cause for dissolution of the association and does not affect
10 otherwise valid association acts.

11 (b) (i) An association must hold a special meeting of unit owners
12 to address any matter affecting the common interest community or the
13 association if its president, a majority of the board, or unit owners
14 having at least twenty percent, or any lower percentage specified in
15 the organizational documents, of the votes in the association request
16 that the secretary call the meeting.

17 (ii) If the association does not provide notice to unit owners of
18 a special meeting within thirty days after the requisite number or
19 percentage of unit owners request the secretary to do so, the
20 requesting members may directly provide notice to all the unit owners
21 of the meeting. Only matters described in the meeting notice required
22 in (c) of this subsection may be considered at a special meeting.

23 (c) An association must provide notice to unit owners of the
24 time, date, and place of each annual and special unit owners meeting
25 not less than fourteen days and not more than fifty days before the
26 meeting date. Notice may be by any means described in RCW 64.90.515.
27 The notice of any meeting must state the time, date, and place of the
28 meeting and the items on the agenda, including:

29 (i) The text of any proposed amendment to the declaration or
30 organizational documents;

31 (ii) Any changes in the previously approved budget that result in
32 a change in the assessment obligations; and

33 (iii) Any proposal to remove a board member or officer.

34 (d) The minimum time to provide notice required in (c) of this
35 subsection may be reduced or waived for a meeting called to deal with
36 an emergency.

37 (e) Unit owners must be given a reasonable opportunity at any
38 meeting to comment regarding any matter affecting the common interest
39 community or the association.

1 (f) The declaration or organizational documents may allow for
2 meetings of unit owners to be conducted by telephonic, video, or
3 other conferencing process, if the process is consistent with
4 subsection (2)(i) of this section.

5 (2) The following requirements apply to meetings of the board and
6 committees authorized to act for the board:

7 (a) Meetings must be open to the unit owners except during
8 executive sessions, but the board may expel or prohibit attendance by
9 any person who, after warning by the chair of the meeting, disrupts
10 the meeting. The board and those committees may hold an executive
11 session only during a regular or special meeting of the board or a
12 committee. A final vote or action may not be taken during an
13 executive session.

14 (b) An executive session may be held only to:

15 (i) Consult with the association's attorney concerning legal
16 matters;

17 (ii) Discuss existing or potential litigation or mediation,
18 arbitration, or administrative proceedings;

19 (iii) Discuss labor or personnel matters;

20 (iv) Discuss contracts, leases, and other commercial transactions
21 to purchase or provide goods or services currently being negotiated,
22 including the review of bids or proposals, if premature general
23 knowledge of those matters would place the association at a
24 disadvantage; or

25 (v) Prevent public knowledge of the matter to be discussed if the
26 board or committee determines that public knowledge would violate the
27 privacy of any person.

28 (c) For purposes of this subsection, a gathering of members of
29 the board or committees at which the board or committee members do
30 not conduct association business is not a meeting of the board or
31 committee. Board members and committee members may not use incidental
32 or social gatherings to evade the open meeting requirements of this
33 subsection.

34 (d) During the period of declarant control, the board must meet
35 at least four times a year. At least one of those meetings must be
36 held at the common interest community or at a place convenient to the
37 community. After the transition meeting, all board meetings must be
38 at the common interest community or at a place convenient to the
39 common interest community unless the unit owners amend the bylaws to
40 vary the location of those meetings.

1 (e) At each board meeting, the board must provide a reasonable
2 opportunity for unit owners to comment regarding matters affecting
3 the common interest community and the association.

4 (f) Unless the meeting is included in a schedule given to the
5 unit owners or the meeting is called to deal with an emergency, the
6 secretary or other officer specified in the organizational documents
7 must provide notice of each board meeting to each board member and to
8 the unit owners. The notice must be given at least fourteen days
9 before the meeting and must state the time, date, place, and agenda
10 of the meeting.

11 (g) If any materials are distributed to the board before the
12 meeting, the board must make copies of those materials reasonably
13 available to (~~those~~) the unit owners, except that the board need
14 not make available copies of unapproved minutes or materials that are
15 to be considered in executive session.

16 (h) Unless the organizational documents provide otherwise, fewer
17 than all board members may participate in a regular or special
18 meeting by or conduct a meeting through the use of any means of
19 communication by which all board members participating can hear each
20 other during the meeting. A board member participating in a meeting
21 by these means is deemed to be present in person at the meeting.

22 (i) Unless the organizational documents provide otherwise, the
23 board may meet by participation of all board members by telephonic,
24 video, or other conferencing process if:

25 (i) The meeting notice states the conferencing process to be used
26 and provides information explaining how unit owners may participate
27 in the conference directly or by meeting at a central location or
28 conference connection; and

29 (ii) The process provides all unit owners the opportunity to hear
30 or perceive the discussion and to comment as provided in (e) of this
31 subsection.

32 (j) After the transition meeting, unit owners may amend the
33 organizational documents to vary the procedures for meetings
34 described in (i) of this subsection.

35 (k) Instead of meeting, the board may act by unanimous consent as
36 documented in a record by all its members. Actions taken by unanimous
37 consent must be kept as a record of the association with the meeting
38 minutes. After the transition meeting, the board may act by unanimous
39 consent only to undertake ministerial actions, actions subject to

1 ratification by the unit owners, or to implement actions previously
2 taken at a meeting of the board.

3 (l) A board member who is present at a board meeting at which any
4 action is taken is presumed to have assented to the action taken
5 unless the board member's dissent or abstention to such action is
6 lodged with the person acting as the secretary of the meeting before
7 adjournment of the meeting or provided in a record to the secretary
8 of the association immediately after adjournment of the meeting. The
9 right to dissent or abstain does not apply to a board member who
10 voted in favor of such action at the meeting.

11 (m) A board member may not vote by proxy or absentee ballot.

12 (n) Even if an action by the board is not in compliance with this
13 section, it is valid unless set aside by a court. A challenge to the
14 validity of an action of the board for failure to comply with this
15 section may not be brought more than ninety days after the minutes of
16 the board of the meeting at which the action was taken are approved
17 or the record of that action is distributed to unit owners, whichever
18 is later.

19 (3) Minutes of all unit owner meetings and board meetings,
20 excluding executive sessions, must be maintained in a record. The
21 decision on each matter voted upon at a board meeting or unit owner
22 meeting must be recorded in the minutes.

23 **Sec. 211.** RCW 64.90.485 and 2018 c 277 s 318 are each amended to
24 read as follows:

25 (1) The association has a statutory lien on each unit for any
26 unpaid assessment against the unit from the time such assessment is
27 due.

28 (2) A lien under this section has priority over all other liens
29 and encumbrances on a unit except:

30 (a) Liens and encumbrances recorded before the recordation of the
31 declaration and, in a cooperative, liens and encumbrances that the
32 association creates, assumes, or takes subject to;

33 (b) Except as otherwise provided in subsection (3) of this
34 section, a security interest on the unit recorded before the date on
35 which the unpaid assessment became due or, in a cooperative, a
36 security interest encumbering only the unit owner's interest and
37 perfected before the date on which the unpaid assessment became due;
38 and

1 (c) Liens for real estate taxes and other state or local
2 governmental assessments or charges against the unit or cooperative.

