
ENGROSSED SENATE BILL 6745

State of Washington

60th Legislature

2008 Regular Session

By Senator Fraser

Read first time 01/22/08. Referred to Committee on Consumer Protection & Housing.

1 AN ACT Relating to homeowners' associations; amending RCW
2 64.38.005, 64.38.010, 64.38.015, 64.38.020, 64.38.025, 64.38.030,
3 64.38.035, 64.38.040, and 64.06.020; adding new sections to chapter
4 64.38 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 64.38.005 and 1995 c 283 s 1 are each amended to read
7 as follows:

8 The intent of this chapter is to provide consistent laws regarding
9 the formation and legal administration of homeowners' associations.
10 Unless otherwise provided in this chapter, this chapter applies to all
11 homeowners' associations in the state, regardless of when the
12 declaration was recorded or the association was established.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38 RCW
14 to read as follows:

15 An obligation of good faith is imposed in the performance and
16 enforcement of all contracts and duties governed by this chapter and in
17 all other transactions involving declarants, associations, and their
18 members.

1 For purposes of this section, "good faith" means honesty in fact
2 and the observance of reasonable standards of fair dealing.

3 **Sec. 3.** RCW 64.38.010 and 1995 c 283 s 2 are each amended to read
4 as follows:

5 For purposes of this chapter:

6 (1) "Homeowners' association" or "association" means a corporation,
7 unincorporated association, or other legal entity, each member of which
8 is an owner of residential real property located within the
9 association's jurisdiction, as described in the governing documents,
10 and by virtue of membership (~~(or ownership of property)~~), the owner is
11 obligated to pay (~~(real property taxes, insurance premiums, maintenance~~
12 ~~costs, or for improvement of real property other than that which is~~
13 ~~owned by the member)~~) assessments pursuant to the governing documents.
14 "Homeowners' association" does not mean an association created under
15 chapter 64.32 or 64.34 RCW.

16 (2) "Governing documents" means the declaration, articles of
17 incorporation, bylaws, (~~(plat, declaration of covenants, conditions,~~
18 ~~and restrictions,~~) rules and regulations of the association, or other
19 written instrument by which the association has the authority to
20 exercise any of the powers provided for in this chapter or to manage,
21 maintain, or otherwise affect the property under its jurisdiction.

22 (3) "Board of directors" or "board" means the body, regardless of
23 name, with primary authority to manage the affairs of the association.

24 (4) "Common areas" means property owned, or otherwise maintained,
25 repaired or administered by the association.

26 (5) "Common expense" means the costs incurred by the association to
27 exercise any of the powers provided for in this chapter.

28 (6) "Residential real property" means any real property, the use of
29 which is limited by law, covenant or otherwise to primarily residential
30 or recreational purposes.

31 (7) "Assessment" means all sums chargeable by the association
32 against a lot including, without limitation:

33 (a) Regular and special assessments for common expenses, charges,
34 and fines imposed by the association;

35 (b) Interest and late charges on any delinquent account; and

36 (c) Costs of collection, including reasonable attorneys' fees,

1 incurred by the association in connection with the collection of an
2 owner's delinquent account.

3 This subsection (7) supersedes any inconsistent provision in the
4 governing documents.

5 (8) "Bylaws" means the code adopted for the regulation or
6 management of the internal affairs of the association, irrespective of
7 the designated name of that code. If an association is incorporated
8 under Title 23 or 24 RCW, "bylaws" means the definition assigned to
9 "bylaws" in the act pursuant to which the association is incorporated.

10 (9) "Community" means residential real property that is subject to
11 a declaration under which an association is established for governance
12 of the community.

13 (10) "Cooperative" means a community in which the residential real
14 property is owned by an association where each of those members is
15 entitled, by virtue of his or her ownership interest in the
16 association, to exclusive possession of a portion of the property.

17 (11) "Declarant" means any person who executes as a declarant a
18 declaration or succeeds to the rights of a declarant pursuant to an
19 instrument recorded in the real property records of every county in
20 which any portion of the community is located.

21 (12) "Declaration" means the declaration of covenants, conditions,
22 and restrictions or any other document, however denominated, that is
23 recorded in every county in which any portion of the community is
24 located and that provides for the establishment of an association to
25 govern the community. In the case of a cooperative, "declaration"
26 means the document or documents, however denominated, that create the
27 cooperative housing association that owns the residential real property
28 comprising the cooperative, whether or not the document or documents
29 are recorded.

30 (13) "Lot" means a physical portion of a community designated for
31 separate ownership or occupancy and designated for residential use, the
32 boundaries of which are described in the real property records of every
33 county in which any portion of the community is located. Within a
34 cooperative, "lot" means that portion of the community designated for
35 exclusive possession by a member of the cooperative's association.
36 "Lot" does not mean an apartment created under chapter 64.32 RCW or a
37 unit created under chapter 64.34 RCW.

1 (14) "Owner" means a declarant or other person who owns a lot, but
2 does not include a person who has an interest in a lot solely as
3 security for an obligation. Under a real estate contract, "owner"
4 means the vendee, not the vendor.

5 (15) "Person" means a natural person, corporation, partnership,
6 limited partnership, trust, government subdivision or agency, or other
7 legal entity.

8 (16) "Rules" means the rules, regulations, and policies,
9 irrespective of their designated name, that are adopted by the members
10 of the board of an association in accordance with the governing
11 documents and that supplement, but do not contradict or contravene, the
12 governing documents.

13 **Sec. 4.** RCW 64.38.015 and 1995 c 283 s 3 are each amended to read
14 as follows:

15 The membership of an association at all times shall consist
16 exclusively of the owners of all real property over which the
17 association has jurisdiction, both developed and undeveloped or, in the
18 case of a cooperative, the members of the association who by virtue of
19 their ownership interest in the association have exclusive possession
20 of a lot.

21 **Sec. 5.** RCW 64.38.020 and 1995 c 283 s 4 are each amended to read
22 as follows:

23 Unless otherwise provided in the ~~((governing—documents))~~
24 declaration, an association may:

25 (1) Adopt and amend bylaws, resolutions, policies, rules, and
26 regulations that are not inconsistent with the declaration or with this
27 chapter;

28 (2) Adopt and amend budgets for revenues, expenditures, and
29 reserves, and impose and collect assessments for common expenses from
30 owners;

31 (3) Hire and discharge or contract with managing agents and other
32 employees, agents, and independent contractors;

33 (4) Institute, defend, or intervene in litigation or administrative
34 proceedings in its own name on behalf of itself or two or more owners
35 on matters affecting the homeowners' association, but not on behalf of

