
SENATE BILL 5263

State of Washington

64th Legislature

2015 Regular Session

By Senators Pedersen, Benton, Mullet, Fraser, Roach, Hobbs, Rivers, and Fain; by request of Uniform Law Commission

Read first time 01/16/15. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the Washington uniform common interest
2 ownership act; amending RCW 6.13.080; adding a new section to chapter
3 59.18 RCW; adding a new section to chapter 64.32 RCW; adding a new
4 section to chapter 64.34 RCW; adding a new section to chapter 64.38
5 RCW; adding a new chapter to Title 64 RCW; and providing an effective
6 date.

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

8 **I. DEFINITIONS, APPLICABILITY, AND OTHER GENERAL PROVISIONS**

9 NEW SECTION. **Sec. 101.** SHORT TITLE. This chapter may be known
10 and cited as the Washington uniform common interest ownership act.

11 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Affiliate of a declarant" means any person who controls, is
15 controlled by, or is under common control with a declarant. For
16 purposes of this subsection:

17 (a) A person controls a declarant if the person:

18 (i) Is a general partner, managing member, officer, director, or
19 employer of the declarant;

1 (ii) Directly or indirectly or acting in concert with one or more
2 other persons, or through one or more subsidiaries, owns, controls,
3 holds with power to vote, or holds proxies representing more than
4 twenty percent of the voting interest in the declarant;

5 (iii) Controls in any manner the election or appointment of a
6 majority of the directors, managing members, or general partners of
7 the declarant; or

8 (iv) Has contributed more than twenty percent of the capital of
9 the declarant.

10 (b) A person is controlled by a declarant if the declarant:

11 (i) Is a general partner, managing member, officer, director, or
12 employer of the person;

13 (ii) Directly or indirectly or acting in concert with one or more
14 other persons, or through one or more subsidiaries, owns, controls,
15 holds with power to vote, or holds proxies representing more than
16 twenty percent of the voting interest in the person;

17 (iii) Controls in any manner the election or appointment of a
18 majority of the directors, managing members, or general partners of
19 the person; or

20 (iv) Has contributed more than twenty percent of the capital of
21 the person.

22 (c) Control does not exist if the powers described in this
23 subsection (1) are held solely as security for an obligation and are
24 not exercised.

25 (2) "Allocated interests" means the following interests allocated
26 to each unit:

27 (a) In a condominium, the undivided interest in the common
28 elements, the common expense liability, and votes in the association;

29 (b) In a cooperative, the common expense liability, the ownership
30 interest, and votes in the association; and

31 (c) In a plat community and miscellaneous community, the common
32 expense liability and the votes in the association, and also the
33 undivided interest in the common elements if owned in common by the
34 unit owners rather than an association.

35 (3) "Assessment" means all sums chargeable by the association
36 against a unit, including any assessments levied pursuant to section
37 317 of this act, fines or fees levied or imposed by the association
38 pursuant to this chapter or the governing documents, interest and
39 late charges on any delinquent account, and all costs of collection

1 incurred by the association in connection with the collection of a
2 delinquent owner's account, including reasonable attorneys' fees.

3 (4) "Association" or "unit owners association" means the unit
4 owners association organized under section 301 of this act and, to
5 the extent necessary to construe sections of this chapter made
6 applicable to common interest communities pursuant to section 117,
7 119, or 120 of this act, the association organized or created to
8 administer such common interest communities.

9 (5) "Ballot" means a record designed to cast or register a vote
10 or consent in a form provided or accepted by the association.

11 (6) "Board" means the body, regardless of name, designated in the
12 declaration, map, or organizational documents, with primary authority
13 to manage the affairs of the association.

14 (7) "Common elements" means:

15 (a) In a condominium or cooperative, all portions of the common
16 interest community other than the units;

17 (b) In a plat community or miscellaneous community, any real
18 estate other than a unit within a plat community or miscellaneous
19 community that is owned or leased either by the association or in
20 common by the unit owners rather than an association; and

21 (c) In all common interest communities, any other interests in
22 real estate for the benefit of any unit owners that are subject to
23 the declaration.

24 (8) "Common expense" means any expense of the association,
25 including allocations to reserves, allocated to all of the unit
26 owners in accordance with common expense liability.

27 (9) "Common expense liability" means the liability for common
28 expenses allocated to each unit pursuant to section 208 of this act.

29 (10) "Common interest community" means real estate described in a
30 declaration with respect to which a person, by virtue of the person's
31 ownership of a unit, is obligated to pay for a share of real estate
32 taxes, insurance premiums, maintenance, or improvement of, or
33 services or other expenses related to, common elements, other units,
34 or other real estate described in the declaration. "Common interest
35 community" does not include an arrangement described in section 123
36 or 124 of this act. A common interest community may be a part of
37 another common interest community.

38 (11) "Condominium" means a common interest community in which
39 portions of the real estate are designated for separate ownership and
40 the remainder of the real estate is designated for common ownership

1 solely by the owners of those portions. A common interest community
2 is not a condominium unless the undivided interests in the common
3 elements are vested in the unit owners. A common interest community
4 with the attributes described in this section is a condominium unless
5 designated otherwise as provided in section 206(1)(a) of this act.

6 (12) "Condominium notice" means the notice given to tenants
7 pursuant to subsection (13)(c) of this section.

8 (13)(a) "Conversion building" means a building:

9 (i) That at any time before creation of the common interest
10 community was lawfully occupied wholly or partially by a tenant or
11 subtenant for residential purposes pursuant to a rental agreement,
12 oral or written, express or implied, who did not receive a
13 condominium notice prior to entering into the rental agreement or
14 lawfully taking occupancy, whichever event occurred first; or

15 (ii) That at any time within the twelve months preceding the
16 first acceptance of an agreement with the declarant to convey, or the
17 first conveyance of, any unit in the building, whichever event
18 occurred first, to any person who was not a declarant or dealer, or
19 affiliate of a declarant or dealer, was lawfully occupied wholly or
20 partially by a tenant or subtenant for residential purposes pursuant
21 to a rental agreement, oral or written, express or implied, who did
22 not receive a condominium notice prior to entering into the rental
23 agreement or lawfully taking occupancy, whichever event occurred
24 first.

25 (b) A building in a common interest community is a conversion
26 building only if:

27 (i) The building contains more than two attached dwelling units
28 as defined in RCW 64.55.010(1); and

29 (ii) Acceptance of an agreement to convey, or conveyance of, any
30 unit in the building to any person who was not a declarant or dealer,
31 or affiliate of a declarant or dealer, did not occur prior to the
32 effective date of this section.

33 (c) The notice referred to in (a)(i) and (ii) of this subsection
34 must be in writing and must state: "The unit you will be occupying
35 is, or may become, part of a common interest community and subject to
36 sale."

37 (14) "Convey" or "conveyance" means, with respect to a unit, any
38 transfer of ownership of the unit, including a transfer by deed or by
39 real estate contract and, with respect to a unit in a leasehold
40 common interest community or a proprietary lease in a cooperative, a

1 transfer by lease or assignment of the unit, but does not include the
2 creation, transfer, or release of a security interest.

3 (15) "Cooperative" means a common interest community in which the
4 real estate is owned by an association, each member of which is
5 entitled by virtue of the member's ownership interest in the
6 association and by a proprietary lease to exclusive possession of a
7 unit. A common interest community with the attributes described in
8 this subsection is a cooperative unless designated otherwise as
9 provided in section 206(1)(a) of this act.

10 (16) "Dealer" means a person who, together with such person's
11 affiliates, owns or has a right to acquire either six or more units
12 in a common interest community or fifty percent or more of the units
13 in a common interest community containing more than two units.

14 (17) "Declarant" means:

15 (a) Any person who executes as declarant a declaration;

16 (b) Any person who reserves any special declarant right in a
17 declaration;

18 (c) Any person who exercises special declarant rights or to whom
19 special declarant rights are transferred of record. The holding or
20 exercise of rights to maintain sales offices, signs advertising the
21 common interest community, and models, and related right of access,
22 does not confer the status of being a declarant; or

23 (d) Any person who is the owner of a fee interest in the real
24 estate that is subjected to the declaration at the time of the
25 recording of an instrument pursuant to section 306 of this act and
26 who directly or through one or more affiliates is materially involved
27 in the construction, marketing, or sale of units in the common
28 interest community created by the recording of the instrument.

29 (18) "Declarant control" means the right of the declarant or
30 persons designated by the declarant to appoint or remove any officer
31 or board member of the association or to veto or approve a proposed
32 action of any board or association, pursuant to section 304(1)(a) of
33 this act.

34 (19) "Declaration" means the instrument, however denominated,
35 that creates a common interest community, including any amendments to
36 the instrument.

37 (20) "Development rights" means any right or combination of
38 rights reserved by a declarant in the declaration to:

39 (a) Add real estate or improvements to a common interest
40 community;

1 (b) Create units, common elements, or limited common elements
2 within a common interest community;

3 (c) Subdivide or combine units or convert units into common
4 elements;

5 (d) Withdraw real estate from a common interest community; or

6 (e) Reallocate limited common elements with respect to units that
7 have not been conveyed by the declarant.

8 (21) "Effective age" means the difference between the useful life
9 and remaining useful life.

10 (22) "Electronic transmission" or "electronically transmitted"
11 means any electronic communication (a) not directly involving the
12 physical transfer of a record in a tangible medium and (b) that may
13 be retained, retrieved, and reviewed by the sender and the recipient
14 of the communication, and that may be directly reproduced in a
15 tangible medium by a sender and recipient.

16 (23) "Eligible mortgagee" means the holder of a security interest
17 on a unit that has filed with the secretary of the association a
18 written request that it be given copies of notices of any action by
19 the association that requires the consent of mortgagees.

20 (24) "Foreclosure" means a statutory forfeiture or a judicial or
21 nonjudicial foreclosure of a security interest or a deed in lieu of a
22 security interest.

23 (25) "Full funding plan" means a reserve funding goal of
24 achieving one hundred percent fully funded reserves by the end of the
25 thirty-year study period described under section 331 of this act, in
26 which the reserve account balance equals the sum of the estimated
27 costs required to maintain, repair, or replace the deteriorated
28 portions of all reserve components.

29 (26) "Fully funded balance" means the current value of the
30 deteriorated portion, not the total replacement value, of all the
31 reserve components. The fully funded balance for each reserve
32 component is calculated by multiplying the current replacement cost
33 of that reserve component by its effective age, then dividing the
34 result by that reserve component's useful life. The sum total of all
35 reserve components' fully funded balances is the association's fully
36 funded balance.

37 (27) "Governing documents" means the organizational documents,
38 map, declaration, rules, or other written instrument by which the
39 association has the authority to exercise any of the powers provided

1 for in this chapter or to manage, maintain, or otherwise affect the
2 property under its jurisdiction.

3 (28) "Identifying number" means a symbol or address that
4 identifies only one unit or limited common element in a common
5 interest community.

6 (29) "Leasehold common interest community" means a common
7 interest community in which all or a portion of the real estate is
8 subject to a lease the expiration or termination of which will
9 terminate the common interest community or reduce its size.

10 (30) "Limited common element" means a portion of the common
11 elements allocated by the declaration or by operation of section 203
12 (1)(b) or (2) of this act for the exclusive use of one or more, but
13 fewer than all, of the unit owners.

14 (31) "Map" means: (a) With respect to a plat community, the plat
15 as defined in RCW 58.17.020 and complying with the requirements of
16 Title 58 RCW, and (b) with respect to a condominium, cooperative, or
17 miscellaneous community, a map prepared in accordance with the
18 requirements of section 210 of this act.

19 (32) "Master association" means an organization described in
20 section 221 of this act, whether or not it is also an association
21 described in section 301 of this act.

22 (33) "Miscellaneous community" means a common interest community
23 that is not a condominium, cooperative, or plat community.

24 (34) "Nominal reserve costs" means that the current estimated
25 total replacement costs of the reserve components are less than fifty
26 percent of the annual budgeted expenses of the association, excluding
27 contributions to the reserve fund, for a condominium or cooperative
28 containing horizontal unit boundaries, and less than seventy-five
29 percent of the annual budgeted expenses of the association, excluding
30 contributions to the reserve fund, for all other common interest
31 communities.

32 (35) "Organizational documents" means the instruments filed with
33 the secretary of state to create an entity and the instruments
34 governing the internal affairs of the entity including, but not
35 limited to, any articles of incorporation, certificate of formation,
36 bylaws, and limited liability company or partnership agreement.

37 (36) "Person" means an individual, corporation, business trust,
38 estate, the trustee or beneficiary of a trust that is not a business
39 trust, partnership, limited liability company, association, joint

1 venture, public corporation, government, or governmental subdivision,
2 agency, or instrumentality, or any other legal entity.

3 (37) "Plat community" means a common interest community in which
4 units have been created by subdivision or short subdivision as both
5 are defined in RCW 58.17.020 and in which the boundaries of units are
6 established pursuant to chapter 58.17 RCW.

7 (38) "Proprietary lease" means a written and recordable lease
8 that is executed and acknowledged by the association as lessor and
9 that otherwise complies with requirements applicable to a residential
10 lease of more than one year and pursuant to which a member is
11 entitled to exclusive possession of a unit in a cooperative. A
12 proprietary lease governed under this chapter is subject to chapter
13 59.18 RCW except as provided in the declaration.

14 (39) "Purchaser" means a person, other than a declarant or a
15 dealer, which by means of a voluntary transfer acquires a legal or
16 equitable interest in a unit other than as security for an
17 obligation.

18 (40) "Qualified financial institution" means a bank, savings
19 association, or credit union whose deposits are insured by the
20 federal government.

21 (41) "Real estate" means any leasehold or other estate or
22 interest in, over, or under land, including structures, fixtures, and
23 other improvements and interests that by custom, usage, or law pass
24 with a conveyance of land though not described in the contract of
25 sale or instrument of conveyance. "Real estate" includes parcels with
26 or without upper or lower boundaries and spaces that may be filled
27 with air or water.

28 (42) "Real estate contract" has the same meaning as defined in
29 RCW 61.30.010.

30 (43) "Record," when used as a noun, means information inscribed
31 on a tangible medium or contained in an electronic transmission.

32 (44) "Remaining useful life" means the estimated time, in years,
33 before a reserve component will require major maintenance, repair, or
34 replacement to perform its intended function.

35 (45) "Replacement cost" means the estimated total cost to
36 maintain, repair, or replace a reserve component to its original
37 functional condition.

38 (46) "Reserve component" means a physical component of the common
39 interest community which the association is obligated to maintain,
40 repair, or replace, which has an estimated useful life of less than

1 thirty years, and for which the cost of such maintenance, repair, or
2 replacement is infrequent, significant, and impractical to include in
3 an annual budget.

4 (47) "Reserve study professional" means an independent person who
5 is suitably qualified by knowledge, skill, experience, training, or
6 education to prepare a reserve study in accordance with sections 330
7 and 331 of this act. For the purposes of this subsection,
8 "independent" means a person who is not an employee, officer, or
9 director, and has no pecuniary interest in the declarant,
10 association, or any other party for whom the reserve study is
11 prepared.

12 (48) "Residential purposes" means use for dwelling or
13 recreational purposes, or both.

14 (49) "Rule" means a policy, guideline, restriction, procedure, or
15 regulation of an association, however denominated, that is not set
16 forth in the declaration or organizational documents and governs the
17 conduct of persons or the use or appearance of property.

18 (50) "Security interest" means an interest in real estate or
19 personal property, created by contract or conveyance that secures
20 payment or performance of an obligation. "Security interest" includes
21 a lien created by a mortgage, deed of trust, real estate contract,
22 lease intended as security, assignment of lease or rents intended as
23 security, pledge of an ownership interest in an association, and any
24 other consensual lien or title retention contract intended as
25 security for an obligation.

26 (51) "Special declarant rights" means rights reserved for the
27 benefit of a declarant to:

28 (a) Complete any improvements indicated on the map or described
29 in the declaration or the public offering statement pursuant to
30 section 403(1)(h) of this act;

31 (b) Exercise any development right;

32 (c) Maintain sales offices, management offices, signs advertising
33 the common interest community, and models;

34 (d) Use easements through the common elements for the purpose of
35 making improvements within the common interest community or within
36 real estate that may be added to the common interest community;

37 (e) Make the common interest community subject to a master
38 association;

39 (f) Merge or consolidate a common interest community with another
40 common interest community of the same form of ownership;

1 (g) Appoint or remove any officer or board member of the
2 association or any master association or to veto or approve a
3 proposed action of any board or association, pursuant to section
4 304(1) of this act;

5 (h) Control any construction, design review, or aesthetic
6 standards committee or process;

7 (i) Attend meetings of the unit owners and, except during an
8 executive session, the board;

9 (j) Have access to the records of the association to the same
10 extent as a unit owner.

11 (52) "Specially allocated expense" means any expense of the
12 association, including allocations to reserves, allocated to some or
13 all of the unit owners pursuant to section 317 (4) through (8) of
14 this act.

15 (53) "Survey" has the same meaning as defined in RCW 58.09.020.

16 (54) "Tangible medium" means a writing, copy of a writing,
17 facsimile, or a physical reproduction, each on paper or on other
18 tangible material.

19 (55) "Timeshare" has the same meaning as defined in RCW
20 64.36.010.

21 (56) "Transition meeting" means the meeting held pursuant to
22 section 304(4) of this act.

23 (57)(a) "Unit" means a physical portion of the common interest
24 community designated for separate ownership or occupancy, the
25 boundaries of which are described pursuant to section 206(1)(d) of
26 this act.

27 (b) If a unit in a cooperative is owned by a unit owner or is
28 sold, conveyed, voluntarily or involuntarily encumbered, or otherwise
29 transferred by a unit owner, the interest in that unit that is owned,
30 sold, conveyed, encumbered, or otherwise transferred is the right to
31 possession of that unit under a proprietary lease, coupled with the
32 allocated interests of that unit, and the association's interest in
33 that unit is not affected.

34 (c) Except as provided in the declaration, a mobile home or
35 manufactured home for which title has been eliminated pursuant to
36 chapter 65.20 RCW is part of the unit described in the title
37 elimination documents.

38 (58)(a) "Unit owner" means (i) a declarant or other person that
39 owns a unit or (ii) a lessee of a unit in a leasehold common interest
40 community whose lease expires simultaneously with any lease the

1 expiration or termination of which will remove the unit from the
2 common interest community, but does not include a person having an
3 interest in a unit solely as security for an obligation.

4 (b) "Unit owner" also means the vendee, not the vendor, of a unit
5 under a recorded real estate contract.

6 (c) In a condominium, plat community, or miscellaneous community,
7 the declarant is the unit owner of any unit created by the
8 declaration. In a cooperative, the declarant is treated as the unit
9 owner of any unit to which allocated interests have been allocated
10 until that unit has been conveyed to another person.

11 (59) "Useful life" means the estimated time during which a
12 reserve component is expected to perform its intended function
13 without major maintenance, repair, or replacement.

14 (60) "Writing" does not include an electronic transmission.

15 (61) "Written" means embodied in a tangible medium.

16 NEW SECTION. **Sec. 103.** NO VARIATION BY AGREEMENT. Except as
17 expressly provided in this chapter, the effect of the provisions of
18 this chapter may not be varied by agreement, and rights conferred by
19 this chapter may not be waived. Except as provided otherwise in
20 section 123 of this act, a declarant may not act under a power of
21 attorney, or use any other device, to evade the limitations or
22 prohibitions of this chapter or the declaration.

23 NEW SECTION. **Sec. 104.** SEPARATE TITLES AND TAXATION. (1) In a
24 cooperative, unless the declaration provides that a unit owner's
25 interest in a unit and its allocated interests is real estate for all
26 purposes, that interest is personal property.

27 (2) In a condominium, plat community, or miscellaneous community,
28 if there is any unit owner other than a declarant:

29 (a) Each unit that has been created, together with its interest
30 in the common elements, constitutes for all purposes a separate
31 parcel of real estate; and

32 (b) Each unit together with its interest in the common elements
33 must be separately taxed and assessed.

34 (3) If a development right has an ascertainable market value, the
35 development right constitutes a separate parcel of real estate for
36 property tax purposes and must be separately taxed and assessed to
37 the declarant, and the declarant alone is liable for payment of those
38 taxes.

1 (4) If there is no unit owner other than a declarant, the real
2 estate comprising the common interest community may be taxed and
3 assessed in any manner provided by law.

4 NEW SECTION. **Sec. 105.** APPLICABILITY OF LOCAL ORDINANCES,
5 REGULATIONS, AND BUILDING CODES. (1) A building, fire, health, or
6 safety statute, ordinance, or regulation may not impose any
7 requirement upon any structure in a common interest community that it
8 would not impose upon a physically identical development under a
9 different form of ownership.

10 (2) A zoning, subdivision, or other land use statute, ordinance,
11 or regulation may not prohibit the condominium or cooperative form of
12 ownership or impose any requirement upon a condominium or cooperative
13 that it would not impose upon a physically identical development
14 under a different form of ownership.

15 (3) Chapter 58.17 RCW does not apply to the creation of a
16 condominium or a cooperative. This chapter must not be construed to
17 permit the creation of a condominium or cooperative on a lot, tract,
18 or parcel of land that could not be sold or transferred without
19 violating chapter 58.17 RCW.

20 (4) Except as provided in subsections (1), (2), and (3) of this
21 section, this chapter does not invalidate or modify any provision of
22 any building, zoning, subdivision, or other statute, ordinance, rule,
23 or regulation governing the use of real estate.

24 (5) This section does not prohibit a county legislative authority
25 from requiring the review and approval of declarations and amendments
26 to declarations and termination agreements executed pursuant to
27 section 218(2) of this act by the county assessor solely for the
28 purpose of allocating the assessed value and property taxes. The
29 review by the assessor must be done in a reasonable and timely
30 manner.

31 NEW SECTION. **Sec. 106.** EMINENT DOMAIN. (1) If a unit is
32 acquired by condemnation or part of a unit is acquired by
33 condemnation leaving the unit owner with a remnant that may not
34 practically or lawfully be used for any purpose permitted by the
35 declaration, the award must include compensation to the unit owner
36 for that unit and its allocated interests, whether or not any common
37 elements are acquired. Upon acquisition, unless the decree otherwise
38 provides, that unit's allocated interests are automatically

1 reallocated to the remaining units in proportion to the respective
2 allocated interests of those units before the taking, and the
3 association must promptly prepare, execute, and record an amendment
4 to the declaration reflecting the reallocations. Any remnant of a
5 unit remaining after part of a unit is taken under this subsection is
6 thereafter a common element.

7 (2) Except as provided in subsection (1) of this section, if part
8 of a unit is acquired by condemnation, the award must compensate the
9 unit owner for the reduction in value of the unit and its interest in
10 the common elements, whether or not any common elements are acquired.
11 Upon acquisition, unless the decree provides otherwise:

12 (a) That unit's allocated interests are reduced in proportion to
13 the reduction in the size of the unit, or on any other basis
14 specified in the declaration; and

15 (b) The portion of the allocated interests divested from the
16 partially acquired unit are automatically reallocated to that unit
17 and to the remaining units in proportion to the respective allocated
18 interests of those units before the taking, with the partially
19 acquired unit participating in the reallocation on the basis of its
20 reduced allocated interests.

21 (3)(a) If part of the common elements is acquired by
22 condemnation, the portion of the award attributable to the common
23 elements taken must be paid to the association. A court may award
24 damages to a unit owner or owners for particular damage to the
25 owner's units arising from condemnation.

26 (b) Unless the declaration or the decree provides otherwise, any
27 portion of the award attributable to the acquisition of a limited
28 common element must be equally divided among the owners of the units
29 to which that limited common element was allocated at the time of
30 acquisition.

31 (4) The decree must be recorded in every county in which any
32 portion of the common interest community is located.

33 NEW SECTION. **Sec. 107.** SUPPLEMENTAL GENERAL PRINCIPLES OF LAW
34 APPLICABLE. The principles of law and equity, including the law of
35 corporations and any other form of organization authorized by the law
36 of this state and unincorporated associations, the law of real
37 estate, and the law relative to the capacity to contract, principal
38 and agent, eminent domain, estoppel, fraud, misrepresentation,
39 duress, coercion, mistake, receivership, substantial performance, or

1 other validating or invalidating cause supplement this chapter,
2 except to the extent inconsistent with this chapter.

