
SENATE BILL 6411

State of Washington 60th Legislature 2008 Regular Session

By Senators Kohl-Welles, Jacobsen, Kline, Pridemore, Murray,
McDermott, Fairley, and Keiser

Read first time 01/16/08. Referred to Committee on Consumer
Protection & Housing.

1 AN ACT Relating to the regulation of conversion condominiums;
2 amending RCW 64.34.440, 82.02.020, and 64.34.050; creating a new
3 section; and providing an effective date.

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

5 **Sec. 1.** RCW 64.34.440 and 1992 c 220 s 25 are each amended to read
6 as follows:

7 (1)(a) A declarant of a conversion condominium, and any dealer who
8 intends to offer units in such a condominium, shall give each of the
9 residential tenants and any residential subtenant in possession of a
10 portion of a conversion condominium notice of the conversion and
11 provide those persons with the public offering statement no later than
12 ((ninety)) one hundred eighty days before the tenants and any subtenant
13 in possession are required to vacate. The notice must:

14 (i) Set forth generally the rights of tenants and subtenants under
15 this section ((and shall));

16 (ii) Be delivered pursuant to notice requirements set forth in RCW
17 59.12.040; and

18 (iii) Expressly state whether there is a county or city relocation
19 assistance program for tenants or subtenants of conversion condominiums

1 in the jurisdiction in which the property is located. If the county or
2 city does have a relocation assistance program, the following must also
3 be included in the notice:

4 (A) A summary of the terms and conditions under which relocation
5 assistance is paid; and

6 (B) Contact information for the city or county relocation
7 assistance program, which must include, at a minimum, a telephone
8 number of the city or county department that administers the relocation
9 assistance program for conversion condominiums.

10 (b) No tenant or subtenant may be required to vacate upon less than
11 ((ninety)) one hundred eighty days' notice, except by reason of
12 nonpayment of rent, waste, conduct that disturbs other tenants'
13 peaceful enjoyment of the premises, or act of unlawful detainer as
14 defined in RCW 59.12.030, and the terms of the tenancy may not be
15 altered during that period except as provided in (c) of this
16 subsection.

17 (c) At the declarant's option, the declarant may provide all
18 tenants in a single building with an option to terminate their lease or
19 rental agreements without cause or consequence after providing the
20 declarant with thirty days' notice. In such case, tenants continue to
21 have access to relocation assistance under subsection (6)(e) of this
22 section.

23 (d) Nothing in this subsection shall be deemed to waive or repeal
24 RCW 59.18.200(2). Failure to give notice as required by this section
25 is a defense to an action for possession.

26 (2) For sixty days after delivery or mailing of the notice
27 described in subsection (1) of this section, the person required to
28 give the notice shall offer to convey each unit or proposed unit
29 occupied for residential use to the tenant who leases that unit. If a
30 tenant fails to purchase the unit during that sixty-day period, the
31 offeror may offer to dispose of an interest in that unit during the
32 following one hundred eighty days at a price or on terms more favorable
33 to the offeree than the price or terms offered to the tenant only if:

34 (a) Such offeror, by written notice mailed to the tenant's last known
35 address, offers to sell an interest in that unit at the more favorable
36 price and terms, and (b) such tenant fails to accept such offer in
37 writing within ten days following the mailing of the offer to the
38 tenant. This subsection does not apply to any unit in a conversion

1 condominium if that unit will be restricted exclusively to
2 nonresidential use or the boundaries of the converted unit do not
3 substantially conform to the dimensions of the residential unit before
4 conversion.

5 (3) If a seller, in violation of subsection (2) of this section,
6 conveys a unit to a purchaser for value who has no knowledge of the
7 violation, recording of the deed conveying the unit extinguishes any
8 right a tenant may have to purchase that unit but does not affect the
9 right of a tenant to recover damages from the seller for a violation of
10 subsection (2) of this section.

11 (4) If a notice of conversion specifies a date by which a unit or
12 proposed unit must be vacated and otherwise complies with the
13 provisions of this chapter and chapter 59.18 RCW, the notice also
14 constitutes a notice to vacate specified by that statute.

15 (5) Nothing in this section permits termination of a lease by a
16 declarant in violation of its terms.