- 1 owners involved in disputes that are not the responsibility of the
2 association;
- 3 (5) Make contracts and incur liabilities;
- 4 (6) Regulate the use, maintenance, repair, replacement, and
5 modification of common areas;
- 6 (7) Cause additional improvements to be made as a part of the
7 common areas;
- 8 (8) Acquire, hold, encumber, and convey in its own name any right,
9 title, or interest to real or personal property;
- 10 (9) Grant easements, leases, licenses, and concessions through or
11 over the common areas and petition for or consent to the vacation of
12 streets and alleys;
- 13 (10) Impose and collect any payments, fees, or charges for the use,
14 rental, or operation of the common areas;
- 15 (11) Impose and collect charges for late payments of assessments
16 (~~and, after notice and an opportunity to be heard by the board of~~
17 ~~directors or by the representative designated by the board of directors~~
18 ~~and in accordance with the procedures as provided in the bylaws or~~
19 ~~rules and regulations adopted by the board of directors, levy~~
20 ~~reasonable fines in accordance with a previously established schedule~~
21 ~~adopted by the board of directors and furnished to the owners for~~
22 ~~violation of the bylaws, rules, and regulations of the association));~~
- 23 (12) Take enforcement action with respect to any violation of the
24 governing documents;
- 25 (13) After notice and an opportunity to be heard by the board of
26 directors or by the representative designated by the board of
27 directors, and in accordance with the procedures provided in the
28 governing documents, levy reasonable fines in accordance with a
29 previously established schedule adopted by the board of directors and
30 furnished to the owners for violations of the governing documents;
- 31 (14) Exercise any other powers conferred by the declaration,
32 articles, or bylaws;
- 33 ((+13)) (15) Exercise all other powers that may be exercised in
34 this state by the same type of ((corporation)) legal entity as the
35 association, provided those powers do not conflict with any duties
36 imposed on an association in this chapter; and
- 37 ((+14)) (16) Exercise any other powers necessary and proper for
38 the governance and operation of the association.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) This section establishes voluntary procedures for the
4 enforcement of governing documents.

5 (2) A homeowners' association is deemed to have provided notice and
6 an opportunity to be heard as required under RCW 64.38.020(13) if the
7 association fulfills the following requirements:

8 (a) The association must provide the owner with a notice of the
9 violation that contains:

10 (i) A reference to the rule or rules that the owner allegedly
11 violated;

12 (ii) A short statement of the evidence of the rule violation;

13 (iii) The name of a person with firsthand knowledge of the facts
14 that support the determination that the violation occurred;

15 (iv) A short statement of the action that the association intends
16 to take, including the amount of any fine, subject to the owner's right
17 to request a hearing;

18 (v) A statement that if the owner wishes to contest or explain the
19 violation, he or she must submit a written request for a hearing to the
20 association within fifteen days of delivery of the notice of violation;

21 (vi) A statement of the owner's rights to a hearing, to attend the
22 hearing, to be represented by counsel, and to review the evidence
23 supporting the alleged violation;

24 (b) Upon the timely request for a hearing from an owner, the
25 association must set a hearing date no less than thirty and no more
26 than sixty days from the association's receipt of the request. The
27 association must notify the owner of the hearing at least twenty days
28 before the hearing and must include with the notification a copy of the
29 association's rules of procedure for conducting a hearing;

30 (c) Upon a timely request by the owner who requested a hearing, the
31 association must, at least ten days before the date of the hearing,
32 either provide the owner with a copy of all its evidence concerning the
33 alleged violation, including copies of the complaint signed by a
34 witness with firsthand knowledge of the facts that support the
35 determination that the violation occurred, or identify a reasonable
36 time and place at which the owner may inspect such evidence;

37 (d) The association must permit the owner to be represented by
38 counsel at the hearing; and

1 (e) The association must provide the owner with a written decision,
2 including a statement of the reasons for the decision, within thirty
3 days after the hearing.

4 (3) The chair of the hearing may adjourn or continue the hearing,
5 if necessary, to gather additional information that the association
6 needs in order to make a decision.

7 (4) If an owner does not request a hearing within fifteen days of
8 the association's delivery of the notice of violation, the association
9 may take the remedial action stated in the notice, including the
10 imposition of any fine listed in the notice.

11 **Sec. 7.** RCW 64.38.025 and 1995 c 283 s 5 are each amended to read
12 as follows:

13 (1) Except as provided in the association's governing documents or
14 this chapter, the board of directors shall act in all instances on
15 behalf of the association. In the performance of their duties, the
16 officers of the association and members of the board of directors shall
17 exercise the degree of care and loyalty required of an officer or
18 director of a corporation organized under chapter 24.03 RCW.

19 (2) The board of directors shall not act on behalf of the
20 association to amend the articles of incorporation, to take any action
21 that requires the vote or approval of the owners, to terminate the
22 association, to elect members of the board of directors, or to
23 determine the qualifications, powers, and duties, or terms of office of
24 members of the board of directors; but the board of directors may fill
25 vacancies in its membership of the unexpired portion of any term.

26 ~~((3) Within thirty days after adoption by the board of directors~~
27 ~~of any proposed regular or special budget of the association, the board~~
28 ~~shall set a date for a meeting of the owners to consider ratification~~
29 ~~of the budget not less than fourteen nor more than sixty days after~~
30 ~~mailing of the summary. Unless at that meeting the owners of a~~
31 ~~majority of the votes in the association are allocated or any larger~~
32 ~~percentage specified in the governing documents reject the budget, in~~
33 ~~person or by proxy, the budget is ratified, whether or not a quorum is~~
34 ~~present. In the event the proposed budget is rejected or the required~~
35 ~~notice is not given, the periodic budget last ratified by the owners~~
36 ~~shall be continued until such time as the owners ratify a subsequent~~
37 ~~budget proposed by the board of directors.~~

1 ~~(4) The owners by a majority vote of the voting power in the~~
2 ~~association present, in person or by proxy, and entitled to vote at any~~
3 ~~meeting of the owners at which a quorum is present, may remove any~~
4 ~~member of the board of directors with or without cause.))~~

5 NEW SECTION. Sec. 8. A new section is added to chapter 64.38 RCW
6 to read as follows:

7 A board of directors may by majority vote incorporate an
8 unincorporated homeowners' association as a nonprofit corporation.

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

11 Notwithstanding any inconsistent provision in the governing
12 documents or other applicable statutes, any member of the board of
13 directors may be removed with or without cause by a majority vote of
14 the owners (1) entitled to elect the board member and present, in
15 person or by proxy, and (2) entitled to vote at any regular or special
16 meeting of the owners at which a quorum is present.

