

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1199

Chapter 203, Laws of 2023

68th Legislature
2023 Regular Session

COMMON INTEREST COMMUNITIES—LICENSED CHILD CARE

EFFECTIVE DATE: May 1, 2023

Passed by the House April 14, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 6, 2023
Yeas 37 Nays 11

DENNY HECK

President of the Senate

Approved May 1, 2023 2:56 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1199** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 2, 2023

**Secretary of State
State of Washington**

HOUSE BILL 1199

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington **68th Legislature** **2023 Regular Session**

By Representatives Senn, Eslick, Leavitt, Berry, Bateman, Kloba, Reed, Simmons, Tharinger, Ramel, Doglio, Goodman, Macri, Callan, Fosse, and Pollet

Read first time 01/10/23. Referred to Committee on Housing.

1 AN ACT Relating to licensed child care in common interest
2 communities; adding a new section to chapter 64.32 RCW; adding a new
3 section to chapter 64.34 RCW; adding a new section to chapter 64.38
4 RCW; adding a new section to chapter 64.90 RCW; prescribing
5 penalties; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32
8 RCW to read as follows:

9 (1) An association of apartment owners may not adopt or enforce a
10 restriction, covenant, condition, bylaw, rule, regulation, provision
11 of a governing document, or master deed provision that effectively
12 prohibits, unreasonably restricts, or limits, directly or indirectly,
13 the use of an apartment as a licensed family home child care operated
14 by a family day care provider or as a licensed child day care center,
15 except as provided in subsection (2) of this section.

16 (2)(a) Nothing in this section prohibits an association of
17 apartment owners from imposing reasonable regulations on a family
18 home child care or a child day care center including, but not limited
19 to, architectural standards, as long as those regulations are
20 identical to those applied to all other apartments within the same

1 association as the family home child care or the child day care
2 center.

3 (b) An association may require that only an apartment with direct
4 access may be used as a family home child care or child day care
5 center. Direct access must be either from the outside of the building
6 or through publicly accessible common areas and facilities.

7 (c) An association may adopt or enforce a restriction, covenant,
8 condition, bylaw, rule, regulation, provision of a governing
9 document, or master deed provision that requires a family home child
10 care or a child day care center operating out of an apartment within
11 the association to:

12 (i) Be licensed under chapter 43.216 RCW;

13 (ii) Indemnify and hold harmless the association against all
14 claims, whether brought by judicial or administrative action,
15 relating to the operation of the family home child care or the child
16 day care center, excluding claims arising in common areas and
17 facilities that the association is solely responsible for maintaining
18 under the governing documents;

19 (iii) Obtain a signed waiver of liability releasing the
20 association from legal claims directly related to the operation of
21 the family home child care or the child day care center from the
22 parent, guardian, or caretaker of each child being cared for by the
23 family home child care or the child day care center. However, an
24 association may not require that a waiver of liability under this
25 subsection be notarized; and

26 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
27 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
28 the requirements in RCW 43.216.700.

29 (3) An association of apartment owners that willfully violates
30 this section is liable to the family day care provider or the child
31 day care center for actual damages, and shall pay a civil penalty to
32 the family day care provider or the child day care center in an
33 amount not to exceed \$1,000.

34 (4) For the purposes of this section, the terms "family day care
35 provider" and "child day care center" have the same meanings as in
36 RCW 43.216.010.

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34
38 RCW to read as follows:

1 (1) A unit owners' association may not adopt or enforce a
2 restriction, covenant, condition, bylaw, rule, regulation, provision
3 of a governing document, or master deed provision that effectively
4 prohibits, unreasonably restricts, or limits, directly or indirectly,
5 the use of a unit as a licensed family home child care operated by a
6 family day care provider or as a licensed child day care center,
7 except as provided in subsection (2) of this section.

8 (2)(a) Nothing in this section prohibits a unit owners'
9 association from imposing reasonable regulations on a family home
10 child care or a child day care center including, but not limited to,
11 architectural standards, as long as those regulations are identical
12 to those applied to all other units within the same association as
13 the family home child care or the child day care center.

14 (b) An association may require that only a unit with direct
15 access may be used as a family home child care or child day care
16 center. Direct access must be either from the outside of the building
17 or through publicly accessible common elements.

18 (c) An association may adopt or enforce a restriction, covenant,
19 condition, bylaw, rule, regulation, provision of a governing
20 document, or master deed provision that requires a family home child
21 care or a child day care center operating out of a unit within the
22 association to:

23 (i) Be licensed under chapter 43.216 RCW;

24 (ii) Indemnify and hold harmless the association against all
25 claims, whether brought by judicial or administrative action,
26 relating to the operation of the family home child care or the child
27 day care center, excluding claims arising in common elements that the
28 association is solely responsible for maintaining under the governing
29 documents;

30 (iii) Obtain a signed waiver of liability releasing the
31 association from legal claims directly related to the operation of
32 the family home child care or the child day care center from the
33 parent, guardian, or caretaker of each child being cared for by the
34 family home child care or the child day care center. However, an
35 association may not require that a waiver of liability under this
36 subsection be notarized; and

37 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
38 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
39 the requirements in RCW 43.216.700.