17 (6) Notwithstanding RCW 64.34.050(1), a city or county may by
18 appropriate ordinance require with respect to any conversion
19 condominium within the jurisdiction of such city or county that:

20 (a) In addition to the statement required by RCW 64.34.415(1)(a),
21 the public offering statement shall contain a copy of the written
22 inspection report prepared by the appropriate department of such city
23 or county, which report shall list any violations of the housing code
24 or other governmental regulation, which code or regulation is
25 applicable regardless of whether the real property is owned as a
26 condominium or in some other form of ownership; said inspection shall
27 be made within forty-five days of the declarant's written request
28 therefor and said report shall be issued within fourteen days of said
29 inspection being made. Such inspection may not be required with
30 respect to any building for which a final certificate of occupancy has
31 been issued by the city or county within the preceding twenty-four
32 months; and any fee imposed for the making of such inspection may not
33 exceed the fee that would be imposed for the making of such an
34 inspection for a purpose other than complying with this subsection
35 (6)(a);

36 (b) Prior to the conveyance of any residential unit within a
37 conversion condominium, other than a conveyance to a declarant or
38 affiliate of a declarant: (i) All violations disclosed in the

1 inspection report provided for in (a) of this subsection, and not
2 otherwise waived by such city or county, shall be repaired, and (ii) a
3 certification shall be obtained from such city or county that such
4 repairs have been made, which certification shall be based on a
5 reinspection to be made within seven days of the declarant's written
6 request therefor and which certification shall be issued within seven
7 days of said reinspection being made;

8 (c) The repairs required to be made under (b) of this subsection
9 shall be warranted by the declarant against defects due to workmanship
10 or materials for a period of one year following the completion of such
11 repairs;

12 (d) Prior to the conveyance of any residential unit within a
13 conversion condominium, other than a conveyance to a declarant or
14 affiliate of a declarant: (i) The declarant shall establish and
15 maintain, during the one-year warranty period provided under (c) of
16 this subsection, an account containing a sum equal to ten percent of
17 the actual cost of making the repairs required under (b) of this
18 subsection; (ii) during the one-year warranty period, the funds in such
19 account shall be used exclusively for paying the actual cost of making
20 repairs required, or for otherwise satisfying claims made, under such
21 warranty; (iii) following the expiration of the one-year warranty
22 period, any funds remaining in such account shall be immediately
23 disbursed to the declarant; and (iv) the declarant shall notify in
24 writing the association and such city or county as to the location of
25 such account and any disbursements therefrom; ~~((and))~~

26 (e) A declarant or dealer shall pay relocation assistance ~~((not to~~
27 ~~exceed five hundred dollars per unit shall be paid))~~, in an amount to
28 be determined pursuant to the city or county ordinance, but does not
29 exceed either three times the average monthly rent in the city or
30 county, or three times the highest monthly rent in effect for the
31 tenant's unit under the applicable lease or rental agreement, at any
32 time after the date that is one hundred eighty days before the date of
33 the notice described in subsection (1) of this section, to tenants and
34 subtenants:

35 (i) Who do not ~~((not))~~ elect ~~((and))~~ to purchase a unit;

36 (ii) Who are in lawful occupancy for residential purposes of a
37 unit; and

1 (iii) Whose ((monthly)) annual household income from all sources,
2 on the date of the notice described in subsection (1) of this section,
3 was less than an amount equal to eighty percent of ((+i)):

4 (A) The ((monthly)) annual median family income ((for comparably
5 sized households)) in the standard metropolitan statistical area, or if
6 so provided by ordinance in a subarea, as ((defined and established))
7 estimated by the United States department of housing and urban
8 development, and as adjusted for family size according to the method
9 used for income limits by the United States department of housing and
10 urban development, in which the condominium is located((7)); or
11 ((+i))

12 (B) If the condominium is not within a ((standard)) metropolitan
13 statistical area, the ((monthly)) annual median family income ((for
14 comparably sized households)) in the state of Washington, as ((defined
15 and determined by said department)) estimated by the United States
16 department of housing and urban development, and as adjusted for family
17 size according to the method used for income limits by the United
18 States department of housing and urban development.

19 The household size of a unit shall be based on the number of
20 persons actually in lawful occupancy of the unit. The tenant or
21 subtenant actually in lawful occupancy of the unit shall be entitled to
22 the relocation assistance. The requirement for relocation assistance
23 under this subsection is authorized whether or not the relocation
24 assistance may be considered a tax. The declarant shall provide to the
25 city or county a copy of the notice required under subsection (1)(a) of
26 this section at the same time the notice is provided to the tenants or
27 subtenants. The declarant shall also provide other notices and
28 documentation that the city or county may require by ordinance or rule
29 to administer the relocation assistance requirement and verify
30 compliance under this section. Relocation assistance shall be paid on
31 or before the date the tenant or subtenant vacates and shall be in
32 addition to any damage deposit or other compensation or refund to which
33 the tenant is otherwise entitled. Unpaid rent or other amounts owed by
34 the tenant or subtenant to the landlord may be offset against the
35 relocation assistance;