17 **Sec. 10.** RCW 64.38.030 and 1995 c 283 s 6 are each amended to read
18 as follows:

19 Unless provided for in the (~~governing documents~~) declaration, the
20 bylaws of the association (~~shall~~) must contain provisions that are
21 consistent with this chapter and provide for:

22 (1) The number, qualifications, powers and duties, terms of office,
23 and manner of electing and removing the board of directors and officers
24 of the association and filling vacancies;

25 (2) Election by the board of directors of the officers of the
26 association as the bylaws specify;

27 (3) Which, if any, of its powers the board of directors or officers
28 of the association may delegate to other persons or to a managing
29 agent;

30 (4) Which of its officers may prepare, execute, certify, and record
31 amendments to the governing documents on behalf of the association;

32 (5) The method of amending the bylaws; and

33 (6) (~~Subject to the provisions of the governing documents,~~) Any
34 other matters the association deems necessary and appropriate.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) Except as provided under subsection (2) of this section, a
4 seller must furnish to a purchaser before the execution of any contract
5 for sale of residential real property in which the lot is subject to
6 this chapter the following notice:

7 "BY PURCHASING THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THIS
8 AGREEMENT, YOU WILL BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT
9 GOVERNS THE COMMUNITY IN WHICH THE PROPERTY IS LOCATED. THE
10 ASSOCIATION MAY MAINTAIN AND REPAIR COMMON AREAS, RESTRICT THE USE OF
11 YOUR PROPERTY, COLLECT DUES, AND APPROVE OR DISAPPROVE BUILDING PLANS.
12 UNLESS YOU WAIVE YOUR RIGHT IN WRITING, YOU ARE ENTITLED TO RECEIVE
13 FROM THE SELLER AS PART OF THE DISCLOSURE STATEMENT REQUIRED UNDER
14 CHAPTER 64.06 RCW A CERTIFICATE SIGNED BY AN OFFICER OR AUTHORIZED
15 AGENT OF THE HOMEOWNERS' ASSOCIATION DISCLOSING CERTAIN FINANCIAL AND
16 OTHER INFORMATION ABOUT THE ASSOCIATION."

17 (2) The notice is not required in real property transfers that
18 occur between commercial buyers and sellers or those transfers listed
19 in RCW 64.06.010.

20 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38 RCW
21 to read as follows:

22 (1) Within thirty days after adoption by the board of directors of
23 any proposed regular or special budget of the association, the board
24 shall set a date for a meeting of the owners to consider adoption of
25 the budget no less than ten and no more than sixty days after the
26 mailing of the summary of the proposed regular or special budget.
27 Notwithstanding any contrary provision in the governing documents, the
28 board must allow members to vote on the issue of ratifying the budget
29 either by mail-in ballot or at the meeting, in person or by proxy.
30 Unless the proposed budget is rejected at that meeting by a majority of
31 all the votes in the association, or any larger percentage specified in
32 the governing documents, the proposed budget is ratified and approved
33 whether or not there is a quorum at the meeting. If the proposed
34 budget is rejected or the required notice is not provided, the periodic
35 budget last adopted by the owners shall be continued until the owners
36 adopt a subsequent budget proposed by the board of directors.

1 (2) An association's lien rights may not include liens to secure
2 payment of fines validly imposed. However, an association's lien
3 rights may include liens to secure payment of unpaid assessments. This
4 subsection supersedes any inconsistent provisions in the governing
5 documents.

6 (3) A lien for unpaid assessments and the personal liability for
7 the payment of assessments is extinguished unless proceedings to
8 enforce the lien or collect the debt are instituted within six years
9 after the amount of the assessments sought to be recovered becomes due.

10 (4) This section applies retroactively to any governing documents
11 in effect on the effective date of this section.

12 (5) This section supersedes any provisions of the governing
13 documents that are inconsistent with this section. All such
14 inconsistent provisions of the governing documents are void and
15 unenforceable.

16 **Sec. 13.** RCW 64.38.035 and 1995 c 283 s 7 are each amended to read
17 as follows:

18 (1) A meeting of the association must be held at least once each
19 year.

20 (2) Special meetings of the association may be called by the
21 president, a majority of the board of directors, or by owners having
22 ~~((ten))~~ five percent of the votes in the association and must be held
23 at a reasonable time and at a reasonable place. Any business may be
24 placed on the agenda for a special meeting as long as the business does
25 not conflict with this chapter or the association's governing
26 documents. If the special meeting is called by the members, the
27 members may determine the business to be placed on the agenda. The
28 board may also place business on the special meeting agenda. This
29 subsection supersedes any inconsistent provisions of the governing
30 documents or other applicable statute.

31 (3) Not less than ~~((fourteen))~~ ten nor more than sixty days in
32 advance of any meeting, the secretary or other officers specified in
33 the bylaws shall cause notice to be hand-delivered or sent prepaid by
34 first-class United States mail to the mailing address of each owner or
35 to any other mailing address designated in writing by the owner. The
36 notice of any meeting shall state the time and place of the meeting and
37 the business to be placed on the agenda by the board of directors for

1 a vote by the owners, including the general nature of any proposed
2 amendment to the articles of incorporation, bylaws, any budget or
3 changes in the previously approved budget that result in a change in
4 assessment obligation, and any proposal to remove a director.

5 ~~((2) Except as provided in this subsection, all meetings of the
6 board of directors shall be open for observation by all owners of
7 record and their authorized agents. The board of directors shall keep
8 minutes of all actions taken by the board, which shall be available to
9 all owners. Upon the affirmative vote in open meeting to assemble in
10 closed session, the board of directors may convene in closed executive
11 session to consider personnel matters; consult with legal counsel or
12 consider communications with legal counsel; and discuss likely or
13 pending litigation, matters involving possible violations of the
14 governing documents of the association, and matters involving the
15 possible liability of an owner to the association. The motion shall
16 state specifically the purpose for the closed session. Reference to
17 the motion and the stated purpose for the closed session shall be
18 included in the minutes. The board of directors shall restrict the
19 consideration of matters during the closed portions of meetings only to
20 those purposes specifically exempted and stated in the motion. No
21 motion, or other action adopted, passed, or agreed to in closed session
22 may become effective unless the board of directors, following the
23 closed session, reconvenes in open meeting and votes in the open
24 meeting on such motion, or other action which is reasonably identified.
25 The requirements of this subsection shall not require the disclosure of
26 information in violation of law or which is otherwise exempt from
27 disclosure.))~~

28 NEW SECTION. Sec. 14. A new section is added to chapter 64.38 RCW
29 to read as follows:

30 Except as provided in this section, all meetings of the board of
31 directors shall be open for observation by all owners of record and
32 their authorized agents. The board of directors shall keep minutes of
33 all actions taken by the board, which must be available to all owners.
34 Upon the affirmative vote in open meeting to assemble in closed
35 session, the board of directors may convene in closed executive session
36 to consider personnel matters; consult with legal counsel or consider
37 communications with legal counsel; and discuss likely or pending

1 litigation, matters involving possible violations of the governing
2 documents of the association, and matters involving the possible
3 liability of an owner to the association. The motion must state
4 specifically the purpose for the closed session. Reference to the
5 motion and the stated purpose for the closed session must be included
6 in the minutes. The board of directors shall restrict the
7 consideration of matters during the closed portions of meetings only to
8 those purposes specifically exempted and stated in the motion. A
9 motion, or other action adopted, passed, or agreed to in closed session
10 may not become effective unless the board of directors, following the
11 closed session, reconvenes in open meeting and votes in the open
12 meeting on such motion, or other action that is reasonably identified.
13 This section does not require the disclosure of information in
14 violation of law or that is otherwise exempt from disclosure. This
15 section supersedes any conflicting provisions in Title 23 or 24 RCW or
16 in the association's governing documents.