3 (3)(a) A lien under this section also has priority over the
4 security interests described in subsection (2)(b) of this section to
5 the extent of an amount equal to the following:

6 (i) The common expense assessments, excluding any amounts for
7 capital improvements, based on the periodic budget adopted by the
8 association pursuant to RCW 64.90.480(1), along with any specially
9 allocated assessments that are properly assessable against the unit
10 under such periodic budget, which would have become due in the
11 absence of acceleration during the six months immediately preceding
12 the institution of proceedings to foreclose either the association's
13 lien or a security interest described in subsection (2)(b) of this
14 section;

15 (ii) The association's actual costs and reasonable attorneys'
16 fees incurred in foreclosing its lien but incurred after the giving
17 of the notice described in (a)(iii) of this subsection; provided,
18 however, that the costs and reasonable attorneys' fees that will have
19 priority under this subsection (3)(a)(ii) shall not exceed two
20 thousand dollars or an amount equal to the amounts described in
21 (a)(i) of this subsection, whichever is less;

22 (iii) The amounts described in (a)(ii) of this subsection shall
23 be prior only to the security interest of the holder of a security
24 interest on the unit recorded before the date on which the unpaid
25 assessment became due and only if the association has given that
26 holder not less than sixty days' prior written notice that the owner
27 of the unit is in default in payment of an assessment. The notice
28 shall contain:

29 (A) Name of the borrower;

30 (B) Recording date of the trust deed or mortgage;

31 (C) Recording information;

32 (D) Name of condominium, unit owner, and unit designation stated
33 in the declaration or applicable supplemental declaration;

34 (E) Amount of unpaid assessment; and

35 (F) A statement that failure to, within sixty days of the written
36 notice, submit the association payment of six months of assessments
37 as described in (a)(i) of this subsection will result in the priority
38 of the amounts described in (a)(ii) of this subsection; and

39 (iv) Upon payment of the amounts described in (a)(i) and (ii) of
40 this subsection by the holder of a security interest, the

1 association's lien described in this subsection (3)(a) shall
2 thereafter be fully subordinated to the lien of such holder's
3 security interest on the unit.

4 (b) For the purposes of this subsection:

5 (i) "Institution of proceedings" means either:

6 (A) The date of recording of a notice of trustee's sale by a deed
7 of trust beneficiary;

8 (B) The date of commencement, pursuant to applicable court rules,
9 of an action for judicial foreclosure either by the association or by
10 the holder of a recorded security interest; or

11 (C) The date of recording of a notice of intention to forfeit in
12 a real estate contract forfeiture proceeding by the vendor under a
13 real estate contract.

14 (ii) "Capital improvements" does not include making, in the
15 ordinary course of management, repairs to common elements or
16 replacements of the common elements with substantially similar items,
17 subject to: (A) Availability of materials and products, (B)
18 prevailing law, or (C) sound engineering and construction standards
19 then prevailing.

20 (c) The adoption of a periodic budget that purports to allocate
21 to a unit any fines, late charges, interest, attorneys' fees and
22 costs incurred for services unrelated to the foreclosure of the
23 association's lien, other collection charges, or specially allocated
24 assessments assessed under RCW 64.90.480 (6) or (7) does not cause
25 any such items to be included in the priority amount affecting such
26 unit.

27 (4) Subsections (2) and (3) of this section do not affect the
28 priority of mechanics' or material suppliers' liens to the extent
29 that law of this state other than chapter 277, Laws of 2018 gives
30 priority to such liens, or the priority of liens for other
31 assessments made by the association.

32 (5) A lien under this section is not subject to chapter 6.13 RCW.

33 (6) If the association forecloses its lien under this section
34 nonjudicially pursuant to chapter 61.24 RCW, as provided under
35 subsection (13) of this section, the association is not entitled to
36 the lien priority provided for under subsection (3) of this section,
37 and is subject to the limitations on deficiency judgments as provided
38 in chapter 61.24 RCW.

39 (7) Unless the declaration provides otherwise, if two or more
40 associations have liens for assessments created at any time on the

1 same property, those liens have equal priority as to each other, and
2 any foreclosure of one such lien shall not affect the lien of the
3 other.

4 (8) Recording of the declaration constitutes record notice and
5 perfection of the statutory lien created under this section. Further
6 notice or recordation of any claim of lien for assessment under this
7 section is not required, but is not prohibited.

8 (9) A lien for unpaid assessments and the personal liability for
9 payment of those assessments are extinguished unless proceedings to
10 enforce the lien or collect the debt are instituted within six years
11 after the full amount of the assessments sought to be recovered
12 becomes due.

13 (10) This section does not prohibit actions against unit owners
14 to recover sums for which subsection (1) of this section creates a
15 lien or prohibit an association from taking a deed in lieu of
16 foreclosure.

17 (11) The association upon written request must furnish to a unit
18 owner or a mortgagee a statement signed by an officer or authorized
19 agent of the association setting forth the amount of unpaid
20 assessments or the priority amount against that unit, or both. The
21 statement must be furnished within fifteen days after receipt of the
22 request and is binding on the association, the board, and every unit
23 owner unless, and to the extent, known by the recipient to be false.
24 The liability of a recipient who reasonably relies upon the statement
25 must not exceed the amount set forth in any statement furnished
26 pursuant to this section or RCW 64.90.640(1)(b).

27 (12) In a cooperative, upon nonpayment of an assessment on a
28 unit, the unit owner may be evicted in the same manner as provided by
29 law in the case of an unlawful holdover by a commercial tenant, and
30 the lien may be foreclosed as provided under this section.

31 (13) The association's lien may be foreclosed in accordance with
32 (a) and (b) of this subsection.

33 (a) In a common interest community other than a cooperative, the
34 association's lien may be foreclosed judicially in accordance with
35 chapter 61.12 RCW, subject to any rights of redemption under chapter
36 6.23 RCW.

37 (b) The lien may be enforced nonjudicially in the manner set
38 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of
39 trust if the declaration: Contains a grant of the common interest
40 community in trust to a trustee qualified under RCW 61.24.010 to

1 secure the obligations of the unit owners to the association for the
2 payment of assessments, contains a power of sale, provides in its
3 terms that the units are not used principally for agricultural
4 purposes, and provides that the power of sale is operative in the
5 case of a default in the obligation to pay assessments. The
6 association or its authorized representative may purchase the unit at
7 the foreclosure sale and acquire, hold, lease, mortgage, or convey
8 the unit. Upon an express waiver in the complaint of any right to a
9 deficiency judgment in a judicial foreclosure action, the period of
10 redemption is eight months.

11 (c) In a cooperative in which the unit owners' interests in the
12 units are real estate, the association's lien must be foreclosed in
13 like manner as a mortgage on real estate or by power of sale under
14 (b) of this subsection.

15 (d) In a cooperative in which the unit owners' interests in the
16 units are personal property, the association's lien must be
17 foreclosed in like manner as a security interest under chapter 62A.9A
18 RCW.