36 (f) The amount of relocation assistance may be adjusted annually by
37 the percentage amount of change in the housing component of the

1 consumer price index for all United States cities, as published by the
2 bureau of labor statistics, United States department of labor;

3 (g) Except as authorized under (h) of this subsection, a declarant
4 and any dealer shall not perform or cause any construction, remodeling,
5 or repairs to any interior or exterior portion of an occupied building
6 that is to be converted to a condominium during the one hundred eighty-
7 day notice period provided for in subsection (1) of this section unless
8 all residential tenants and residential subtenants who have elected not
9 to purchase a unit and who are in lawful occupancy in the building have
10 vacated the premises. For the purposes of this subsection:

11 (i) "Construction, remodeling, or repairs" means the work that is
12 done for the purpose of converting the condominium, not work that is
13 done to maintain minimum health and safety requirements for the
14 existing tenants or subtenants or work that is requested by the
15 existing tenants or subtenants;

16 (ii) "Occupied building" means a stand-alone structure occupied by
17 tenants and does not include other stand-alone buildings located on the
18 property or detached common area facilities;

19 (h)(i) A declarant and any dealer may begin specific limited
20 construction, remodeling, or repair activities as described under
21 (h)(i)(A), (B), and (C) of this subsection to interior or exterior
22 portions of an occupied building during the one hundred eighty-day
23 notice period only if all tenants and subtenants have either vacated
24 the premises or have provided to the declarant or dealer signed waivers
25 documenting their consent to the specific limited construction,
26 remodeling, or repair activities that consist of:

27 (A) The repair or remodel of vacant units to be used as model
28 units, if the repair or remodel is limited to one model for each unit
29 type in the building;

30 (B) The repair or remodel of a vacant unit or common area for use
31 as a sales office; and

32 (C) Other repairs as the local ordinance may permit.

33 (ii) The work performed under this subsection (6)(h) must not
34 violate the tenant's or subtenant's rights of quiet enjoyment during
35 the one hundred eighty-day notice period; and

36 (i) All tenants must be provided with the option to terminate their
37 lease or rental agreement without cause or consequence after providing

1 the declarant with thirty days' notice under any of the following
2 circumstances:

3 (i) The tenant receives a one hundred eighty-day notice as provided
4 for in subsection (1) of this section;

5 (ii) The declarant or dealer has publicly recorded, filed
6 documents, or applied for permits with the local jurisdiction
7 pertaining to and specifically referencing a conversion of the
8 development to condominiums; or

9 (iii) The declarant has announced in writing the conversion of the
10 development to condominiums.

11 If a tenant exercises his or her right to terminate a lease under
12 this subsection (6)(i), the tenant must: Be discharged from the
13 payment of rent for any period of time following the date the lease
14 terminates; be entitled to a pro rata refund of any prepaid rent for
15 any period of time following the date the lease terminates; and
16 continue to have access to relocation assistance under (e) of this
17 subsection. Reprisal or retaliatory action as defined under RCW
18 59.18.240 is prohibited against any tenant exercising his or her right
19 to terminate a lease or rental agreement under this subsection (6)(i).

20 (7) Violations of any city or county ordinance adopted as
21 authorized by subsection (6) of this section shall give rise to such
22 remedies, penalties, and causes of action which may be lawfully imposed
23 by such city or county. Such violations shall not invalidate the
24 creation of the condominium or the conveyance of any interest therein.

25 **Sec. 2.** RCW 82.02.020 and 2006 c 149 s 3 are each amended to read
26 as follows:

27 Except only as expressly provided in chapters 67.28 and 82.14 RCW,
28 the state preempts the field of imposing taxes upon retail sales of
29 tangible personal property, the use of tangible personal property,
30 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,
31 and cigarettes, and no county, town, or other municipal subdivision
32 shall have the right to impose taxes of that nature. Except as
33 provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county,
34 city, town, or other municipal corporation shall impose any tax, fee,
35 or charge, either direct or indirect, on the construction or
36 reconstruction of residential buildings, commercial buildings,
37 industrial buildings, or on any other building or building space or

1 appurtenance thereto, or on the development, subdivision,
2 classification, or reclassification of land. However, this section
3 does not preclude dedications of land or easements within the proposed
4 development or plat which the county, city, town, or other municipal
5 corporation can demonstrate are reasonably necessary as a direct result
6 of the proposed development or plat to which the dedication of land or
7 easement is to apply.