3 NEW SECTION. **Sec. 108.** CONSTRUCTION AGAINST IMPLICIT REPEAL.
4 This chapter is intended as a unified coverage of its subject matter
5 and no part of it must be construed to be impliedly repealed by
6 subsequent legislation if that construction can reasonably be
7 avoided.

8 NEW SECTION. **Sec. 109.** UNIFORMITY OF APPLICATION AND
9 CONSTRUCTION. This chapter must be applied and construed to
10 effectuate its general purpose to make uniform the law with respect
11 to the subject of this chapter among states enacting it.

12 NEW SECTION. **Sec. 110.** SEVERABILITY. If any provision of this
13 act or its application to any person or circumstance is held invalid,
14 the remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 111.** UNCONSCIONABLE AGREEMENT OR TERM OF
17 CONTRACT. (1) The court, upon finding as a matter of law that a
18 contract or contract clause was unconscionable at the time the
19 contract was made, may refuse to enforce the contract, enforce the
20 remainder of the contract without the unconscionable clause, or limit
21 the application of any unconscionable clause to avoid an
22 unconscionable result.

23 (2) Whenever it is claimed, or appears to the court, that a
24 contract or any contract clause is or may be unconscionable, the
25 parties, to aid the court in making the determination, must be
26 afforded a reasonable opportunity to present evidence as to:

- 27 (a) The commercial setting of the negotiations;
28 (b) Whether a party has knowingly taken advantage of the
29 inability of the other party reasonably to protect his or her
30 interests by reason of physical or mental infirmity, illiteracy,
31 inability to understand the language of the agreement, or similar
32 factors;

33 (c) The effect and purpose of the contract or clause; and

34 (d) If a sale, any gross disparity at the time of contracting
35 between the amount charged for the property and the value of that
36 property measured by the price at which similar property was readily

1 obtainable in similar transactions. A disparity between the contract
2 price and the value of the property measured by the price at which
3 similar property was readily obtainable in similar transactions does
4 not, of itself, render the contract unconscionable.

5 NEW SECTION. **Sec. 112.** OBLIGATION OF GOOD FAITH. Every contract
6 or duty governed under this chapter imposes an obligation of good
7 faith in its performance or enforcement.

8 NEW SECTION. **Sec. 113.** REMEDIES TO BE LIBERALLY ADMINISTERED.
9 The remedies provided under this chapter must be liberally
10 administered to the end that the aggrieved party is put in as good a
11 position as if the other party had fully performed. However,
12 consequential, special, or punitive damages may not be awarded except
13 as specifically provided in this chapter or by other rule of law.

14 NEW SECTION. **Sec. 114.** ADJUSTMENT OF DOLLAR AMOUNTS. (1) From
15 time to time the dollar amount specified in sections 116 and 409(2)
16 of this act must change, as provided in subsections (2) and (3) of
17 this section, according to and to the extent of changes in the
18 consumer price index for urban wage earners and clerical workers:
19 U.S. city average, all items 1967 = 100, compiled by the bureau of
20 labor statistics, United States department of labor, (the "index").
21 The index for December 1979, which was 230, is the reference base
22 index.

23 (2) The dollar amounts specified in sections 116 and 409(2) of
24 this act and any amount stated in the declaration pursuant to
25 sections 116 and 409(2) of this act must change on July 1st of each
26 year if the percentage of change, calculated to the nearest whole
27 percentage point, between the index at the end of the preceding year
28 and the reference base index, is ten percent or more, but: (a) The
29 portion of the percentage change in the index in excess of a multiple
30 of ten percent must be disregarded and the dollar amount may only
31 change in multiples of ten percent of the amount appearing in this
32 chapter on the effective date of this section; (b) the dollar amount
33 must not change if the amount required under this section is that
34 currently in effect pursuant to this chapter as a result of earlier
35 application of this section; and (c) the dollar amount must not be
36 reduced below the amount appearing in this chapter on the effective
37 date of this section.

1 (3) If the index is revised after December 1979, the percentage
2 of change pursuant to this section must be calculated on the basis of
3 the revised index. If the revision of the index changes the reference
4 base index, a revised reference base index must be determined by
5 multiplying the reference base index then applicable by the rebasing
6 factor furnished by the bureau of labor statistics. If the index is
7 superseded, the index referred to in this section is the one
8 represented by the bureau of labor statistics as reflecting most
9 accurately the changes in the purchasing power of the dollar for
10 consumers.

11 NEW SECTION. **Sec. 115.** RELATION TO ELECTRONIC SIGNATURES IN
12 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
13 supersedes the federal electronic signatures in global and national
14 commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify,
15 limit, or supersede 15 U.S.C. Sec. 7001(c) or authorize electronic
16 delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

17 NEW SECTION. **Sec. 116.** APPLICABILITY TO NEW COMMON INTEREST
18 COMMUNITIES. (1) Except as provided otherwise in this section, this
19 chapter applies to all common interest communities created within
20 this state after the effective date of this section. Chapters 58.19,
21 64.32, 64.34, and 64.38 RCW do not apply to common interest
22 communities created after the effective date of this section.

23 (2) Unless the declaration provides that this entire chapter is
24 applicable, a plat community or miscellaneous community that is not
25 subject to any development right is subject only to sections 104,
26 105, and 106 of this act, if the community: (a) Contains no more than
27 twelve units; and (b) provides in its declaration that the annual
28 average assessment of all units restricted to residential purposes,
29 exclusive of optional user fees and any insurance premiums paid by
30 the association, may not exceed three hundred dollars, as adjusted
31 pursuant to section 114 of this act.

32 (3) The exemption provided in subsection (2) of this section
33 applies only if:

34 (a) The declarant reasonably believes in good faith that the
35 maximum stated assessment will be sufficient to pay the expenses of
36 the association for the community; and

37 (b) The declaration provides that the assessment may not be
38 increased above the limitation in subsection (2) of this section

1 prior to the transition meeting without the consent of unit owners,
2 other than the declarant, holding ninety percent of the votes in the
3 association.

4 NEW SECTION. **Sec. 117.** APPLICABILITY TO PREEXISTING COMMON
5 INTEREST COMMUNITIES. (1) Except for a nonresidential common interest
6 community described in section 121 of this act, this chapter applies
7 to a common interest community created in this state before the
8 effective date of this section unless, before the effective date of
9 this section, unit owners holding a majority of the votes in the
10 common interest community voted to amend its governing documents to
11 elect that chapters 59.18, 64.32, 64.34, or 64.38 RCW, as applicable,
12 will continue to apply to the common interest community and that this
13 chapter will not apply, except as provided in subsection (2) of this
14 section.

15 (2) The following sections and amendments to these sections
16 apply, and any inconsistent provisions of chapter 59.18, 64.32,
17 64.34, or 64.38 RCW do not apply, to a common interest community that
18 elected out of applicability of this chapter pursuant to subsection
19 (1) of this section: Sections 102, 104, 105, 106, 120, 203, 204, 205,
20 218 (2), (9), (10), (11), (12), and (13), 219, 223, 226, 302(2) (a)
21 through (f) and (k) through (u), 303(1) (a) and (b), 312 (1), (2),
22 (3)(a) and (b), (5), (6), (7), (8), and (9), 313, 317, 318, 320, 326,
23 328 through 333, 409, and 418 of this act.

24 (3) Except to the extent provided in this subsection, the
25 sections listed in subsection (2) of this section apply only to
26 events and circumstances occurring after the effective date of this
27 section and do not invalidate existing provisions of the governing
28 documents of those common interest communities. To protect the public
29 interest, sections 120 and 326 of this act supersede existing
30 provisions of the governing documents of all plat communities and
31 miscellaneous communities previously subject to chapter 64.38 RCW.

32 NEW SECTION. **Sec. 118.** APPLICABILITY OF AMENDMENTS TO NEW
33 COMMON INTEREST COMMUNITIES. Amendments to this chapter apply to all
34 common interest communities except those that (1) were created prior
35 to the effective date of this section, (2) have elected out of
36 applicability of this chapter pursuant to section 117(1) of this act,
37 and (3) have not subsequently amended their governing documents to

1 provide that this chapter will apply to the common interest community
2 pursuant to section 120 of this act.

3 NEW SECTION. **Sec. 119.** APPLICABILITY OF PRIOR CONDOMINIUM
4 STATUTES. Chapter 64.32 RCW does not apply to condominiums created
5 after July 1, 1990, and chapter 64.34 RCW does not apply to
6 condominiums created after the effective date of this section.

7 NEW SECTION. **Sec. 120.** AMENDMENTS TO GOVERNING DOCUMENTS. (1)
8 Except for a common interest community that did not elect out of
9 applicability of this chapter pursuant to section 117(1) of this act,
10 the governing documents of any common interest community created
11 before the effective date of this section may be amended to achieve
12 any result permitted by this chapter, regardless of what applicable
13 law provided before this chapter was adopted.

14 (2) Except as provided otherwise in section 218 (9), (10), (11),
15 (12), or (13) of this act, an amendment to the governing documents
16 authorized under this section must be adopted in conformity with any
17 procedures and requirements for amending the instruments specified by
18 those instruments and in conformity with the amendment procedures of
19 this chapter. If the governing documents do not contain provisions
20 authorizing amendment, the amendment procedures of this chapter
21 apply. If an amendment grants to a person a right, power, or
22 privilege permitted under this chapter, any correlative obligation,
23 liability, or restriction in this chapter also applies to the person.

24 NEW SECTION. **Sec. 121.** APPLICABILITY TO NONRESIDENTIAL AND
25 MIXED-USE COMMON INTEREST COMMUNITIES. (1) A plat community,
26 miscellaneous community, or cooperative in which all the units are
27 restricted exclusively to nonresidential use is not subject to this
28 chapter except to the extent the declaration provides that:

- 29 (a) This entire chapter applies to the community;
30 (b) Sections 101 through 226 of this act apply to the community;
31 or
32 (c) Only sections 104, 105, and 106 of this act apply to the
33 community.

34 (2) A condominium in which all the units are restricted
35 exclusively to nonresidential use is subject to this chapter, but the
36 declaration may provide that only sections 101 through 226 of this
37 act apply to the community.

1 (3) If this entire chapter applies to a common interest community
2 in which all the units are restricted exclusively to nonresidential
3 use, the declaration may also require, subject to section 111 of this
4 act, that:

5 (a) Any management, maintenance, operations, or employment
6 contract, lease of recreational or parking areas or facilities, and
7 any other contract or lease between the association and a declarant
8 or an affiliate of a declarant continues in force after the declarant
9 turns over control of the association; and

10 (b) Purchasers of units must execute proxies, powers of attorney,
11 or similar devices in favor of the declarant regarding particular
12 matters enumerated in those instruments.

13 (4) A common interest community that contains both units
14 restricted to nonresidential purposes and units that may be used for
15 residential purposes is not subject to this chapter unless the units
16 that may be used for residential purposes would comprise a common
17 interest community subject to this chapter in the absence of such
18 nonresidential units or the declaration provides that this chapter
19 applies as provided in subsection (2) or (3) of this section.

20 NEW SECTION. **Sec. 122.** APPLICABILITY TO OUT-OF-STATE COMMON
21 INTEREST COMMUNITIES. This chapter does not apply to a common
22 interest community located outside this state.

23 NEW SECTION. **Sec. 123.** OTHER EXEMPT REAL ESTATE ARRANGEMENTS.

24 (1) An arrangement between the associations for two or more common
25 interest communities to share the costs of real estate taxes,
26 insurance premiums, services, maintenance or improvements of real
27 estate, or other activities specified in their arrangement or
28 declarations does not create a separate common interest community.

29 (2) An arrangement between an association for a common interest
30 community and the owner of real estate that is not part of a common
31 interest community to share the costs of real estate taxes, insurance
32 premiums, services, maintenance or improvements of real estate, or
33 other activities specified in their arrangement does not create a
34 separate common interest community. However, costs payable by the
35 common interest community as a result of the arrangement must be
36 included in the periodic budget for the common interest community,
37 and the arrangement must be disclosed in all public offering
38 statements and resale certificates required under this chapter.

1 (3) Except for a cooperative, a lease in which the tenant is
2 obligated to share the costs of real estate taxes, insurance
3 premiums, services, maintenance or improvements of real estate, or
4 other activities specified in an arrangement does not create a
5 separate common interest community.

6 NEW SECTION. **Sec. 124.** OTHER EXEMPT COVENANTS. An easement or
7 covenant that requires the owners of separately owned parcels of real
8 estate to share costs or other obligations associated with a party
9 wall, driveway, well, or other similar use does not create a common
10 interest community.

11 **II. CREATION, ALTERATION, AND TERMINATION OF COMMON INTEREST**
12 **COMMUNITIES**

13 NEW SECTION. **Sec. 201.** CREATION OF COMMON INTEREST COMMUNITIES.
14 (1)(a) A common interest community may be created under this chapter
15 only by (i) recording a declaration executed in the same manner as a
16 deed, and (ii) recording a map pursuant to section 210(3) of this
17 act, and (iii) with respect to a cooperative, conveying the real
18 estate subject to that declaration to the association.

19 (b) The declaration and map must be recorded in every county in
20 which any portion of the common interest community is located. The
21 name of a condominium must not be identical to the name of any other
22 existing condominium or plat community, whether created under this
23 chapter or chapter 64.32 or 64.34 RCW, in any county in which the
24 condominium is located.

25 (2) A declaration or an amendment to a declaration adding units
26 to a common interest community other than a plat community may not be
27 recorded unless a certification required under section 210(6) (a) or
28 (b) of this act regarding the map is also recorded.

29 (3)(a) Except as provided otherwise in the declaration or map,
30 if, in a common interest community other than a condominium or
31 cooperative, real estate described as a common element in the
32 declaration or map is not conveyed to the association or expressly
33 dedicated in the declaration or map to the unit owners as tenants in
34 common, that real estate is deemed to be conveyed to the association
35 at the time the first unit is conveyed, subject to the authority and
36 jurisdiction of the association and subject to development rights, if
37 any, reserved in the declaration.

1 (b) Except as provided otherwise in the declaration or map, in
2 the event of the dissolution of an association, any real estate owned
3 by the association vests in the unit owners as tenants in common with
4 each unit owner's interest being determined in accordance with the
5 provisions of section 218 of this act regarding a termination of the
6 common interest community.

7 NEW SECTION. **Sec. 202.** RESERVATION OF NAME. Upon the filing of
8 a written request with the county office in which the declaration is
9 to be recorded, using a form of written request as may be required by
10 the county office and paying a fee as the county office may establish
11 not in excess of fifty dollars, a person may reserve the exclusive
12 right to use a particular name for a condominium to be created in
13 that county. The reserved name must not be identical to any other
14 condominium or plat community located in that county. The name
15 reservation expires unless within three hundred sixty-five days from
16 the date on which the name reservation is filed the person reserving
17 that name either records a declaration using the reserved name or
18 files a new name reservation request.

19 NEW SECTION. **Sec. 203.** UNIT BOUNDARIES. (1) Except as provided
20 by the declaration or, in the case of a plat community or
21 miscellaneous community, by the map:

22 (a) If walls, floors, or ceilings are designated as boundaries of
23 a unit, all lath, furring, wallboard, plasterboard, plaster,
24 paneling, tiles, wallpaper, paint, finished flooring, and any other
25 materials constituting any part of the finished surfaces thereof are
26 a part of the unit, and all other portions of the walls, floors, or
27 ceilings are a part of the common elements.

28 (b) If any chute, flue, duct, wire, conduit, bearing wall,
29 bearing column, or any other fixture lies partially within and
30 partially outside the designated boundaries of a unit, any portion
31 thereof serving only that unit is a limited common element allocated
32 solely to that unit, and any portion thereof serving more than one
33 unit or any portion of the common elements is a part of the common
34 elements.

35 (2) Subject to subsection (1)(b) of this section, all spaces,
36 interior partitions, and other fixtures and improvements within the
37 boundaries of a unit are a part of the unit.

1 (3) Any fireplaces, shutters, awnings, window boxes, doorsteps,
2 stoops, porches, balconies, decks, patios, and all exterior doors and
3 windows or other fixtures designed to serve a single unit, but
4 located outside the unit's boundaries, are limited common elements
5 allocated exclusively to that unit.

6 NEW SECTION. **Sec. 204.** CONSTRUCTION AND VALIDITY OF GOVERNING
7 DOCUMENTS. (1) All provisions of the governing documents are
8 severable. If any provision of a governing document, or its
9 application to any person or circumstances, is held invalid, the
10 remainder of the governing document or application to other persons
11 or circumstances is not affected.

12 (2) The rule against perpetuities may not be applied to defeat
13 any provision of the governing documents adopted pursuant to section
14 302(1)(a) of this act.

15 (3) If a conflict exists between the declaration and the
16 organizational documents, the declaration prevails except to the
17 extent the declaration is inconsistent with this chapter.

18 (4)(a) The creation of a common interest community must not be
19 impaired and title to a unit and any common elements must not be
20 rendered unmarketable or otherwise affected by reason of an
21 insignificant failure of the governing documents, or any amendment to
22 the governing documents, to comply with this chapter.

23 (b) This chapter does not determine whether a significant failure
24 impairs marketability. Any unit owner, record owner of a security
25 interest in any portion of the common interest community, or the
26 association has standing to obtain a court order compelling the
27 recordation of a declaration or map or adoption of organizational
28 documents, or any appropriate amendment thereto, or to any other
29 governing document, necessary to comply with the requirements of this
30 chapter and to effectuate the reasonably ascertainable intent of the
31 parties, including the intent to create a common interest community
32 in compliance with this chapter. The failure to (i) include in the
33 declaration or any amendment to the declaration cross-references by
34 recording number to the map or any amendment to the map, or (ii)
35 include in the map or any amendment to the map cross-references by
36 recording number to the declaration or any amendment to the
37 declaration is deemed an insignificant failure to comply with this
38 chapter.

1 NEW SECTION. **Sec. 205.** DESCRIPTION OF UNITS. (1) In a
2 condominium or a cooperative, a description of a unit that sets forth
3 the name of the common interest community, the recording data for the
4 declaration, the county and state in which the common interest
5 community is located, and the identifying number of the unit is a
6 legally sufficient description of that unit and all rights,
7 obligations, and interests appurtenant to that unit that were created
8 by the governing documents.

9 (2) In a plat community or miscellaneous community, a description
10 of a unit that sets forth the name of the common interest community,
11 the recording data for the map, the county and state in which the
12 common interest community is located, and the identifying number of
13 the unit is a legally sufficient description of that unit and all
14 rights, obligations, and interests appurtenant to that unit.

15 NEW SECTION. **Sec. 206.** CONTENTS OF DECLARATION. (1) The
16 declaration must contain:

17 (a) The names of the common interest community and the
18 association and, immediately following the initial recital of the
19 name of the community, a statement that the common interest community
20 is a condominium, cooperative, plat community, or miscellaneous
21 community;

22 (b) A legal description of the real estate included in the common
23 interest community;

24 (c) A statement of the number of units that the declarant has
25 created and, if the declarant has reserved the right to create
26 additional units, the maximum number of such additional units;

27 (d) In all common interest communities, a reference to the
28 recorded map creating the units and common elements, if any, subject
29 to the declaration, and in a common interest community other than a
30 plat community, the identifying number of each unit created by the
31 declaration, a description of the boundaries of each unit if and to
32 the extent they are different from the boundaries stated in section
33 203(1)(a) of this act, and with respect to each existing unit, and if
34 known at the time the declaration is recorded, the (i) approximate
35 square footage, (ii) number of whole or partial bathrooms, (iii)
36 number of rooms designated primarily as bedrooms, and (iv) level or
37 levels on which each unit is located. The data described in this
38 subsection (1)(d)(ii) and (iii) may be omitted with respect to units
39 restricted to nonresidential use;

1 (e) A description of any limited common elements, other than
2 those specified in section 203 (1)(b) and (2) of this act;

3 (f) A description of any real estate that may be allocated
4 subsequently by the declarant as limited common elements, other than
5 limited common elements specified in section 203 (1)(b) and (2) of
6 this act, together with a statement that they may be so allocated;

7 (g) A description of any development right and any other special
8 declarant rights reserved by the declarant, and, if the boundaries of
9 the real estate subject to those rights are fixed in the declaration
10 pursuant to (h)(i) of this subsection, a description of the real
11 property affected by those rights, and a time limit within which each
12 of those rights must be exercised;

13 (h) If any development right may be exercised with respect to
14 different parcels of real estate at different times, a statement to
15 that effect together with:

16 (i) Either a statement fixing the boundaries of those portions
17 and regulating the order in which those portions may be subjected to
18 the exercise of each development right or a statement that no
19 assurances are made in those regards; and

20 (ii) A statement as to whether, if any development right is
21 exercised in any portion of the real estate subject to that
22 development right, that development right must be exercised in all or
23 in any other portion of the remainder of that real estate;

24 (i) Any other conditions or limitations under which the rights
25 described in (g) of this subsection may be exercised or will lapse;

26 (j) An allocation to each unit of the allocated interests in the
27 manner described in section 208 of this act;

28 (k) Any restrictions on alienation of the units, including any
29 restrictions on leasing that exceed the restrictions on leasing units
30 that boards may impose pursuant to section 323(9)(c) of this act and
31 on the amount for which a unit may be sold or on the amount that may
32 be received by a unit owner on sale, condemnation, or casualty loss
33 to the unit or to the common interest community, or on termination of
34 the common interest community;

35 (l) A cross-reference by recording number to the map for the
36 units created by the declaration;

37 (m) Any authorization pursuant to which the association may
38 establish and enforce construction and design criteria and aesthetic
39 standards as provided in section 322 of this act;

1 (n) All matters required under sections 207, 208, 209, 216, 217,
2 and 303 of this act.

3 (2) All amendments to the declaration must contain a cross-
4 reference by recording number to the declaration and to any prior
5 amendments to the declaration. All amendments to the declaration
6 adding units must contain a cross-reference by recording number to
7 the map relating to the added units and set forth all information
8 required under subsection (1) of this section with respect to the
9 added units.

10 (3) The declaration may contain any other matters the declarant
11 considers appropriate, including any restrictions on the uses of a
12 unit or the number or other qualifications of persons who may occupy
13 units.

14 NEW SECTION. **Sec. 207.** LEASEHOLD COMMON INTEREST COMMUNITIES.

15 (1) Any lease the expiration or termination of which may terminate
16 the common interest community or reduce its size, or a memorandum of
17 the lease, must be recorded. Every lessor of these leases in a
18 condominium, plat community, or miscellaneous community must sign the
19 declaration. The declaration must state:

20 (a) The recording number of the lease or a statement of where the
21 complete lease may be inspected;

22 (b) The date on which the lease is scheduled to expire;

23 (c) A legal description of the real estate subject to the lease;

24 (d) Any right of the unit owners to redeem the reversion and the
25 manner in which those rights may be exercised, or a statement that
26 they do not have those rights;

27 (e) Any right of the unit owners to remove any improvements
28 within a reasonable or stated time after the expiration or
29 termination of the lease, or a statement that they do not have those
30 rights; and

31 (f) Any rights of the unit owners to renew the lease and the
32 conditions of any renewal, or a statement that they do not have those
33 rights.

34 (2) The declaration may provide for the collection by the
35 association of the proportionate rents paid on the lease by the unit
36 owners and may designate the association as the representative of the
37 unit owners on all matters relating to the lease.

38 (3) After the declaration for a condominium, miscellaneous
39 community, or plat community is recorded, neither the lessor nor the

1 lessor's successor in interest may terminate the leasehold interest
2 of a unit owner who makes timely payment of a unit owner's share of
3 the rent and otherwise complies with all covenants that, if violated,
4 would entitle the lessor to terminate the lease. A unit owner's
5 leasehold interest in a condominium, miscellaneous community, or plat
6 community is not affected by failure of any other person to pay rent
7 or fulfill any other covenant.

8 (4) Acquisition of the leasehold interest of any unit owner by
9 the owner of the reversion or remainder does not merge the leasehold
10 and fee simple interests unless the leasehold interests of all unit
11 owners subject to that reversion or remainder are acquired and the
12 owner of the reversion or remainder records a document confirming the
13 merger.