19 (14) If the unit owner's interest in a unit in a cooperative is
20 real estate, the following requirements apply:

21 (a) The association, upon nonpayment of assessments and
22 compliance with this subsection, may sell that unit at a public sale
23 or by private negotiation, and at any time and place. The association
24 must give to the unit owner and any lessee of the unit owner
25 reasonable notice in a record of the time, date, and place of any
26 public sale or, if a private sale is intended, of the intention of
27 entering into a contract to sell and of the time and date after which
28 a private conveyance may be made. Such notice must also be sent to
29 any other person that has a recorded interest in the unit that would
30 be cut off by the sale, but only if the recorded interest was on
31 record seven weeks before the date specified in the notice as the
32 date of any public sale or seven weeks before the date specified in
33 the notice as the date after which a private sale may be made. The
34 notices required under this subsection may be sent to any address
35 reasonable in the circumstances. A sale may not be held until five
36 weeks after the sending of the notice. The association may buy at any
37 public sale and, if the sale is conducted by a fiduciary or other
38 person not related to the association, at a private sale.

39 (b) Unless otherwise agreed to or as stated in this section, the
40 unit owner is liable for any deficiency in a foreclosure sale.

1 (c) The proceeds of a foreclosure sale must be applied in the
2 following order:

3 (i) The reasonable expenses of sale;

4 (ii) The reasonable expenses of securing possession before sale;
5 the reasonable expenses of holding, maintaining, and preparing the
6 unit for sale, including payment of taxes and other governmental
7 charges and premiums on insurance; and, to the extent provided for by
8 agreement between the association and the unit owner, reasonable
9 attorneys' fees, costs, and other legal expenses incurred by the
10 association;

11 (iii) Satisfaction of the association's lien;

12 (iv) Satisfaction in the order of priority of any subordinate
13 claim of record; and

14 (v) Remittance of any excess to the unit owner.

15 (d) A good-faith purchaser for value acquires the unit free of
16 the association's debt that gave rise to the lien under which the
17 foreclosure sale occurred and any subordinate interest, even though
18 the association or other person conducting the sale failed to comply
19 with this section. The person conducting the sale must execute a
20 conveyance to the purchaser sufficient to convey the unit and stating
21 that it is executed by the person after a foreclosure of the
22 association's lien by power of sale and that the person was empowered
23 to make the sale. Signature and title or authority of the person
24 signing the conveyance as grantor and a recital of the facts of
25 nonpayment of the assessment and of the giving of the notices
26 required under this subsection are sufficient proof of the facts
27 recited and of the authority to sign. Further proof of authority is
28 not required even though the association is named as grantee in the
29 conveyance.

30 (e) At any time before the association has conveyed a unit in a
31 cooperative or entered into a contract for its conveyance under the
32 power of sale, the unit owners or the holder of any subordinate
33 security interest may cure the unit owner's default and prevent sale
34 or other conveyance by tendering the performance due under the
35 security agreement, including any amounts due because of exercise of
36 a right to accelerate, plus the reasonable expenses of proceeding to
37 foreclosure incurred to the time of tender, including reasonable
38 attorneys' fees and costs of the creditor.

39 (15) In an action by an association to collect assessments or to
40 foreclose a lien on a unit under this section, the court may appoint

1 a receiver to collect all sums alleged to be due and owing to a unit
2 owner before commencement or during pendency of the action. The
3 receivership is governed under chapter 7.60 RCW. During pendency of
4 the action, the court may order the receiver to pay sums held by the
5 receiver to the association for any assessments against the unit. The
6 exercise of rights under this subsection by the association does not
7 affect the priority of preexisting liens on the unit.

8 (16) Except as provided in subsection (3) of this section, the
9 holder of a mortgage or other purchaser of a unit who obtains the
10 right of possession of the unit through foreclosure is not liable for
11 assessments or installments of assessments that became due prior to
12 such right of possession. Such unpaid assessments are deemed to be
13 common expenses collectible from all the unit owners, including such
14 mortgagee or other purchaser of the unit. Foreclosure of a mortgage
15 does not relieve the prior unit owner of personal liability for
16 assessments accruing against the unit prior to the date of such sale
17 as provided in this subsection.

18 (17) In addition to constituting a lien on the unit, each
19 assessment is the joint and several obligation of the unit owner of
20 the unit to which the same are assessed as of the time the assessment
21 is due. A unit owner may not exempt himself or herself from liability
22 for assessments. In a voluntary conveyance other than by foreclosure,
23 the grantee of a unit is jointly and severally liable with the
24 grantor for all unpaid assessments against the grantor up to the time
25 of the grantor's conveyance, without prejudice to the grantee's right
26 to recover from the grantor the amounts paid by the grantee. Suit to
27 recover a personal judgment for any delinquent assessment is
28 maintainable in any court of competent jurisdiction without
29 foreclosing or waiving the lien securing such sums.

30 (18) The association may from time to time establish reasonable
31 late charges and a rate of interest to be charged, not to exceed the
32 maximum rate calculated under RCW 19.52.020, on all subsequent
33 delinquent assessments or installments of assessments. If the
34 association does not establish such a rate, delinquent assessments
35 bear interest from the date of delinquency at the maximum rate
36 calculated under RCW 19.52.020 on the date on which the assessments
37 became delinquent.

38 (19) The association is entitled to recover any costs and
39 reasonable attorneys' fees incurred in connection with the collection
40 of delinquent assessments, whether or not such collection activities

1 result in a suit being commenced or prosecuted to judgment. The
2 prevailing party is also entitled to recover costs and reasonable
3 attorneys' fees in such suits, including any appeals, if it prevails
4 on appeal and in the enforcement of a judgment.

5 (20) To the extent not inconsistent with this section, the
6 declaration may provide for such additional remedies for collection
7 of assessments as may be permitted by law.

8 (21) An association may not commence an action to foreclose a
9 lien on a unit under this section unless:

10 (a) The unit owner, at the time the action is commenced, owes a
11 sum equal to at least three months of common expense assessments; and

12 (b) The board approves commencement of a foreclosure action
13 specifically against that unit.

14 (22) Every aspect of a collection, foreclosure, sale, or other
15 conveyance under this section, including the method, advertising,
16 time, date, place, and terms, must be commercially reasonable.

