

HOUSE BILL REPORT

HB 1507

As Passed House:
February 28, 2023

Title: An act relating to fair housing training for officers or board members in common interest communities.

Brief Description: Concerning fair housing training for officers or board members in common interest communities.

Sponsors: Representatives Entenman, Ramel, Alvarado, Orwall, Reeves, Doglio, Pollet, Macri, Morgan and Bergquist.

Brief History:

Committee Activity:

Housing: 1/30/23, 2/9/23 [DP].

Floor Activity:

Passed House: 2/28/23, 87-10.

Brief Summary of Bill

- Requires an officer or board member of a common interest community association to complete a training course regarding federal and state fair housing laws.

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).

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:

Common Interest Communities.

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. These communities are sometimes referred to as homeowners' associations.

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.

Management and Duties of Common Interest Communities.

A CIC is administered by an association of unit owners or a homeowners' association 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.

Qualifications for Common Interest Community Officers and Board Members.

Generally, an officer or board member of a CIC association must be a unit owner and must meet the requirements imposed by the organizing documents or the board. The board and officers for an association generally have the authority to act on behalf of the association. In performing their duties, officers and board members must exercise a degree of care and loyalty to the association and are subject to the conflict of interest rules and immunity from liability provisions applicable to officers and directors of a corporation, regardless of the

form in which the association is organized.

Federal and State Fair Housing Laws.

Generally, the federal Fair Housing Act (FHA) protects people from discrimination because of race, color, national origin, religion, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, or disability when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The FHA is enforced by the United States Department of Housing and Urban Development. The Washington Law Against Discrimination, which is substantially similar to the FHA, is enforced by the state Human Rights Commission. Anyone who has been harmed by a housing action may file a complaint. Fair housing laws also protect anyone who is harmed because of association with guests, relatives, friends, roommates, subtenants or others in any of the protected categories.

Summary of Bill:

Required Fair Housing Training for Officers or Board Members of Common Interest Communities.

An officer or board member of a CIC association must complete a training course regarding federal and state fair housing laws within 60 days of taking office or being elected to the board, and at intervals of no more than three years for as long as the officer or board member holds the office or serves on the board. The training course may be completed remotely with technology, including internet-based training.

Certification of Training.

An officer or board member must provide the association with a certificate or similar document that lists the person or entity that conducted the training, contains a brief description of the training, and verifies the date when the officer or board member completed the training. Alternatively, if a certificate is not available, the officer or board member may verify the completion of the training by an affidavit. The certificates and affidavits must be kept as part of the association records for a period of at least five years.

Applicability.

The fair housing training requirements apply to an association subject to any of the four common interest community statutes, including the WUCIOA, the Horizontal Property Regimes Act, the Washington Condominium Act, and the Homeowners' Association Act.

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) This bill makes sure that people who are volunteering to be on the boards for condo associations and homeowners' associations know about the rules for fair housing. Sometimes these boards make rules that some people think are discriminatory, but it is hard to hold these boards accountable if the members on the boards were never trained in fair housing and the Fair Housing Act. This is a simple bill that makes sure volunteers have all of the information they need to be the best board members they can be. It makes sure they understand their responsibilities and understand that there has been past discrimination in housing. To make sure this discrimination does not continue, these board members need to be trained to understand and follow the federal fair housing rules.

(Opposed) The intent behind the bill is appreciated. However, this bill will result in requirements that are hard for associations to comply with and erode an already dwindling base of volunteers that associations struggle to recruit from every year. Mandatory training is of questionable effectiveness in a state that has yet to seriously consider professional licensing standards for community association managers. Most associations are nonprofit associations. The state lacks the resources to assist these volunteers of nearly 11,000 associations with common questions they have regarding how to properly conduct their elections, how to update their directory each year, or who they can get assistance from when everyone quits the board. Instead of this bill, it would be better to consider augmenting agencies like the Human Rights Commission that have been tasked with fair housing compliance and consider an education campaign for current and potential unit owners in CICs to inform them of already available resources.

Persons Testifying: (In support) Representative Debra Entenman, prime sponsor.

(Opposed) Melissa Guyott.

Persons Signed In To Testify But Not Testifying: None.