14 (5) If the expiration or termination of a lease decreases the
15 number of units in a common interest community, the allocated
16 interests must be reallocated in accordance with section 106(1) of
17 this act as though those units had been taken by condemnation.
18 Reallocations must be confirmed by an amendment to the declaration
19 and map prepared, executed, and recorded by the association.

20 NEW SECTION. **Sec. 208.** ALLOCATION OF ALLOCATED INTERESTS. (1)

21 The declaration must allocate to each unit:

22 (a) In a condominium, a fraction or percentage of undivided
23 interests in the common elements and in the common expenses of the
24 association and a portion of the votes in the association;

25 (b) In a cooperative, an ownership interest in the association, a
26 fraction or percentage of the common expenses of the association, and
27 a portion of the votes in the association; and

28 (c) In a plat community and miscellaneous community, a fraction
29 or percentage of the common expenses of the association and a portion
30 of the votes in the association.

31 (2) The declaration must state the formulas used to establish
32 allocations of interests. Those allocations may not discriminate in
33 favor of units owned by the declarant or an affiliate of the
34 declarant.

35 (3) If units may be added to or withdrawn from the common
36 interest community, the declaration must state the formulas to be
37 used to reallocate the allocated interests among all units included
38 in the common interest community after the addition or withdrawal.

39 (4)(a) The declaration may provide:

1 (i) That different allocations of votes are made to the units on
2 particular matters specified in the declaration;

3 (ii) For cumulative voting only for the purpose of electing board
4 members; and

5 (iii) For class voting on specified issues affecting the class if
6 necessary to protect valid interests of the class.

7 (b) A declarant may not utilize cumulative or class voting for
8 the purpose of evading any limitation imposed on declarants under
9 this chapter, and units do not constitute a class because they are
10 owned by a declarant.

11 (5) Except for minor variations due to rounding, the sum of the
12 common expense liabilities and, in a condominium, the sum of the
13 undivided interests in the common elements allocated at any time to
14 all the units must each equal one if stated as a fraction or one
15 hundred percent if stated as a percentage. In the event of
16 discrepancy between an allocated interest and the result derived from
17 application of the pertinent formula, the allocated interest
18 prevails.

19 (6)(a) In a condominium, the common elements are not subject to
20 partition, and any purported conveyance, encumbrance, judicial sale,
21 or other voluntary or involuntary transfer of an undivided interest
22 in the common elements made without the unit to which that interest
23 is allocated is void.

24 (b) In a cooperative, any purported conveyance, encumbrance,
25 judicial sale, or other voluntary or involuntary transfer of an
26 ownership interest in the association made without the possessory
27 interest in the unit to which that interest is related is void.

28 NEW SECTION. **Sec. 209.** LIMITED COMMON ELEMENTS. (1)(a) Except
29 for the limited common elements described in section 203 (1)(b) and
30 (3) of this act, the declaration must specify to which unit or units
31 each limited common element is allocated.

32 (b) An allocation of a limited common element may not be altered
33 without the consent of the owners of the units from which and to
34 which the limited common element is allocated.

35 (2)(a) Except in the case of a reallocation being made by a
36 declarant pursuant to a development right reserved in the
37 declaration, a limited common element may be reallocated between
38 units only with the approval of the board and by an amendment to the

1 declaration executed by the unit owners between or among whose units
2 the reallocation is made.

3 (b) The board must approve the request of the unit owner or
4 owners under this subsection (2) within thirty days, or within such
5 other period provided by the declaration, unless the proposed
6 reallocation does not comply with this chapter or the declaration.
7 The failure of the board to act upon a request within such period is
8 deemed an approval of the request.

9 (c) The amendment must be executed and recorded by the
10 association and be recorded in the name of the common interest
11 community.

12 (3) Unless provided otherwise in the declaration, the unit owners
13 of units to which at least sixty-seven percent of the votes are
14 allocated, including the unit owner of the unit to which the common
15 element or limited common element will be assigned or incorporated,
16 must agree to reallocate a common element as a limited common element
17 or to incorporate a common element or a limited common element into
18 an existing unit. Such reallocation or incorporation must be
19 reflected in an amendment to the declaration and the map.

20 NEW SECTION. **Sec. 210.** MAPS. (1) A map is required for all
21 common interest communities. For purposes of this chapter, a map must
22 be construed as part of the declaration.

23 (2) With the exception of subsections (1), (3), (4), and (14) of
24 this section, this section does not apply to a plat as defined in RCW
25 58.17.020.

26 (3) The map for a common interest community must be executed by
27 the declarant and recorded concurrently with, and contain cross-
28 references by recording number to, the declaration.

29 (4) An amendment to a map for a common interest community must be
30 executed by the same party or parties authorized or required to
31 execute an amendment to the declaration, contain cross-references by
32 recording number to the declaration and any amendments to the
33 declaration, and be recorded concurrently with an amendment to the
34 declaration. With respect to a plat community, (a) any amendment to
35 the map must be prepared and recorded in compliance with the
36 requirements, processes, and procedures in chapter 58.17 RCW and of
37 the local subdivision ordinances of the city, town, or county in
38 which the plat community is located, and (b) any amendment to the
39 declaration must conform to the map as so approved and recorded.

1 (5) A map for a cooperative may be prepared by a licensed land
2 surveyor, and may be incorporated into the declaration to satisfy
3 subsection (3) of this section and section 206(1)(d) of this act. If
4 the map for a cooperative is not prepared by a licensed land
5 surveyor, the map need not contain the certification required in
6 subsection (6)(a) of this section.

7 (6) The map for a common interest community must be clear and
8 legible and must contain:

9 (a) If the map is a survey, a certification by a licensed land
10 surveyor in substantially the following form:

11 SURVEYOR CERTIFICATE: This map correctly represents a survey made
12 by me or under my direction in conformance with the requirements of
13 the Survey Recording Act at the request of (name of party
14 requesting the survey) on (date). I hereby certify that this
15 map for (name of common interest community) is based upon an
16 actual survey of the property herein described; that the bearings and
17 distances are correctly shown; that all information required by the
18 Washington Uniform Common Interest Ownership Act is supplied herein;
19 and that all horizontal and vertical boundaries of the units, (1) to
20 the extent determined by the walls, floors, or ceilings thereof, or
21 other physical monuments, are substantially completed in accordance
22 with said map, or (2) to the extent such boundaries are not defined
23 by physical monuments, such boundaries are shown on the map.
24 (Surveyor's name, signature, license or certificate number, and
25 acknowledgment)

26 (b) If the map is not a survey, a certification in substantially
27 the following form:

28 DECLARANT CERTIFICATE: I hereby certify on behalf of
29 (declarant) that this map for (name of common interest
30 community) was made by me or under my direction in conformance with
31 the requirements of RCW (this section); that all information
32 required by the Washington Uniform Common Interest Ownership Act is
33 supplied herein; and that all horizontal and vertical boundaries of
34 the units, (1) to the extent determined by the walls, floors, or
35 ceilings thereof, or other physical monuments, are substantially
36 completed in accordance with said map, or (2) to the extent such
37 boundaries are not defined by physical monuments, such boundaries are
38 shown on the map. (Declarant's name, signature, and acknowledgment)

1 (c) A declaration by the declarant in substantially the following
2 form:

3 DECLARANT DECLARATION: The undersigned owner or owners of the
4 interest in the real estate described herein hereby declare this map
5 and dedicate the same for a common interest community named
6 (name of common interest community), a (type of community), as
7 that term is defined in the Washington Uniform Common Interest
8 Ownership Act, solely to meet the requirements of the Washington
9 Uniform Common Interest Ownership Act and not for any public purpose.
10 This map and any portion thereof is restricted by law and the
11 Declaration for (name of common interest community), recorded
12 under (name of county in which the common interest community is
13 located) County Recording No. (recording number). (Declarant's
14 name, signature, and acknowledgment)

15 (7) Each map filed for a common interest community, and any
16 amendments to the map, must be in the style, size, form, and quality
17 as prescribed by the recording authority of the county where filed,
18 and a copy must be delivered to the county assessor.

19 (8) Each map prepared for a common interest community in
20 compliance with this chapter, and any amendments to the map, must
21 show or state:

22 (a) The name of the common interest community and, immediately
23 following the name of the community, a statement that the common
24 interest community is a condominium, cooperative, or miscellaneous
25 community as defined in this chapter. A local jurisdiction may also
26 require that the name of a plat community on the survey, plat, or map
27 be followed by a statement that the common interest community is a
28 plat community as defined in this chapter;

29 (b) A legal description of the land in the common interest
30 community;

31 (c) As to a condominium, a survey of the land in the condominium,
32 and as to a cooperative, a survey or a drawing of the land included
33 in the entire cooperative that complies with the other requirements
34 of this section;

35 (d) If the boundaries of land subject to the development right to
36 withdraw are fixed in the declaration or an amendment to the
37 declaration pursuant to section 206(1)(h)(i) of this act, and subject
38 to the provisions of the declaration, an amendment to the map if not
39 contained in the initial recorded map, the legal description and

1 boundaries of that land, labeled "MAY BE WITHDRAWN FROM THE [COMMON
2 INTEREST COMMUNITY];

3 (e) If the boundaries of land subject to the development right to
4 add units that will result in the reallocation of allocated interests
5 is fixed in the declaration or an amendment to the declaration
6 pursuant to section 206(1)(h)(i) of this act, and subject to the
7 provisions of the declaration, the legal description and boundaries
8 of that land, labeled "SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS
9 THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS";

10 (f) The location and dimensions of all existing buildings
11 containing or comprising units;

12 (g) The extent of any encroachments by or upon any portion of the
13 common interest community;

14 (h) To the extent feasible, the location and dimensions of all
15 recorded easements serving or burdening any portion of the common
16 interest community and any unrecorded easements of which a surveyor
17 or declarant knows or reasonably should have known;

18 (i) The location and dimensions of vertical unit boundaries;

19 (j) The location with reference to an established datum of
20 horizontal unit boundaries. With respect to a cooperative,
21 miscellaneous community, or condominium for which the horizontal
22 boundaries are not defined by physical monuments, reference to an
23 established datum is not required if the location of the horizontal
24 boundaries of a unit is otherwise reasonably described or depicted;

25 (k) The legal description and the location and dimensions of any
26 real estate in which the unit owners will own only an estate for
27 years, labeled as "LEASEHOLD REAL ESTATE";

28 (l) The distance between any noncontiguous parcels of real estate
29 comprising the common interest community;

30 (m) The general location of any existing principal common
31 amenities listed in a public offering statement under section
32 403(1)(k) of this act;

33 (n) The general location of porches, decks, balconies, patios,
34 storage facilities, moorage spaces, or parking spaces that are
35 allocated as limited common elements, and any applicable identifying
36 number or designation; and

37 (o) As to any survey, all other matters customarily shown on land
38 surveys.

39 (9) The map for a common interest community may also show the
40 anticipated approximate location and dimensions of any contemplated

1 improvement to be constructed anywhere within the common interest
2 community, and any contemplated improvement shown must be labeled
3 either "MUST BE BUILT" or "NEED NOT BE BUILT."

4 (10) The map for a common interest community must identify any
5 unit in which the declarant has reserved the right to create
6 additional units or common elements under section 211(3) of this act.

7 (11) Unless the declaration provides otherwise, any horizontal
8 boundary of part of a unit located outside a building has the same
9 elevation as the horizontal boundary of the inside part and need not
10 be depicted on the map.

11 (12) Upon exercising any development right, the declarant must
12 record either new maps necessary to conform to the requirements of
13 subsections (3), (4), (6), and (8) of this section, or new
14 certifications of any map previously recorded if that map otherwise
15 conforms to the requirements of subsections (3), (4), (6), and (8) of
16 this section.

17 (13) Any survey and the surveyor certifications required under
18 this section must be made by a licensed surveyor.

19 (14) As to a plat community, the information required under
20 subsections (6) (a) and (c), (8) (d) through (g), (k), (m), and (n),
21 (9), and (10) of this section is required, but may be shown on a map
22 incorporated in or attached to the declaration, and need not be shown
23 on the plat community map. Any such map is deemed a map for purposes
24 of applying the provisions of this section, and the declarant must
25 provide the certification required under subsection (6)(b) of this
26 section.

27 (15) In showing or projecting the location and dimensions of the
28 vertical boundaries of a unit located in a building, it is not
29 necessary to show the thickness of the walls constituting the
30 vertical boundaries or otherwise show the distance of those vertical
31 boundaries either from the exterior surface of the building
32 containing that unit or from adjacent vertical boundaries of other
33 units if: (a) The walls are designated to be the vertical boundaries
34 of that unit; (b) the unit is located within a building, the location
35 and dimensions of the building having been shown on the map under
36 subsection (8)(f) of this section; and (c) the graphic general
37 location of the vertical boundaries are shown in relation to the
38 exterior surfaces of that building and to the vertical boundaries of
39 other units within that building.

1 NEW SECTION. **Sec. 211.** EXERCISE OF DEVELOPMENT RIGHTS. (1) To
2 exercise any development right reserved under section 206(1)(h) of
3 this act, the declarant must prepare, execute, and record any
4 amendments to the declaration and map in accordance with the
5 requirements of sections 210 and 218(3) of this act. The declarant is
6 the unit owner of any units created. The amendment to the declaration
7 must assign an identifying number to each new unit created and,
8 except in the case of subdivision, combination, or conversion of
9 units described in subsection (3) of this section, reallocate the
10 allocated interests among all units. The amendment must describe any
11 common elements and any limited common elements created and, in the
12 case of limited common elements, designate the unit to which each is
13 allocated to the extent required under section 209 of this act. The
14 amendments are effective upon recording.

15 (2) Development rights may be reserved within any real estate
16 added to the common interest community if the amendment to the
17 declaration adding that real estate includes all matters required
18 under sections 206 and 207 of this act and the amendment to the map
19 includes all matters required under section 210 of this act. This
20 subsection does not extend the time limit on the exercise of
21 development rights imposed by the declaration pursuant to section
22 206(1)(h) of this act.

23 (3) When a declarant exercises a development right to subdivide,
24 combine, or convert a unit previously created into additional units
25 or common elements, or both:

26 (a) If the declarant converts the unit entirely into common
27 elements, the amendment to the declaration must reallocate all the
28 allocated interests of that unit among the other units as if that
29 unit had been taken by condemnation under section 106 of this act; or

30 (b) If the declarant subdivides the unit into two or more units,
31 whether or not any part of the unit is converted into common
32 elements, the amendment to the declaration must reallocate all the
33 allocated interests of the unit among the units created by the
34 subdivision in any reasonable manner prescribed by the declarant.

35 (4) If the declaration provides, pursuant to section 206(1)(h) of
36 this act, that all or a portion of the real estate is subject to a
37 right of withdrawal:

38 (a) If all the real estate is subject to withdrawal, and the
39 declaration or map or amendment to the declaration or map does not
40 describe separate portions of real estate subject to that right, none

1 of the real estate may be withdrawn if a unit in that real estate has
2 been conveyed to a purchaser; or

3 (b) If any portion of the real estate is subject to withdrawal as
4 described in the declaration or map or amendment to the declaration
5 or map, none of that portion of the real estate may be withdrawn if a
6 unit in that portion has been conveyed to a purchaser.

7 (5) If the declarant combines two or more units into a lesser
8 number of units, whether or not any part of a unit is converted into
9 common elements or common elements are converted units, the amendment
10 to the declaration must reallocate all of the allocated interests of
11 the units being combined into the unit or units created by the
12 combination in any reasonable manner prescribed by the declarant.

13 (6) A unit conveyed to a purchaser may not be withdrawn pursuant
14 to subsection (4)(a) or (b) of this section without the consent of
15 the unit owner of that unit and the holder of a security interest in
16 the unit.

17 NEW SECTION. **Sec. 212.** ALTERATIONS OF COMMON ELEMENTS AND
18 UNITS. Subject to the provisions of the governing documents and other
19 provisions of law, a unit owner:

20 (1) May make any improvements or alterations to the unit owner's
21 unit that do not impair the structural integrity or mechanical or
22 electrical systems or lessen the support of any portion of the common
23 interest community;

24 (2) May not change the appearance of the common elements without
25 approval of the board;

26 (3) After acquiring an adjoining unit or an adjoining part of an
27 adjoining unit, with approval of the board, may remove or alter any
28 intervening partition or create apertures in the unit or adjoining
29 unit, even if the partition in whole or in part is a common element.
30 The removal of partitions or creation of apertures under this
31 subsection is not an alteration of boundaries. The board must approve
32 a unit owner's request, which must include the plans and
33 specifications for the proposed removal or alteration, under this
34 subsection (3) after receipt of all required information unless the
35 proposed alteration does not comply with this section or the
36 governing documents; and

37 (4) May eliminate the title to a mobile home or manufactured home
38 within the unit as permitted under chapter 65.20 RCW without the
39 consent or joinder by the association, any other unit owner, or any

1 party having a security interest in any other unit or the common
2 elements.

3 NEW SECTION. **Sec. 213.** RELOCATION OF UNIT BOUNDARIES. (1)
4 Subject to the provisions of the declaration, section 212 of this
5 act, and other provisions of law, the boundaries between adjoining
6 units may be relocated upon application to the board by the unit
7 owners of those units and upon approval by the board pursuant to this
8 section. The application must include plans showing the relocated
9 boundaries and such other information as the board may require. If
10 the unit owners of the adjoining units have specified a reallocation
11 between their units of their allocated interests, the application
12 must state the proposed reallocations. Unless the board determines,
13 after receipt of all required information, that the reallocations are
14 unreasonable or that the proposed boundary relocation does not comply
15 with the declaration, section 212 of this act, or other provisions of
16 law, the board must approve the application and prepare any
17 amendments to the declaration and map in accordance with the
18 requirements of subsection (3) of this section.

19 (2)(a) Subject to the provisions of the declaration and other
20 provisions of law, boundaries between units and common elements may
21 be relocated to incorporate common elements within a unit by an
22 amendment to the declaration upon application to the association by
23 the unit owner of the unit who proposes to relocate a boundary. The
24 amendment may be approved only if the unit owner of the unit, the
25 boundary of which is being relocated, and, unless the declaration
26 provides otherwise, persons entitled to cast at least sixty-seven
27 percent of the votes in the association, including sixty-seven
28 percent of the votes allocated to units not owned by the declarant,
29 agree.

30 (b) The association may require payment to the association of a
31 one-time fee or charge or continuing fees or charges payable by the
32 unit owners of the units whose boundaries are being relocated to
33 include common elements.

34 (3)(a) The association must prepare any amendment to the
35 declaration in accordance with the requirements of section 206 of
36 this act and any amendment to the map in accordance with the
37 requirements of section 210 of this act necessary to show or describe
38 the altered boundaries of affected units and their dimensions and
39 identifying numbers.

1 (b) The amendment to the declaration must be executed by the unit
2 owner of the unit, the boundaries of which are being relocated, and
3 by the association, contain words of conveyance between them, and be
4 recorded in the names of the unit owner or owners and the
5 association, as grantor or grantee, as appropriate and as required
6 under section 218(3) of this act. The amendments are effective upon
7 recording.

8 (4) All costs, including reasonable attorneys' fees, incurred by
9 the association for preparing and recording amendments to the
10 declaration and map under this section must be assessed to the unit,
11 the boundaries of which are being relocated.

12 NEW SECTION. **Sec. 214.** SUBDIVISION AND COMBINATION OF UNITS.

13 (1) Unless prohibited in the declaration, subject to the provisions
14 of the declaration, section 212 of this act, and other provisions of
15 law, a unit may be subdivided into two or more units upon application
16 to the association by the unit owner of the unit and upon approval by
17 the board pursuant to this section. The application must include
18 plans showing the relocated boundaries, a reallocation of all the
19 allocated interests of the units among the units created by the
20 subdivision, and such other information as the board may require.
21 Unless the board determines, after receipt of all required
22 information, that the reallocations are unreasonable or that the
23 proposed boundary relocation does not comply with the declaration,
24 sections 209 and 212 of this act, or other provisions of law, the
25 board must approve the application and prepare any amendments to the
26 declaration and map in accordance with the requirements of subsection
27 (4) of this section.

28 (2) Unless prohibited in the declaration, subject to the
29 provisions of the declaration, section 212 of this act, and other
30 provisions of law, two or more units may be combined into a lesser
31 number of units upon application to the association by the owners of
32 those units and upon approval by the board pursuant to this section.
33 The application must include plans showing the relocated boundaries,
34 a reallocation of all the allocated interests of the units being
35 combined among the units resulting from the combination, and such
36 other information as the board may require. Unless the board
37 determines, after receipt of all required information, that the
38 reallocations are unreasonable or that the proposed boundary
39 relocation does not comply with the declaration, sections 209 and 212

1 of this act, or other provisions of law, the board shall approve the
2 application and prepare any amendments to the declaration and map in
3 accordance with the requirements of subsection (4) of this section.

4 (3) The association may require payment to the association of a
5 one-time fee or charge or continuing fees or charges payable by the
6 owners of the units whose boundaries are being relocated to include
7 common elements.

8 (4) The association must prepare, execute, and record any
9 amendments to the declaration and, in a condominium, cooperative, or
10 miscellaneous community, the map, prepared in accordance with the
11 requirements of sections 210 and 218(3) of this act, subdividing or
12 combining those units. The amendment to the declaration must be
13 executed by the association and unit owner or owners of the units
14 from which the subdivided or combined unit or units are derived,
15 assign an identifying number to each resulting unit, and reallocate
16 the allocated interests formerly allocated to the unit from which a
17 combination was derived to the new unit or, if two or more units are
18 derived from such combination, among the new units in any reasonable
19 manner prescribed by such owners in the amendment or on any other
20 basis the declaration requires. The amendments are effective upon
21 recording.

22 (5) All costs, including reasonable attorneys' fees, incurred by
23 the association for preparing and recording amendments to the
24 declaration and map under this section must be assessed to the unit,
25 the boundaries of which are being relocated.

26 (6) This section does not apply to the declarant's exercise of
27 any development right to subdivide or combine a unit previously
28 created.

29 NEW SECTION. **Sec. 215.** MONUMENTS AS BOUNDARIES. (1) The
30 physical boundaries of a unit located in a building containing or
31 comprising that unit constructed or reconstructed in substantial
32 accordance with the map, or amendment to the map, are its boundaries
33 rather than any boundaries shown on the map, regardless of settling
34 or lateral movement of the unit or of any building containing or
35 comprising the unit, or of any minor variance between boundaries of
36 the unit or any building containing or comprising the unit shown on
37 the map.

1 (2) This section does not relieve a unit owner from liability in
2 case of the unit owner's willful misconduct or relieve a declarant or
3 any other person from liability for failure to adhere to the map.

4 NEW SECTION. **Sec. 216.** USE FOR SALES PURPOSES. (1) A declarant
5 may maintain sales offices, management offices, and models in units
6 or on common elements in the common interest community only if the
7 declaration so provides. In a cooperative or condominium, any sales
8 office, management office, or model not designated a unit by the
9 declaration is a common element.

10 (2) When a declarant no longer owns a unit or has the right to
11 create a unit in the common interest community, the declarant ceases
12 to have any rights under this section unless the unit is removed
13 promptly from the common interest community in accordance with a
14 right to remove reserved in the declaration.

15 (3) Subject to any limitations in the declaration, a declarant
16 may maintain signs in or on units owned by the declarant or the
17 common elements advertising the common interest community.

18 (4) This section is subject to the provisions of other state law
19 and local ordinances.

20 NEW SECTION. **Sec. 217.** EASEMENT AND USE RIGHTS. (1) Subject to
21 the declaration, a declarant has an easement through the common
22 elements as may be reasonably necessary for the purpose of
23 discharging the declarant's obligations or exercising special
24 declarant rights, whether arising under this chapter or reserved in
25 the declaration.

26 (2) Subject to sections 302(2)(f) and 314 of this act, the unit
27 owners have an easement in the common elements for access to their
28 units.

29 (3) Subject to the declaration and rules, the unit owners have a
30 right to use the common elements that are not limited common elements
31 for the purposes for which the common elements were intended.