17 **Sec. 15.** RCW 64.38.040 and 1995 c 283 s 8 are each amended to read
18 as follows:

19 Unless the governing documents specify a (~~different~~) smaller
20 percentage, a quorum is present throughout any meeting of the
21 association if the owners to which (~~thirty-four~~) twenty-five percent
22 of the votes of the association are allocated are present in person or
23 by proxy at the beginning of the meeting.

24 NEW SECTION. **Sec. 16.** A new section is added to chapter 64.38 RCW
25 to read as follows:

26 For declarations that exist before the effective date of this
27 section:

28 (1) If a declaration requires more than seventy-five percent of the
29 votes in the association to approve any amendment to the declaration,
30 the association shall, if so directed by owners holding at least sixty-
31 seven percent of the votes in the association, bring an action in
32 superior court for the county, which any portion of the real property
33 subject to the declaration is located, to reduce the percentage of
34 votes required to amend the declaration. The owners' decision to bring
35 an action may, notwithstanding any provision to the contrary in the
36 declaration, be made by votes cast at a meeting of the association duly

1 called or by written consent, or by both. The action shall be an in
2 rem declaratory judgment action whose title shall be the description of
3 the property subject to the declaration.

4 (2) If the court finds that the percentage of votes set forth in
5 the declaration is an unreasonable burden on the ability of the owners
6 to amend the declaration and of the association to administer the
7 property under its jurisdiction, the court shall enter an order
8 striking the percentage of votes from the declaration and substituting
9 the percentage of votes that the court determines to be appropriate in
10 the circumstances. The court shall not mandate approval of less than
11 sixty-seven percent of the votes in the association to amend any
12 provision of the declaration.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 64.38 RCW
14 to read as follows:

15 (1) Except as provided in subsection (2) of this section,
16 declarations recorded after the effective date of this section can be
17 amended with the approval of at least sixty-seven percent of the total
18 votes in the association, or any larger percentage specified in the
19 declaration.

20 (2) A declarant may unilaterally amend the declaration, but only if
21 the right to amend is clearly stated in the declaration and if the
22 amendment:

23 (a) Subjects additional property to the declaration pursuant to a
24 plan of expansion set forth in the declaration;

25 (b) Withdraws property from the declaration, if the withdrawal is
26 allowed under the terms of the declaration and if the property to be
27 withdrawn is not owned by any third party;

28 (c) Brings any provision of the declaration into compliance with
29 any applicable statute, rule, regulation, or judicial determination;

30 (d) Enables any title insurance company to issue title insurance
31 coverage for the lots;

32 (e) Enables any institutional or governmental lender, purchaser,
33 insurer, or guarantor of mortgage loans, to make, purchase, insure, or
34 guarantee mortgage loans for the lots; or

35 (f) Satisfies the requirements of any local, state, or federal
36 governmental agency.

1 The amendment shall not adversely affect the title to any lot
2 unless the owner of the affected lot consents to it in writing.

3 (3) The declaration may require all or a specified number or
4 percentage of the eligible mortgagees who hold first lien security
5 interests encumbering lots to approve specified actions of the owners
6 or association as a condition to the effectiveness of those actions,
7 but a requirement for approval may not operate to:

8 (a) Deny or delegate control of the general administrative affairs
9 of the association by the owners or board of directors;

10 (b) Prevent the association or board of directors from commencing,
11 intervening in, or settling any litigation or proceeding; or

12 (c) Prevent any insurance trustee or the association from receiving
13 and distributing any insurance proceeds.

14 For purposes of this subsection, "eligible mortgagee" means the
15 holder of a mortgage on a lot that has filed with the secretary of the
16 association a written request for copies of notices of any action by
17 the association that requires the consent of mortgagees that includes
18 the lot number and address of the property subject to the mortgage. If
19 an eligible mortgagee fails to respond to a request for approval within
20 thirty days following the association's issuance of a notice requesting
21 such approval, the eligible mortgagee's approval is deemed granted.

22 (4) The declaration may permit the association's members to approve
23 an amendment through a combination of votes conducted during meetings
24 or through a written consent process.

25 (5) The declaration may require that to be effective all
26 declaration amendments must be signed by one or more officers of the
27 association, or if applicable, by the declarant. To be effective, all
28 declaration amendments must be acknowledged and recorded in each county
29 in which any portion of the property is located.

30 NEW SECTION. **Sec. 18.** A new section is added to chapter 64.38 RCW
31 to read as follows:

32 An action to challenge the validity of a declaration amendment
33 adopted by the association under this chapter and after the effective
34 date of this section may not be brought more than one year after the
35 amendment is recorded.

1 NEW SECTION. **Sec. 19.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) This section applies to associations in which the declaration
4 or the bylaws authorize only the board of directors to adopt, amend, or
5 rescind bylaws and to do so without a vote of the members and, with
6 respect to those associations, to all bylaws adopted or amended by the
7 board of directors after the effective date of this section.

8 (2) A bylaw adopted, amended, or rescinded by the board of
9 directors shall not be valid or enforceable until it is ratified by the
10 association's members as set forth in this subsection:

11 (a) The board of directors shall submit all bylaws adopted,
12 amended, or rescinded by the board to a vote of the members. The vote
13 must be held at the next regularly scheduled annual meeting of the
14 association, or at a special meeting held before the next annual
15 meeting.

16 (b) The notice of the annual or special meeting must include the
17 text of any existing bylaw that the board has approved for amendment or
18 rescission, and the text of any new or amended bylaw approved by the
19 board.

20 (c) Unless the governing documents specify a longer advance notice
21 period for a meeting, notice of the meeting, at which the proposed
22 bylaw change will be voted upon, must be provided at least ten days in
23 advance of the meeting and shall not be given more than sixty days in
24 advance of the meeting.

25 (d) The proposed bylaw change is deemed approved and ratified by
26 the members if a majority of all the votes in the association vote at
27 the meeting, in person or by proxy, to approve the bylaw change
28 approved by the board.

29 (3) All bylaw changes ratified by the members in accordance with
30 this section take effect the day after the annual or special meeting at
31 which they were ratified.

32 NEW SECTION. **Sec. 20.** A new section is added to chapter 64.38 RCW
33 to read as follows:

34 For rules, or amendments to rules, adopted after the effective date
35 of this section:

36 (1) A rule adopted by the board is valid and enforceable if all the
37 following requirements are satisfied:

1 (a) The rule is in writing;

2 (b) The rule is required by law or, within the authority of the
3 board, conferred by law or by the declaration;

4 (c) The rule is consistent with the governing documents; and

5 (d) The rule is adopted or amended in substantial compliance with
6 the requirements of this chapter.

7 (2) Except for emergency rules, the board of directors must provide
8 the association's members with notice and an opportunity to comment on
9 any proposed new or amended rule before the board is authorized to
10 adopt or enforce that rule. For purposes of this section, an
11 "emergency rule" is a rule that is necessary for the immediate
12 preservation of health and safety or a rule that sets forth specific
13 rights or obligations affecting the association or its members under
14 state statutes or administrative rules. Emergency rules become
15 effective immediately, subject to the members' right to request a
16 ratification vote under subsection (3) of this section.