17 **Sec. 212.** RCW 64.90.610 and 2018 c 277 s 403 are each amended to
18 read as follows:

19 (1) A public offering statement must contain the following
20 information:

21 (a) The name and address of the declarant;

22 (b) The name and address or location of the management company,
23 if any;

24 (c) The relationship of the management company to the declarant,
25 if any;

26 (d) The name and address of the common interest community;

27 (e) A statement whether the common interest community is a
28 condominium, cooperative, plat community, or miscellaneous community;

29 (f) A list, current as of the date the public offering statement
30 is prepared, of up to the five most recent common interest
31 communities in which at least one unit was sold by the declarant or
32 an affiliate of the declarant within the past five years, including
33 the names of the common interest communities and their addresses;

34 (g) The nature of the interest being offered for sale;

35 (h) A general description of the common interest community,
36 including to the extent known to the declarant, the types and number
37 of buildings that the declarant anticipates including in the common
38 interest community and the declarant's schedule of commencement and
39 completion of such buildings and principal common amenities;

- 1 (i) The status of construction of the units and common elements,
2 including estimated dates of completion if not completed;
- 3 (j) The number of existing units in the common interest
4 community;
- 5 (k) Brief descriptions of (i) the existing principal common
6 amenities, (ii) those amenities that will be added to the common
7 interest community, and (iii) those amenities that may be added to
8 the common interest community;
- 9 (l) A brief description of the limited common elements, other
10 than those described in RCW 64.90.210 (1)(b) and (3), that may be
11 allocated to the units being offered for sale;
- 12 (m) The identification of any rights of persons other than unit
13 owners to use any of the common elements, and a description of the
14 terms of such use;
- 15 (n) The identification of any real property not in the common
16 interest community that unit owners have a right to use and a
17 description of the terms of such use;
- 18 (o) Any services the declarant provides or expenses that the
19 declarant pays that are not reflected in the budget, but that the
20 declarant expects may become at any subsequent time a common expense
21 of the association, and the projected common expense attributable to
22 each of those services or expenses;
- 23 (p) An estimate of any assessment or payment required by the
24 declaration to be paid by the purchaser of a unit at closing;
- 25 (q) A brief description of any liens or monetary encumbrances on
26 the title to the common elements that will not be discharged at
27 closing;
- 28 (r) A brief description or a copy of any express construction
29 warranties to be provided to the purchaser;
- 30 (s) A statement, as required under RCW 64.35.210, as to whether
31 the units or common elements of the common interest community are
32 covered by a qualified warranty;
- 33 (t) If applicable to the common interest community, a statement
34 whether the common interest community contains any multiunit
35 residential building subject to chapter 64.55 RCW and, if so,
36 whether:
- 37 (i) The building enclosure has been designed and inspected to the
38 extent required under RCW 64.55.010 through 64.55.090; and
39 (ii) Any repairs required under RCW 64.55.090 have been made;

1 (u) A statement of any unsatisfied judgments or pending suits
2 against the association and the status of any pending suits material
3 to the common interest community of which the declarant has actual
4 knowledge;

5 (v) A statement of any litigation brought by an owners'
6 association, unit owner, or governmental entity in which the
7 declarant or any affiliate of the declarant has been a defendant
8 arising out of the construction, sale, or administration of any
9 common interest community within the previous five years, together
10 with the results of the litigation, if known;

11 (w) A brief description of:

12 (i) Any restrictions on use or occupancy of the units contained
13 in the governing documents;

14 (ii) Any restrictions on the renting or leasing of units by the
15 declarant or other unit owners contained in the governing documents;

16 (iii) Any rights of first refusal to lease or purchase any unit
17 or any of the common elements contained in the governing documents;
18 and

19 (iv) Any restriction on the amount for which a unit may be sold
20 or on the amount that may be received by a unit owner on sale;

21 (x) A description of the insurance coverage provided for the
22 benefit of unit owners;

23 (y) Any current or expected fees or charges not included in the
24 common expenses to be paid by unit owners for the use of the common
25 elements and other facilities related to the common interest
26 community, together with any fees or charges not included in the
27 common expenses to be paid by unit owners to any master or other
28 association;

29 (z) The extent, if any, to which bonds or other assurances from
30 third parties have been provided for completion of all improvements
31 that the declarant is obligated to build pursuant to RCW 64.90.695;

32 (aa) In a cooperative, a statement whether the unit owners are
33 entitled, for federal, state, and local income tax purposes, to a
34 pass-through of any deductions for payments made by the association
35 for real estate taxes and interest paid to the holder of a security
36 interest encumbering the cooperative;

37 (bb) In a cooperative, a statement as to the effect on every unit
38 owner's interest in the cooperative if the association fails to pay
39 real estate taxes or payments due to the holder of a security
40 interest encumbering the cooperative;

1 (cc) In a leasehold common interest community, a statement
2 whether the expiration or termination of any lease may terminate the
3 common interest community or reduce its size, the recording number of
4 any such lease or a statement of where the complete lease may be
5 inspected, the date on which such lease is scheduled to expire, a
6 description of the real estate subject to such lease, a statement
7 whether the unit owners have a right to redeem the reversion, a
8 statement whether the unit owners have a right to remove any
9 improvements at the expiration or termination of such lease, a
10 statement of any rights of the unit owners to renew such lease, and a
11 reference to the sections of the declaration where such information
12 may be found;

13 (dd) A summary of, and information on how to obtain a full copy
14 of, any reserve study and a statement as to whether or not it was
15 prepared in accordance with RCW 64.90.545 and 64.90.550 or the
16 governing documents;

17 (ee) A brief description of any arrangement described in RCW
18 64.90.110 binding the association;

19 (ff) The estimated current common expense liability for the units
20 being offered;

21 (gg) Except for real property taxes, real property assessments
22 and utility liens, any assessments, fees, or other charges known to
23 the declarant and which, if not paid, may constitute a lien against
24 any unit or common elements in favor of any governmental agency;

25 (hh) A brief description of any parts of the common interest
26 community, other than the owner's unit, which any owner must
27 maintain;

28 (ii) Whether timesharing is permitted or prohibited, and, if
29 permitted, a statement that the purchaser of a timeshare unit is
30 entitled to receive the disclosure document required under chapter
31 64.36 RCW;

32 (jj) If the common interest community is subject to any special
33 declarant rights, the information required under RCW 64.90.615;

34 (kk) Any liens on real estate to be conveyed to the association
35 required to be disclosed pursuant to RCW 64.90.650(3)(b);

36 (ll) A list of any physical hazards known to the declarant that
37 particularly affect the common interest community or the immediate
38 vicinity in which the common interest community is located and which
39 are not readily ascertainable by the purchaser;

1 (mm) Any building code violation of which the declarant has
2 actual knowledge and which has not been corrected;

3 (nn) If the common interest community contains one or more
4 conversion buildings, the information required under RCW 64.90.620
5 and 64.90.655(6) (a);

6 (oo) If the public offering statement is related to conveyance of
7 a unit in a multiunit residential building as defined in RCW
8 64.55.010, for which the final certificate of occupancy was issued
9 more than sixty calendar months prior to the preparation of the
10 public offering statement either: A copy of a report prepared by an
11 independent, licensed architect or engineer or a statement by the
12 declarant based on such report that describes, to the extent
13 reasonably ascertainable, the present condition of all structural
14 components and mechanical and electrical installations of the
15 conversion buildings material to the use and enjoyment of the
16 conversion buildings;

17 (pp) Any other information and cross-references that the
18 declarant believes will be helpful in describing the common interest
19 community to the recipients of the public offering statement, all of
20 which may be included or not included at the option of the declarant;
21 and

22 (qq) A description of any age-related occupancy restrictions
23 affecting the common interest community.