32 NEW SECTION. **Sec. 218.** AMENDMENT OF DECLARATION. (1)(a) Except
33 in cases of amendments that may be executed by: A declarant under
34 subsection (10) of this section, sections 209(2), 210(12), 211, or
35 304(2)(d) of this act; the association under section 106, 207(5),
36 209(3), 213(1), or 214 of this act or subsection (11) of this
37 section; or certain unit owners under section 209(2), 213(1), 214(2),

1 or 219(2) of this act, and except as limited by subsections (4), (6),
2 (7), (8), and (12) of this section, the declaration may be amended
3 only by vote or agreement of unit owners of units to which at least
4 sixty-seven percent of the votes in the association are allocated,
5 unless the declaration specifies a different percentage not to exceed
6 ninety percent for all amendments or for specific subjects of
7 amendment. For purposes of this section, "amendment" includes adding,
8 removing, or modifying restrictions contained in a declaration.

9 (b) If the declaration requires the approval of another person as
10 a condition of its effectiveness, the amendment is not valid without
11 that approval; however, any right of approval may not result in an
12 expansion of special declarant rights reserved in the declaration or
13 violate any other section of this chapter, including sections 103,
14 111, 112, and 113 of this act.

15 (2) In the absence of fraud, any action to challenge the validity
16 of an amendment adopted by the association may not be brought more
17 than one year after the amendment is recorded.

18 (3) Every amendment to the declaration must be recorded in every
19 county in which any portion of the common interest community is
20 located and is effective only upon recordation. An amendment, except
21 an amendment pursuant to section 213(1) of this act, must be indexed
22 in the grantee's index in the name of the common interest community
23 and the association and in the grantor's index in the name of the
24 parties executing the amendment.

25 (4) Except to the extent expressly permitted or required under
26 this chapter, an amendment may not create or increase special
27 declarant rights, increase the number of units, change the boundaries
28 of any unit, or change the allocated interests of a unit without the
29 consent of unit owners to which at least ninety percent of the votes
30 in the association are allocated, including the consent of any unit
31 owner of a unit, the boundaries of which or allocated interest of
32 which is changed by the amendment.

33 (5) Amendments to the declaration required to be executed by the
34 association must be executed by any authorized officer of the
35 association who must certify in the amendment that it was properly
36 adopted.

37 (6) The declaration may require a higher percentage of unit owner
38 approval for an amendment that is intended to prohibit or materially
39 restrict the uses of units permitted under the applicable zoning
40 ordinances, or to protect the interests of members of a defined class

1 of owners, or to protect other legitimate interests of the
2 association or its members. Subject to subsection (13) of this
3 section, a declaration may not require, as a condition for amendment,
4 approval by more than ninety percent of the votes in the association
5 or by all but one unit owner, whichever is less. An amendment
6 approved under this subsection must provide reasonable protection for
7 a use permitted at the time the amendment was adopted.

8 (7) The time limits specified in the declaration pursuant to
9 section 206(1) (g) and (h) of this act within which reserved
10 development rights must be exercised may be extended, and additional
11 development rights may be created, if persons entitled to cast at
12 least eighty percent of the votes in the association, including
13 eighty percent of the votes allocated to units not owned by the
14 declarant, agree to that action. The agreement is effective thirty
15 days after an amendment to the declaration reflecting the terms of
16 the agreement is recorded unless all the persons holding the affected
17 special declarant rights, or security interests in those rights,
18 record a written objection within the thirty-day period, in which
19 case the amendment is void, or consent in writing at the time the
20 amendment is recorded, in which case the amendment is effective when
21 recorded.

22 (8) A provision in the declaration creating special declarant
23 rights that have not expired may not be amended without the consent
24 of the declarant.

25 (9) If any provision of this chapter or the declaration requires
26 the consent of a holder of a security interest in a unit as a
27 condition to the effectiveness of an amendment to the declaration,
28 the consent is deemed granted if a refusal to consent in a record is
29 not received by the association within sixty days after the
30 association delivers notice of the proposed amendment to the holder
31 at an address for notice provided by the holder or mails the notice
32 to the holder by certified mail, return receipt requested, at that
33 address. If the holder has not provided an address for notice to the
34 association, the association must provide notice to the address in
35 the security interest of record.

36 (10) Upon thirty-day advance notice to unit owners, the declarant
37 may, without a vote of the unit owners or approval by the board,
38 unilaterally adopt, execute, and record a corrective amendment or
39 supplement to the governing documents to correct a mathematical
40 mistake, an inconsistency, or a scrivener's error, or clarify an

1 ambiguity in the governing documents with respect to an objectively
2 verifiable fact including, without limitation, recalculating the
3 undivided interest in the common elements, the liability for common
4 expenses, or the number of votes in the unit owners' association
5 appertaining to a unit, within five years after the recordation or
6 adoption of the governing document containing or creating the
7 mistake, inconsistency, error, or ambiguity. Any such amendment or
8 supplement may not materially reduce what the obligations of the
9 declarant would have been if the mistake, inconsistency, error, or
10 ambiguity had not occurred.

11 (11) Upon thirty-day advance notice to unit owners, the
12 association may, upon a vote of two-thirds of the members of the
13 board, without a vote of the unit owners, adopt, execute, and record
14 an amendment to the declaration for the following purposes:

15 (a) To correct or supplement the governing documents as provided
16 in subsection (10) of this section;

17 (b) To remove language and otherwise amend as necessary to effect
18 the removal of language purporting to forbid or restrict the
19 conveyance, encumbrance, occupancy, or lease to: Individuals of a
20 specified race, creed, color, sex, or national origin; individuals
21 with sensory, mental, or physical disabilities; and families with
22 children or any other legally protected classification;

23 (c) To remove language and otherwise amend as necessary to effect
24 the removal of language that purports to impose limitations on the
25 power of the association beyond the limit authorized in section
26 302(1)(u) of this act to deal with the declarant that are more
27 restrictive than the limitations imposed on the power of the
28 association to deal with other persons; and

29 (d) To remove any other language and otherwise amend as necessary
30 to effect the removal of language purporting to limit the rights of
31 the association or its unit owners in direct conflict with this
32 chapter.

33 (12) If the declaration requires that amendments to the
34 declaration may be adopted only if the amendment is signed by a
35 specified number or percentage of unit owners and if the common
36 interest community contains more than twenty units, such requirement
37 is deemed satisfied if the association obtains such signatures or the
38 vote or agreement of unit owners holding such number or percentage.

39 (13)(a) If the declaration requires that amendments to the
40 declaration may be adopted only by the vote or agreement of unit

1 owners of units to which more than sixty-seven percent of the votes
2 in the association are allocated, and the percentage required is
3 otherwise consistent with this chapter, the amendment is approved if:

4 (i) The approval of the percentage specified in the declaration
5 is obtained;

6 (ii)(A) Unit owners of units to which at least sixty-seven
7 percent of the votes in the association are allocated vote for or
8 agree to the proposed amendment;

9 (B) A unit owner does not vote against the proposed amendment;
10 and

11 (C) Notice of the proposed amendment, including notice that the
12 failure of a unit owner to object may result in the adoption of the
13 amendment, is delivered to the unit owners holding the votes in the
14 association that have not voted or agreed to the proposed amendment
15 and no written objection to the proposed amendment is received by the
16 association within sixty days after the association delivers notice;
17 or

18 (iii)(A) Unit owners of units to which at least sixty-seven
19 percent of the votes in the association are allocated vote for or
20 agree to the proposed amendment;

21 (B) At least one unit owner objects to the proposed amendment;
22 and

23 (C) Pursuant to an action brought by the association in the
24 county in which the common interest community is situated against all
25 objecting unit owners, the court finds, under the totality of
26 circumstances including, but not limited to, the subject matter of
27 the amendment, the purpose of the amendment, the percentage voting to
28 approve the amendment, and the percentage objecting to the amendment,
29 that the amendment is reasonable.

30 (b) If the declaration requires the affirmative vote or approval
31 of any particular unit owner or class of unit owners as a condition
32 of its effectiveness, the amendment is not valid without that vote or
33 approval.

34 NEW SECTION. **Sec. 219.** TERMINATION OF COMMON INTEREST
35 COMMUNITY. (1) Except for a taking of all the units by condemnation,
36 foreclosure against an entire cooperative of a security interest that
37 has priority over the declaration, or in the circumstances described
38 in section 226 of this act, a common interest community may be
39 terminated only by agreement of unit owners of units to which at

1 least eighty percent of the votes in the association are allocated,
2 or any larger percentage the declaration specifies, and with any
3 other approvals required by the declaration. The declaration may
4 specify a smaller percentage only if all of the units are restricted
5 exclusively to nonresidential uses.

6 (2) An agreement to terminate must be evidenced by the execution
7 of a termination agreement, or ratifications of the agreement, in the
8 same manner as a deed, by the requisite number of unit owners. The
9 termination agreement must specify a date after which the agreement
10 is void unless it is recorded before that date. A termination
11 agreement and all ratifications of the agreement must be recorded in
12 every county in which a portion of the common interest community is
13 situated and is effective only upon recordation. An agreement to
14 terminate may only be amended by complying with the requirements of
15 this subsection and subsection (1) of this section.

16 (3)(a) In the case of a condominium, plat community, or
17 miscellaneous community containing only units having horizontal
18 boundaries between units, a termination agreement may provide that
19 all of the common elements and units of the common interest community
20 must be sold following termination. If, pursuant to the agreement,
21 any real estate in the common interest community is to be sold
22 following termination, the termination agreement must set forth the
23 minimum purchase price, manner of payment, and outside closing date,
24 and may include any other terms of the sale.

25 (b) In the case of a condominium, plat community, or
26 miscellaneous community containing no units having horizontal
27 boundaries between units, a termination agreement may provide for
28 sale of the common elements that are not necessary for the
29 habitability of a unit, but it may not require that any unit be sold
30 following termination, unless the declaration as originally recorded
31 provided otherwise or all the unit owners consent to the sale. If,
32 pursuant to the agreement, any real estate in the common interest
33 community is to be sold following termination, the termination
34 agreement must set forth the minimum purchase price, manner of
35 payment, and outside closing date, and may include any other terms of
36 sale.

37 (c) In the case of a condominium, plat community, or
38 miscellaneous community containing some units having horizontal
39 boundaries between units and some units without horizontal boundaries
40 between units, a termination agreement may provide for sale of the

1 common elements that are not necessary for the habitability of a
2 unit, but it may not require that any unit be sold following
3 termination, unless the declaration as originally recorded provided
4 otherwise or all the unit owners of units in the building to be sold
5 consent to the sale. If, pursuant to the agreement, any real estate
6 in the common interest community is to be sold following termination,
7 the termination agreement must set forth the minimum purchase price,
8 manner of payment, and outside closing date, and may include any
9 other terms of sale.

10 (4)(a) The association, on behalf of the unit owners, may
11 contract for the sale of real estate in a common interest community,
12 but the contract is not binding on the unit owners until approved
13 pursuant to subsections (1) and (2) of this section. If any real
14 estate is to be sold following termination, title to that real
15 estate, upon termination, vests in the association as trustee for the
16 holders of all interests in the units. Thereafter, the association
17 has all powers necessary and appropriate to effect the sale. Until
18 the sale has been concluded and the proceeds of the sale distributed,
19 the association continues in existence with all powers it had before
20 termination.

21 (b) Proceeds of the sale must be distributed to unit owners and
22 lienholders as their interests may appear, in accordance with
23 subsections (6) and (8) of this section. Unless otherwise specified
24 in the termination agreement, as long as the association holds title
25 to the real estate, each unit owner and the unit owner's successors
26 in interest have an exclusive right to occupancy of the portion of
27 the real estate that formerly constituted the unit. During the period
28 of that occupancy, each unit owner and the unit owner's successors in
29 interest remain liable for all assessments and other obligations
30 imposed on unit owners under this chapter or the declaration.

31 (5) In a condominium, plat community, or miscellaneous community,
32 if any portion of the real estate constituting the common interest
33 community is not to be sold following termination, title to those
34 portions of the real estate constituting the common elements and, in
35 a common interest community containing units having horizontal
36 boundaries between units described in the declaration, title to all
37 the real estate containing such boundaries in the common interest
38 community vests in the unit owners upon termination as tenants in
39 common in proportion to their respective interests as provided in
40 subsection (8) of this section, and liens on the units shift

1 accordingly. While the tenancy in common exists, each unit owner and
2 the unit owner's successors in interest have an exclusive right to
3 occupancy of the portion of the real estate that formerly constituted
4 the unit.

5 (6)(a) Following termination of the common interest community,
6 the proceeds of a sale of real estate, together with the assets of
7 the association, are held by the association as trustee for unit
8 owners and holders of liens on the units as their interests may
9 appear.

10 (b) Following termination of a condominium, plat community, or
11 miscellaneous community, creditors of the association holding liens
12 on the units that were recorded or perfected under RCW 4.64.020
13 before termination may enforce those liens in the same manner as any
14 lienholder.

15 (c) All other creditors of the association are to be treated as
16 if they had perfected liens on the units immediately before
17 termination.

18 (7) In a cooperative, the declaration may provide that all
19 creditors of the association have priority over any interests of unit
20 owners and creditors of unit owners. In that event, following
21 termination, creditors of the association holding liens on the
22 cooperative that were recorded or perfected under RCW 4.64.020 before
23 termination may enforce their liens in the same manner as any
24 lienholder, and any other creditor of the association is to be
25 treated as if the creditor had perfected a lien against the
26 cooperative immediately before termination. Unless the declaration
27 provides that all creditors of the association have that priority:

28 (a) The lien of each creditor of the association that was
29 perfected against the association before termination becomes, upon
30 termination, a lien against each unit owner's interest in the unit as
31 of the date the lien was perfected;

32 (b) Any other creditor of the association must be treated, upon
33 termination, as if the creditor had perfected a lien against each
34 unit owner's interest immediately before termination;

35 (c) The amount of the lien of an association's creditor described
36 in (a) and (b) of this subsection against each of the unit owners'
37 interest must be proportionate to the ratio that each unit's common
38 expense liability bears to the common expense liability of all of the
39 units;

1 (d) The lien of each creditor of each unit owner that was
2 perfected before termination continues as a lien against that unit
3 owner's unit as of the date the lien was perfected;

4 (e) The assets of the association must be distributed to all unit
5 owners and all lienholders as their interests may appear in the order
6 described in this subsection; and

7 (f) Creditors of the association are not entitled to payment from
8 any unit owner in excess of the amount of the creditor's lien against
9 that unit owner's interest.

10 (8) The respective interests of unit owners referred to in
11 subsections (4), (5), (6)(a), and (7)(e) of this section are as
12 follows:

13 (a) Except as otherwise provided in (b) of this subsection, the
14 respective interests of unit owners are the fair market values of
15 their units, allocated interests, and any limited common elements
16 immediately before the termination, as determined by one or more
17 independent appraisers selected by the association. The decision of
18 the independent appraisers must be distributed to the unit owners and
19 becomes final unless disapproved within thirty days after
20 distribution by unit owners of units to which twenty-five percent of
21 the votes in the association are allocated. The proportion of any
22 unit owner's interest to that of all unit owners is determined by
23 dividing the fair market value of that unit owner's unit and its
24 allocated interests by the total fair market values of all the units
25 and their allocated interests.

26 (b) If any unit or any limited common element is destroyed to the
27 extent that an appraisal of the fair market value of the unit or
28 limited common element before destruction cannot be made, the
29 interests of all unit owners are:

30 (i) In a condominium, their respective common element interests
31 immediately before the termination;

32 (ii) In a cooperative, their respective ownership interests
33 immediately before the termination; and

34 (iii) In a plat community or miscellaneous community, their
35 respective common expense liabilities immediately before the
36 termination.

37 (9) In a condominium, plat community, or miscellaneous community,
38 except as otherwise provided in subsection (10) of this section,
39 foreclosure or enforcement of a lien or encumbrance against the
40 entire common interest community does not terminate the common

1 interest community, and foreclosure or enforcement of a lien or
2 encumbrance against a portion of the common interest community, other
3 than withdrawable real estate, does not withdraw that portion from
4 the common interest community. Foreclosure or enforcement of a lien
5 or encumbrance against withdrawable real estate, or against common
6 elements that have been subjected to a security interest by the
7 association under section 314 of this act, does not withdraw that
8 real estate from the common interest community, but the person taking
9 title to the real estate may require from the association, upon
10 request, an amendment excluding the real estate from the common
11 interest community.

12 (10) In a condominium, plat community, or miscellaneous
13 community, if a lien or encumbrance against a portion of the real
14 estate comprising the common interest community has priority over the
15 declaration and the lien or encumbrance has not been partially
16 released, the parties foreclosing the lien or encumbrance, upon
17 foreclosure, may record an instrument excluding the real estate
18 subject to that lien or encumbrance from the common interest
19 community.

20 (11) The right of partition under chapter 7.52 RCW is suspended
21 if an agreement to sell property is provided for in the termination
22 agreement pursuant to subsection (3)(a), (b), or (c) of this section.
23 The suspension of the right to partition continues unless a binding
24 obligation to sell does not exist three months after the recording of
25 the termination agreement, the binding sale agreement is terminated,
26 or one year after the termination agreement is recorded, whichever
27 occurs first.

28 NEW SECTION. **Sec. 220.** RIGHTS OF SECURED LENDERS. (1) The
29 declaration may require that all or a specified number or percentage
30 of the lenders who hold security interests encumbering the units or
31 who have extended credit to the association approve specified actions
32 of the unit owners or the association as a condition to the
33 effectiveness of those actions, but any requirement for approval may
34 not operate to:

35 (a) Deny or delegate control over the general administrative
36 affairs of the association by the unit owners or the board;

37 (b) Prevent the association or the board from commencing,
38 intervening in, or settling any litigation or proceeding; or

1 (c) Prevent any insurance trustee or the association from
2 receiving and distributing any insurance proceeds except pursuant to
3 section 315 of this act.

4 (2) With respect to any action requiring the consent of a
5 specified number or percentage of mortgagees, the consent of only
6 eligible mortgagees holding a first lien security interest need be
7 obtained and the percentage must be based upon the votes attributable
8 to units with respect to which eligible mortgagees have an interest.

9 (3) A lender who has extended credit to an association secured by
10 an assignment of income or an encumbrance on the common elements may
11 enforce its security agreement in accordance with its terms, subject
12 to the requirements of this chapter and other law. A requirement that
13 the association must deposit its periodic common charges before
14 default with the lender to which the association's income has been
15 assigned, or increase its common charges at the lender's direction by
16 amounts reasonably necessary to amortize the loan in accordance with
17 its terms, does not violate the prohibitions on lender approval
18 contained in subsection (1) of this section.

19 NEW SECTION. **Sec. 221.** MASTER ASSOCIATIONS. (1) If the
20 declaration provides that any of the powers described in section 302
21 of this act are to be exercised by or may be delegated to a for-
22 profit or nonprofit corporation or limited liability company that
23 exercises those or other powers on behalf of one or more common
24 interest communities or for the benefit of the unit owners of one or
25 more common interest communities, all provisions of this chapter
26 applicable to unit owners associations apply to any such corporation
27 or limited liability company, except as modified by this section.

28 (2) Unless it is acting in the capacity of an association
29 described in section 301 of this act, a master association may
30 exercise the powers set forth in section 302(1)(b) of this act only
31 to the extent expressly permitted in the declarations of common
32 interest communities that are part of the master association or
33 expressly described in the delegations of power from those common
34 interest communities to the master association.

35 (3) If the declaration of any common interest community provides
36 that the board may delegate certain powers to a master association,
37 the board is not liable for the acts or omissions of the master
38 association with respect to those powers following delegation.

1 (4) The rights and responsibilities of unit owners with respect
2 to the unit owners' association set forth in sections 303, 310, 311,
3 312, 314, and 322 of this act apply in the conduct of the affairs of
4 a master association only to persons who elect the board of a master
5 association, whether or not those persons are otherwise unit owners
6 within the meaning of this chapter.

7 (5) If a master association is also an association described in
8 section 301 of this act, the organizational documents of the master
9 association and the declaration of each common interest community,
10 the powers of which are assigned by the declaration or delegated to
11 the master association, may provide that the board of the master
12 association must be elected after the period of declarant control in
13 any of the following ways:

14 (a) All unit owners of all common interest communities subject to
15 the master association may elect all members of the master
16 association's board;

17 (b) All board members of all common interest communities subject
18 to the master association may elect all members of the master
19 association's board;

20 (c) All unit owners of each common interest community subject to
21 the master association may elect specified members of the master
22 association's board; or

23 (d) All board members of each common interest community subject
24 to the master association may elect specified members of the master
25 association's board.

26 NEW SECTION. **Sec. 222.** DELEGATION OF POWER TO SUBASSOCIATIONS.

27 (1)(a) If the declaration provides that any of the powers described
28 in section 302 of this act are to be exercised by or may be delegated
29 to a for-profit corporation or limited liability company that
30 exercises those or other powers on behalf of unit owners owning less
31 than all of the units in a common interest community, and if those
32 unit owners share the exclusive use of one or more limited common
33 elements within the common interest community or share some property
34 or other interest in the common interest community in common that is
35 not shared by the remainder of the unit owners in the common interest
36 community, all provisions of this chapter applicable to unit owners
37 associations apply to any such corporation or limited liability
38 company, except as modified under this section.

1 (b) The delegation of powers to a subassociation must not be used
2 to discriminate in favor of units owned by the declarant or an
3 affiliate of the declarant.

4 (2) A subassociation may exercise the powers set forth in section
5 302 of this act only to the extent expressly permitted by the
6 declaration of the common interest community of which the units in
7 the subassociation are a part of or expressly described in the
8 delegations of power from that common interest community to the
9 subassociation.

10 (3) If the declaration of any common interest community contains
11 a delegation of certain powers to a subassociation, or provides that
12 the board of the common interest community may make such a
13 delegation, the board members are not liable for the acts or
14 omissions of the subassociation with respect to those powers so
15 exercised by the subassociation following delegation.

16 (4) The rights and responsibilities of unit owners with respect
17 to the unit owners association set forth in sections 301 through 321
18 of this act apply to the conduct of the affairs of a subassociation.

19 (5) The board of the subassociation must be elected after the
20 period of declarant control by the unit owners of all of the units in
21 the common interest community subject to the subassociation.

22 (6) The declaration of the common interest community creating the
23 subassociation may provide that the authority of the board of the
24 subassociation is exclusive with regard to the powers and
25 responsibilities delegated to it. In the alternative, the declaration
26 may provide as to some or all such powers that the authority of the
27 board of a subassociation is concurrent with and subject to the
28 authority of the board of the unit owners association, in which case
29 the declaration must also contain standards and procedures for the
30 review of the decisions of the board of the subassociation and
31 procedures for resolving any dispute between the board of the unit
32 owners association and the board of the subassociation.

33 NEW SECTION. **Sec. 223.** MERGER OR CONSOLIDATION OF COMMON
34 INTEREST COMMUNITIES. (1) Any two or more common interest communities
35 of the same form of ownership, by agreement of the unit owners as
36 provided in subsection (2) of this section, may be merged or
37 consolidated into a single common interest community. In the event of
38 a merger or consolidation, unless the agreement otherwise provides,
39 the resultant common interest community is the legal successor, for

1 all purposes, of all of the preexisting common interest communities,
2 and the operations and activities of all associations of the
3 preexisting common interest communities are merged or consolidated
4 into a single association that holds all powers, rights, obligations,
5 assets, and liabilities of all preexisting associations.

6 (2) An agreement of two or more common interest communities to
7 merge or consolidate pursuant to subsection (1) of this section must
8 be evidenced by an agreement prepared, executed, recorded, and
9 certified by the president of the association of each of the
10 preexisting common interest communities following approval by unit
11 owners of units to which are allocated the percentage of votes in
12 each common interest community required to terminate that common
13 interest community. The agreement must be recorded in every county in
14 which a portion of the common interest community is located and is
15 not effective until recorded.

16 (3) Every merger or consolidation agreement, and every amendment
17 providing for a merger or consolidation made by a declarant when
18 exercising a special declarant right, must identify the declaration
19 that will apply to the resultant common interest community and
20 provide for the reallocation of allocated interests among the units
21 of the resultant common interest community either (a) by stating the
22 reallocations or the formulas upon which they are based or (b) by
23 stating the percentage of overall allocated interests of the
24 resultant common interest community that are allocated to all of the
25 units comprising each of the preexisting common interest communities,
26 and providing that the portion of the percentages allocated to each
27 unit formerly comprising a part of the preexisting common interest
28 community is equal to the percentages of allocated interests
29 allocated to that unit by the declaration of the preexisting common
30 interest community.