17 (3) Except for emergency rules, rules adopted by the board of
18 directors following notice and an opportunity for comment become
19 effective thirty days after notice of the rules is provided to the
20 members in the manner authorized by the governing documents, unless a
21 written petition signed by twenty percent of the total votes in the
22 association is submitted to the board within that thirty-day period
23 requesting a ratification vote on the proposed rule. If a ratification
24 vote is requested, the association shall use the following process for
25 the ratification vote:

26 (a) The board of directors must submit the rules on which a
27 ratification vote has been requested to a vote of the members. The
28 vote must be conducted at the next regularly scheduled annual meeting
29 of the association, or at a special meeting held before the next annual
30 meeting.

31 (b) The notice of the meeting, at which the ratification vote will
32 be conducted, must include the text of the proposed rules.

33 (c) Unless the governing documents specify a longer advance notice
34 period for an association meeting, notice of the meeting, at which the
35 ratification vote will be conducted, must be provided at least ten days
36 in advance of the meeting and shall not be provided more than sixty
37 days in advance of the meeting.

1 (d) The proposed rule change is deemed approved and ratified by the
2 members, unless a majority of all the votes in the association vote at
3 the meeting, in person or by proxy, to reject the rule change approved
4 by the board.

5 (e) All rule changes ratified by the members in accordance with
6 this section take effect on the original effective date or later
7 effective date established by the board.

8 (4) The board of directors is not required to use the following
9 optional rule-making process. However, use of this process establishes
10 compliance with the requirements of subsection (1) of this section.
11 For purposes of this section, "rule change" means the adoption or
12 amendment of a rule by the board.

13 (a) The board shall give notice of a proposed rule change to the
14 owners. The notice must include the following information: (i) The
15 text of the proposed rule change; (ii) a description of the purpose and
16 effect of the proposed rule change; and (iii) the deadline for
17 submission of a comment on the proposed rule change.

18 (b) For a period of at least thirty days following actual or
19 constructive delivery of a notice of a proposed rule change, the board
20 shall accept written comments from owners on the proposed rule change.

21 (c) The board shall consider any comments it receives and make a
22 decision on a proposed rule change at a board meeting. Except for
23 emergency rules, a decision on a rule may not be made until after the
24 comment submission deadline.

25 (d) The board shall give notice of a rule change to the owners.
26 The notice must set out the text of the rule change and state the date
27 the rule change takes effect. Except for emergency rules, the date the
28 rule change takes effect must not be less than thirty days after notice
29 of the rule change is provided in the manner authorized in the
30 governing documents.

31 NEW SECTION. **Sec. 21.** A new section is added to chapter 64.38 RCW
32 to read as follows:

33 (1) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Requestor" means the party requesting mediation.

36 (b) "Request" means a request for mediation.

1 (c) "Recipient" means the party that receives the request for
2 mediation.

3 (2) For disputes that arise after the effective date of this
4 section and do not apply to any judicial or other legal proceedings
5 pending before the effective date of this section:

6 (a) With the exception of the claims listed in (b) of this
7 subsection, disputes between owners or between owners and their
8 association that involve the governing documents must be submitted to
9 mediation before any party may pursue the claim through court
10 proceedings.

11 (b) The following categories of claims are exempt from the
12 prelitigation mediation requirement under (a) of this subsection:

13 (i) Claims in which the statute of limitations will soon expire,
14 except that any party to the lawsuit may file a motion with the court
15 requesting that the judge order the parties to mediate before allowing
16 them to proceed with the lawsuit and temporarily stay the litigation
17 proceedings pending the outcome of mediation;

18 (ii) Claims for injunctive relief, except that any party to the
19 lawsuit may file a motion with the court requesting that the judge
20 order the parties to mediate before allowing them to proceed with the
21 lawsuit and temporarily stay the litigation proceedings pending the
22 outcome of mediation;

23 (iii) Claims for declaratory judgment;

24 (iv) Claims related to assessments, or the collection of
25 assessments, or to foreclosures;

26 (v) Claims for defects in construction of homes and other
27 improvements, whether individually owned or part of the common areas;

28 (vi) Claims that involve parties who are not subject to the
29 association's governing documents;

30 (vii) Claims between members of the association that are unrelated
31 to the association's governing documents;

32 (viii) Claims or issues that have been the subject of a previous
33 mediation request, response, or mediation conference under this section
34 within twelve months of the date of the most recent request, response,
35 or mediation conference, whichever is sooner.

36 (c) Unless another reasonable alternative dispute resolution
37 process is set forth in the declaration or adopted by a majority vote

1 of the nondeclarant members of the association, the following
2 procedures in this subsection govern the mediation of disputes under
3 this chapter:

4 (i) The party requesting mediation must submit a request for
5 mediation to the other parties;

6 (ii) The request may be made in any medium, provided that the
7 requestor can prove the request was received by the recipient;

8 (iii) Mediation must be conducted by one mediator, unless the
9 parties agree otherwise;

10 (iv) Unless all parties to the mediation agree otherwise, the
11 mediation conference must be held within ninety days of the date the
12 request is received by all recipients;

13 (v) The request for mediation must: State the issues that the
14 requestor wishes to mediate; certify that the requestor is willing to
15 meet in good faith; and propose a mediator and provide full contact
16 information (name, address, telephone and fax numbers, and e-mail
17 address) for the proposed mediator;

18 (vi) The recipients must respond to the requestor no later than
19 thirty days after the request is received by all recipients. The
20 response may be made in any medium as long as the recipient can prove
21 that the response was received by the requestor;

22 (vii) If the recipient agrees to mediate, the response must include
23 a statement of any additional issues that the recipient wishes to
24 mediate, a statement of whether the mediator proposed by the requestor
25 is acceptable to the recipient and, if not, a proposed alternative
26 mediator and that mediator's contact information. If the recipient
27 declines to mediate, the response must indicate this decision and
28 include a statement of the reasons that the recipient declines to
29 mediate;

30 (viii) The requestor must reply to the recipient's response within
31 fifteen days of receipt. If the response identifies additional issues
32 that the recipient wishes to address at mediation, the reply must state
33 whether the requestor agrees to mediate those issues. If the requestor
34 does not agree to mediate those issues, the reply must indicate this
35 decision and include a statement of the reasons that the requestor
36 declines to mediate the issues identified by the recipient. A
37 requestor's refusal to mediate the issues identified in the reply is
38 subject to (e) of this subsection;

1 (ix) If the recipient has proposed an alternative mediator, the
2 reply must state whether the alternative mediator is acceptable to the
3 requestor. If the alternative mediator is not acceptable, the
4 requestor must contact the two proposed mediators within fifteen days
5 of delivering the reply and request that the mediators choose a third
6 person who is available within the time frame required in this section
7 to act as mediator;

8 (x) The mediator may be an attorney or judge. The mediator's
9 primary function is to assist the parties in communicating with one
10 another and to find ways to resolve the disputed issues by agreement.