24 (2) The public offering statement must begin with notices
25 substantially in the following forms and in conspicuous type:

26 (a) "RIGHT TO CANCEL. (1) You are entitled to receive a copy of
27 this public offering statement and all material amendments to this
28 public offering statement before conveyance of your unit. Under RCW
29 64.90.635, you have the right to cancel your contract for the
30 purchase of your unit within seven days after first receiving this
31 public offering statement. If this public offering statement is first
32 provided to you more than seven days before you sign your contract
33 for the purchase of your unit, you have no right to cancel your
34 contract. If this public offering statement is first provided to you
35 seven days or less before you sign your contract for the purchase of
36 your unit, you have the right to cancel, before conveyance of the
37 unit, the executed contract by delivering, no later than the seventh
38 day after first receiving this public offering statement, a notice of
39 cancellation pursuant to section (3) of this notice. If this public
40 offering statement is first provided to you less than seven days

1 before the closing date for the conveyance of your unit, you may,
2 before conveyance of your unit to you, extend the closing date to a
3 date not more than seven days after you first received this public
4 offering statement, so that you may have seven days to cancel your
5 contract for the purchase of your unit.

6 (2) You have no right to cancel your contract upon receipt of an
7 amendment to this public offering statement; however, this does not
8 eliminate any right to rescind your contract, due to the disclosure
9 of the information in the amendment, that is otherwise available to
10 you under generally applicable contract law.

11 (3) If you elect to cancel your contract pursuant to this notice,
12 you may do so by hand-delivering notice of cancellation, or by
13 mailing notice of cancellation by prepaid United States mail, to the
14 seller at the address set forth in this public offering statement or
15 at the address of the seller's registered agent for service of
16 process. The date of such notice is the date of receipt, if hand-
17 delivered, or the date of deposit in the United States mail, if
18 mailed. Cancellation is without penalty, and all payments made to the
19 seller by you before cancellation must be refunded promptly."

20 (b) "OTHER DOCUMENTS CREATING BINDING LEGAL OBLIGATIONS. This
21 public offering statement is a summary of some of the significant
22 aspects of purchasing a unit in this common interest community. The
23 governing documents and the purchase agreement are complex, contain
24 other important information, and create binding legal obligations.
25 You should consider seeking the assistance of legal counsel."

26 (c) "OTHER REPRESENTATIONS. You may not rely on any statement,
27 promise, model, depiction, or description unless it is (1) contained
28 in the public offering statement delivered to you or (2) made in
29 writing signed by the declarant or dealer or the declarant's or
30 dealer's agent identified in the public offering statement. A
31 statement of opinion, or a commendation of the real estate, its
32 quality, or its value, does not create a warranty, and a statement,
33 promise, model, depiction, or description does not create a warranty
34 if it discloses that it is only proposed, is not representative, or
35 is subject to change."

36 (d) "MODEL UNITS. Model units are intended to provide you with a
37 general idea of what a finished unit might look like. Units being
38 offered for sale may vary from the model unit in terms of floor plan,
39 fixtures, finishes, and equipment. You are advised to obtain specific
40 information about the unit you are considering purchasing."

1 (e) "RESERVE STUDY. The association [does] [does not] have a
2 current reserve study. Any reserve study should be reviewed
3 carefully. It may not include all reserve components that will
4 require major maintenance, repair, or replacement in future years,
5 and may not include regular contributions to a reserve account for
6 the cost of such maintenance, repair, or replacement. You may
7 encounter certain risks, including being required to pay as a special
8 assessment your share of expenses for the cost of major maintenance,
9 repair, or replacement of a reserve component, as a result of the
10 failure to: (1) Have a current reserve study or fully funded
11 reserves, (2) include a component in a reserve study, or (3) provide
12 any or sufficient contributions to a reserve account for a
13 component."

14 (f) "DEPOSITS AND PAYMENTS. Only earnest money and reservation
15 deposits are required to be placed in an escrow or trust account. Any
16 other payments you make to the seller of a unit are at risk and may
17 be lost if the seller defaults."

18 (g) "CONSTRUCTION DEFECT CLAIMS. Chapter 64.50 RCW contains
19 important requirements you must follow before you may file a lawsuit
20 for defective construction against the seller or builder of your
21 home. Forty-five days before you file your lawsuit, you must deliver
22 to the seller or builder a written notice of any construction
23 conditions you allege are defective and provide your seller or
24 builder the opportunity to make an offer to repair or pay for the
25 defects. You are not obligated to accept any offer made by the
26 builder or seller. There are strict deadlines and procedures under
27 state law, and failure to follow them may affect your ability to file
28 a lawsuit."

29 (h) "ASSOCIATION INSURANCE. The extent to which association
30 insurance provides coverage for the benefit of unit owners (including
31 furnishings, fixtures, and equipment in a unit) is determined by the
32 provisions of the declaration and the association's insurance policy,
33 which may be modified from time to time. You and your personal
34 insurance agent should read the declaration and the association's
35 policy prior to closing to determine what insurance is required of
36 the association and unit owners, unit owners' rights and duties, what
37 is and is not covered by the association's policy, and what
38 additional insurance you should obtain."

39 (i) "QUALIFIED WARRANTY. Your unit [is] [is not] covered by a
40 qualified warranty under chapter 64.35 RCW. "

1 (3) The public offering statement must include copies of each of
2 the following documents: The declaration; the ((survey)) map; the
3 organizational documents; the rules ((and regulations)), if any; the
4 current or proposed budget for the association; a dated balance sheet
5 of the association; any inspection and repair report or reports
6 prepared in accordance with the requirements of RCW 64.55.090; and
7 any qualified warranty provided to a purchaser by a declarant
8 together with a history of claims under the qualified warranty. If
9 any of these documents are not in final form, the documents must be
10 marked "draft" and, before closing the sale of a unit, the purchaser
11 must be given notice of any material changes to the draft documents.

12 (4) A declarant must promptly amend the public offering statement
13 to reflect any material change in the information required under this
14 section.

15 **Sec. 213.** RCW 64.90.650 and 2018 c 277 s 411 are each amended to
16 read as follows:

17 (1) In the case of a sale of a unit when delivery of a public
18 offering statement is required pursuant to RCW 64.90.605(3) and
19 subject to subsection (2) of this section, a seller before conveying
20 a unit:

21 (a) Must record or furnish to the purchaser releases of all liens
22 that encumber:

23 (i) In a condominium, that unit and its common element interest;
24 and

25 (ii) In a cooperative, plat community, or miscellaneous
26 community, that unit and any limited common elements assigned to that
27 unit; or

28 (b) Must provide the purchaser of that unit with title insurance
29 from a licensed title insurance company against any lien not released
30 pursuant to (a) of this subsection.

31 (2) Subsection (1) of this section does not apply to liens that
32 encumber:

33 (a) Real estate that a declarant has the right to withdraw from
34 the common interest community;

35 (b) In a condominium, the unit and its common element interest
36 being purchased, but no other unit, if the purchaser expressly agrees
37 in writing to take subject to or assume such lien;

38 (c) In a cooperative, plat community, or miscellaneous community,
39 the unit and any limited common element allocated to the unit being

1 purchased, but no other unit, if the purchaser expressly agrees in
2 writing to take subject to or assume such lien.

3 (3) Before conveying real property to the association, the
4 declarant must have that real property released from:

5 (a) All liens the foreclosure of which would deprive unit owners
6 of any right of access to or easement of support of their units; and

7 (b) All other liens on that real property unless the public
8 offering statement describes certain real property that may be
9 conveyed subject to liens in specified amounts.