31 NEW SECTION. **Sec. 224.** ADDITION OF UNSPECIFIED REAL ESTATE. In
32 a plat community or miscellaneous community, if the right is
33 originally reserved in the declaration, the declarant, in addition to
34 any other development right, may amend the declaration at any time
35 during as many years as are specified in the declaration for adding
36 additional real estate to the plat community or miscellaneous
37 community without describing the location of that real estate in the
38 original declaration. The amount of real estate added to the plat
39 community or miscellaneous community pursuant to this section may not

1 exceed ten percent of the real estate described in section 206(1)(b)
2 of this act together with any real estate that is described in the
3 declaration for addition to the plat community or miscellaneous
4 community, and the declarant may not increase the number of units in
5 the plat community or miscellaneous community beyond the number
6 stated in the original declaration pursuant to section 206(1)(c) of
7 this act.

8 NEW SECTION. **Sec. 225.** LARGE SCALE COMMUNITIES. (1) The
9 declaration for a common interest community may state that it is a
10 large scale community if the declarant has reserved the development
11 right to create at least five hundred units that may be used for
12 residential purposes and, at the time of the reservation, that
13 declarant owns or controls more than five hundred acres on which the
14 units may be built.

15 (2) If the requirements of subsection (1) of this section are
16 satisfied, the declaration for the large scale community need not
17 state a maximum number of units and need not contain any of the
18 information required under section 206(1) (c) through (n) of this act
19 until the declaration is amended under subsection (3) of this
20 section.

21 (3) When each unit in a large scale community is conveyed to a
22 purchaser, the declaration must contain:

23 (a) A sufficient legal description of the unit and all portions
24 of the large scale community in which any other units have been
25 conveyed to a purchaser; and

26 (b) All the information required under section 206(1) (c) through
27 (n) of this act with respect to that real estate.

28 (4) The only real estate in a large scale community subject to
29 this chapter are units that have been made subject to the declaration
30 or that are being offered for sale and any other real estate
31 described pursuant to subsection (3) of this section. Other real
32 estate that is or may become part of the large scale community is
33 only subject to other law and to any other restrictions and
34 limitations that appear of record.

35 (5) If the public offering statement conspicuously identifies the
36 fact that the community is a large scale community, the disclosure
37 requirements contained in sections 401 through 420 of this act apply
38 only to units that have been made subject to the declaration or are
39 being offered for sale in connection with the public offering

1 statement and to any other real estate described pursuant to
2 subsection (3) of this section.

3 (6) Limitations in this chapter on the addition of unspecified
4 real estate do not apply to a large scale community.

5 (7) The period of declarant control of the association for a
6 large scale community terminates in accordance with any conditions
7 specified in the declaration or otherwise at the time the declarant,
8 in a recorded instrument and after giving notice in a record to the
9 board of the association, voluntarily surrenders all rights to
10 control the activities of the association.

11 NEW SECTION. **Sec. 226.** JUDICIAL TERMINATION. (1) If
12 substantially all the units in a common interest community have been
13 destroyed or abandoned or are uninhabitable and the available methods
14 for giving notice under section 324 of this act of a meeting of unit
15 owners to consider termination under section 219 of this act will not
16 likely result in receipt of the notice, the board or any other
17 interested person may commence an action seeking to terminate the
18 common interest community in the superior court for any county in
19 which a portion of the common interest community is located. If any
20 portion of the common interest community is located in a county other
21 than the county in which the action is commenced, the person
22 commencing the action must record a copy of the judgment in the other
23 county.

24 (2) During the pendency of the action, the court may issue
25 whatever orders it considers appropriate, including appointment of a
26 receiver. After a hearing, the court may terminate the common
27 interest community or reduce its size and may issue any other order
28 the court considers to be in the best interest of the unit owners and
29 persons holding an interest in the common interest community.

30 **III. MANAGEMENT OF THE COMMON INTEREST COMMUNITY**

31 NEW SECTION. **Sec. 301.** ORGANIZATION OF UNIT OWNERS ASSOCIATION.

32 (1) A unit owners association must be organized no later than the
33 date the first unit in the common interest community is conveyed to a
34 purchaser.

35 (2) The membership of the association at all times consists
36 exclusively of all unit owners or, following termination of the
37 common interest community, of all former unit owners entitled to

1 distributions of proceeds under section 219 of this act or their
2 heirs, successors, or assigns.

3 (3) The association must have a board and be organized as a for-
4 profit or nonprofit corporation or limited liability company.

5 (4) In case of any conflict between Title 23B RCW or chapter
6 23.86, 24.03, 24.06, or 25.15 RCW and this chapter, this chapter
7 controls.

8 NEW SECTION. **Sec. 302.** POWERS AND DUTIES OF UNIT OWNERS
9 ASSOCIATION. (1) An association must:

- 10 (a) Adopt organizational documents;
- 11 (b) Adopt budgets as provided in section 326 of this act;
- 12 (c) Impose assessments for common expenses and specially
13 allocated expenses on the unit owners as provided in section 326 of
14 this act;
- 15 (d) Prepare financial statements as provided in section 327 of
16 this act; and
- 17 (e) Deposit and maintain the funds of the association in accounts
18 as provided in section 327 of this act.

19 (2) Except as provided otherwise in subsection (4) of this
20 section and subject to the provisions of the declaration, the
21 association may:

- 22 (a) Amend organizational documents and adopt and amend rules;
- 23 (b) Amend budgets under section 326 of this act;
- 24 (c) Hire and discharge managing agents and other employees,
25 agents, and independent contractors;
- 26 (d) Institute, defend, or intervene in litigation or in
27 arbitration, mediation, or administrative proceedings or any other
28 legal proceeding in its own name on behalf of itself or two or more
29 unit owners on matters affecting the common interest community;
- 30 (e) Make contracts and incur liabilities subject to subsection
31 (4) of this section;
- 32 (f) Regulate the use, maintenance, repair, replacement, and
33 modification of common elements;
- 34 (g) Cause additional improvements to be made as a part of the
35 common elements;
- 36 (h) Acquire, hold, encumber, and convey in its own name any
37 right, title, or interest to real estate or personal property, but:

1 (i) Common elements in a condominium, plat community, or
2 miscellaneous community may be conveyed or subjected to a security
3 interest pursuant to section 314 of this act only; and
4 (ii) Part of a cooperative may be conveyed, or all or part of a
5 cooperative may be subjected to a security interest pursuant to
6 section 314 of this act only;
7 (i) Grant easements, leases, licenses, and concessions through or
8 over the common elements and petition for or consent to the vacation
9 of streets and alleys;
10 (j) Impose and collect any reasonable payments, fees, or charges
11 for:
12 (i) The use, rental, or operation of the common elements, other
13 than limited common elements described in section 203 (1)(b) and (3)
14 of this act;
15 (ii) Services provided to unit owners; and
16 (iii) Moving in, moving out, or transferring title to units to
17 the extent provided for in the declaration;
18 (k) Collect assessments and impose and collect reasonable charges
19 for late payment of assessments;
20 (l) Enforce the governing documents and, after notice and
21 opportunity to be heard, impose and collect reasonable fines for
22 violations of the governing documents in accordance with a previously
23 established schedule of fines adopted by the board of directors and
24 furnished to the owners;
25 (m) Impose and collect reasonable charges for the preparation and
26 recordation of amendments to the declaration, resale certificates
27 required under section 409 of this act, lender questionnaires, or
28 statements of unpaid assessments;
29 (n) Provide for the indemnification of its officers and board
30 members, to the extent provided in RCW 23B.17.030;
31 (o) Maintain directors' and officers' liability insurance;
32 (p) Subject to subsection (4) of this section, assign its right
33 to future income, including the right to receive assessments;
34 (q) Join in a petition for the establishment of a parking and
35 business improvement area, participate in the ratepayers' board or
36 other advisory body set up by the legislative authority for operation
37 of a parking and business improvement area, and pay special
38 assessments levied by the legislative authority on a parking and
39 business improvement area encompassing the condominium property for

1 activities and projects that benefit the condominium directly or
2 indirectly;

3 (r) Establish and administer a reserve account as described in
4 section 328 of this act;

5 (s) Prepare a reserve study as described in section 330 of this
6 act;

7 (t) Exercise any other powers conferred by the declaration or
8 organizational documents;

9 (u) Exercise all other powers that may be exercised in this state
10 by the same type of entity as the association;

11 (v) Exercise any other powers necessary and proper for the
12 governance and operation of the association;

13 (w) Require that disputes between the association and unit owners
14 or between two or more unit owners regarding the common interest
15 community, other than those governed by chapter 64.50 RCW, be
16 submitted to nonbinding alternative dispute resolution as a
17 prerequisite to commencement of a judicial proceeding; and

18 (x) Suspend any right or privilege of a unit owner who fails to
19 pay an assessment, but may not:

20 (i) Deny a unit owner or other occupant access to the owner's
21 unit;

22 (ii) Suspend a unit owner's right to vote; or

23 (iii) Withhold services provided to a unit or a unit owner by the
24 association if the effect of withholding the service would be to
25 endanger the health, safety, or property of any person.

26 (3) The declaration may not limit the power of the association
27 beyond the limit authorized in subsection (2)(v) of this section to:

28 (a) Deal with the declarant if the limit is more restrictive than
29 the limit imposed on the power of the association to deal with other
30 persons; or

31 (b) Institute litigation or an arbitration, mediation, or
32 administrative proceeding against any person, subject to the
33 following:

34 (i) The association must comply with chapter 64.50 RCW, if
35 applicable, before instituting any proceeding described in chapter
36 64.50 RCW in connection with construction defects; and

37 (ii) The board must promptly provide notice to the unit owners of
38 any legal proceeding in which the association is a party other than
39 proceedings involving enforcement of rules or to recover unpaid
40 assessments or other sums due the association.

1 (4) Any borrowing by an association that is to be secured by an
2 assignment of the association's right to receive future income
3 pursuant to subsection (2)(e) and (p) of this section requires
4 ratification by the unit owners as provided in this subsection.

5 (a) The board must provide notice of the intent to borrow to all
6 unit owners. The notice must include the purpose and maximum amount
7 of the loan, the estimated amount and term of any assessments
8 required to repay the loan, a reasonably detailed projection of how
9 the money will be expended, and the interest rate and term of the
10 loan.

11 (b) In the notice, the board must set a date for a meeting of the
12 unit owners, which must not be less than fourteen and no more than
13 sixty days after mailing of the notice, to consider ratification of
14 the borrowing.

15 (c) Unless at that meeting, whether or not a quorum is present,
16 unit owners holding a majority of the votes in the association or any
17 larger percentage specified in the declaration reject the proposal to
18 borrow funds, the association may proceed to borrow the funds in
19 substantial accordance with the terms contained in the notice.

20 (5) If a tenant of a unit owner violates the governing documents,
21 in addition to exercising any of its powers against the unit owner,
22 the association may:

23 (a) Exercise directly against the tenant the powers described in
24 subsection (2)(1) of this section;

25 (b) After giving notice to the tenant and the unit owner and an
26 opportunity to be heard, levy reasonable fines against the tenant and
27 unit owner for the violation; and

28 (c) Enforce any other rights against the tenant for the violation
29 that the unit owner as the landlord could lawfully have exercised
30 under the lease or that the association could lawfully have exercised
31 directly against the unit owner, or both; but the association does
32 not have the right to terminate a lease or evict a tenant unless
33 permitted by the declaration. The rights referred to in this
34 subsection (5)(c) may be exercised only if the tenant or unit owner
35 fails to cure the violation within ten days after the association
36 notifies the tenant and unit owner of that violation.

37 (6) Unless a lease otherwise provides, this section does not:

38 (a) Affect rights that the unit owner has to enforce the lease or
39 that the association has under other law; or

1 (b) Permit the association to enforce a lease to which it is not
2 a party in the absence of a violation of the governing documents.

3 (7) The board may determine whether to take enforcement action by
4 exercising the association's power to impose sanctions or commencing
5 an action for a violation of the governing documents, including
6 whether to compromise any claim for unpaid assessments or other claim
7 made by or against it.

8 (8) The board does not have a duty to take enforcement action if
9 it determines that, under the facts and circumstances presented:

10 (a) The association's legal position does not justify taking any
11 or further enforcement action;

12 (b) The covenant, restriction, or rule being enforced is, or is
13 likely to be construed as, inconsistent with law;

14 (c) Although a violation may exist or may have occurred, it is
15 not so material as to be objectionable to a reasonable person or to
16 justify expending the association's resources; or

17 (d) It is not in the association's best interests to pursue an
18 enforcement action.

19 (9) The board's decision under subsections (7) and (8) of this
20 section to not pursue enforcement under one set of circumstances does
21 not prevent the board from taking enforcement action under another
22 set of circumstances, but the board may not be arbitrary or
23 capricious in taking enforcement action.

24 NEW SECTION. **Sec. 303.** BOARD MEMBERS, OFFICERS, AND COMMITTEES.

25 (1)(a) Except as provided otherwise in the governing documents,
26 subsection (4) of this section, or other provisions of this chapter,
27 the board may act on behalf of the association.

28 (b) In the performance of their duties, officers and board
29 members must exercise the degree of care and loyalty to the
30 association required of an officer or director of a corporation
31 organized, and are subject to the conflict of interest rules
32 governing directors and officers, under chapter 24.06 RCW. The
33 standards of care and loyalty described in this section apply
34 regardless of the form in which the association is organized.

35 (2)(a) Except as provided otherwise in section 221(5) of this
36 act, effective as of the transition meeting held in accordance with
37 section 304(4) of this act, the board must be comprised of at least
38 three members, at least a majority of whom must be unit owners.

1 However, the number of board members need not exceed the number of
2 units then in the common interest community.

3 (b) Unless the declaration or organizational documents provide
4 for the election of officers by the unit owners, the board must elect
5 the officers.

6 (c) Unless provided otherwise in the declaration or
7 organizational documents, board members and officers must take office
8 upon adjournment of the meeting at which they were elected or
9 appointed or, if not elected or appointed at a meeting, at the time
10 of such election or appointment, and must serve until their successor
11 takes office.

12 (d) In determining the qualifications of any officer or board
13 member of the association, "unit owner" includes, unless the
14 declaration or organizational documents provide otherwise, any board
15 member, officer, member, partner, or trustee of any person, who is,
16 either alone or in conjunction with another person or persons, a unit
17 owner.

18 (e) Any officer or board member of the association who would not
19 be eligible to serve as such if he or she were not a board member,
20 officer, partner in, or trustee of such a person is disqualified from
21 continuing in office if he or she ceases to have any such affiliation
22 with that person or that person would have been disqualified from
23 continuing in such office as a natural person.

24 (3) Except when voting as a unit owner, the declarant may not
25 appoint or elect any person or to serve itself as a voting, ex
26 officio or nonvoting board member following the transition meeting.

27 (4) The board may not, without vote or agreement of the unit
28 owners:

29 (a) Amend the declaration, except as provided in section 218 of
30 this act;

31 (b) Amend the organizational documents or articles of the
32 association;

33 (c) Terminate the common interest community;

34 (d) Elect members of the board, but may fill vacancies in its
35 membership not resulting from removal for the unexpired portion of
36 any term or, if earlier, until the next regularly scheduled election
37 of board members; or

38 (e) Determine the qualifications, powers, duties, or terms of
39 office of board members.

1 (5) The board must adopt budgets as provided in section 326 of
2 this act.

3 (6) Except for committees appointed by the declarant pursuant to
4 special declarant rights, all committees of the association must be
5 appointed by the board. Committees authorized to exercise any power
6 reserved to the board must include at least two board members who
7 have exclusive voting power for that committee. Committees that are
8 not so composed may not exercise the authority of the board and are
9 advisory only.

10 NEW SECTION. **Sec. 304.** PERIOD OF DECLARANT CONTROL—TRANSITION.

11 (1)(a) Subject to subsection (3) of this section, the declaration may
12 provide for a period of declarant control of the association, during
13 which period a declarant, or persons designated by the declarant,
14 may:

15 (i) Appoint and remove the officers and board members; or

16 (ii) Veto or approve a proposed action of the board or
17 association.

18 (b) A declarant may voluntarily surrender the right to appoint
19 and remove officers and board members before the period ends. In that
20 event, the declarant may require that during the remainder of the
21 period, specified actions of the association or board, as described
22 in a recorded amendment to the declaration executed by the declarant,
23 be approved by the declarant before they become effective. A
24 declarant's failure to veto or approve such proposed action in
25 writing within thirty days after receipt of written notice of the
26 proposed action is deemed approval by the declarant.

27 (2) Regardless of the period provided in the declaration, and
28 except as provided in section 225(7) of this act, a period of
29 declarant control terminates no later than the earliest of:

30 (a) Sixty days after conveyance of seventy-five percent of the
31 units that may be created to unit owners other than a declarant;

32 (b) Two years after the last conveyance of a unit, except to a
33 dealer;

34 (c) Two years after any right to add new units was last
35 exercised; or

36 (d) The day the declarant, after giving notice in a record to
37 unit owners, records an amendment to the declaration voluntarily
38 surrendering all rights to appoint and remove officers and board
39 members.

1 (3) Not later than sixty days after conveyance of twenty-five
2 percent of the units that may be created to unit owners other than a
3 declarant, at least one member and not less than twenty-five percent
4 of the members of the board must be elected by unit owners other than
5 the declarant. Not later than sixty days after conveyance of fifty
6 percent of the units that may be created to unit owners other than a
7 declarant, not less than thirty-three and one-third percent of the
8 members of the board must be elected by unit owners other than the
9 declarant. Until such members are elected and take office, the
10 existing board may continue to act on behalf of the association.

11 (4) Within thirty days after the termination of any period of
12 declarant control or, in the absence of such period, not later than a
13 date that is sixty days after the conveyance of seventy-five percent
14 of the units that may be created to unit owners other than a
15 declarant, the board must schedule a transition meeting and provide
16 notice to the unit owners in accordance with section 310(1)(c) of
17 this act. At the transition meeting, the board elected by the unit
18 owners must be elected in accordance with section 303(2) of this act.

19 NEW SECTION. **Sec. 305.** TRANSFER OF ASSOCIATION PROPERTY. (1) No
20 later than thirty days following the date of the transition meeting
21 held pursuant to section 304(4) of this act, the declarant must
22 deliver or cause to be delivered to the board elected at the
23 transition meeting all property of the unit owners and association as
24 required by the declaration or this chapter including, but not
25 limited to:

26 (a) The original or a copy of the recorded declaration and each
27 amendment to the declaration;

28 (b) The organizational documents of the association;

29 (c) The minute books, including all minutes, and other books and
30 records of the association;

31 (d) Current rules and regulations that have been adopted;

32 (e) Resignations of officers and members of the board who are
33 required to resign because the declarant is required to relinquish
34 control of the association;

35 (f) The financial records, including canceled checks, bank
36 statements, and financial statements of the association, and source
37 documents from the time of formation of the association through the
38 date of transfer of control to the unit owners;

- 1 (g) Association funds or the control of the funds of the
2 association;
- 3 (h) Originals or copies of any recorded instruments of conveyance
4 for any common elements included within the common interest community
5 but not appurtenant to the units;
- 6 (i) All tangible personal property of the association;
- 7 (j) Except for alterations to a unit done by a unit owner other
8 than the declarant, a copy of the most recent plans and
9 specifications used in the construction or remodeling of the common
10 interest community, except for buildings containing fewer than three
11 units;
- 12 (k) Originals or copies of insurance policies for the common
13 interest community and association;
- 14 (l) Originals or copies of any certificates of occupancy that may
15 have been issued for the common interest community;
- 16 (m) Originals or copies of any other permits obtained by or on
17 behalf of the declarant and issued by governmental bodies applicable
18 to the common interest community;
- 19 (n) Originals or copies of all written warranties that are still
20 in effect for the common elements, or any other areas or facilities
21 that the association has the responsibility to maintain and repair,
22 from the contractor, subcontractors, suppliers, and manufacturers and
23 all owners' manuals or instructions furnished to the declarant with
24 respect to installed equipment or building systems;
- 25 (o) A roster of unit owners and eligible mortgagees and their
26 addresses and telephone numbers, if known, as shown on the
27 declarant's records and the date of closing of the first sale of each
28 unit sold by the declarant;
- 29 (p) Originals or copies of any leases of the common elements and
30 other leases to which the association is a party;
- 31 (q) Originals or photocopies of any employment contracts or
32 service contracts in which the association is one of the contracting
33 parties or service contracts in which the association or the unit
34 owners have an obligation or a responsibility, directly or
35 indirectly, to pay some or all of the fee or charge of the person
36 performing the service;
- 37 (r) Originals or copies of any qualified warranty issued to the
38 association as provided for in RCW 64.35.505; and
- 39 (s) Originals or copies of all other contracts to which the
40 association is a party.

1 (2) Within sixty days of the transition meeting, the board must
2 retain the services of a certified public accountant to audit the
3 records of the association as the date of the transition meeting in
4 accordance with generally accepted auditing standards unless the unit
5 owners, other than the declarant, to which a majority of the votes
6 are allocated elect to waive the audit. The cost of the audit must be
7 a common expense unless otherwise provided in the declaration. The
8 accountant performing the audit must examine supporting documents and
9 records, including the cash disbursements and related paid invoices,
10 to determine if expenditures were for association purposes and the
11 billings, cash receipts, and related records to determine if the
12 declarant was charged for and paid the proper amount of assessments.

13 (3) A declaration may provide for the appointment of specified
14 positions on the board by persons other than the declarant or an
15 affiliate of the declarant during or after the period of declarant
16 control. It also may provide a method for filling vacancies in those
17 positions, other than by election by the unit owners. However, after
18 the period of declarant control, appointed members:

- 19 (a) May not comprise more than one-third of the board; and
20 (b) Have no greater authority than any other board member.

21 NEW SECTION. **Sec. 306.** TRANSFER OF SPECIAL DECLARANT RIGHTS.

22 (1) Except as provided in subsection (3) of this section, a special
23 declarant right created or reserved under this chapter may be
24 transferred only by an instrument effecting the transfer and executed
25 by the transferor, to be recorded in every county in which any
26 portion of the common interest community is located. The transferee
27 must provide the association with a copy of the recorded instrument,
28 but the failure to furnish the copy does not invalidate the transfer.

29 (2) Upon transfer of any special declarant right, the liability
30 of a transferor declarant is as follows:

31 (a) A transferor is not relieved of any obligation or liability
32 arising before the transfer and remains liable for such warranty
33 obligations arising before the transfer imposed upon the transferor
34 under this chapter. Lack of privity does not deprive any unit owner
35 of standing to maintain an action to enforce any obligation of the
36 transferor.

37 (b) If a successor to any special declarant right is an affiliate
38 of a declarant the transferor is jointly and severally liable with

1 the successor for any obligations or liabilities of the successor
2 relating to the common interest community.

3 (c) If a transferor retains any special declarant rights, but
4 transfers other special declarant rights to a successor who is not an
5 affiliate of the declarant, the transferor is liable for any
6 obligations or liabilities imposed on a declarant under this chapter
7 or by the declaration relating to the retained special declarant
8 rights, whether arising before or after the transfer.

9 (d) A transferor is not liable for any act or omission or any
10 breach of a contractual or warranty obligation by a successor
11 declarant who is not an affiliate of the transferor.

12 (3) Upon foreclosure of a security interest, sale by a trustee
13 under an agreement creating a security interest, tax sale, judicial
14 sale, or sale under bankruptcy code or receivership proceedings of
15 any unit owned by a declarant or real property in a common interest
16 community that is subject to any special declarant rights, a person
17 acquiring title to the real property being foreclosed or sold
18 succeeds to all of the special declarant rights related to that real
19 property held by that declarant and to any rights reserved in the
20 declaration pursuant to section 216 of this act and held by that
21 declarant to maintain models, sales offices, and signs except to the
22 extent the judgment or instrument effecting the transfer states
23 otherwise.