11 (d) Either the recipient or the requestor can decline mediation.
12 If mediation is declined, or a party fails to participate in a
13 scheduled mediation conference, the other party may proceed with filing
14 a legal action. In such a case, the court may:

15 (i) Enter an order compelling the parties to participate in a
16 mediation conference if the court determines that mediation would be
17 productive or useful; and

18 (ii) Impose appropriate remedies for a party's unjustified failure
19 to mediate claims subject to mandatory mediation requirements imposed
20 under this section including, without limitation, requiring that party
21 to pay all mediation fees and costs charged by the mediator, reimburse
22 the plaintiff for the costs of filing suit, reimburse the plaintiff for
23 process of service costs, and reimburse the plaintiff for some or all
24 of the plaintiffs' attorneys' fees and costs.

25 This subsection (2)(d) supersedes any inconsistent provisions in an
26 association's governing documents. The standard of review of a trial
27 court's decision under this section is abuse of discretion.

28 (e) Unless the parties agree otherwise, the fees and costs of
29 mediation must be shared equally by all parties to the mediation. For
30 purposes of this subsection (2)(e), "fees and costs of mediation" means
31 only those fees and costs charged by the mediator or mediation service
32 and does not include investigation costs or fees paid to an attorney to
33 represent a party to the mediation. If the mediator requires
34 prepayment of all or a portion of the anticipated fees and costs, all
35 parties to the mediation must comply with this requirement. An
36 association may not condition mediation on a member's payment of any
37 charges, costs, or fees.

1 (3) This section does not limit any party's right to seek relief in
2 a court of competent jurisdiction after the mediation requirements in
3 this section have been met.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 64.38 RCW
5 to read as follows:

6 Unless the governing documents permit or require other methods for
7 providing notice, all notices required under this chapter or the
8 governing documents must be delivered or sent by first-class mail
9 postage prepaid to the mailing address of each owner, but not for a
10 shorter time period for providing notice than is required under RCW
11 64.38.035.

12 NEW SECTION. **Sec. 23.** A new section is added to chapter 64.38 RCW
13 to read as follows:

14 (1) Except as provided under subsection (2) of this section, in a
15 transaction for the sale of a lot that is subject to this chapter, the
16 seller shall furnish to a buyer a homeowners' association information
17 pamphlet that is identical, in form and substance, to the following:

18 "FREQUENTLY ASKED QUESTIONS
19 ABOUT HOMEOWNERS' ASSOCIATIONS

20 Buying a home is a big investment. Homeownership frequently
21 includes automatic membership in a homeowners' association (HOA).
22 There are rights and obligations that come with being a member of an
23 HOA. The information below attempts to give you a basic understanding
24 of what membership in an HOA may involve. To better understand what
25 membership in a particular HOA might involve, you should review that
26 HOA's governing documents and consider seeking the assistance of legal
27 counsel to answer any questions you may have.

28 (1) WHAT IS AN HOA?

29 Washington law defines an HOA as a legal entity in which each
30 member is an owner of residential property that is subject to
31 the HOA's jurisdiction as a result of certain recorded
32 governing documents. The law governing homeowners'
33 associations, chapter 64.38 RCW, provides more information in
34 this regard.

1 (2) WHAT ARE THE GOVERNING DOCUMENTS OF AN HOA?

2 The principal governing document of an HOA is often known as
3 the Declaration of Covenants, Conditions, and Restrictions and
4 Easements (CCRs). Other important HOA documents may include
5 Articles of Incorporation, Bylaws, Rules, and Policies.

6 (3) WHAT SERVICES AND AMENITIES ARE PROVIDED BY HOAs?

7 The services and amenities provided by HOAs vary greatly from
8 community to community. These may include common areas such as
9 a swimming pool, tennis court, playground, trails, community
10 center, or even a golf course. Some HOAs provide landscaping
11 services for homeowners, and some even paint and maintain the
12 exterior of homes.

13 (4) WHAT OBLIGATIONS DOES AN HOA HAVE?

14 Each HOA is different, but the most common HOA roles include
15 maintaining common areas and amenities, administering and
16 enforcing use and architectural restrictions, adopting budgets,
17 and collecting assessments.

18 (5) AM I REQUIRED TO BE A MEMBER OF THE HOA?

19 Generally, the governing documents for an HOA make membership
20 mandatory for all owners within the community. The HOA's
21 governing documents are essentially a legally binding contract
22 between the owner/members and the association. If you have
23 questions about your legal rights and obligations as a member
24 of the HOA, you should consult an attorney.

25 (6) HOW DOES MEMBERSHIP IN AN HOA AFFECT THE OWNERSHIP OF MY
26 HOME?

27 By virtue of your membership in an HOA, you will have various
28 rights and obligations as described in the governing documents.
29 These may include restrictions on the use of your property,
30 architectural controls on future improvements of your property,
31 and the obligation to pay assessments, also known as dues, to
32 the HOA.

33 (7) WHO IS IN CHARGE OF AN HOA?

1 HOAs are typically governed by a board of directors or board of
2 trustees elected by the homeowners. The board's
3 responsibilities and power depend upon the HOA's governing
4 documents.

5 (8) HOW DOES THE HOA ENFORCE THE GOVERNING DOCUMENTS?

6 The governing documents of an HOA typically give it
7 wide-ranging powers to enforce its covenants, rules, and
8 policies. This may include the power to file a lawsuit for
9 damages or injunctive relief or fine an owner who does not
10 comply with the restrictions.

11 (9) WHAT HAPPENS IF I DO NOT PAY MY HOA ASSESSMENTS?

12 The governing documents likely give your HOA the power to place
13 a lien on your home or take other legal action if you fail to
14 pay properly levied assessments. If you do not pay your
15 assessments on time, this might result in the foreclosure of
16 your home by the HOA.

17 (10) WHAT IS THE DIFFERENCE BETWEEN AN HOA AND A CONDOMINIUM
18 ASSOCIATION?

19 A condominium association is a specialized type of homeowners'
20 association. A condominium association is created under
21 different statutes than those that apply to HOAs. Unless your
22 governing documents state that your community is a condominium
23 created pursuant to the Washington Condominium Act, chapter
24 64.34 RCW, or the Horizontal Property Regimes Act, chapter
25 64.32 RCW, it is not a condominium.

26 (11) WHAT HAPPENS IF ONE OF THE COMMON AREAS OF MY HOA MUST BE
27 REPAIRED OR REPLACED?

28 Well-managed HOAs will normally include an amount for reserves
29 in their annual budgets. In this way, a portion of the
30 assessments you pay is set aside and builds up over time to pay
31 for expensive repairs or replacements. You should review the
32 HOA's financial statements to determine if this is true for
33 your HOA.

1 (12) WHAT IS THE AMOUNT OF THE ASSESSMENTS THAT CAN BE CHARGED
2 BY MY HOA?