10 (4) In the case of a cooperative, the provisions of this section
11 do not apply to liens securing indebtedness that represent a common
12 expense liability for which the purchaser expressly agrees in writing
13 to be responsible.

14 **Sec. 214.** RCW 64.06.005 and 2010 c 64 s 1 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Commercial real estate" has the same meaning as in RCW
19 60.42.005.

20 (2) "Improved residential real property" means:

21 (a) Real property consisting of, or improved by, one to four
22 residential dwelling units;

23 (b) A residential condominium as defined in RCW 64.34.020(~~(+9)~~)
24 (10), unless the sale is subject to the public offering statement
25 requirement in the Washington condominium act, chapter 64.34 RCW;

26 (c) A residential timeshare, as defined in RCW 64.36.010(11),
27 unless subject to written disclosure under the Washington timeshare
28 act, chapter 64.36 RCW; (~~09~~)

29 (d) A mobile or manufactured home, as defined in RCW 43.22.335 or
30 46.04.302, that is personal property; or

31 (e) A residential common interest community as defined in RCW
32 64.90.010(10) unless the sale is subject to the public offering
33 statement requirement in the Washington uniform common interest
34 ownership act, chapter 64.90 RCW.

35 (3) "Residential real property" means both improved and
36 unimproved residential real property.

37 (4) "Seller disclosure statement" means the form to be completed
38 by the seller of residential real property as prescribed by this
39 chapter.

1 (5) "Unimproved residential real property" means property zoned
2 for residential use that is not improved by one or more residential
3 dwelling units, a residential condominium, a residential timeshare,
4 or a mobile or manufactured home. It does not include commercial real
5 estate or property defined as "timberland" under RCW 84.34.020.

6 (6) "Improved residential property," "unimproved residential
7 property," and "commercial real estate" do not include a condominium
8 unit created under chapter 64.90 RCW on or after July 1, 2018, if the
9 buyer of the unit entered into a contract to purchase the unit prior
10 to July 1, 2018, and received a public offering statement pursuant to
11 chapter 64.34 RCW prior to July 1, 2018.

12 **Sec. 215.** RCW 6.13.080 and 2018 c 277 s 501 are each amended to
13 read as follows:

14 The homestead exemption is not available against an execution or
15 forced sale in satisfaction of judgments obtained:

16 (1) On debts secured by mechanic's, laborer's, construction,
17 maritime, automobile repair, material supplier's, or vendor's liens
18 arising out of and against the particular property claimed as a
19 homestead;

20 (2) On debts secured (a) by security agreements describing as
21 collateral the property that is claimed as a homestead or (b) by
22 mortgages or deeds of trust on the premises that have been executed
23 and acknowledged by both spouses or both domestic partners or by any
24 claimant not married or in a state registered domestic partnership;

25 (3) On one spouse's or one domestic partner's or the community's
26 debts existing at the time of that spouse's or that domestic
27 partner's bankruptcy filing where (a) bankruptcy is filed by both
28 spouses or both domestic partners within a six-month period, other
29 than in a joint case or a case in which their assets are jointly
30 administered, and (b) the other spouse or other domestic partner
31 exempts property from property of the estate under the bankruptcy
32 exemption provisions of 11 U.S.C. Sec. 522(d);

33 (4) On debts arising from a lawful court order or decree or
34 administrative order establishing a child support obligation or
35 obligation to pay maintenance;

36 (5) On debts owing to the state of Washington for recovery of
37 medical assistance correctly paid on behalf of an individual
38 consistent with 42 U.S.C. Sec. 1396p;

1 (6) On debts secured by ((a)) a condominium, homeowners', or
2 common interest community association's lien; or

3 (7) On debts owed for taxes collected under chapters 82.08,
4 82.12, and 82.14 RCW but not remitted to the department of revenue.

5 **Sec. 216.** RCW 64.55.005 and 2005 c 456 s 1 are each amended to
6 read as follows:

7 (1)(a) RCW 64.55.010 through 64.55.090 apply to any multiunit
8 residential building for which the permit for construction or
9 rehabilitative construction of such building was issued on or after
10 August 1, 2005.

11 (b) RCW 64.55.010 and 64.55.090 apply to conversion condominiums
12 as defined in RCW 64.34.020 or conversion buildings as defined in RCW
13 64.90.010, provided that RCW 64.55.090 shall not apply to a
14 condominium conversion for which a public offering statement had been
15 delivered pursuant to chapter 64.34 RCW prior to August 1, 2005.

16 (2) RCW 64.55.010 and 64.55.100 through 64.55.160 and 64.34.415
17 apply to any action that alleges breach of an implied or express
18 warranty under chapter 64.34 RCW or that seeks relief that could be
19 awarded for such breach, regardless of the legal theory ((pled))
20 pleaded, except that RCW 64.55.100 through 64.55.160 and 64.34.415
21 shall not apply to:

22 (a) Actions filed or served prior to August 1, 2005;

23 (b) Actions for which a notice of claim was served pursuant to
24 chapter 64.50 RCW prior to August 1, 2005;

25 (c) Actions asserting any claim regarding a building that is not
26 a multiunit residential building;

27 (d) Actions asserting any claim regarding a multiunit residential
28 building that was permitted on or after August 1, 2005, unless the
29 letter required by RCW 64.55.060 has been submitted to the
30 appropriate building department or the requirements of RCW 64.55.090
31 have been satisfied.

32 (3) Other than the requirements imposed by RCW 64.55.010 through
33 64.55.090, nothing in this chapter amends or modifies the provisions
34 of RCW 64.34.050.

35 **Sec. 217.** RCW 64.32.260 and 2018 c 277 s 503 are each amended to
36 read as follows:

37 (1) This chapter does not apply to common interest communities as
38 defined in RCW 64.90.010:

1 ~~((1))~~ (a) Created on or after July 1, 2018; or
2 ~~((2))~~ (b) That have amended their governing documents to
3 provide that chapter 64.90 RCW will apply to the common interest
4 community pursuant to RCW 64.90.095.

5 (2) Pursuant to RCW 64.90.080, the following provisions of
6 chapter 64.90 RCW apply, and any inconsistent provisions of this
7 chapter do not apply, to a common interest community created before
8 July 1, 2018:

- 9 (a) RCW 64.90.095;
10 (b) RCW 64.90.405(1) (b) and (c);
11 (c) RCW 64.90.525; and
12 (d) RCW 64.90.545.

13 **Sec. 218.** RCW 64.34.076 and 2018 c 277 s 504 are each amended to
14 read as follows:

15 (1) This chapter does not apply to common interest communities as
16 defined in RCW 64.90.010:

17 ~~((1))~~ (a) Created on or after July 1, 2018; or
18 ~~((2))~~ (b) That have amended their governing documents to
19 provide that chapter 64.90 RCW will apply to the common interest
20 community pursuant to RCW 64.90.095.

21 (2) Pursuant to RCW 64.90.080, the following provisions of
22 chapter 64.90 RCW apply, and any inconsistent provisions of this
23 chapter do not apply, to a common interest community created before
24 July 1, 2018:

- 25 (a) RCW 64.90.095;
26 (b) RCW 64.90.405(1) (b) and (c);
27 (c) RCW 64.90.525; and
28 (d) RCW 64.90.545.

