

# HOUSE BILL REPORT

## HB 1199

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### As Amended by the Senate

**Title:** An act relating to licensed child care in common interest communities.

**Brief Description:** Addressing licensed child care in common interest communities.

**Sponsors:** Representatives Senn, Eslick, Leavitt, Berry, Bateman, Kloba, Reed, Simmons, Tharinger, Ramel, Doglio, Goodman, Macri, Callan, Fosse and Pollet.

### Brief History:

#### Committee Activity:

Housing: 1/16/23, 1/19/23 [DP].

#### Floor Activity:

Passed House: 1/25/23, 96-0.

Senate Amended.

Passed Senate: 4/6/23, 37-11.

### Brief Summary of Bill

- Prohibits an association of unit owners in a common interest community from prohibiting, unreasonably restricting, or limiting the use of a unit as a licensed family home child care or as a licensed child day care center.

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## HOUSE COMMITTEE ON HOUSING

**Majority Report:** Do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

**Staff:** Audrey Vasek (786-7383).

### Background:

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*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.*

A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created after that date. A CIC created prior to the effective date of the WUCIOA may choose to opt in to the WUCIOA, which contains comprehensive provisions addressing the management of property under its jurisdiction.

Otherwise, CICs created before July 1, 2018, remain subject to the following acts, which generally leave much of the working of a CIC to the governing documents:

- the Horizontal Property Regimes Act, which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act, which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act, which provides a framework for the formation and legal administration of homeowners' associations.

A CIC is administered by an association of unit owners or a homeowners' association—an organization consisting of property owners and homeowners within the CIC. An association of unit owners derives its authority from several documents, including the declaration of covenants, conditions, and restrictions, the association's bylaws and articles of incorporation, and the deeds to the property within a development.

The primary functions of a unit owners' association include: managing and maintaining common areas, such as parks, roads, and community centers, for the benefit of the community; imposing and collecting assessments on unit owners; and enforcing restrictive covenants that govern the community. In addition, a unit owners' association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

### **Summary of Bill:**

An association of unit owners or homeowners in a common interest community subject to the WUCIOA, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act is:

- prohibited from prohibiting, unreasonably restricting, or limiting the use of a unit as a licensed family home child care or as a licensed child day care center; and
- not prohibited from imposing reasonable regulations on a family home child care or a child day care center as long as the regulations are identical to those applied to all other units within the same association.

An association of unit owners that willfully violates this prohibition is liable to the child care provider for actual damages and must pay a civil penalty in an amount not to exceed \$1,000.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment authorizes an association to require direct access to a unit, either from outside of the building or through publicly accessible common elements, in order for the unit to be used as a family home child care or child day care center.

The Senate amendment authorizes an association to require that a family home child care or child day care center operating out of a unit:

- be licensed by the Department of Children, Youth, and Families;
- indemnify the association and hold it harmless against all claims relating to operation of the family home child care or the child day care center, excluding claims arising in common elements that the association is solely responsible for maintaining under the governing documents;
- obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center; and
- obtain day care insurance or provide self-insurance.

The Senate amendment also adds an emergency clause and provides that the bill takes effect immediately.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is a child care crisis in our state. There is not enough child care available for everyone who needs it, but restrictions on family home child care are happening all over the state. Some licensed family home child care providers are being fined monthly by their homeowners' associations. They are being bullied and forced to close down. There is no reason we should be restricting child care.

Family home child care providers are the best solution for lots of people, including women returning to the workforce after having a child, communities of color, and low-income communities. They often provide care for low-income children and families, special needs

children, and minority children.

Family home child care is also another way for child care providers to afford and maintain their homes through the income it provides. These are not unlicensed businesses. Providers have to get licensed and go through training in order to provide child care. This bill will help Washington child care providers continue to support families and kids.

(Opposed) None.

(Other) There are concerns about liability issues that might arise if the family home child care uses the association's common areas.

**Persons Testifying:** (In support) Representative Tana Senn, prime sponsor; Laura Pavlov; and Erin Haick, Service Employees International Union 925.

(Other) Krystelle Purkey, Washington State Chapter of Community Associations Institute.

**Persons Signed In To Testify But Not Testifying:** None.