3 If you are a new buyer, you are entitled to a resale
4 certificate that will provide this information. Otherwise,
5 this information should be provided to you as part of the HOA's
6 annual budget process. If you have questions, you should
7 consult the HOA's manager or a member of its board of
8 directors.

9 (13) CAN ASSESSMENTS BE INCREASED?

10 Typically, the governing documents allow for assessments to be
11 adjusted based on the HOA's annual budget. The law governing
12 homeowners' associations requires that an HOA's annual budget
13 be ratified by its members. This is a good opportunity to ask
14 questions as to how budget changes will affect your
15 assessments.

16 (14) CAN MY HOA RESTRICT THE TYPES OF IMPROVEMENTS I CAN MAKE
17 TO MY HOME?

18 Depending on your governing documents, your HOA may have
19 certain architectural or design guidelines and restrictions.
20 If it does, there may be restrictions on the exterior
21 appearance of your home, and you may be required to submit
22 plans and specifications for approval before you make any
23 changes to the exterior or build any additions or other
24 structures.

25 (15) WHAT TYPES OF USE RULES MIGHT AFFECT MY HOME?

26 The HOA's governing documents may contain rules relating to
27 trees, landscaping, pets, satellite dishes, clotheslines,
28 fences, parking, home businesses, rental of homes, and other
29 issues. You should carefully read the governing documents to
30 understand the nature of these restrictions.

31 (16) AS A MEMBER OF AN HOA, CAN I RENT MY HOME?

32 The answer to this question depends on the governing documents
33 for the particular community. Some governing documents

1 prohibit all rentals, some limit the number of homes that can
2 be rented at any time, while others have no restrictions on
3 leasing.

4 (17) WHEN DOES MY HOA MEET?

5 In Washington state, HOAs must hold a meeting of the membership
6 at least once each year. Notice of the date and time of the
7 meeting must be provided to you by the officers of the
8 association. Your HOA's board will likely meet more often. If
9 you would like information concerning the board's meeting
10 schedule, you should consult the HOA's manager or a member of
11 the board.

12 (18) CAN I ATTEND THE REGULAR MEETINGS OF MY HOA'S BOARD OF
13 DIRECTORS?

14 Board meetings are generally open to members of the HOA to
15 observe, but not to participate in. The law governing
16 homeowners' associations permits a board to consider certain
17 sensitive topics in private (executive session), and to exclude
18 HOA members from that part of the board's meeting. Review the
19 HOA's governing documents, particularly its bylaws, to
20 determine your rights.

21 (19) AS A MEMBER OF AN ASSOCIATION, CAN I OBTAIN COPIES OF THE
22 HOA'S RECORDS?

23 The law governing homeowners' associations provides that the
24 records of the HOA must be made available for review by owners
25 during normal business hours at the office of the HOA or its
26 managing agent.

27 (20) HOW CAN I DETERMINE WHETHER THE HOA OF WHICH I AM
28 CONSIDERING BECOMING A MEMBER FACES ANY SERIOUS FINANCIAL
29 PROBLEMS?

30 As a purchaser of a home within an HOA, you are entitled to
31 receive a resale certificate that will provide you with
32 information regarding the financial condition of the HOA and
33 whether it is involved in any litigation.

34 However, you should also ask the seller questions to get a
35 clear picture of the HOA's financial condition.

1 (21) DO THE BENEFITS OF BELONGING TO AN HOA OUTWEIGH THE
2 BURDENS?

3 This is a question you should consider when the home you want
4 to buy is part of an HOA. Some of the typical benefits and
5 burdens are described above. Studying the governing documents
6 for the community in which you are considering purchasing a
7 home is an important step. Consider exploring this question
8 with your seller, real estate professional, attorney, and other
9 advisors. You may also wish to speak with neighboring
10 homeowners about the community and the HOA."

11 (2) The homeowners' association information pamphlet is not
12 required in real property transfers that occur between commercial
13 buyers and sellers or those transfers listed in RCW 64.06.010.

14 NEW SECTION. **Sec. 24.** A new section is added to chapter 64.38 RCW
15 to read as follows:

16 (1) Subject to subsection (2) of this section, the declaration may
17 provide for a period of declarant control of the association, during
18 which period a declarant or persons designated by the declarant may (a)
19 appoint and remove the officers and members of the board of directors
20 or (b) veto or approve a proposed action of the board or association.
21 A declarant's failure to veto or approve the proposed action in writing
22 within thirty days of written notice of the proposed action is deemed
23 an approval of the proposed action by the declarant.

24 (2) Regardless of any period provided in the declaration, a period
25 of declarant control terminates no later than the earliest of: (a)
26 Sixty days after conveyance of seventy-five percent of the lots that
27 may be created to lot owners other than a declarant; (b) two years
28 after the last conveyance or transfer of record of a lot except as
29 security for a debt; (c) two years after any development right to add
30 new lots was last exercised; or (d) the date on which the declarant
31 records an amendment to the declaration, pursuant to which the
32 declarant voluntarily surrenders the right to further appoint and
33 remove officers and members of the board of directors. A declarant may
34 voluntarily surrender the right to appoint and remove officers and
35 members of the board of directors before termination of the period of
36 declarant control, but in that event the declarant may require, for the

1 duration of the period of declarant control, that specified actions of
2 the association or board of directors, as described in a recorded
3 instrument executed by the declarant, be approved by the declarant
4 before they become effective.

5 (3) No later than sixty days after conveyance of twenty-five
6 percent of the lots that may be created to lot owners other than a
7 declarant, at least one member and at least twenty-five percent of the
8 members of the board of directors must be elected by lot owners other
9 than the declarant. No later than sixty days after conveyance of fifty
10 percent of the lots that may be created to lot owners other than a
11 declarant, at least thirty-three and one-third percent of the members
12 of the board of directors must be elected by lot owners other than the
13 declarant.

14 NEW SECTION. **Sec. 25.** A new section is added to chapter 64.38 RCW
15 to read as follows:

16 Owners may vote in person or by proxy or by any other method
17 permitted by their governing documents or the law applicable to the
18 association's legal entity.

19 NEW SECTION. **Sec. 26.** A new section is added to chapter 64.38 RCW
20 to read as follows:

21 (1) For the purposes of this section, "land use approval
22 organization" means any legal entity, except for the original declarant
23 or grantor, that does not meet the definition of an association under
24 this chapter but asserts the authority to:

25 (a) Approve construction of structures on residential real
26 property;

27 (b) Regulate the use of such residential real property; or

28 (c) Grant or deny variances from any requirements pertaining to
29 such residential real property.

30 (2) A land use approval organization may not exercise any authority
31 over residential real property unless:

32 (a) The membership of the organization is open to the owners of all
33 real property subject to its authority;

34 (b) The membership of the organization elects the organization's
35 board of directors; and

1 (c) The board of directors conducts periodic open membership
2 meetings.

3 (3) The board of directors of a land use approval organization
4 shall exercise the degree of care and loyalty required of an officer or
5 director of a corporation organized under chapter 24.03 RCW.