29 **Sec. 219.** RCW 64.34.308 and 2011 c 189 s 2 are each amended to
30 read as follows:

31 (1) Except as provided in the declaration, the bylaws, subsection
32 (2) of this section, or other provisions of this chapter, the board
33 of directors shall act in all instances on behalf of the association.
34 In the performance of their duties, the officers and members of the
35 board of directors are required to exercise: (a) If appointed by the
36 declarant, the care required of fiduciaries of the unit owners; or
37 (b) if elected by the unit owners, ordinary and reasonable care.

1 (2) The board of directors shall not act on behalf of the
2 association to amend the declaration in any manner that requires the
3 vote or approval of the unit owners pursuant to RCW 64.34.264, to
4 terminate the condominium pursuant to RCW 64.34.268, or to elect
5 members of the board of directors or determine the qualifications,
6 powers, and duties, or terms of office of members of the board of
7 directors pursuant to subsection (7) of this section; but the board
8 of directors may fill vacancies in its membership for the unexpired
9 portion of any term.

10 (3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and
11 (c), and 64.90.525, within thirty days after adoption of any proposed
12 budget for the condominium, the board of directors shall provide a
13 summary of the budget to all the unit owners and shall set a date for
14 a meeting of the unit owners to consider ratification of the budget
15 not less than fourteen nor more than sixty days after mailing of the
16 summary. Unless at that meeting the owners of units to which a
17 majority of the votes in the association are allocated or any larger
18 percentage specified in the declaration reject the budget, the budget
19 is ratified, whether or not a quorum is present. In the event the
20 proposed budget is rejected or the required notice is not given, the
21 periodic budget last ratified by the unit owners shall be continued
22 until such time as the unit owners ratify a subsequent budget
23 proposed by the board of directors.

24 (4) As part of the summary of the budget provided to all unit
25 owners, the board of directors shall disclose to the unit owners:

26 (a) The current amount of regular assessments budgeted for
27 contribution to the reserve account, the recommended contribution
28 rate from the reserve study, and the funding plan upon which the
29 recommended contribution rate is based;

30 (b) If additional regular or special assessments are scheduled to
31 be imposed, the date the assessments are due, the amount of the
32 assessments per each unit per month or year, and the purpose of the
33 assessments;

34 (c) Based upon the most recent reserve study and other
35 information, whether currently projected reserve account balances
36 will be sufficient at the end of each year to meet the association's
37 obligation for major maintenance, repair, or replacement of reserve
38 components during the next thirty years;

39 (d) If reserve account balances are not projected to be
40 sufficient, what additional assessments may be necessary to ensure

1 that sufficient reserve account funds will be available each year
2 during the next thirty years, the approximate dates assessments may
3 be due, and the amount of the assessments per unit per month or year;

4 (e) The estimated amount recommended in the reserve account at
5 the end of the current fiscal year based on the most recent reserve
6 study, the projected reserve account cash balance at the end of the
7 current fiscal year, and the percent funded at the date of the latest
8 reserve study;

9 (f) The estimated amount recommended in the reserve account based
10 upon the most recent reserve study at the end of each of the next
11 five budget years, the projected reserve account cash balance in each
12 of those years, and the projected percent funded for each of those
13 years; and

14 (g) If the funding plan approved by the association is
15 implemented, the projected reserve account cash balance in each of
16 the next five budget years and the percent funded for each of those
17 years.

18 (5)(a) Subject to subsection (6) of this section, the declaration
19 may provide for a period of declarant control of the association,
20 during which period a declarant, or persons designated by the
21 declarant, may: (i) Appoint and remove the officers and members of
22 the board of directors; or (ii) veto or approve a proposed action of
23 the board or association. A declarant's failure to veto or approve
24 such proposed action in writing within thirty days after receipt of
25 written notice of the proposed action shall be deemed approval by the
26 declarant.

27 (b) Regardless of the period provided in the declaration, a
28 period of declarant control terminates no later than the earlier of:

29 (i) Sixty days after conveyance of seventy-five percent of the units
30 which may be created to unit owners other than a declarant; (ii) two
31 years after the last conveyance or transfer of record of a unit
32 except as security for a debt; (iii) two years after any development
33 right to add new units was last exercised; or (iv) the date on which
34 the declarant records an amendment to the declaration pursuant to
35 which the declarant voluntarily surrenders the right to further
36 appoint and remove officers and members of the board of directors. A
37 declarant may voluntarily surrender the right to appoint and remove
38 officers and members of the board of directors before termination of
39 that period pursuant to (i), (ii), and (iii) of this subsection
40 (5)(b), but in that event the declarant may require, for the duration

1 of the period of declarant control, that specified actions of the
2 association or board of directors, as described in a recorded
3 instrument executed by the declarant, be approved by the declarant
4 before they become effective.

5 (6) Not later than sixty days after conveyance of twenty-five
6 percent of the units which may be created to unit owners other than a
7 declarant, at least one member and not less than twenty-five percent
8 of the members of the board of directors must be elected by unit
9 owners other than the declarant. Not later than sixty days after
10 conveyance of fifty percent of the units which may be created to unit
11 owners other than a declarant, not less than thirty-three and one-
12 third percent of the members of the board of directors must be
13 elected by unit owners other than the declarant.

14 (7) Within thirty days after the termination of any period of
15 declarant control, the unit owners shall elect a board of directors
16 of at least three members, at least a majority of whom must be unit
17 owners. The number of directors need not exceed the number of units
18 then in the condominium. The board of directors shall elect the
19 officers. Such members of the board of directors and officers shall
20 take office upon election.

21 (8) Notwithstanding any provision of the declaration or bylaws to
22 the contrary, the unit owners, by a two-thirds vote of the voting
23 power in the association present and entitled to vote at any meeting
24 of the unit owners at which a quorum is present, may remove any
25 member of the board of directors with or without cause, other than a
26 member appointed by the declarant. The declarant may not remove any
27 member of the board of directors elected by the unit owners. Prior to
28 the termination of the period of declarant control, the unit owners,
29 other than the declarant, may remove by a two-thirds vote, any
30 director elected by the unit owners.

31 **Sec. 220.** RCW 64.34.380 and 2011 c 189 s 3 are each amended to
32 read as follows:

33 (1) An association is encouraged to establish a reserve account
34 with a financial institution to fund major maintenance, repair, and
35 replacement of common elements, including limited common elements
36 that will require major maintenance, repair, or replacement within
37 thirty years. If the association establishes a reserve account, the
38 account must be in the name of the association. The board of
39 directors is responsible for administering the reserve account.

1 (2) Except as provided in RCW 64.90.080 and 64.90.545, unless
2 doing so would impose an unreasonable hardship, an association with
3 significant assets shall prepare and update a reserve study, in
4 accordance with the association's governing documents and RCW
5 64.34.224(1). The initial reserve study must be based upon a visual
6 site inspection conducted by a reserve study professional.

7 (3) Except as provided in RCW 64.90.080 and 64.90.545, unless
8 doing so would impose an unreasonable hardship, the association shall
9 update the reserve study annually. At least every three years, an
10 updated reserve study must be prepared and based upon a visual site
11 inspection conducted by a reserve study professional.