24 (4) Upon foreclosure of a security interest, sale by a trustee
25 under an agreement creating a security interest, tax sale, judicial
26 sale, or sale under bankruptcy code or receivership proceedings of
27 all interests in a common interest community owned by a declarant,
28 any special declarant rights that are not transferred as stated in
29 subsection (3) of this section terminate.

30 (5) The liabilities and obligations of a person who succeeds to
31 special declarant rights are as follows:

32 (a) A successor to any special declarant right who is an
33 affiliate of a declarant is subject to all obligations and
34 liabilities imposed on the transferor under this chapter or by the
35 declaration.

36 (b) A successor to any special declarant right, other than a
37 successor who is an affiliate of a declarant, is subject to the
38 obligations and liabilities imposed under this chapter or the
39 declaration:

1 (i) On a declarant that relate to the successor's exercise of
2 special declarant rights; and

3 (ii) On the declarant's transferor, other than:

4 (A) Misrepresentations by any previous declarant;

5 (B) Any warranty obligations pursuant to section 415 (1) through
6 (3) of this act on improvements made or contracted for, or units sold
7 by, a previous declarant or that were made before the common interest
8 community was created;

9 (C) Breach of any fiduciary obligation by any previous declarant
10 or the previous declarant's appointees to the board; or

11 (D) Any liability or obligation imposed on the transferor as a
12 result of the transferor's acts or omissions after the transfer.

13 (c) A successor to only a right reserved in the declaration to
14 maintain models, sales offices, and signs may not exercise any other
15 special declarant right, and is not subject to any liability or
16 obligation as a declarant, except the obligation to provide a public
17 offering statement and any liability arising as a result of the
18 obligation of this chapter.

19 (6) This section does not subject any successor to a special
20 declarant right to any claims against or other obligations of a
21 transferor declarant, other than claims and obligations arising under
22 this chapter or the declaration.

23 NEW SECTION. **Sec. 307.** TERMINATION OF CONTRACTS AND LEASES. (1)
24 Within two years after the transition meeting, the association may
25 terminate without penalty upon, not less than ninety days' notice to
26 the other party, any of the following if it was entered into before
27 the board was elected:

28 (a) Any management, maintenance, operations, or employment
29 contract, or lease of recreational or parking areas or facilities; or

30 (b) Any other contract or lease between the association and a
31 declarant or an affiliate of a declarant.

32 (2) The association may terminate without penalty, at any time
33 after the board elected by the unit owners pursuant to section 304(4)
34 of this act takes office upon not less than ninety days' notice to
35 the other party, any contract or lease that is not bona fide or was
36 unconscionable to the unit owners at the time entered into.

37 (3) This section does not apply to:

38 (a) Any lease the termination of which would terminate the common
39 interest community or reduce its size, unless the real estate subject

1 to that lease was included in the common interest community for the
2 purpose of avoiding the right of the association to terminate a lease
3 under this section; or

4 (b) A proprietary lease.

5 NEW SECTION. **Sec. 308.** ORGANIZATIONAL DOCUMENTS. (1) Unless
6 provided for in the declaration, the organizational documents of the
7 association must:

8 (a) Provide the number of board members and the titles of the
9 officers of the association;

10 (b) Provide for election by the board or, if the declaration
11 requires, by the unit owners of a president, treasurer, secretary,
12 and any other officers of the association the organizational
13 documents specify;

14 (c) Specify the qualifications, powers and duties, terms of
15 office, and manner of electing and removing board members and
16 officers and filling vacancies in accordance with section 303 of this
17 act;

18 (d) Specify the powers the board or officers may delegate to
19 other persons or to a managing agent;

20 (e) Specify a method for the unit owners to amend the
21 organizational documents;

22 (f) Describe the budget ratification process required under
23 section 326 of this act, if not provided in the declaration;

24 (g) Contain any provision necessary to satisfy requirements in
25 this chapter or the declaration concerning meetings, voting, quorums,
26 and other activities of the association; and

27 (h) Provide for any matter required by law of this state other
28 than this chapter to appear in the organizational documents of
29 organizations of the same type as the association.

30 (2) Subject to the declaration and this chapter, the
31 organizational documents may provide for any other necessary or
32 appropriate matters.

33 NEW SECTION. **Sec. 309.** UPKEEP OF COMMON INTEREST COMMUNITY. (1)
34 Except to the extent provided by the declaration, subsections (2) and
35 (4) of this section, or section 315(8) of this act, the association
36 must maintain, repair, and replace the common elements, including
37 limited common elements, and each unit owner must maintain, repair,
38 and replace that owner's unit.

1 (2) The board may by rule designate physical components of the
2 property for which a unit owner is otherwise responsible that present
3 a heightened risk of damage or harm to persons or property if the
4 physical components fail. The association may require that specific
5 measures be taken by the unit owner or the association to diminish
6 that risk of harm. If a unit owner fails to accomplish any necessary
7 maintenance, repair, or replacement to those components, or fails to
8 take any other measures required of the unit owner under this
9 subsection, the association may, after notice to a unit owner and an
10 opportunity to be heard, enter the unit in the manner pursuant to
11 subsection (3) of this section to perform such maintenance, repair,
12 replacement, or measure at the expense of that unit owner.

13 (3) Upon prior notice, except in case of an emergency, each unit
14 owner must afford to the association and the other unit owners, and
15 to their agents or employees, access through that owner's unit and
16 limited common elements reasonably necessary for the purposes stated
17 in subsections (1) and (2) of this section, including necessary
18 inspections by the association. If damage is inflicted on the common
19 elements or on any unit through which access is taken, the unit owner
20 responsible for the damage, or the association if it is responsible,
21 is liable for the prompt repair of the damage.

22 (4) In addition to the liability that a declarant as a unit owner
23 has under this chapter, the declarant alone is liable for all
24 expenses in connection with real estate subject to development rights
25 and no other unit owner and no other portion of the common interest
26 community is subject to a claim for payment of those expenses.
27 However, the declaration may provide that the expenses associated
28 with the operation, maintenance, repair, and replacement of a common
29 element that the owners have a right to use must be paid by the
30 association as a common expense. Unless the declaration provides
31 otherwise, any income or proceeds from real estate subject to
32 development rights inures to the declarant.

33 (5) In a plat community or miscellaneous community, if all
34 development rights have expired with respect to any real estate, the
35 declarant remains liable for all expenses of that real estate unless,
36 upon expiration, the declaration provides that the real estate
37 becomes common elements or units.

38 NEW SECTION. **Sec. 310.** MEETINGS. (1) The following requirements
39 apply to unit owner meetings:

1 (a) A meeting of the association must be held at least once each
2 year. Failure to hold an annual meeting does not cause a forfeiture
3 or give cause for dissolution of the association and does not affect
4 otherwise valid association acts.

5 (b)(i) An association must hold a special meeting of unit owners
6 to address any matter affecting the common interest community or the
7 association if its president, a majority of the board, or unit owners
8 having at least twenty percent, or any lower percentage specified in
9 the organizational documents, of the votes in the association request
10 that the secretary call the meeting.

11 (ii) If the association does not provide notice to unit owners of
12 a special meeting within thirty days after the requisite number or
13 percentage of unit owners request the secretary to do so, the
14 requesting members may directly provide notice to all the unit owners
15 of the meeting. Only matters described in the meeting notice required
16 in (c) of this subsection may be considered at a special meeting.

17 (c) An association must provide notice to unit owners of the
18 time, date, and place of each annual and special unit owners meeting
19 not less than fourteen days and not more than fifty days before the
20 meeting date. Notice may be by any means described in section 324 of
21 this act. The notice of any meeting must state the time, date, and
22 place of the meeting and the items on the agenda, including:

23 (i) The text of any proposed amendment to the declaration or
24 organizational documents;

25 (ii) Any changes in the previously approved budget that result in
26 a change in the assessment obligations; and

27 (iii) Any proposal to remove a board member or officer.

28 (d) The minimum time to provide notice required in (c) of this
29 subsection may be reduced or waived for a meeting called to deal with
30 an emergency.

31 (e) Unit owners must be given a reasonable opportunity at any
32 meeting to comment regarding any matter affecting the common interest
33 community or the association.

34 (f) The declaration or organizational documents may allow for
35 meetings of unit owners to be conducted by telephonic, video, or
36 other conferencing process, if the process is consistent with
37 subsection (2)(i) of this section.

38 (2) The following requirements apply to meetings of the board and
39 committees authorized to act for the board:

1 (a) Meetings must be open to the unit owners except during
2 executive sessions, but the board may expel or prohibit attendance by
3 any person who, after warning by the chair of the meeting, disrupts
4 the meeting. The board and those committees may hold an executive
5 session only during a regular or special meeting of the board or a
6 committee. A final vote or action may not be taken during an
7 executive session.

8 (b) An executive session may be held only to:

9 (i) Consult with the association's attorney concerning legal
10 matters;

11 (ii) Discuss existing or potential litigation or mediation,
12 arbitration, or administrative proceedings;

13 (iii) Discuss labor or personnel matters;

14 (iv) Discuss contracts, leases, and other commercial transactions
15 to purchase or provide goods or services currently being negotiated,
16 including the review of bids or proposals, if premature general
17 knowledge of those matters would place the association at a
18 disadvantage; or

19 (v) Prevent public knowledge of the matter to be discussed if the
20 board or committee determines that public knowledge would violate the
21 privacy of any person.

22 (c) For purposes of this subsection, a gathering of members of
23 the board or committees at which the board or committee members do
24 not conduct association business is not a meeting of the board or
25 committee. Board members and committee members may not use incidental
26 or social gatherings to evade the open meeting requirements of this
27 subsection.

28 (d) During the period of declarant control, the board must meet
29 at least four times a year. At least one of those meetings must be
30 held at the common interest community or at a place convenient to the
31 community. After the transition meeting, all board meetings must be
32 at the common interest community or at a place convenient to the
33 common interest community unless the unit owners amend the bylaws to
34 vary the location of those meetings.

35 (e) At each board meeting, the board must provide a reasonable
36 opportunity for unit owners to comment regarding matters affecting
37 the common interest community and the association.

38 (f) Unless the meeting is included in a schedule given to the
39 unit owners or the meeting is called to deal with an emergency, the
40 secretary or other officer specified in the organizational documents

1 must provide notice of each board meeting to each board member and to
2 the unit owners. The notice must be given at least ten days before
3 the meeting and must state the time, date, place, and agenda of the
4 meeting.

5 (g) If any materials are distributed to the board before the
6 meeting, the board must make copies of those materials reasonably
7 available to those unit owners, except that the board need not make
8 available copies of unapproved minutes or materials that are to be
9 considered in executive session.

10 (h) Unless the organizational documents provide otherwise, fewer
11 than all board members may participate in a regular or special
12 meeting by or conduct a meeting through the use of any means of
13 communication by which all board members participating can hear each
14 other during the meeting. A board member participating in a meeting
15 by these means is deemed to be present in person at the meeting.

16 (i) Unless the organizational documents provide otherwise, the
17 board may meet by participation of all board members by telephonic,
18 video, or other conferencing process if:

19 (i) The meeting notice states the conferencing process to be used
20 and provides information explaining how unit owners may participate
21 in the conference directly or by meeting at a central location or
22 conference connection; and

23 (ii) The process provides all unit owners the opportunity to hear
24 or perceive the discussion and to comment as provided in (e) of this
25 subsection.

26 (j) After the transition meeting, unit owners may amend the
27 organizational documents to vary the procedures for meetings
28 described in (i) of this subsection.

29 (k) Instead of meeting, the board may act by unanimous consent as
30 documented in a record by all its members. Actions taken by unanimous
31 consent must be kept as a record of the association with the meeting
32 minutes. After the transition meeting, the board may act by unanimous
33 consent only to undertake ministerial actions, actions subject to
34 ratification by the unit owners, or to implement actions previously
35 taken at a meeting of the board.

36 (l) A board member who is present at a board meeting at which any
37 action is taken is presumed to have assented to the action taken
38 unless the board member's dissent or abstention to such action is
39 lodged with the person acting as the secretary of the meeting before
40 adjournment of the meeting or provided in a record to the secretary

1 of the association immediately after adjournment of the meeting. The
2 right to dissent or abstain does not apply to a board member who
3 voted in favor of such action at the meeting.

4 (m) A board member may not vote by proxy or absentee ballot.

5 (n) Even if an action by the board is not in compliance with this
6 section, it is valid unless set aside by a court. A challenge to the
7 validity of an action of the board for failure to comply with this
8 section may not be brought more than ninety days after the minutes of
9 the board of the meeting at which the action was taken are approved
10 or the record of that action is distributed to unit owners, whichever
11 is later.

12 (3) Minutes of all unit owner meetings and board meetings,
13 excluding executive sessions, must be maintained in a record. The
14 decision on each matter voted upon at a board meeting or unit owner
15 meeting must be recorded in the minutes.

16 NEW SECTION. **Sec. 311.** QUORUM. (1) Unless the organizational
17 documents provide otherwise, a quorum is present throughout any
18 meeting of the unit owners if persons entitled to cast twenty percent
19 of the votes in the association:

20 (a) Are present in person or by proxy at the beginning of the
21 meeting;

22 (b) Have voted by absentee ballot; or

23 (c) Are present by any combination of (a) and (b) of this
24 subsection.

25 (2) Unless the organizational documents specify a larger number,
26 a quorum of the board is present for purposes of determining the
27 validity of any action taken at a meeting of the board only if
28 individuals entitled to cast a majority of the votes on that board
29 are present at the time a vote regarding that action is taken. If a
30 quorum is present when a vote is taken, the affirmative vote of a
31 majority of the board members present is the act of the board unless
32 a greater vote is required by the declaration or bylaws.

33 NEW SECTION. **Sec. 312.** UNIT OWNER VOTING. (1) Unit owners may
34 vote at a meeting in person, by absentee ballot pursuant to
35 subsection (3)(d) of this section, or by a proxy pursuant to
36 subsection (5) of this section.

37 (2) When a vote is conducted without a meeting, unit owners may
38 vote by ballot pursuant to subsection (6) of this section.

1 (3) At a meeting of unit owners the following requirements apply:

2 (a) Unit owners or their proxies who are present in person may
3 vote by voice vote, show of hands, standing, written ballot, or any
4 other method for determining the votes of unit owners, as designated
5 by the person presiding at the meeting.

6 (b) If only one of several unit owners of a unit is present, that
7 unit owner is entitled to cast all the votes allocated to that unit.
8 If more than one of the unit owners are present, the votes allocated
9 to that unit may be cast only in accordance with the agreement of a
10 majority in interest of the unit owners, unless the declaration
11 expressly provides otherwise. There is a majority agreement if any
12 one of the unit owners casts the votes allocated to the unit without
13 protest being made promptly to the person presiding over the meeting
14 by any of the other unit owners of the unit.

15 (c) Unless a greater number or fraction of the votes in the
16 association is required under this chapter or the declaration or
17 organizational documents, a majority of the votes cast determines the
18 outcome of any action of the association.

19 (d) Whenever proposals or board members are to be voted upon at a
20 meeting, a unit owner may vote by duly executed absentee ballot if:

21 (i) The name of each candidate and the text of each proposal to
22 be voted upon are set forth in a writing accompanying or contained in
23 the notice of meeting; and

24 (ii) A ballot is provided by the association for such purpose.

25 (4) When a unit owner votes by absentee ballot, the association
26 must be able to verify that the ballot is cast by the unit owner
27 having the right to do so.

28 (5) Except as provided otherwise in the declaration or
29 organizational documents, the following requirements apply with
30 respect to proxy voting:

31 (a) Votes allocated to a unit may be cast pursuant to a directed
32 or undirected proxy duly executed by a unit owner in the same manner
33 as provided in RCW 24.06.110.

34 (b) If a unit is owned by more than one person, each unit owner
35 of the unit may vote or register protest to the casting of votes by
36 the other unit owners of the unit through a duly executed proxy.

37 (c) A unit owner may revoke a proxy given pursuant to this
38 section only by actual notice of revocation to the secretary or the
39 person presiding over a meeting of the association or by delivery of
40 a subsequent proxy. The death or disability of a unit owner does not

1 revoke a proxy given by the unit owner unless the person presiding
2 over the meeting has actual notice of the death or disability.

3 (d) A proxy is void if it is not dated or purports to be
4 revocable without notice.

5 (e) Unless stated otherwise in the proxy, a proxy terminates
6 eleven months after its date of issuance.

7 (6) Unless prohibited or limited by the declaration or
8 organizational documents, an association may conduct a vote without a
9 meeting. In that event, the following requirements apply:

10 (a) The association must notify the unit owners that the vote
11 will be taken by ballot.

12 (b) The notice must state:

13 (i) The time and date by which a ballot must be delivered to the
14 association to be counted, which may not be fewer than fourteen days
15 after the date of the notice, and which deadline may be extended in
16 accordance with (g) of this subsection;

17 (ii) The percent of votes necessary to meet the quorum
18 requirements;

19 (iii) The percent of votes necessary to approve each matter other
20 than election of board members; and

21 (iv) The time, date, and manner by which unit owners wishing to
22 deliver information to all unit owners regarding the subject of the
23 vote may do so.

24 (c) The association must deliver a ballot to every unit owner
25 with the notice.

26 (d) The ballot must set forth each proposed action and provide an
27 opportunity to vote for or against the action.

28 (e) A ballot cast pursuant to this section may be revoked only by
29 actual notice to the association of revocation. The death or
30 disability of a unit owner does not revoke a ballot unless the
31 association has actual notice of the death or disability prior to the
32 date set forth in (b)(i) of this subsection.

33 (f) Approval by ballot pursuant to this subsection is valid only
34 if the number of votes cast by ballot equals or exceeds the quorum
35 required to be present at a meeting authorizing the action.

36 (g) If the association does not receive a sufficient number of
37 votes to constitute a quorum or to approve the proposal by the date
38 and time established for return of ballots, the board may extend the
39 deadline for a reasonable period not to exceed eleven months upon
40 further notice to all members in accordance with (b) of this

1 subsection. In that event, all votes previously cast on the proposal
2 must be counted unless subsequently revoked as provided in this
3 section.

4 (h) A ballot or revocation is not effective until received by the
5 association.

6 (i) The association must give notice to unit owners of any action
7 taken pursuant to this subsection within a reasonable time after the
8 action is taken.

9 (j) When an action is taken pursuant to this subsection, a record
10 of the action, including the ballots or a report of the persons
11 appointed to tabulate such ballots, must be kept with the minutes of
12 meetings of the association.

13 (7) If the governing documents require that votes on specified
14 matters affecting the common interest community be cast by lessees
15 rather than unit owners of leased units:

16 (a) This section applies to lessees as if they were unit owners;

17 (b) Unit owners that have leased their units to other persons may
18 not cast votes on those specified matters; and

19 (c) Lessees are entitled to notice of meetings, access to
20 records, and other rights respecting those matters as if they were
21 unit owners.

22 (8) Unit owners must also be given notice, in the manner provided
23 in section 324 of this act, of all meetings at which lessees may be
24 entitled to vote.

25 (9) In any vote of the unit owners, votes allocated to a unit
26 owned by the association must be cast in the same proportion as the
27 votes cast on the matter by unit owners other than the association.

28 NEW SECTION. **Sec. 313.** TORT AND CONTRACT LIABILITY—TOLLING OF
29 LIMITATION PERIOD. (1) A unit owner is not liable, solely by reason
30 of being a unit owner, for an injury or damage arising out of the
31 condition or use of the common elements. The association and any unit
32 owner except the declarant is not liable for that declarant's torts
33 in connection with any part of the common interest community which
34 that declarant must maintain.

35 (2)(a) An action alleging a wrong done by the association,
36 including an action arising out of the condition or use of the common
37 elements, may be maintained only against the association and not
38 against any unit owner.

1 (b) If the wrong occurred during any period of declarant control
2 and the association gives the declarant reasonable notice of and an
3 opportunity to defend against the action, the declarant who then
4 controlled the association is liable to the association or to any
5 unit owner for (i) all tort losses not covered by insurance suffered
6 by the association or that unit owner and (ii) all costs that the
7 association would not have incurred but for a breach of contract or
8 other wrongful act or omission by the association.

9 (c) If a declarant is liable to an association under this
10 section, the declarant is also liable for all expenses of litigation,
11 including reasonable attorneys' fees and costs, incurred by the
12 association.

13 (3)(a) Except as provided in section 417 of this act with respect
14 to warranty claims, any statute of limitation affecting the
15 association's right of action against a declarant under this chapter
16 is tolled until any period of declarant control terminates.

17 (b) A unit owner is not precluded from maintaining an action
18 contemplated under this section because that person is a unit owner,
19 board member, or officer of the association. Liens resulting from
20 judgments against the association are governed under section 319 of
21 this act.

22 NEW SECTION. **Sec. 314.** CONVEYANCE OR ENCUMBRANCE OF COMMON
23 ELEMENTS. (1)(a) In a common interest community other than a
24 cooperative, portions of the common elements may be conveyed or
25 subjected to a security interest by the association if unit owners
26 entitled to cast at least eighty percent of the votes in the
27 association, including eighty percent of the votes allocated to units
28 not owned by a declarant, or any larger percentage the declaration
29 specifies, agree to that action; but all unit owners of units to
30 which any limited common element is allocated must agree to convey
31 that limited common element or subject it to a security interest. The
32 declaration may specify a smaller percentage only if all of the units
33 are restricted exclusively to nonresidential uses.

34 (b) Proceeds of the sale or a loan are an asset of the
35 association, but the proceeds of the sale of limited common elements
36 must be distributed equitably among the unit owners of units to which
37 the limited common elements were allocated. This subsection (1) does
38 not apply to the incorporation of common elements into units as a
39 result of relocating unit boundaries pursuant to section 213 of this

1 act, to subdividing or combining units pursuant to section 214 of
2 this act, or to eminent domain proceedings pursuant to section 106 of
3 this act.

4 (2)(a) Part of a cooperative may be conveyed and all or part of a
5 cooperative may be subjected to a security interest by the
6 association if unit owners entitled to cast at least eighty percent
7 of the votes in the association, including eighty percent of the
8 votes allocated to units not owned by a declarant, or any larger
9 percentage the declaration specifies, agree to that action; but, if
10 fewer than all of the units or limited common elements are to be
11 conveyed or subjected to a security interest, all unit owners of
12 those units, or the units to which those limited common elements are
13 allocated, must agree to convey those units or limited common
14 elements or subject them to a security interest. The declaration may
15 specify a smaller percentage only if all of the units are restricted
16 exclusively to nonresidential uses.

17 (b) Proceeds of the sale or a loan are an asset of the
18 association. Any purported conveyance or other voluntary transfer of
19 an entire cooperative, unless made pursuant to section 219 of this
20 act, is void. This subsection (2) does not apply to the incorporation
21 of common elements into units as a result of relocating unit
22 boundaries pursuant to section 213 of this act, to subdividing or
23 combining units pursuant to section 214 of this act, or to eminent
24 domain proceedings pursuant to section 106 of this act.

25 (3) An agreement to convey common elements in a common interest
26 community other than a cooperative, or to subject them to a security
27 interest, or in a cooperative, an agreement to convey any part of a
28 cooperative or subject it to a security interest, must be evidenced
29 by the execution of an agreement, or ratifications of an agreement,
30 in the same manner as a deed, by the requisite number of unit owners.
31 The agreement must specify a date after which the agreement will be
32 void unless recorded before that date. The agreement and all
33 ratifications of the agreement must be recorded in every county in
34 which a portion of the common interest community is situated and is
35 effective only upon recordation.

36 (4) The association, on behalf of the unit owners, may contract
37 to convey or dedicate an interest in a common interest community
38 pursuant to subsection (1) of this section, but the contract is not
39 enforceable against the association until approved pursuant to
40 subsection (1), (2), or (3) of this section. Thereafter, the

1 association has all powers necessary and appropriate to effect the
2 conveyance or encumbrance, including the power to execute deeds or
3 other instruments.

4 (5) Unless made pursuant to this section, any purported
5 conveyance, encumbrance, judicial sale, or other voluntary transfer
6 of common elements or of any other part of a cooperative is void.

7 (6) A conveyance or encumbrance of common elements or of a
8 cooperative pursuant to this section does not deprive any unit of its
9 rights of access and support.

