

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1471

54th Legislature
1995 Regular Session

Passed by the House April 23, 1995
Yeas 88 Nays 8

**Speaker of the
House of Representatives**

Passed by the Senate April 22, 1995
Yeas 45 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1471** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1471

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Law & Justice (originally sponsored by
Representatives Padden and Appelwick)

Read first time 02/17/95.

1 AN ACT Relating to homeowners' associations; and adding a new
2 chapter to Title 64 RCW.

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

4 NEW SECTION. **Sec. 1.** The intent of this chapter is to provide
5 consistent laws regarding the formation and legal administration of
6 homeowners' associations.

7 NEW SECTION. **Sec. 2.** For purposes of this chapter:

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

17 (2) "Governing documents" means the articles of incorporation,
18 bylaws, plat, declaration of covenants, conditions, and restrictions,

1 rules and regulations of the association, or other written instrument
2 by which the association has the authority to exercise any of the
3 powers provided for in this chapter or to manage, maintain, or
4 otherwise affect the property under its jurisdiction.

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

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

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

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

14 NEW SECTION. **Sec. 3.** The membership of an association at all
15 times shall consist exclusively of the owners of all real property over
16 which the association has jurisdiction, both developed and undeveloped.

17 NEW SECTION. **Sec. 4.** Unless otherwise provided in the governing
18 documents, an association may:

19 (1) Adopt and amend bylaws, rules, and regulations;

20 (2) Adopt and amend budgets for revenues, expenditures, and
21 reserves, and impose and collect assessments for common expenses from
22 owners;

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

25 (4) Institute, defend, or intervene in litigation or administrative
26 proceedings in its own name on behalf of itself or two or more owners
27 on matters affecting the homeowners' association, but not on behalf of
28 owners involved in disputes that are not the responsibility of the
29 association;

30 (5) Make contracts and incur liabilities;

31 (6) Regulate the use, maintenance, repair, replacement, and
32 modification of common areas;

33 (7) Cause additional improvements to be made as a part of the
34 common areas;

35 (8) Acquire, hold, encumber, and convey in its own name any right,
36 title, or interest to real or personal property;

1 (9) Grant easements, leases, licenses, and concessions through or
2 over the common areas and petition for or consent to the vacation of
3 streets and alleys;

4 (10) Impose and collect any payments, fees, or charges for the use,
5 rental, or operation of the common areas;

6 (11) Impose and collect charges for late payments of assessments
7 and, after notice and an opportunity to be heard by the board of
8 directors or by the representative designated by the board of directors
9 and in accordance with the procedures as provided in the bylaws or
10 rules and regulations adopted by the board of directors, levy
11 reasonable fines in accordance with a previously established schedule
12 adopted by the board of directors and furnished to the owners for
13 violation of the bylaws, rules, and regulations of the association;

14 (12) Exercise any other powers conferred by the bylaws;

15 (13) Exercise all other powers that may be exercised in this state
16 by the same type of corporation as the association; and

17 (14) Exercise any other powers necessary and proper for the
18 governance and operation of the association.

19 NEW SECTION. **Sec. 5.** (1) Except as provided in the association's
20 governing documents or this chapter, the board of directors shall act
21 in all instances on behalf of the association. In the performance of
22 their duties, the officers and members of the board of directors shall
23 exercise the degree of care and loyalty required of an officer or
24 director of a corporation organized under chapter 24.03 RCW.

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

32 (3) Within thirty days after adoption by the board of directors of
33 any proposed regular or special budget of the association, the board
34 shall set a date for a meeting of the owners to consider ratification
35 of the budget not less than fourteen nor more than sixty days after
36 mailing of the summary. Unless at that meeting the owners of a
37 majority of the votes in the association are allocated or any larger
38 percentage specified in the governing documents reject the budget, in

1 person or by proxy, the budget is ratified, whether or not a quorum is
2 present. In the event the proposed budget is rejected or the required
3 notice is not given, the periodic budget last ratified by the owners
4 shall be continued until such time as the owners ratify a subsequent
5 budget proposed by the board of directors.

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

10 NEW SECTION. **Sec. 6.** Unless provided for in the governing
11 documents, the bylaws of the association shall provide for:

12 (1) The number, qualifications, powers and duties, terms of office,
13 and manner of electing and removing the board of directors and officers
14 and filling vacancies;

15 (2) Election by the board of directors of the officers of the
16 association as the bylaws specify;

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

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

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

22 (6) Subject to the provisions of the governing documents, any other
23 matters the association deems necessary and appropriate.

24 NEW SECTION. **Sec. 7.** (1) A meeting of the association must be
25 held at least once each year. Special meetings of the association may
26 be called by the president, a majority of the board of directors, or by
27 owners having ten percent of the votes in the association. Not less
28 than fourteen nor more than sixty days in advance of any meeting, the
29 secretary or other officers specified in the bylaws shall cause notice
30 to be hand-delivered or sent prepaid by first class United States mail
31 to the mailing address of each owner or to any other mailing address
32 designated in writing by the owner. The notice of any meeting shall
33 state the time and place of the meeting and the business to be placed
34 on the agenda by the board of directors for a vote by the owners,
35 including the general nature of any proposed amendment to the articles
36 of incorporation, bylaws, any budget or changes in the previously

1 approved budget that result in a change in assessment obligation, and
2 any proposal to remove a director.

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

26 NEW SECTION. **Sec. 8.** Unless the governing documents specify a
27 different percentage, a quorum is present throughout any meeting of the
28 association if the owners to which thirty-four percent of the votes of
29 the association are allocated are present in person or by proxy at the
30 beginning of the meeting.

31 NEW SECTION. **Sec. 9.** (1) The association or its managing agent
32 shall keep financial and other records sufficiently detailed to enable
33 the association to fully declare to each owner the true statement of
34 its financial status. All financial and other records of the
35 association, including but not limited to checks, bank records, and
36 invoices, in whatever form they are kept, are the property of the
37 association. Each association managing agent shall turn over all

1 original books and records to the association immediately upon
2 termination of the management relationship with the association, or
3 upon such other demand as is made by the board of directors. An
4 association managing agent is entitled to keep copies of association
5 records. All records which the managing agent has turned over to the
6 association shall be made reasonably available for the examination and
7 copying by the managing agent.

8 (2) All records of the association, including the names and
9 addresses of owners and other occupants of the lots, shall be available
10 for examination by all owners, holders of mortgages on the lots, and
11 their respective authorized agents on reasonable advance notice during
12 normal working hours at the offices of the association or its managing
13 agent. The association shall not release the unlisted telephone number
14 of any owner. The association may impose and collect a reasonable
15 charge for copies and any reasonable costs incurred by the association
16 in providing access to records.

17 (3) At least annually, the association shall prepare, or cause to
18 be prepared, a financial statement of the association. The financial
19 statements of associations with annual assessments of fifty thousand
20 dollars or more shall be audited at least annually by an independent
21 certified public accountant, but the audit may be waived if sixty-seven
22 percent of the votes cast by owners, in person or by proxy, at a
23 meeting of the association at which a quorum is present, vote each year
24 to waive the audit.

25 (4) The funds of the association shall be kept in accounts in the
26 name of the association and shall not be commingled with the funds of
27 any other association, nor with the funds of any manager of the
28 association or any other person responsible for the custody of such
29 funds.

30 NEW SECTION. **Sec. 10.** Any violation of the provisions of this
31 chapter entitles an aggrieved party to any remedy provided by law or in
32 equity. The court, in an appropriate case, may award reasonable
33 attorneys' fees to the prevailing party.

34 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
35 constitute a new chapter in Title 64 RCW.

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