6 **Sec. 27.** RCW 64.06.020 and 2007 c 107 s 4 are each amended to read
7 as follows:

8 (1) In a transaction for the sale of improved residential real
9 property, the seller shall, unless the buyer has expressly waived the
10 right to receive the disclosure statement under RCW 64.06.010, or
11 unless the transfer is otherwise exempt under RCW 64.06.010, deliver to
12 the buyer a completed seller disclosure statement in the following
13 format and that contains, at a minimum, the following information:

14 INSTRUCTIONS TO THE SELLER

15 Please complete the following form. Do not leave any spaces blank. If
16 the question clearly does not apply to the property write "NA." If the
17 answer is "yes" to any * items, please explain on attached sheets.
18 Please refer to the line number(s) of the question(s) when you provide
19 your explanation(s). For your protection you must date and sign each
20 page of this disclosure statement and each attachment. Delivery of the
21 disclosure statement must occur not later than five business days,
22 unless otherwise agreed, after mutual acceptance of a written contract
23 to purchase between a buyer and a seller.

24 NOTICE TO THE BUYER

25 THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE
26 PROPERTY LOCATED AT

27 ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

28 SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR
29 MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE
30 PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT.
31 UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE
32 BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS
33 DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A
34 SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S
35 AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE

1 STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER
2 THE TIME YOU ENTER INTO A SALE AGREEMENT.

3 THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE
4 REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS
5 INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF
6 ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

7 FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS
8 PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF
9 QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT
10 LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS,
11 ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER
12 TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE
13 BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS
14 OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT
15 BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR
16 WARRANTIES.

17 Seller is/ is not occupying the property.

18 **I. SELLER'S DISCLOSURES:**

19 *If you answer "Yes" to a question with an asterisk (*), please explain your answer
20 and attach documents, if available and not otherwise publicly recorded. If necessary,
21 use an attached sheet.

- 22 **I. TITLE**
- 23 Yes No Don't know A. Do you have legal authority to sell
24 the property? If no, please explain.
- 25 Yes No Don't know *B. Is title to the property subject to
26 any of the following?
- 27 (1) First right of refusal
 - 28 (2) Option
 - 29 (3) Lease or rental agreement
 - 30 (4) Life estate?
- 31 Yes No Don't know *C. Are there any encroachments,
32 boundary agreements, or boundary
33 disputes?
- 34 Yes No Don't know *D. Is there a private road or easement
35 agreement for access to the property?
- 36 Yes No Don't know *E. Are there any rights-of-way,
37 easements, or access limitations that
38 may affect the Buyer's use of the
39 property?

1	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*F. Are there any written agreements for joint maintenance of an easement or right-of-way?
2				
3				
4	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*G. Is there any study, survey project, or notice that would adversely affect the property?
5				
6				
7	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*H. Are there any pending or existing assessments against the property?
8				
9	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?
10				
11				
12				
13				
14	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*J. Is there a boundary survey for the property?
15				
16	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*K. Are there any covenants, conditions, or restrictions which affect the property?
17				
18				
19				

2. WATER

A. Household Water

(1) The source of water for the property is:
 Private or publicly owned water system
 Private well serving only the subject property
 Other water system

20				
21				
22				
23				
24				
25				
26				
27				
28	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*If shared, are there any written agreements?
29				
30	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
31				
32				
33	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*(3) Are there any known problems or repairs needed?
34				
35	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	(4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.
36				
37				
38				
39	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*(5) Are there any water treatment systems for the property? If yes, are they <input type="checkbox"/> Leased <input type="checkbox"/> Owned
40				
41				
42	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't know	*(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?
43				
44				
45				
46				

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

.....

Yes No Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.

.....

Yes No Don't know C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

D. If the property is connected to an on-site sewage system:

Yes No Don't know *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?

(2) When was it last pumped:
.....

Yes No Don't know *(3) Are there any defects in the operation of the on-site sewage system?

Don't know (4) When was it last inspected?
.....

By whom:

Don't know (5) For how many bedrooms was the on-site sewage system approved?
..... bedrooms

Yes No Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:

Yes No Don't know *F. Have there been any changes or repairs to the on-site sewage system?

Yes No Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
.....

Yes No Don't know H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? If yes, please explain.
.....

1 NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE
2 STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH
3 HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO
4 COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM
5 5. SYSTEMS AND FIXTURES
6

7 **4. STRUCTURAL**

- 8 Yes No Don't know *A. Has the roof leaked?
9 Yes No Don't know *B. Has the basement flooded or
10 leaked?
11 Yes No Don't know *C. Have there been any conversions,
12 additions, or remodeling?
13 Yes No Don't know *(1) If yes, were all building
14 permits obtained?
15 Yes No Don't know *(2) If yes, were all final
16 inspections obtained?
17 Yes No Don't know D. Do you know the age of the house?
18 If yes, year of original construction:
19
20 Yes No Don't know *E. Has there been any settling,
21 slippage, or sliding of the property or its
22 improvements?
23 Yes No Don't know *F. Are there any defects with the
24 following: (If yes, please check
25 applicable items and explain.)

- 26 Foundations Decks Exterior Walls
27 Chimneys Interior Walls Fire Alarm
28 Doors Windows Patio
29 Ceilings Slab Floors Driveways
30 Pools Hot Tub Sauna
31 Sidewalks Outbuildings Fireplaces
32 Garage Floors Walkways Siding
 Other Wood Stoves

- 33 Yes No Don't know *G. Was a structural pest or "whole
34 house" inspection done? If yes, when
35 and by whom was the inspection
36 completed?
37 Yes No Don't know H. During your ownership, has the
38 property had any wood destroying
39 organism or pest infestation?
40 Yes No Don't know I. Is the attic insulated?
41 Yes No Don't know J. Is the basement insulated?

42 **5. SYSTEMS AND FIXTURES**

43 *A. If any of the following systems or
44 fixtures are included with the transfer,
45 are there any defects? If yes, please
46 explain.

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

Yes No Don't know

*Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER

NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM

1 THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO
2 RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN
3 STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE
4 RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE
5 AGREEMENT.

6 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE
7 STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE
8 OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.
9 DATE BUYER BUYER

10 (2) If the disclosure statement is being completed for new
11 construction which has never been occupied, the disclosure statement is
12 not required to contain and the seller is not required to complete the
13 questions listed in item 4. Structural or item 5. Systems and
14 Fixtures.

15 (3) The seller disclosure statement shall be for disclosure only,
16 and shall not be considered part of any written agreement between the
17 buyer and seller of residential property. The seller disclosure
18 statement shall be only a disclosure made by the seller, and not any
19 real estate licensee involved in the transaction, and shall not be
20 construed as a warranty of any kind by the seller or any real estate
21 licensee involved in the transaction.

22 NEW SECTION. **Sec. 28.** The code reviser shall alphabetize and
23 renumber the definitions in RCW 64.38.010.

--- END ---