10 (7) Unless the declaration requires a higher percentage, if the
11 consent of eligible mortgagees holding security interests on at least
12 eighty percent of the units subject to security interests held by
13 eligible mortgagees on the day the unit owners' agreement under
14 subsection (3) of this section is recorded, is obtained:

15 (a) A conveyance of common elements pursuant to this section
16 terminates both the undivided interests in those common elements
17 allocated to the units and the security interests in those undivided
18 interests held by all persons holding security interests in the
19 units; and

20 (b) An encumbrance of common elements pursuant to this section
21 has priority over all preexisting encumbrances on the undivided
22 interests in those common elements held by all persons holding
23 security interests in the units.

24 (8) The consents of eligible mortgagees, or a certificate of the
25 secretary affirming that the requisite percentage of eligible
26 mortgagees have consented, may be recorded at any time before the
27 date on which the agreement under subsection (3) of this section
28 becomes void. Such consents or certificates recorded are valid from
29 the date they are recorded for purposes of calculating the percentage
30 of consenting eligible mortgagees, regardless of later conveyance or
31 encumbrances on those units. If the required percentage of eligible
32 mortgagees consent, a conveyance or encumbrance of common elements
33 does not affect interests having priority over the declaration or
34 created by the association after the declaration was recorded.

35 (9) In a cooperative, the association may acquire, hold,
36 encumber, or convey a proprietary lease without complying with this
37 section.

38 NEW SECTION. **Sec. 315.** INSURANCE. (1) Commencing not later than
39 the time of the first conveyance of a unit to a person other than a

1 declarant, the association must maintain in its own name, to the
2 extent reasonably available and subject to reasonable deductibles:

3 (a) Property insurance on the common elements and, in a plat
4 community or miscellaneous community, also on property that must
5 become common elements, insuring against risks of direct physical
6 loss commonly insured against, which insurance, after application of
7 any deductibles, must be not less than eighty percent of the actual
8 cash value of the insured property at the time the insurance is
9 purchased and at each renewal date, exclusive of land, excavations,
10 foundations, and other items normally excluded from property
11 policies;

12 (b) Commercial general liability insurance, including medical
13 payments insurance, in an amount determined by the board, but not
14 less than any amount specified in the declaration, covering all
15 occurrences commonly insured against for bodily injury and property
16 damage arising out of or in connection with the use, ownership, or
17 maintenance of the common elements and, in cooperatives, of all
18 units;

19 (c) Fidelity insurance; and

20 (d) Other insurance required under the declaration.

21 (2) In the case of a building that contains units divided by
22 horizontal boundaries described in the declaration, or vertical
23 boundaries that comprise common walls between units, the insurance
24 maintained under subsection (1)(a) of this section, to the extent
25 reasonably available, must include the units and, unless provided
26 otherwise in the declaration, all improvements and betterments to the
27 units.

28 (3) If the insurance described in subsections (1) and (2) of this
29 section is not reasonably available, the association must promptly
30 cause notice of that fact to be given to all unit owners. The
31 association may carry any other insurance it considers appropriate to
32 protect the association or the unit owners.

33 (4) Insurance policies carried pursuant to subsections (1) and
34 (2) of this section must provide that:

35 (a) Each unit owner is an insured person under the policy with
36 respect to liability arising out of the unit owner's interest in the
37 common elements or membership in the association;

38 (b) The insurer waives its right to subrogation under the policy
39 against any unit owner or member of the unit owner's household;

1 (c) Any act or omission by a unit owner, unless acting within the
2 unit owner's scope of authority on behalf of the association, does
3 not void the policy and is not a condition to recovery under the
4 policy; and

5 (d) If, at the time of a loss under the policy, there is other
6 insurance in the name of a unit owner covering the same risk covered
7 by the policy, the association's policy provides primary insurance.

8 (5) Any loss covered by the property insurance policy under
9 subsection (1)(a) and (b) of this section must be adjusted with the
10 association, but the insurance proceeds for that loss are payable to
11 any insurance trustee designated for that purpose, or otherwise to
12 the association, and not to any holder of a security interest. The
13 insurance trustee or the association must hold any insurance proceeds
14 in trust for the association, unit owners, and lienholders as their
15 interests may appear. Subject to subsection (8) of this section, the
16 proceeds must be disbursed first for the repair or replacement of the
17 damaged property, and the association, unit owners, and lienholders
18 are not entitled to receive payment of any portion of the proceeds
19 unless there is a surplus of proceeds after the property has been
20 completely repaired or replaced, or the common interest community is
21 terminated.

22 (6) An insurance policy issued to the association does not
23 prevent a unit owner from obtaining insurance for the unit owner's
24 own benefit.

25 (7) An insurer that has issued an insurance policy under this
26 section must issue certificates or memoranda of insurance to the
27 association and, upon a request made in a record, to any unit owner
28 or holder of a security interest. The insurer issuing the policy may
29 not modify the amount or the extent of the coverage of the policy or
30 cancel or refuse to renew the policy unless the insurer has complied
31 with all applicable provisions of chapter 48.18 RCW pertaining to the
32 cancellation or nonrenewal of contracts of insurance. The insurer may
33 not modify the amount or the extent of the coverage of the policy or
34 cancel or refuse to renew the policy without complying with this
35 section.

36 (8) Any portion of the common interest community for which
37 insurance is required under this section that is damaged or destroyed
38 must be repaired or replaced promptly by the association unless:

39 (a) The common interest community is terminated, in which case
40 section 219 of this act applies;

1 (b) Repair or replacement would be illegal; or

2 (c) Eighty percent of the unit owners, including every unit owner
3 of a unit or assigned limited common element that will not be
4 rebuilt, vote not to rebuild.

5 (9) The cost of repair or replacement not paid from insurance
6 proceeds is a common expense. If all of the damaged or destroyed
7 portions of the common interest community are not repaired or
8 replaced:

9 (a) The insurance proceeds attributable to the damaged common
10 elements must be used to restore the damaged area to a condition
11 compatible with the remainder of the common interest community; and

12 (b) Except to the extent that other persons will be distributees:

13 (i) The insurance proceeds attributable to units and limited
14 common elements that are not repaired or replaced must be distributed
15 to the unit owners of those units and the unit owners of the units to
16 which those limited common elements were allocated, or to
17 lienholders, as their interests may appear; and

18 (ii) The remainder of the proceeds must be distributed to all the
19 unit owners or lienholders, as their interests may appear, as
20 follows:

21 (A) In a condominium, in proportion to the common element
22 interests of all the units; and

23 (B) In a cooperative, plat community, or miscellaneous community,
24 in proportion to the common expense liabilities of all the units.

25 (10) If the unit owners vote not to rebuild any unit, that unit's
26 allocated interests are automatically reallocated upon the vote as if
27 the unit had been condemned under section 106 of this act, and the
28 association promptly must prepare, execute, and record an amendment
29 to the declaration reflecting the reallocations.

30 (11) The provisions of this section may be varied or waived as
31 provided in the declaration if all units of a common interest
32 community are restricted to nonresidential use.

33 NEW SECTION. **Sec. 316.** ACCOUNTS—RECONCILIATION. (1) The
34 association must establish and maintain its accounts and records in a
35 manner that will enable it to credit assessments for common expenses
36 and specially allocated expenses, including allocations to reserves,
37 and other income to the association, and to charge expenditures, to
38 the account of the appropriate units in accordance with the
39 provisions of the declaration.

1 (2) To assure that the unit owners are correctly assessed for the
2 actual expenses of the association, the accounts of the association
3 must be reconciled at least annually, unless the board determines
4 that a reconciliation would not result in a material savings to any
5 unit owner. Unless provided otherwise in the declaration, any surplus
6 funds of the association remaining after the payment of or provision
7 for common expenses and any prepayment of reserves must be paid
8 annually to the unit owners in proportion to their common expense
9 liabilities or credited to them to reduce their future common expense
10 assessments.

11 NEW SECTION. **Sec. 317.** ASSESSMENTS AND CAPITAL CONTRIBUTIONS.

12 (1)(a) Assessments for common expenses and those specially allocated
13 expenses that are subject to inclusion in a budget must be made at
14 least annually based on a budget adopted at least annually by the
15 association in the manner provided in section 326 of this act.

16 (b) Assessments for common expenses and specially allocated
17 expenses must commence on all units that have been created upon the
18 conveyance of the first unit in the common interest community;
19 however, the declarant may delay commencement of assessments for some
20 or all common expenses or specially allocated expenses, in which
21 event the declarant must pay all of the common expenses or specially
22 allocated expenses that have been delayed. In a common interest
23 community in which units may be added pursuant to reserved
24 development rights, the declarant may delay commencement of
25 assessments for such units in the same manner.

26 (2) The declaration may provide that, upon closing of the first
27 conveyance of each unit to a purchaser or first occupancy of a unit,
28 whichever occurs first, the association may assess and collect a
29 working capital contribution for such unit. The working capital
30 contribution may be collected prior to the commencement of common
31 assessments under subsection (1) of this section. A working capital
32 contribution may not be used to defray expenses that are the
33 obligation of the declarant.

34 (3) Except as provided otherwise in this section, all common
35 expenses must be assessed against all the units in accordance with
36 their common expense liabilities, subject to the right of the
37 declarant to delay commencement of certain common expenses under
38 subsections (1) and (2) of this section. Any past due assessment or

1 installment of past due assessment bears interest at the rate
2 established by the association pursuant to section 318 of this act.

3 (4) The declaration may provide that any of the following
4 expenses of the association must be assessed against the units on
5 some basis other than common expense liability. If and to the extent
6 the declaration so provides, the association must assess:

7 (a) Expenses associated with the operation, maintenance, repair,
8 or replacement of any specified limited common element against the
9 units to which that limited common element is assigned, equally or in
10 any other proportion that the declaration provides;

11 (b) Expenses specified in the declaration as benefiting fewer
12 than all of the units or their unit owners exclusively against the
13 units benefited in proportion to their common expense liability or in
14 any other proportion that the declaration provides;

15 (c) The costs of insurance in proportion to risk; and

16 (d) The costs of one or more specified utilities in proportion to
17 respective usage or upon the same basis as such utility charges are
18 made by the utility provider.

19 (5) Assessments to pay a judgment against the association may be
20 made only against the units in the common interest community at the
21 time the judgment was entered, in proportion to their common expense
22 liabilities.

23 (6) To the extent that any expense of the association is caused
24 by willful misconduct or gross negligence of any unit owner or that
25 unit owner's tenant, guest, invitee, or occupant, the association may
26 assess that expense against the unit owner's unit after notice and an
27 opportunity to be heard, even if the association maintains insurance
28 with respect to that damage or common expense.

29 (7) If the declaration so provides, to the extent that any
30 expense of the association is caused by the negligence of any unit
31 owner or that unit owner's tenant, guest, invitee, or occupant, the
32 association may assess that expense against the unit owner's unit
33 after notice and an opportunity to be heard, to the extent of the
34 association's deductible and any expenses not covered under an
35 insurance policy issued to the association.

36 (8) In the event of a loss or damage to a unit that would be
37 covered by the association's property insurance policy, excluding
38 policies for earthquake, flood, or similar losses that have higher
39 than standard deductibles, but that is within the deductible under
40 that policy and if the declaration so provides, the association may

1 assess the amount of the loss up to the deductible against that unit.
2 This subsection does not prevent a unit owner from asserting a claim
3 against another person for the amount assessed if that other person
4 would be liable for the damages under general legal principles.

5 (9) If common expense liabilities are reallocated, assessments
6 and any installment of assessments not yet due must be recalculated
7 in accordance with the reallocated common expense liabilities.

8 NEW SECTION. **Sec. 318.** LIEN FOR SUMS DUE ASSOCIATION—
9 ENFORCEMENT. (1) The association has a statutory lien on each unit
10 for any unpaid assessment against the unit from the time such
11 assessment is due.

12 (2) A lien under this section is prior to all other liens and
13 encumbrances on a unit except:

14 (a) Liens and encumbrances recorded before the recordation of the
15 declaration and, in a cooperative, liens and encumbrances that the
16 association creates, assumes, or takes subject to;

17 (b) Except as otherwise provided in subsection (3) of this
18 section, a first security interest on the unit recorded before the
19 date on which the unpaid assessment became due or, in a cooperative,
20 the first priority security interest encumbering only the unit
21 owner's interest and perfected before the date on which the unpaid
22 assessment became due; and

23 (c) Liens for real estate taxes and other state or local
24 governmental assessments or charges against the unit or cooperative.

25 (3)(a) A lien under this section is also prior to the security
26 interests described in subsection (2)(b) of this section to the
27 extent of an amount equal to the following:

28 (i) The common expense assessments, excluding any amounts for
29 capital improvements, based on the periodic budget adopted by the
30 association pursuant to section 317(1) of this act, along with any
31 specially allocated assessments that are properly assessable against
32 the unit under such periodic budget, which would have become due in
33 the absence of acceleration during the six months immediately
34 preceding the institution of proceedings to foreclose either the
35 association's lien or a security interest described in subsection
36 (2)(b) of this section; and

37 (ii) The association's actual costs and reasonable attorneys'
38 fees incurred in foreclosing its lien up to the time when any person

1 pays to the association the full amount described in (a)(i) of this
2 subsection, including the association's attorneys' fees and costs.

3 (b) For the purposes of this subsection:

4 (i) "Institution of proceedings" means either:

5 (A) The date of recording of a notice of trustee's sale by a deed
6 of trust beneficiary;

7 (B) The date of commencement, pursuant to applicable court rules,
8 of an action for judicial foreclosure either by the association or by
9 the holder of a recorded security interest; or

10 (C) The date of recording of a notice of intention to forfeit in
11 a real estate contract forfeiture proceeding by the vendor under a
12 real estate contract.

13 (ii) "Capital improvements" does not include making, in the
14 ordinary course of management, repairs to common elements or
15 replacements of the common elements with substantially similar items,
16 subject to: (A) Availability of materials and products, (B)
17 prevailing law, or (C) sound engineering and construction standards
18 then prevailing.

19 (c) The adoption of a periodic budget that purports to allocate
20 to a unit any fines, late charges, interest, attorneys' fees and
21 costs incurred for services unrelated to the foreclosure of the
22 association's lien, other collection charges, or specially allocated
23 assessments assessed under section 317 (6) or (7) of this act does
24 not cause any such items to be included in the priority amount
25 affecting such unit.

26 (4) Subsections (2) and (3) of this section do not affect the
27 priority of mechanics' or material suppliers' liens, or the priority
28 of liens for other assessments made by the association.

29 (5) A lien under this section is not subject to chapter 6.13 RCW.

30 (6) If the association forecloses its lien under this section
31 nonjudicially pursuant to chapter 61.24 RCW, as provided under
32 subsection (13) of this section, the association is not entitled to
33 the lien priority provided for under subsection (3) of this section,
34 and is subject to the limitations on deficiency judgments as provided
35 in chapter 61.24 RCW.

36 (7) Unless the declaration provides otherwise, if two or more
37 associations have liens for assessments created at any time on the
38 same property, those liens have equal priority.

39 (8) Recording of the declaration constitutes record notice and
40 perfection of the statutory lien created under this section. Further

1 notice or recordation of any claim of lien for assessment under this
2 section is not required, but is not prohibited.

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

8 (10) This section does not prohibit actions against unit owners
9 to recover sums for which subsection (1) of this section creates a
10 lien or prohibit an association from taking a deed in lieu of
11 foreclosure.

12 (11) The association upon written request must furnish to a unit
13 owner or a mortgagee a statement signed by an officer or authorized
14 agent of the association setting forth the amount of unpaid
15 assessments or the priority amount against that unit, or both. The
16 statement must be furnished within fifteen days after receipt of the
17 request and is binding on the association, the board, and every unit
18 owner unless, and to the extent, known by the recipient to be false.
19 The liability of a recipient who reasonably relies upon the statement
20 must not exceed the amount set forth in any statement furnished
21 pursuant to this section or section 409(1)(b) of this act.

22 (12) In a cooperative, upon nonpayment of an assessment on a
23 unit, the unit owner may be evicted in the same manner as provided by
24 law in the case of an unlawful holdover by a commercial tenant, and
25 the lien may be foreclosed as provided under this section.

26 (13) The association's lien may be foreclosed in accordance with
27 (a) and (b) of this subsection.

28 (a) In a common interest community other than a cooperative, the
29 association's lien may be foreclosed judicially in accordance with
30 chapter 61.12 RCW, subject to any rights of redemption under chapter
31 6.23 RCW.

32 (b) The lien may be enforced nonjudicially in the manner set
33 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of
34 trust if the declaration: Contains a grant of the common interest
35 community in trust to a trustee qualified under RCW 61.24.010 to
36 secure the obligations of the unit owners to the association for the
37 payment of assessments, contains a power of sale, provides in its
38 terms that the units are not used principally for agricultural
39 purposes, and provides that the power of sale is operative in the
40 case of a default in the obligation to pay assessments. The

1 association or its authorized representative may, unless prohibited
2 by the declaration, purchase the unit at the foreclosure sale and
3 acquire, hold, lease, mortgage, or convey the unit. Upon an express
4 waiver in the complaint of any right to a deficiency judgment in a
5 judicial foreclosure action, the period of redemption is eight
6 months.

7 (c) In a cooperative in which the unit owners' interests in the
8 units are real estate, the association's lien must be foreclosed in
9 like manner as a mortgage on real estate or by power of sale under
10 (b) of this subsection.

11 (d) In a cooperative in which the unit owners' interests in the
12 units are personal property, the association's lien must be
13 foreclosed in like manner as a security interest under chapter 62A.9A
14 RCW.

15 (e) In a foreclosure under chapter 61.24 RCW, the association
16 must give the notice required by statute or, if there is no such
17 requirement, reasonable notice of its action to all lienholders of
18 the unit whose interest would be affected.

19 (14) If the unit owner's interest in a unit in a cooperative is
20 real estate, the following requirements apply:

21 (a) The association, upon nonpayment of assessments and
22 compliance with this subsection, may sell that unit at a public sale
23 or by private negotiation, and at any time and place. The association
24 must give to the unit owner and any lessee of the unit owner
25 reasonable notice in a record of the time, date, and place of any
26 public sale or, if a private sale is intended, of the intention of
27 entering into a contract to sell and of the time and date after which
28 a private conveyance may be made. Such notice must also be sent to
29 any other person that has a recorded interest in the unit that would
30 be cut off by the sale, but only if the recorded interest was on
31 record seven weeks before the date specified in the notice as the
32 date of any public sale or seven weeks before the date specified in
33 the notice as the date after which a private sale may be made. The
34 notices required under this subsection may be sent to any address
35 reasonable in the circumstances. A sale may not be held until five
36 weeks after the sending of the notice. The association may buy at any
37 public sale and, if the sale is conducted by a fiduciary or other
38 person not related to the association, at a private sale.

39 (b) Unless otherwise agreed to or as stated in this section, the
40 unit owner is liable for any deficiency in a foreclosure sale.

1 (c) The proceeds of a foreclosure sale must be applied in the
2 following order:

3 (i) The reasonable expenses of sale;

4 (ii) The reasonable expenses of securing possession before sale;
5 the reasonable expenses of holding, maintaining, and preparing the
6 unit for sale, including payment of taxes and other governmental
7 charges and premiums on insurance; and, to the extent provided for by
8 agreement between the association and the unit owner, reasonable
9 attorneys' fees, costs, and other legal expenses incurred by the
10 association;

11 (iii) Satisfaction of the association's lien;

12 (iv) Satisfaction in the order of priority of any subordinate
13 claim of record; and

14 (v) Remittance of any excess to the unit owner.

15 (d) A good-faith purchaser for value acquires the unit free of
16 the association's debt that gave rise to the lien under which the
17 foreclosure sale occurred and any subordinate interest, even though
18 the association or other person conducting the sale failed to comply
19 with this section. The person conducting the sale must execute a
20 conveyance to the purchaser sufficient to convey the unit and stating
21 that it is executed by the person after a foreclosure of the
22 association's lien by power of sale and that the person was empowered
23 to make the sale. Signature and title or authority of the person
24 signing the conveyance as grantor and a recital of the facts of
25 nonpayment of the assessment and of the giving of the notices
26 required under this subsection are sufficient proof of the facts
27 recited and of the authority to sign. Further proof of authority is
28 not required even though the association is named as grantee in the
29 conveyance.

30 (e) At any time before the association has conveyed a unit in a
31 cooperative or entered into a contract for its conveyance under the
32 power of sale, the unit owners or the holder of any subordinate
33 security interest may cure the unit owner's default and prevent sale
34 or other conveyance by tendering the performance due under the
35 security agreement, including any amounts due because of exercise of
36 a right to accelerate, plus the reasonable expenses of proceeding to
37 foreclosure incurred to the time of tender, including reasonable
38 attorneys' fees and costs of the creditor.

39 (15) In an action by an association to collect assessments or to
40 foreclose a lien on a unit under this section, the court may appoint

1 a receiver to collect all sums alleged to be due and owing to a unit
2 owner before commencement or during pendency of the action. The
3 receivership is governed under chapter 7.60 RCW. During pendency of
4 the action, the court may order the receiver to pay sums held by the
5 receiver to the association for any assessments against the unit. The
6 exercise of rights under this subsection by the association does not
7 affect the priority of preexisting liens on the unit.

8 (16) Except as provided in subsection (3) of this section, the
9 holder of a mortgage or other purchaser of a unit who obtains the
10 right of possession of the unit through foreclosure is not liable for
11 assessments or installments of assessments that became due prior to
12 such right of possession. Such unpaid assessments are deemed to be
13 common expenses collectible from all the unit owners, including such
14 mortgagee or other purchaser of the unit. Foreclosure of a mortgage
15 does not relieve the prior unit owner of personal liability for
16 assessments accruing against the unit prior to the date of such sale
17 as provided in this subsection.

18 (17) In addition to constituting a lien on the unit, each
19 assessment is the joint and several obligation of the unit owner of
20 the unit to which the same are assessed as of the time the assessment
21 is due. A unit owner may not exempt himself or herself from liability
22 for assessments. In a voluntary conveyance other than by foreclosure,
23 the grantee of a unit is jointly and severally liable with the
24 grantor for all unpaid assessments against the grantor up to the time
25 of the grantor's conveyance, without prejudice to the grantee's right
26 to recover from the grantor the amounts paid by the grantee. Suit to
27 recover a personal judgment for any delinquent assessment is
28 maintainable in any court of competent jurisdiction without
29 foreclosing or waiving the lien securing such sums.

30 (18) The association may from time to time establish reasonable
31 late charges and a rate of interest to be charged, not to exceed the
32 maximum rate calculated under RCW 19.52.020, on all subsequent
33 delinquent assessments or installments of assessments. If the
34 association does not establish such a rate, delinquent assessments
35 bear interest from the date of delinquency at the maximum rate
36 calculated under RCW 19.52.020 on the date on which the assessments
37 became delinquent.

38 (19) The association is entitled to recover any costs and
39 reasonable attorneys' fees incurred in connection with the collection
40 of delinquent assessments, whether or not such collection activities

1 result in a suit being commenced or prosecuted to judgment. The
2 prevailing party is also entitled to recover costs and reasonable
3 attorneys' fees in such suits, including any appeals, if it prevails
4 on appeal and in the enforcement of a judgment.

5 (20) To the extent not inconsistent with this section, the
6 declaration may provide for such additional remedies for collection
7 of assessments as may be permitted by law.

8 (21) An association may not commence an action to foreclose a
9 lien on a unit under this section unless:

10 (a) The unit owner, at the time the action is commenced, owes a
11 sum equal to at least three months of common expense assessments; and

12 (b) The board approves commencement of a foreclosure action
13 specifically against that unit.

14 (22) Unless the parties agree otherwise, the association may
15 apply any sums paid by unit owners who are delinquent in paying
16 assessments (a) to the oldest debt on account, or (b) in the
17 following order:

18 (i) Unpaid assessments;

19 (ii) Late charges;

20 (iii) Reasonable attorneys' fees and costs and other reasonable
21 collection charges; and

22 (iv) All other unpaid fees, charges, fines, penalties, interest,
23 and late charges.

