
SENATE BILL 6756

State of Washington 54th Legislature 1996 Regular Session

By Senators Long and Pelz

Read first time 02/01/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to homeowner's associations; amending RCW 64.38.010
2 and 64.38.045; adding a new section to chapter 64.38 RCW; and creating
3 a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds it is in the best
6 interest of homeowners' associations that some degree of regulation be
7 provided over the individuals or entities who are hired to manage the
8 funds of homeowners' associations.

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

11 For purposes of this chapter:

12 (1) "Homeowners' association" or "association" means a corporation,
13 unincorporated association, or other legal entity, each member of which
14 is an owner of residential real property located within the
15 association's jurisdiction, as described in the governing documents,
16 and by virtue of membership or ownership of property is obligated to
17 pay real property taxes, insurance premiums, maintenance costs, or for
18 improvement of real property other than that which is owned by the

1 member. "Homeowners' association" does not mean an association created
2 under chapter 64.32 or 64.34 RCW.

3 (2) "Governing documents" means the articles of incorporation,
4 bylaws, plat, declaration of covenants, conditions, and restrictions,
5 rules and regulations of the association, or other written instrument
6 by which the association has the authority to exercise any of the
7 powers provided for in this chapter or to manage, maintain, or
8 otherwise affect the property under its jurisdiction.

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

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

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

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

18 (7) "Homeowners' association management" means the activities
19 undertaken for a homeowners' association, pursuant to an agreement in
20 exchange for a fee, commission, or other valuable consideration; which
21 activities may include, preparation of budgets and other financial
22 documents; collecting, controlling, or disbursing funds; obtaining
23 insurance; arranging for and coordinating maintenance and repair to the
24 association property; conducting association meetings; and supervising
25 the day to day operations of the association or other activities as
26 directed by the board.

27 (8) "Homeowners' association manager" means a person, firm, or
28 organization hired to engage in homeowners' association management.

29 (9) "Director" means director of licensing or the director's
30 designee.

31 (10) "Department" means the department of licensing.

32 NEW SECTION. Sec. 3. A new section is added to chapter 64.38 RCW
33 to read as follows:

34 (1) No person, firm, or corporation may act or hold itself out as
35 a homeowners' association manager unless, prior to engaging in the
36 business of homeowners' association management, the person, firm, or
37 corporation registers with the director under this chapter and rules
38 adopted under this chapter. However, if the governing documents of the

1 association require an annual audit, the manager is not required to
2 register. No registration is assignable or transferrable.

3 (2) An application for registration as a homeowners' association
4 manager must be submitted in the form prescribed by rule by the
5 director, and must contain, but is not limited to the following:

6 (a) The name, address, and telephone number of the homeowners'
7 association manager;

8 (b) Along with the application, a registration fee is an amount
9 determined under RCW 43.24.086 may be required.

10 (3)(a) Each homeowners' association manager shall renew his or her
11 registration on or before July 1 of every other year or as otherwise
12 determined by the director.

13 (b) Renewal of a registration is subject to the same provisions
14 covering issuance, suspension, and revocation of a registration for any
15 of the grounds set out under the administrative procedure act, chapter
16 34.05 RCW and where the applicant's past conduct indicates the
17 applicant will not be able to carry out the applicant's duties in
18 accordance with the law and with integrity and honesty. The director
19 must promptly notify the applicant in writing by certified mail of his
20 or her intent to refuse to renew the registration. The registrant may,
21 within twenty-one days after receipt of that notice of intent, request
22 a hearing on the refusal. The registrant may contest the decision
23 regarding conditions imposed or registration denied through the process
24 established by the administrative procedure act, chapter 34.05 RCW.

25 (4) The director may deny, suspend, or revoke the registration of
26 a homeowners' association manager if the director finds that the
27 applicant:

28 (a) Was previously the holder of a registration issued under this
29 chapter, and the registration was revoked for cause and never reissued
30 by the director, or the registration was suspended for cause and the
31 terms of the suspension have not been fulfilled;

32 (b) Has been found guilty of a felony within the past five years
33 involving moral turpitude, of a misdemeanor concerning fraud or
34 conversion, or has had a judgment imposed in a civil action involving
35 willful fraud, misrepresentation, or conversion;

36 (c) Has made a false statement of a material fact in an application
37 under this chapter or in any data attached to such application;

38 (d) Has violated this chapter or failed to comply with a rule
39 adopted by the director under this chapter;

1 (e) Has committed a fraud or fraudulent practice as a homeowners'
2 association manager; or

3 (f) If the homeowners' association manager is found in violation of
4 this chapter, the director may revoke the registration of the
5 homeowners' association manager.

6 **Sec. 4.** RCW 64.38.045 and 1995 c 283 s 9 are each amended to read
7 as follows:

8 (1) The association or (~~its managing agent~~) the homeowners'
9 association manager shall keep financial and other records sufficiently
10 detailed to enable the association to fully declare to each owner the
11 true statement of its financial status. All financial and other
12 records of the association, including but not limited to checks, bank
13 records, and invoices, in whatever form they are kept, are the property
14 of the association. Each association managing agent shall turn over
15 all original books and records to the association immediately upon
16 termination of the management relationship with the association, or
17 upon such other demand as is made by the board of directors. An
18 association managing agent is entitled to keep copies of association
19 records. All records which the managing agent has turned over to the
20 association shall be made reasonably available for the examination and
21 copying by the managing agent.

22 (2) All records of the association, including the names and
23 addresses of owners and other occupants of the lots, shall be available
24 for examination by all owners, holders of mortgages on the lots, and
25 their respective authorized agents on reasonable advance notice during
26 normal working hours at the offices of the association or its managing
27 agent. The association shall not release the unlisted telephone number
28 of any owner. The association may impose and collect a reasonable
29 charge for copies and any reasonable costs incurred by the association
30 in providing access to records.

31 (3) At least annually, the association shall prepare, or cause to
32 be prepared, a financial statement of the association. The financial
33 statements of associations with annual assessments of fifty thousand
34 dollars or more shall be audited at least annually by an independent
35 certified public accountant, but the audit may be waived if sixty-seven
36 percent of the votes cast by owners, in person or by proxy, at a
37 meeting of the association at which a quorum is present, vote each year
38 to waive the audit.

1 (4) The funds of the association shall be kept in accounts in the
2 name of the association and shall not be commingled with the funds of
3 any other association, nor with the funds of any manager of the
4 association or any other person responsible for the custody of such
5 funds. Any finances managed by a homeowners' association manager
6 required to be registered under this chapter must be audited at least
7 every two years.

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