

SENATE BILL REPORT

EHB 1482

As Reported by Senate Committee On:
Law & Justice, March 25, 2021

Title: An act relating to foreclosure protections for homeowners in common interest communities.

Brief Description: Addressing foreclosure protections for homeowners in common interest communities.

Sponsors: Representatives Walsh, Orwall, Lekanoff, Leavitt, Sutherland, Jacobsen, Dufault and Pollet.

Brief History: Passed House: 3/8/21, 97-0.

Committee Activity: Law & Justice: 3/23/21, 3/25/21 [DPA].

Brief Summary of Amended Bill

- Establishes requirements before a homeowner's association can foreclose against an owner's property in a common interest community for the payment of overdue assessments.
- Extends foreclosure protections to communities governed by the Washington Uniform Common Interest Ownership Act, the Condominium Act, the Horizontal Property Regimes Act, and Homeowners' associations governed by chapter 64.38 RCW.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Shani Bauer (786-7468)

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

Background: The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to residential common interest communities (CIC) created after that date. A CIC includes condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities. A CIC created prior to the effective date of WUCIOA may choose to opt-in to WUCIOA.

WUCIOA contains numerous provisions regarding the management of a CIC. As part of its duties, an association must adopt budgets and impose assessments for common expenses, which usually include the association's expenditures for administration, maintenance, repair, and replacement of the common elements of a CIC, as well as any allocations to reserves. An association may also impose and collect reasonable fines for violations, in accordance with a schedule of previously adopted fines.

When a unit owner does not pay assessments as required, an association may collect reasonable charges for late payments and establish a rate of interest to be charged on all subsequent delinquent assessments. An association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments.

Under WUCIOA, an association has a statutory lien on each unit for any unpaid assessment against the unit from the time the assessment is due. With some exceptions, the association's lien takes priority over all other liens and encumbrances. To collect unpaid assessments, an association may bring an action to collect unpaid assessments or foreclose its lien on the unit.

An association may not commence an action to foreclose a lien for past-due assessments unless the unit owner, at the time the action is commenced, owes a sum equal to at least three months of common expense assessments and the board approves commencement of a foreclosure action specifically against that unit.

Summary of Amended Bill: An association may not commence a foreclosure action against a unit owner in a common interest community unless:

- the owner owes the greater of at least three months or more of assessments or \$200, not including fines, late charges, interest, attorney fees, or other costs;
- when the overdue assessments are at least 90 days overdue, the association must mail a notice of delinquency to the owner by first class mail;
 1. The form of notice is specified in the statute and must include contact information for housing and legal assistance.
 2. The association must obtain toll-free numbers and website information from the Department of Commerce for inclusion in the notice; and
- at least 180 days have elapsed from the date the minimum amount required above has accrued.
 1. After January 1, 2024, 90 days, instead of 180 days, must have elapsed from the date the minimum amount has accrued.

These provisions apply to common interest communities governed by WUCIOA as well as those communities formed prior to WUCIOA and governed by chapter 64.32 RCW—Horizontal Property Regimes Act, chapter 64.34 RCW—Condominium Act, and chapter 64.38—Homeowners Associations.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Extends foreclosure protections in the bill to homeowners who reside in common interest communities established prior to the effective date of WUCIOA.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Engrossed House Bill: PRO: Many foreclosure assistance programs do not apply to the owners of condominiums. This is an effort to expand those opportunities. We are going to face some turbulent times ahead as the eviction moratorium and other protections wind down. We have heard stories about homeowners losing their condos over trivial amounts of money. This bill will address those situations, while still respecting the needs of an association to meet its operating expenses. We would like to have an amendment that would expand the bill to cover owners in communities formed prior to WUCIOA so they can benefit from this policy change as well.

Taking a home for fines and fees is cruel and unusual punishment. We should try to keep owners in their homes. Board members are volunteers and making their own interpretations. It should be clear to an association that if they are going to foreclose, they need to be mindful of the owners' rights.

We are supportive of the intent to protect homeowners, while protecting the ability of the HOA to provide a notice of delinquency and move forward with instituting rights for the benefit of all owners in the association.

Persons Testifying: PRO: Representative Jim Walsh, Prime Sponsor; Raelene Schifano, HOA Fightclub; Krystelle Purkey, Washington State Chapter of Community Association Institute.

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