8 This section does not prohibit voluntary agreements with counties,
9 cities, towns, or other municipal corporations that allow a payment in
10 lieu of a dedication of land or to mitigate a direct impact that has
11 been identified as a consequence of a proposed development,
12 subdivision, or plat. A local government shall not use such voluntary
13 agreements for local off-site transportation improvements within the
14 geographic boundaries of the area or areas covered by an adopted
15 transportation program authorized by chapter 39.92 RCW. Any such
16 voluntary agreement is subject to the following provisions:

17 (1) The payment shall be held in a reserve account and may only be
18 expended to fund a capital improvement agreed upon by the parties to
19 mitigate the identified, direct impact;

20 (2) The payment shall be expended in all cases within five years of
21 collection; and

22 (3) Any payment not so expended shall be refunded with interest to
23 be calculated from the original date the deposit was received by the
24 county and at the same rate applied to tax refunds pursuant to RCW
25 84.69.100; however, if the payment is not expended within five years
26 due to delay attributable to the developer, the payment shall be
27 refunded without interest.

28 No county, city, town, or other municipal corporation shall require
29 any payment as part of such a voluntary agreement which the county,
30 city, town, or other municipal corporation cannot establish is
31 reasonably necessary as a direct result of the proposed development or
32 plat.

33 Nothing in this section prohibits cities, towns, counties, or other
34 municipal corporations from collecting reasonable fees from an
35 applicant for a permit or other governmental approval to cover the cost
36 to the city, town, county, or other municipal corporation of processing
37 applications, inspecting and reviewing plans, or preparing detailed
38 statements required by chapter 43.21C RCW.

1 This section does not limit the existing authority of any county,
2 city, town, or other municipal corporation to impose special
3 assessments on property specifically benefitted thereby in the manner
4 prescribed by law.

5 Nothing in this section prohibits counties, cities, or towns from
6 imposing or permits counties, cities, or towns to impose water, sewer,
7 natural gas, drainage utility, and drainage system charges: PROVIDED,
8 That no such charge shall exceed the proportionate share of such
9 utility or system's capital costs which the county, city, or town can
10 demonstrate are attributable to the property being charged: PROVIDED
11 FURTHER, That these provisions shall not be interpreted to expand or
12 contract any existing authority of counties, cities, or towns to impose
13 such charges.

14 Nothing in this section prohibits a transportation benefit district
15 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
16 the legislative authority of a county, city, or town from approving the
17 imposition of such fees within a transportation benefit district.

18 Nothing in this section prohibits counties, cities, or towns from
19 imposing transportation impact fees authorized pursuant to chapter
20 39.92 RCW.

21 Nothing in this section prohibits counties, cities, or towns from
22 requiring property owners to provide relocation assistance to tenants
23 under RCW 59.18.440 and 59.18.450, or 64.34.440.

24 Nothing in this section limits the authority of counties, cities,
25 or towns to implement programs consistent with RCW 36.70A.540, nor to
26 enforce agreements made pursuant to such programs.

27 This section does not apply to special purpose districts formed and
28 acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority
29 conferred by these titles affected.

30 **Sec. 3.** RCW 64.34.050 and 1989 c 43 s 1-106 are each amended to
31 read as follows:

32 (1) A zoning, subdivision, building code, or other real property
33 law, ordinance, or regulation may not prohibit the condominium form of
34 ownership or impose any requirement upon a condominium which it would
35 not impose upon a physically identical development under a different
36 form of ownership. Otherwise, no provision of this chapter invalidates

1 or modifies any provision of any zoning, subdivision, building code, or
2 other real property use law, ordinance, or regulation.

3 (2) This section shall not prohibit a county legislative authority
4 from requiring the review and approval of declarations and amendments
5 thereto and termination agreements executed pursuant to RCW
6 64.34.268(2) by the county assessor solely for the purpose of
7 allocating the assessed value and property taxes. The review by the
8 assessor shall be done in a reasonable and timely manner.

9 (3) Notwithstanding this section, local ordinances adopted pursuant
10 to RCW 64.34.440 are permitted.

11 NEW SECTION. **Sec. 4.** This act does not apply to any conversion
12 condominiums for which a notice required under RCW 64.34.440(1) has
13 been delivered before the effective date of this act.

14 NEW SECTION. **Sec. 5.** This act takes effect August 1, 2008.

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