

SENATE BILL REPORT

HB 1199

As of March 9, 2023

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

Committee Activity: Law & Justice: 2/16/23, 3/09/23.

Brief Summary of Bill

- Prohibits a common interest community association 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.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

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.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created on or after that date. A CIC created prior to the effective date of WUCIOA may choose to opt in to WUCIOA.

CICs created before July 1, 2018, typically are regulated by their governing documents and

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remain subject to the following acts:

- the Horizontal Property Regimes Act (HPRA), which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act (WCA), which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act (HOAA), which provides a framework for the formation and legal administration of homeowners' associations created before July 1, 2018.

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's duties include managing and maintaining common areas for the benefit of the community, imposing and collecting assessments on unit owners, and enforcing restrictive covenants that govern the community. A unit owners' association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Child Care Providers. Licensed family home child care providers provide early childhood education and early learning services for 12 or fewer children in the home of the licensed provider. Licensed child care centers provide regularly scheduled early childhood education and early learning services for a group of children.

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:

- may not prohibit, unreasonably restrict, or limit the use of a unit as a licensed family home child care or as a licensed child day care center; and
- may impose 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 that willfully violates this prohibition is liable to the child care provider for actual damages, and must pay a civil penalty not to exceed \$1,000.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (February 16, 2023): PRO: This legislation ensures that associations cannot deny the existence and operation of a licensed child care. When

child cares are being licensed, the space, operations, fire safety, and other components are examined. If these components are not safe, the child care would not be licensed. More child care is needed, especially near where families live. This is an important workforce bill and important community building. This is also a housing bill because some people need this for their livelihoods to be able to afford their homes.

OTHER: The Washington State chapter of Community Associations Institute (WSCAI) understands that Washington is in dire need of child care across the state. WSCAI still has concerns regarding this bill and are working with the prime sponsor to address continued concerns regarding liability. The top concerns that have been heard from homeowners are in regards to noise and traffic not just from cars, but people coming in and out of the facilities. The Department of Children, Youth, and Families has indicated that child care providers would be required to treat outings as field trips and would need to get approval from associations prior to using common areas, such as pools, which alleviates WSCAI's concerns on the issue of outings.

Persons Testifying (February 16, 2023): PRO: Representative Tana Senn.

OTHER: Krystelle Purkey, Washington State Chapter of Community Association Institute.

Persons Signed In To Testify But Not Testifying (February 16, 2023): No one.

Staff Summary of Public Testimony (March 9, 2023): PRO: There is an intense need for child care in the state. Finding quality child care can be challenging. Families from diverse backgrounds and circumstances need quality child care. Maintaining a pipeline of well-trained, available workers is a priority. Child care is an essential component for keeping talented people in the workforce and home-based daycares let parents focus on work. It is abhorrent that homeowners' associations (HOAs) and conglomerates build hundreds of homes but do not allow daycare providers to reside in them. These restrictions make it difficult for parents who work, especially first responders who work irregular work schedules. Having to deal with a few more cars is not a reason to not have a child care in a neighborhood. This bill will create more available options for child care services for families, protect child care providers, and will provide equitable benefits to the workforce. This will lead to sustainability and growth for the state.

CON: Common interest communities are residential and are not designed for commercial use. People have the choice not to buy into an HOA. Home child care is no different from any business not allowed to operate in the community. The covenants, conditions, and restrictions of communities are designed to preserve the integrity of their neighborhood, allow people to enjoy their neighborhood, and keep property values high. People were aware of these restrictions and elected to have such restrictions on their own homes to accomplish these objectives. Increased traffic, strain on parking, noise disturbance, and wear and tear on community-maintained amenities will only decrease the value of the community. Communities lose the enjoyment of peace and quiet, and children may not be

safe playing when these businesses operate due to increased traffic. More child care is needed, but that does not imply having open child cares within these communities.

Persons Testifying (March 9, 2023): PRO: Ranjith kumar Thumeti; Laura Pavlov; Melissa White; Rebecca Lee; Torrie Amaratunge; Safia Abdulle; Hamdi Mohamed, Port of Seattle Commissioner.

CON: Vian Salih; Rohan Khanduja, Board of Director on Pellerin Ridge Home Owner Association (HOA).

Persons Signed In To Testify But Not Testifying (March 9, 2023): PRO: Sarah Bolong-Banks; FAYSA DIRIYE; Patrick Johansen, RiseUpWA, Housing Justice Committee; Trenise Rodgers; Kasi Perreira, WA State Women's Commission.

CON: Carlos Sanchez; Vanessa Normandin, Pellerin Ridge Homeowners Association.