

SENATE BILL REPORT

ESHB 1793

As of February 17, 2022

Title: An act relating to electric vehicle charging stations in common interest communities.

Brief Description: Concerning electric vehicle charging stations in common interest communities.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Hackney, Fitzgibbon, Berry, Bateman, Macri, Ramel, Senn, Wylie, Bergquist, Valdez, Pollet and Kloba).

Brief History: Passed House: 2/9/22, 67-29.

Committee Activity: Law & Justice: 2/17/22.

Brief Summary of Bill

- Prohibits an association of unit owners in a common interest community from placing unreasonable restrictions on the installation or use of an electric vehicle charging station (EVCS) within the boundaries of an owner's unit or in a designated parking space.
- Requires associations to approve an application to install an EVCS if the unit owner meets specified requirements.
- Provides that a unit owner is responsible for all costs associated with the EVCS.
- Provides a cause of action against an association for willful violations and establishes penalties.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Common Interest Communities. A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities, sometimes referred to as homeowners' associations.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created after that date. CICs created prior to that effective date may choose to opt-in to the WUCIOA, otherwise those CICs remain subject to the following acts:

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

CICs are administered by an association of unit owners or a homeowner's association, which are organizations consisting of property owners and homeowners within the CIC. An association of unit owners derives its authority from several documents, including the declaration of covenants, conditions, and restrictions, the association's bylaws and articles of incorporation, and the deeds to the property with the development.

Resale Certificate Requirement in Certain Common Interest Communities. Prior to execution of any contract for sale of a unit in a community subject to the Washington Condominium Act or the WUCIOA, a unit owner must furnish to a purchaser a resale certificate signed by an officer or authorized agent of the association. The resale certificate must contain specified information regarding the unit and common interest community, including:

- a statement of the monthly common expense assessments, any unpaid common expenses or special assessments currently due and payable from the selling unit owner, any anticipated repair or replacement costs approved by the association, and any other fees payable by unit owners;
- the annual financial statement and the current operating budget of the association;
- a statement describing any insurance coverage provided for the benefit of unit owners; and
- a statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned to the unit, or any violations of the health or building codes with respect to the unit.

Summary of Bill: The WUCIOA, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Act are each amended, adding provisions governing the installation and use of electric vehicle charging stations (EVCS).

No association of unit owners in a common interest community may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, or a provision of a governing document that effectively prohibits or otherwise restricts the installation or use of an EVCS within the boundaries of a unit or in a designated parking space.

An association may require a unit owner to submit an application for approval prior to the installation of an EVCS, and if the association requires approval for the installation or use of an EVCS, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification. The association may charge a reasonable fee for processing the application but only if such a fee exists for all applications for approval of architectural modifications.

The approval or denial of an application must be in writing and must not be willfully avoided or delayed. If the application is not denied within 60 days of the date of receipt, the application is deemed approved, unless the delay is the result of a reasonable request for additional information.

An association must approve the installation of an EVCS if the installation is reasonably possible and the unit owner agrees in writing to:

- comply with reasonable architectural standards;
- engage an electrical contractor to assess the existing infrastructure, identify additional infrastructure needs, and install the EVCS;
- obtain any permit or approval for an EVCS as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards;
- register the EVCS with the association within 30 days after installation; and
- pay for the electricity usage associated with the EVCS and the required means to facilitate payment for the electricity.

An association may impose reasonable restrictions on EVCS installations. Reasonable restrictions means a restriction that does not significantly increase the cost of an EVCS or significantly decrease its efficiency or specified performance.

An apartment owner in a community subject to the Horizontal Property Regimes Act, or a unit owner subject to the Washington Condominium Act, must provide to the association a certificate of insurance that meets specified requirements within 14 days of the approval of the EVCS installation. The insurance requirements also apply to unit owners subject to the WUCIOA if the community is of the type other than an association of single-family homes, site condominiums, or planned use developments where the units are not immediately adjacent.

Unless agreed to in a written contact with the association, a unit owner is responsible for the cost of installing an EVCS. An association may not assess or charge a unit owner a fee for

the placement of an EVCS. The EVCS equipment that is installed at the unit owner's expense that is removable without damage to the property owned by others may be removed at the unit owner's expense.

A unit owner and each successive owner of an EVCS is responsible for all the costs related to the maintenance, repair, or replacement of the EVCS, as well as the costs for damage to any unit, common element, or limited common element resulting from the installation, use, maintenance, removal, or replacement of the EVCS.

A unit owner must disclose to any prospective buyers of the unit the existence of the EVCS and the related responsibilities of the unit owner. A unit owner who is required to provide a resale certificate pursuant to the Condominium Act or the WUCIOA must include in the certificate a statement describing any requirements related to EVCS located in the unit or the limited common elements assigned to the unit, including application status, insurance information, maintenance responsibilities, and any associated costs.

An association that willfully violates these provisions is liable to the unit owner for actual damages and civil penalty not to exceed \$1,000. The court must award reasonable attorneys' fees and costs to any unit owner who prevails in an action to enforce compliance with these provisions.

Appropriation: None.

Fiscal Note: Not requested.

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

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

Staff Summary of Public Testimony: PRO: This bill addresses the increasing demand for this type of infrastructure while also addressing the concerns of community associations regarding the costs of electric vehicle charging stations.

Federal investments, state programs, and consumer preferences for clean and affordable transportation options have created a growing demand for electric vehicles in Washington. Everyone should have access to charge an electric vehicle regardless of housing type, and this bill would remove a large barrier preventing installation of charging stations.

Thanks to new legislation passed and rapidly improving technology and lowering costs, electric vehicles will soon become the dominate option for consumers. However, we need to adjust our infrastructure to meet this rising demand and ensure individuals are not locked into purchasing gas vehicles because of a lack of charging options for electric vehicles. About one third of Washingtonians live in some sort of common interest community. Ensuring they have access is important to ensure equity moving forward.

Persons Testifying: PRO: Representative David Hackney, Prime Sponsor; Krystelle Purkey, Washington State Chapter of Community Association Institute; Annabel Drayton, NW Energy Coalition; Leah Missik, Climate Solutions.

Persons Signed In To Testify But Not Testifying: No one.