1 (3) A unit owners' association that willfully violates this
2 section is liable to the family day care provider or the child day
3 care center for actual damages, and shall pay a civil penalty to the
4 family day care provider or the child day care center in an amount
5 not to exceed \$1,000.

6 (4) For the purposes of this section, the terms "family day care
7 provider" and "child day care center" have the same meanings as in
8 RCW 43.216.010.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38
10 RCW to read as follows:

11 (1) A homeowners' association may not adopt or enforce a
12 restriction, covenant, condition, bylaw, rule, regulation, provision
13 of a governing document, or master deed provision that effectively
14 prohibits, unreasonably restricts, or limits, directly or indirectly,
15 the use of a lot as a licensed family home child care operated by a
16 family day care provider or as a licensed child day care center,
17 except as provided in subsection (2) of this section.

18 (2)(a) Nothing in this section prohibits a homeowners'
19 association from imposing reasonable regulations on a family home
20 child care or a child day care center including, but not limited to,
21 architectural standards, as long as those regulations are identical
22 to those applied to all other lots within the same association as the
23 family home child care or the child day care center.

24 (b) An association may require that only a lot with direct access
25 may be used as a family home child care or child day care center.
26 Direct access must be through publicly accessible common areas.

27 (c) An association may adopt or enforce a restriction, covenant,
28 condition, bylaw, rule, regulation, provision of a governing
29 document, or master deed provision that requires a family home child
30 care or a child day care center operating out of a lot within the
31 association to:

32 (i) Be licensed under chapter 43.216 RCW;

33 (ii) Indemnify and hold harmless the association against all
34 claims, whether brought by judicial or administrative action,
35 relating to the operation of the family home child care or the child
36 day care center, excluding claims arising in common areas that the
37 association is solely responsible for maintaining under the governing
38 documents;

1 (iii) Obtain a signed waiver of liability releasing the
2 association from legal claims directly related to the operation of
3 the family home child care or the child day care center from the
4 parent, guardian, or caretaker of each child being cared for by the
5 family home child care or the child day care center. However, an
6 association may not require that a waiver of liability under this
7 subsection be notarized; and

8 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
9 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
10 the requirements in RCW 43.216.700.

11 (3) A homeowners' association that willfully violates this
12 section is liable to the family day care provider or the child day
13 care center for actual damages, and shall pay a civil penalty to the
14 family day care provider or the child day care center in an amount
15 not to exceed \$1,000.

16 (4) For the purposes of this section, the terms "family day care
17 provider" and "child day care center" have the same meanings as in
18 RCW 43.216.010.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90
20 RCW to read as follows:

21 (1) A unit owners association may not adopt or enforce a
22 restriction, covenant, condition, bylaw, rule, regulation, provision
23 of a governing document, or master deed provision that effectively
24 prohibits, unreasonably restricts, or limits, directly or indirectly,
25 the use of a unit as a licensed family home child care operated by a
26 family day care provider or as a licensed child day care center,
27 except as provided in subsection (2) of this section.

28 (2)(a) Nothing in this section prohibits a unit owners'
29 association from imposing reasonable regulations on a family home
30 child care or a child day care center including, but not limited to,
31 architectural standards, as long as those regulations are identical
32 to those applied to all other units within the same association as
33 the family home child care or the child day care center.

34 (b) An association may require that only a unit with direct
35 access may be used as a family home child care or child day care
36 center. Direct access must be either from the outside of the building
37 if the common interest community is in a building, or through
38 publicly accessible common elements.

1 (c) An association may adopt or enforce a restriction, covenant,
2 condition, bylaw, rule, regulation, provision of a governing
3 document, or master deed provision that requires a family home child
4 care or a child day care center operating out of a unit within the
5 association to:

6 (i) Be licensed under chapter 43.216 RCW;

7 (ii) Indemnify and hold harmless the association against all
8 claims, whether brought by judicial or administrative action,
9 relating to the operation of the family home child care or the child
10 day care center, excluding claims arising in common elements that the
11 association is solely responsible for maintaining under the governing
12 documents;

13 (iii) Obtain a signed waiver of liability releasing the
14 association from legal claims directly related to the operation of
15 the family home child care or the child day care center from the
16 parent, guardian, or caretaker of each child being cared for by the
17 family home child care or the child day care center. However, an
18 association may not require that a waiver of liability under this
19 subsection be notarized; and

20 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
21 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
22 the requirements in RCW 43.216.700.

23 (3) A unit owners association that willfully violates this
24 section is liable to the family day care provider or the child day
25 care center for actual damages, and shall pay a civil penalty to the
26 family day care provider or the child day care center in an amount
27 not to exceed \$1,000.

28 (4) For the purposes of this section, the terms "family day care
29 provider" and "child day care center" have the same meanings as in
30 RCW 43.216.010.

31 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

Passed by the House April 14, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

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