12 (4) Except as provided in RCW 64.90.080 and 64.90.545, this
13 section and RCW 64.34.382 through 64.34.392 apply to condominiums
14 governed by chapter 64.32 RCW or this chapter and intended in whole
15 or in part for residential purposes. These sections do not apply to
16 condominiums consisting solely of units that are restricted in the
17 declaration to nonresidential use. An association's governing
18 documents may contain stricter requirements.

19 **Sec. 221.** RCW 64.34.392 and 2009 c 307 s 1 are each amended to
20 read as follows:

21 (1) Except as provided in RCW 64.90.080 and 64.90.545, a
22 condominium association with ten or fewer unit owners is not required
23 to follow the requirements under RCW 64.34.380 through 64.34.390 if
24 two-thirds of the owners agree to exempt the association from the
25 requirements.

26 (2) The unit owners must agree to maintain an exemption under
27 subsection (1) of this section by a two-thirds vote every three
28 years.

29 (3) Notwithstanding subsections (1) and (2) of this section, a
30 disclosure that the condominium association does not have a reserve
31 study must be included in a unit's public offering statement as
32 required under RCW 64.34.410 or resale certificate as required under
33 RCW 64.34.425.

34 **Sec. 222.** RCW 64.38.025 and 2011 c 189 s 8 are each amended to
35 read as follows:

36 (1) Except as provided in the association's governing documents
37 or this chapter, the board of directors shall act in all instances on
38 behalf of the association. In the performance of their duties, the

1 officers and members of the board of directors shall exercise the
2 degree of care and loyalty required of an officer or director of a
3 corporation organized under chapter 24.03 RCW.

4 (2) The board of directors shall not act on behalf of the
5 association to amend the articles of incorporation, to take any
6 action that requires the vote or approval of the owners, to terminate
7 the association, to elect members of the board of directors, or to
8 determine the qualifications, powers, and duties, or terms of office
9 of members of the board of directors; but the board of directors may
10 fill vacancies in its membership of the unexpired portion of any
11 term.

12 (3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and
13 (c), and 64.90.525, within thirty days after adoption by the board of
14 directors of any proposed regular or special budget of the
15 association, the board shall set a date for a meeting of the owners
16 to consider ratification of the budget not less than fourteen nor
17 more than sixty days after mailing of the summary. Unless at that
18 meeting the owners of a majority of the votes in the association are
19 allocated or any larger percentage specified in the governing
20 documents reject the budget, in person or by proxy, the budget is
21 ratified, whether or not a quorum is present. In the event the
22 proposed budget is rejected or the required notice is not given, the
23 periodic budget last ratified by the owners shall be continued until
24 such time as the owners ratify a subsequent budget proposed by the
25 board of directors.

26 (4) As part of the summary of the budget provided to all owners,
27 the board of directors shall disclose to the owners:

28 (a) The current amount of regular assessments budgeted for
29 contribution to the reserve account, the recommended contribution
30 rate from the reserve study, and the funding plan upon which the
31 recommended contribution rate is based;

32 (b) If additional regular or special assessments are scheduled to
33 be imposed, the date the assessments are due, the amount of the
34 assessments per each owner per month or year, and the purpose of the
35 assessments;

36 (c) Based upon the most recent reserve study and other
37 information, whether currently projected reserve account balances
38 will be sufficient at the end of each year to meet the association's
39 obligation for major maintenance, repair, or replacement of reserve
40 components during the next thirty years;

1 (d) If reserve account balances are not projected to be
2 sufficient, what additional assessments may be necessary to ensure
3 that sufficient reserve account funds will be available each year
4 during the next thirty years, the approximate dates assessments may
5 be due, and the amount of the assessments per owner per month or
6 year;

7 (e) The estimated amount recommended in the reserve account at
8 the end of the current fiscal year based on the most recent reserve
9 study, the projected reserve account cash balance at the end of the
10 current fiscal year, and the percent funded at the date of the latest
11 reserve study;

12 (f) The estimated amount recommended in the reserve account based
13 upon the most recent reserve study at the end of each of the next
14 five budget years, the projected reserve account cash balance in each
15 of those years, and the projected percent funded for each of those
16 years; and

17 (g) If the funding plan approved by the association is
18 implemented, the projected reserve account cash balance in each of
19 the next five budget years and the percent funded for each of those
20 years.

21 (5) The owners by a majority vote of the voting power in the
22 association present, in person or by proxy, and entitled to vote at
23 any meeting of the owners at which a quorum is present, may remove
24 any member of the board of directors with or without cause.

25 **Sec. 223.** RCW 64.38.065 and 2011 c 189 s 9 are each amended to
26 read as follows:

27 (1) An association is encouraged to establish a reserve account
28 with a financial institution to fund major maintenance, repair, and
29 replacement of common elements, including limited common elements
30 that will require major maintenance, repair, or replacement within
31 thirty years. If the association establishes a reserve account, the
32 account must be in the name of the association. The board of
33 directors is responsible for administering the reserve account.

34 (2) Except as provided in RCW 64.90.080 and 64.90.545, unless
35 doing so would impose an unreasonable hardship, an association with
36 significant assets shall prepare and update a reserve study, in
37 accordance with the association's governing documents and this
38 chapter. The initial reserve study must be based upon a visual site
39 inspection conducted by a reserve study professional.

1 (3) Except as provided in RCW 64.90.080 and 64.90.545, unless
2 doing so would impose an unreasonable hardship, the association shall
3 update the reserve study annually. At least every three years, an
4 updated reserve study must be prepared and based upon a visual site
5 inspection conducted by a reserve study professional.

6 (4) The decisions relating to the preparation and updating of a
7 reserve study must be made by the board of directors in the exercise
8 of the reasonable discretion of the board. The decisions must include
9 whether a reserve study will be prepared or updated, and whether the
10 assistance of a reserve study professional will be utilized.

11 **Sec. 224.** RCW 64.38.090 and 2011 c 189 s 14 are each amended to
12 read as follows:

13 Except as provided in RCW 64.90.080 and 64.90.545, an association
14 is not required to follow the reserve study requirements under RCW
15 64.38.025 and RCW 64.38.065 through 64.38.085 if the cost of the
16 reserve study exceeds five percent of the association's annual
17 budget, the association does not have significant assets, or there
18 are ten or fewer homes in the association.

19 **Sec. 225.** RCW 64.38.095 and 2018 c 277 s 505 are each amended to
20 read as follows:

21 (1) This chapter does not apply to common interest communities as
22 defined in RCW 64.90.010:

23 ~~((1))~~ (a) Created on or after July 1, 2018; or

24 ~~((2))~~ (b) That have amended their governing documents to
25 provide that chapter 64.90 RCW will apply to the common interest
26 community pursuant to RCW 64.90.095.

27 (2) Pursuant to RCW 64.90.080, the following provisions of
28 chapter 64.90 RCW apply, and any inconsistent provisions of this
29 chapter do not apply, to a common interest community created before
30 July 1, 2018:

31 (a) RCW 64.90.095;

32 (b) RCW 64.90.405(1) (b) and (c);

33 (c) RCW 64.90.525; and

34 (d) RCW 64.90.545.

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