24 (23) Every aspect of a collection, foreclosure, sale, or other
25 conveyance under this section, including the method, advertising,
26 time, date, place, and terms, must be commercially reasonable.

27 NEW SECTION. **Sec. 319.** OTHER LIENS. (1) In a condominium, plat
28 community, and miscellaneous community:

29 (a) Except as otherwise provided in (b) of this subsection, a
30 judgment for money against the association perfected under RCW
31 4.64.020 is not a lien on the common elements, but is a lien in favor
32 of the judgment lienholder against all of the other real estate of
33 the association and all of the units in the common interest community
34 at the time the judgment was entered. Other property of a unit owner
35 is not subject to the claims of creditors of the association.

36 (b) If the association has granted a security interest in the
37 common elements to a creditor of the association pursuant to section
38 314 of this act, the holder of that security interest must exercise

1 its right against the common elements before its judgment lien on any
2 unit may be enforced.

3 (c) Whether perfected before or after the creation of the common
4 interest community, if a lien, other than a deed of trust or
5 mortgage, including a judgment lien or lien attributable to work
6 performed or materials supplied before creation of the common
7 interest community, becomes effective against two or more units, the
8 unit owner of an affected unit may pay to the lienholder the amount
9 of the lien attributable to the unit, and the lienholder, upon
10 receipt of payment, must promptly deliver a release of the lien
11 covering that unit. The amount of the payment must be proportionate
12 to the ratio that the unit owner's common expense liability bears to
13 the common expense liabilities of all unit owners that are subject to
14 the lien. After payment, the association may not assess or have a
15 lien against that unit owner's unit for any portion of the common
16 expenses incurred in connection with that lien.

17 (d) A judgment against the association must be recorded and
18 indexed in the name of the common interest community and the
19 association and, when so indexed, is notice of the lien against the
20 units.

21 (2) In a cooperative:

22 (a) If the association receives notice of an impending
23 foreclosure on all or any portion of the association's real estate,
24 the association must promptly transmit a copy of that notice to each
25 unit owner of a unit located within the real estate to be foreclosed.
26 Failure of the association to transmit the notice does not affect the
27 validity of the foreclosure.

28 (b) Whether a unit owner's unit is subject to the claims of the
29 association's creditors, other property of a unit owner is not
30 subject to those claims.

31 NEW SECTION. **Sec. 320.** ASSOCIATION RECORDS. (1) An association
32 must retain the following:

33 (a) The current budget, detailed records of receipts and
34 expenditures affecting the operation and administration of the
35 association, and other appropriate accounting records within the last
36 seven years;

37 (b) Minutes of all meetings of its unit owners and board other
38 than executive sessions, a record of all actions taken by the unit

1 owners or board without a meeting, and a record of all actions taken
2 by a committee in place of the board on behalf of the association;

3 (c) The names of current unit owners, addresses used by the
4 association to communicate with them, and the number of votes
5 allocated to each unit;

6 (d) Its original or restated declaration, organizational
7 documents, all amendments to the declaration and organizational
8 documents, and all rules currently in effect;

9 (e) All financial statements and tax returns of the association
10 for the past seven years;

11 (f) A list of the names and addresses of its current board
12 members and officers;

13 (g) Its most recent annual report delivered to the secretary of
14 state, if any;

15 (h) Financial and other records sufficiently detailed to enable
16 the association to comply with section 409 of this act;

17 (i) Copies of contracts to which it is or was a party within the
18 last seven years;

19 (j) Materials relied upon by the board or any committee to
20 approve or deny any requests for design or architectural approval for
21 a period of seven years after the decision is made;

22 (k) Materials relied upon by the board or any committee
23 concerning a decision to enforce the governing documents for a period
24 of seven years;

25 (l) Copies of insurance policies under which the association is a
26 named insured;

27 (m) Any current warranties provided to the association;

28 (n) Copies of all notices provided to unit owners or the
29 association in accordance with this chapter or the governing
30 documents; and

31 (o) Ballots, proxies, absentee ballots, and other records related
32 to voting by unit owners for one year after the election, action, or
33 vote to which they relate.

34 (2) Subject to subsections (3) and (4) of this section, all
35 records required to be retained by an association must be made
36 available for examination and copying by all unit owners, holders of
37 mortgages on the units, and their respective authorized agents as
38 follows, unless agreed otherwise:

39 (a) During reasonable business hours or at a mutually convenient
40 time and location; and

1 (b) At the offices of the association or its managing agent.

2 (3) Records retained by an association may be withheld from
3 inspection and copying to the extent that they concern:

4 (a) Personnel and medical records relating to specific
5 individuals;

6 (b) Contracts, leases, and other commercial transactions to
7 purchase or provide goods or services currently being negotiated;

8 (c) Existing or potential litigation or mediation, arbitration,
9 or administrative proceedings;

10 (d) Existing or potential matters involving federal, state, or
11 local administrative or other formal proceedings before a
12 governmental tribunal for enforcement of the governing documents;

13 (e) Legal advice or communications that are otherwise protected
14 by the attorney-client privilege or the attorney work product
15 doctrine, including communications with the managing agent or other
16 necessary agent of the association;

17 (f) Information the disclosure of which would violate a court
18 order or law;

19 (g) Records of an executive session of the board;

20 (h) Individual unit files other than those of the requesting unit
21 owner;

22 (i) Unlisted telephone number or electronic address of any unit
23 owner or resident;

24 (j) Security access information provided to the association for
25 emergency purposes; or

26 (k) Agreements that for good cause prohibit disclosure to the
27 members.

28 (4) An association may charge a reasonable fee for producing and
29 providing copies of any records under this section and for
30 supervising the unit owner's inspection.

31 (5) A right to copy records under this section includes the right
32 to receive copies by photocopying or other means, including through
33 an electronic transmission if available upon request by the unit
34 owner.

35 (6) An association is not obligated to compile or synthesize
36 information.

37 (7) Information provided pursuant to this section may not be used
38 for commercial purposes.

39 (8) An association's managing agent must deliver all of the
40 association's original books and records to the association

1 immediately upon termination of its management relationship with the
2 association, or upon such other demand as is made by the board. An
3 association managing agent may keep copies of the association records
4 at its own expense.

5 NEW SECTION. **Sec. 321.** ASSOCIATION AS TRUSTEE. With respect to
6 a third person dealing with the association in the association's
7 capacity as a trustee, the existence of trust powers and their proper
8 exercise by the association may be assumed without inquiry. A third
9 person is not bound to inquire whether the association has power to
10 act as trustee or is properly exercising trust powers. A third
11 person, without actual knowledge that the association is exceeding or
12 improperly exercising its powers, is fully protected in dealing with
13 the association as if it possessed and properly exercised the powers
14 it purports to exercise. A third person is not bound to assure the
15 proper application of trust assets paid or delivered to the
16 association in its capacity as trustee.

17 NEW SECTION. **Sec. 322.** RULES. (1) Unless the declaration
18 provides otherwise, the board must, before adopting, amending, or
19 repealing any rule, give all unit owners notice of:

20 (a) Its intention to adopt, amend, or repeal a rule and provide
21 the text of the rule or the proposed change; and

22 (b) A date on which the board will act on the proposed rule or
23 amendment after considering comments from unit owners.

24 (2) Following adoption, amendment, or repeal of a rule, the
25 association must give notice to the unit owners of its action and
26 provide a copy of any new or revised rule.

27 (3) If the declaration so provides, an association may adopt
28 rules to establish and enforce construction and design criteria and
29 aesthetic standards and, if so, must adopt procedures for enforcement
30 of those standards and for approval of construction applications,
31 including a reasonable time within which the association must act
32 after an application is submitted and the consequences of its failure
33 to act.

34 (4) An association's internal business operating procedures need
35 not be adopted as rules.

36 (5) Every rule must be reasonable.

1 NEW SECTION. **Sec. 323.** SPECIFIC LIMITATIONS ON ASSOCIATION'S
2 REGULATORY AUTHORITY. (1) An association may not prohibit display of
3 the flag of the United States, or the flag of Washington state, on or
4 within a unit or a limited common element, except that an association
5 may adopt reasonable restrictions pertaining to the time, place, or
6 manner of displaying the flag of the United States necessary to
7 protect a substantial interest of the association. For purposes of
8 this section, "flag of the United States" means the flag of the
9 United States as described in 4 U.S.C. Sec. 1 et seq. that is made of
10 fabric, cloth, or paper. "Flag of the United States" does not mean a
11 flag, depiction, or emblem made of lights, paint, roofing, siding,
12 paving materials, flora, or balloons, or of any similar building,
13 landscaping, or decorative components.

14 (2) The association may not prohibit display of signs regarding
15 candidates for public or association office, or ballot issues, on or
16 within a unit or limited common element, but the association may
17 adopt rules governing the time, place, size, number, and manner of
18 those displays.

19 (3) The association may not prohibit the installation of a solar
20 energy panel on or within a unit so long as the solar panel:

21 (a) Meets applicable health and safety standards and requirements
22 imposed by state and local permitting authorities;

23 (b) If used to heat water, is certified by the solar rating
24 certification corporation or another nationally recognized
25 certification agency. Certification must be for the solar energy
26 panel and for installation; and

27 (c) If used to produce electricity, meets all applicable safety
28 and performance standards established by the national electric code,
29 the institute of electrical and electronics engineers, accredited
30 testing laboratories, such as underwriters laboratories, and, where
31 applicable, rules of the utilities and transportation commission
32 regarding safety and reliability.

33 (4) The governing documents may:

34 (a) Prohibit the visibility of any part of a roof-mounted solar
35 energy panel above the roof line;

36 (b) Permit the attachment of a solar energy panel to the slope of
37 a roof facing a street only if:

38 (i) The solar energy panel conforms to the slope of the roof; and

39 (ii) The top edge of the solar energy panel is parallel to the
40 roof ridge; and

1 (c) Require:

2 (i) A solar energy panel frame, a support bracket, or any visible
3 piping or wiring to be painted to coordinate with the roofing
4 material;

5 (ii) A unit owner or resident to shield a ground-mounted solar
6 energy panel if shielding the panel does not prohibit economic
7 installation of the solar energy panel or degrade the operational
8 performance quality of the solar energy panel by more than ten
9 percent; and

10 (iii) Unit owners or residents who install solar energy panels to
11 indemnify or reimburse the association or its members for loss or
12 damage caused by the installation, maintenance, or use of a solar
13 energy panel.

14 (5) The governing documents may include other reasonable rules
15 regarding the placement and manner of a solar energy panel.

16 (6) For purposes of this section, "solar energy panel" means a
17 panel device or system or combination of panel devices or systems
18 that relies on direct sunlight as an energy source, including a panel
19 device or system or combination of panel devices or systems that
20 collects sunlight for use in:

21 (a) The heating or cooling of a structure or building;

22 (b) The heating or pumping of water;

23 (c) Industrial, commercial, or agricultural processes; or

24 (d) The generation of electricity.

25 (7) This section must not be construed to permit installation by
26 a unit owner of a solar panel on or in common elements without
27 approval of the board.

28 (8) Unit owners may peacefully assemble on the common elements to
29 consider matters related to the common interest community, but the
30 association may adopt rules governing the time, place, and manner of
31 those assemblies.

32 (9) An association may adopt rules that affect the use or
33 occupancy of or behavior in units that may be used for residential
34 purposes, only to:

35 (a) Implement a provision of the declaration;

36 (b) Regulate any behavior in or occupancy of a unit that violates
37 the declaration or adversely affects the use and enjoyment of other
38 units or the common elements by other occupants; and

39 (c) Restrict the leasing of residential units to the extent those
40 rules are reasonably designed to meet underwriting requirements of

1 institutional lenders that regularly make loans secured by first
2 mortgages on units in comparable common interest communities or that
3 regularly purchase those mortgages.

4 NEW SECTION. **Sec. 324.** NOTICE. (1) Notice to the association,
5 board, or any owner or occupant of a unit under this chapter must be
6 provided in the form of a record.

7 (2) Notice provided in a tangible medium may be transmitted by
8 mail, private carrier, or personal delivery; telegraph or teletype;
9 or telephone, wire, or wireless equipment that transmits a facsimile
10 of the notice.

11 (a) Notice in a tangible medium to an association may be
12 addressed to the association's registered agent at its registered
13 office, to the association at its principal office shown in its most
14 recent annual report or provided by notice to the unit owners, or to
15 the president or secretary of the association at the address shown in
16 the association's most recent annual report or provided by notice to
17 the unit owners.

18 (b) Notice in a tangible medium to a unit owner or occupant must
19 be addressed to the unit address unless the unit owner or occupant
20 has requested, in a record delivered to the association, that notices
21 be sent to an alternate address or by other method allowed by this
22 section and the governing documents.

23 (3) Notice may be provided in an electronic transmission as
24 follows:

25 (a) Notice to unit owners or board members by electronic
26 transmission is effective only upon unit owners and board members who
27 have consented, in the form of a record, to receive electronically
28 transmitted notices under this chapter and have designated in the
29 consent the address, location, or system to which such notices may be
30 electronically transmitted, provided that such notice otherwise
31 complies with any other requirements of this chapter and applicable
32 law.

33 (b) Notice to unit owners or board members under this subsection
34 includes material that this chapter or the governing documents
35 requires or permits to accompany the notice.

36 (c) A unit owner or board member who has consented to receipt of
37 electronically transmitted notices may revoke this consent by
38 delivering a revocation to the association in the form of a record.

1 (d) The consent of any unit owner or board member is revoked if:
2 The association is unable to electronically transmit two consecutive
3 notices given by the association in accordance with the consent, and
4 this inability becomes known to the secretary of the association or
5 any other person responsible for giving the notice. The inadvertent
6 failure by the association to treat this inability as a revocation
7 does not invalidate any meeting or other action.

8 (e) Notice to unit owners or board members who have consented to
9 receipt of electronically transmitted notices may be provided by
10 posting the notice on an electronic network and delivering to the
11 unit owner or board member a separate record of the posting, together
12 with comprehensible instructions regarding how to obtain access to
13 the posting on the electronic network.

14 (f) Notice to an association in an electronic transmission is
15 effective only with respect to an association that has designated in
16 a record an address, location, or system to which the notices may be
17 electronically transmitted.

18 (4) Notice may be given by any other method reasonably calculated
19 to provide notice to the recipient.

20 (5) Notice is effective as follows:

21 (a) Notice provided in a tangible medium is effective as of the
22 date of hand delivery, deposit with the carrier, or when sent by fax.

23 (b) Notice provided in an electronic transmission is effective as
24 of the date it:

25 (i) Is electronically transmitted to an address, location, or
26 system designated by the recipient for that purpose; or

27 (ii) Has been posted on an electronic network and a separate
28 record of the posting has been sent to the recipient containing
29 instructions regarding how to obtain access to the posting on the
30 electronic network.

31 (6) The ineffectiveness of a good-faith effort to deliver notice
32 by an authorized means does not invalidate action taken at or without
33 a meeting.

34 (7) If this chapter prescribes different or additional notice
35 requirements for particular circumstances, those requirements govern.

36 NEW SECTION. **Sec. 325.** REMOVAL OF OFFICERS AND BOARD MEMBERS.

37 (1) Unit owners present in person, by proxy, or by absentee ballot at
38 any meeting of the unit owners at which a quorum is present may
39 remove any board member and any officer elected by the unit owners,

1 with or without cause, if the number of votes in favor of removal
2 cast by unit owners entitled to vote for election of the board member
3 or officer proposed to be removed is at least the lesser of (a) a
4 majority of the votes in the association held by such unit owners or
5 (b) two-thirds of the votes cast by such unit owners at the meeting,
6 but:

7 (i) A board member appointed by the declarant may not be removed
8 by a unit owner vote during any period of declarant control;

9 (ii) A board member appointed under section 305(3) of this act
10 may be removed only by the person that appointed that member; and

11 (iii) The unit owners may not consider whether to remove a board
12 member or officer at a meeting of the unit owners unless that subject
13 was listed in the notice of the meeting.

14 (2) At any meeting at which a vote to remove a board member or
15 officer is to be taken, the board member or officer being considered
16 for removal must have a reasonable opportunity to speak before the
17 vote.

18 (3) At any meeting at which a board member or officer is removed,
19 the unit owners entitled to vote for the board member or officer may
20 immediately elect a successor board member or officer consistent with
21 this chapter.

22 (4) The board may remove a board member or officer elected by the
23 unit owners without a unit owner vote if (a) the board member or
24 officer is delinquent more than sixty days and (b) the board member
25 or officer has not cured the delinquency within thirty days after
26 receiving notice of the board's intent to remove the board member or
27 officer. Unless provided otherwise by the governing documents, the
28 board may remove an officer elected by the board at any time, with or
29 without cause.

30 NEW SECTION. **Sec. 326.** ADOPTION OF BUDGETS—ASSESSMENTS AND
31 SPECIAL ASSESSMENTS. (1)(a) Within thirty days after adoption of any
32 proposed budget for the common interest community, the board must
33 provide a copy of the budget to all the unit owners and set a date
34 for a meeting of the unit owners to consider ratification of the
35 budget not less than fourteen nor more than fifty days after
36 providing the budget. Unless at that meeting the unit owners of units
37 to which a majority of the votes in the association are allocated or
38 any larger percentage specified in the declaration reject the budget,

1 the budget and the assessments against the units included in the
2 budget are ratified, whether or not a quorum is present.

3 (b) If the proposed budget is rejected or the required notice is
4 not given, the periodic budget last ratified by the unit owners
5 continues until the unit owners ratify a subsequent budget proposed
6 by the board.

7 (2) The budget must include:

8 (a) The projected income to the association by category;

9 (b) The projected common expenses and those specially allocated
10 expenses that are subject to being budgeted, both by category;

11 (c) The amount of the assessments per unit and the date the
12 assessments are due;

13 (d) The current amount of regular assessments budgeted for
14 contribution to the reserve account;

15 (e) A statement of whether the association has a reserve study
16 that meets the requirements of section 331 of this act and, if so,
17 the extent to which the budget meets or deviates from the
18 recommendations of that reserve study; and

19 (f) The current deficiency or surplus in reserve funding
20 expressed on a per unit basis.

21 (3) The board, at any time, may propose a special assessment. The
22 assessment is effective only if the board follows the procedures for
23 ratification of a budget described in subsection (1) of this section
24 and the unit owners do not reject the proposed assessment. The board
25 may provide that the special assessment may be due and payable in
26 installments over any period it determines and may provide a discount
27 for early payment.

28 NEW SECTION. **Sec. 327.** FINANCIAL STATEMENTS AND ASSOCIATION
29 FUNDS. (1) The association must prepare, or cause to be prepared, at
30 least annually, a financial statement of the association in
31 accordance with accrual based accounting practices.

32 (2) The financial statements of associations with annual
33 assessments of fifty thousand dollars or more must be audited at
34 least annually by a certified public accountant. In the case of an
35 association with annual assessments of less than fifty thousand
36 dollars, an annual audit is also required but may be waived annually
37 by unit owners other than the declarant of units to which a majority
38 of the votes in the association are allocated, excluding the votes
39 allocated to units owned by the declarant.

1 (3) The association must keep all funds of the association in the
2 name of the association with a qualified financial institution. The
3 funds must not be commingled with the funds of any other association
4 or with the funds of any managing agent of the association or any
5 other person, or be kept in any trust account or custodial account in
6 the name of any trustee or custodian.

7 (4) A managing agent who accepts or receives funds belonging to
8 the association must promptly deposit all such funds into an account
9 maintained by the association as provided in subsection (3) of this
10 section or section 328 of this act, as appropriate.

11 NEW SECTION. **Sec. 328.** RESERVE ACCOUNT—ESTABLISHMENT. An
12 association required to obtain a reserve study pursuant to section
13 330 of this act must establish one or more accounts for the deposit
14 of funds, if any, for the replacement costs of reserve components.
15 Any reserve account must be an income-earning account maintained
16 under the direct control of the board, and the board is responsible
17 for administering the reserve account.

18 NEW SECTION. **Sec. 329.** RESERVE ACCOUNT—WITHDRAWALS. (1) The
19 board may withdraw funds from the association's reserve account to
20 pay for unforeseen or unbudgeted costs that are unrelated to
21 replacement costs of the reserve components. Any such withdrawal must
22 be recorded in the minute books of the association. The board must
23 give notice of any such withdrawal to each unit owner and adopt a
24 repayment schedule not to exceed twenty-four months unless the board
25 determines that repayment within twenty-four months would impose an
26 unreasonable burden on the unit owners. The board must provide to
27 unit owners along with the annual budget adopted in accordance with
28 section 326 of this act (a) notice of any such withdrawal, (b) a
29 statement of the current deficiency in reserve funding expressed on a
30 per unit basis, and (c) the repayment plan.

31 (2) The board may withdraw funds from the reserve account without
32 satisfying the notification of repayment requirements under this
33 section to pay for replacement costs of reserve components not
34 included in the reserve study.

35 NEW SECTION. **Sec. 330.** RESERVE STUDY—PREPARATION. (1) Unless
36 exempt under subsection (2) of this section, an association must

1 prepare and update a reserve study in accordance with this chapter.
2 An initial reserve study must be prepared by a reserve study
3 professional and based upon a visual site inspection conducted by the
4 reserve study professional. An updated reserve study must be prepared
5 annually. An updated reserve study must be prepared at least every
6 third year by a reserve study professional and based upon a visual
7 site inspection conducted by the reserve study professional.

8 (2) Unless the governing documents require otherwise, subsection
9 (1) of this section does not apply (a) to common interest communities
10 containing units that are restricted in the declaration to
11 nonresidential use, (b) to common interest communities that have only
12 nominal reserve costs, or (c) when the cost of the reserve study or
13 update exceeds ten percent of the association's annual budget.

14 (3) The governing documents may impose greater requirements on
15 the board.

16 NEW SECTION. **Sec. 331.** RESERVE STUDY—CONTENTS. (1) Any reserve
17 study is supplemental to the association's operating and maintenance
18 budget.

19 (2) A reserve study must include:

20 (a) A reserve component list, including any reserve component,
21 the replacement cost of which exceeds one percent of the annual
22 budget of the association, excluding contributions to the reserves
23 for that reserve component. If one of these reserve components is not
24 included in the reserve study, the study must explain the basis for
25 its exclusion. The study must also include quantities and estimates
26 for the useful life of each reserve component, the remaining useful
27 life of each reserve component, and current major replacement costs
28 for each reserve component;

29 (b) The date of the study and a disclosure as to whether the
30 study meets the requirements of this section;

31 (c) The following level of reserve study performed:

32 (i) Level I: Full reserve study funding analysis and plan;

33 (ii) Level II: Update with visual site inspection; or

34 (iii) Level III: Update with no visual site inspection;

35 (d) The association's reserve account balance;

36 (e) The percentage of the fully funded balance to which the
37 reserve account is funded;

38 (f) Special assessments already implemented or planned;

39 (g) Interest and inflation assumptions;

1 (h) Current reserve account contribution rates for a full funding
2 plan and a baseline funding plan;

3 (i) A recommended reserve account contribution rate for a full
4 funding plan to achieve one hundred percent fully funded reserves by
5 the end of the thirty-year study period, a recommended reserve
6 account contribution rate for a baseline funding plan to maintain the
7 reserve account balance above zero throughout the thirty-year study
8 period without special assessments, and a reserve account
9 contribution rate recommended by the reserve study professional;

10 (j) A projected reserve account balance for thirty years based on
11 each funding plan presented in the reserve study;

12 (k) A disclosure on whether the reserve study was prepared with
13 the assistance of a reserve study professional, and whether the
14 reserve study professional was independent; and

15 (l) A statement of the amount of any current deficit or surplus
16 in reserve funding expressed on a dollars per unit basis. The amount
17 is calculated by subtracting the association's reserve account
18 balance as of the date of the study from the fully funded balance,
19 and then multiplying the result by the fraction or percentage of the
20 common expenses of the association allocable to each unit; except
21 that if the fraction or percentage of the common expenses of the
22 association allocable vary by unit, the association must calculate
23 any current deficit or surplus in a manner that reflects the
24 variation.

25 (3) A reserve study must also include the following disclosure:

26 "This reserve study should be reviewed carefully. It may not
27 include all common and limited common element components that will
28 require major maintenance, repair, or replacement in future years,
29 and may not include regular contributions to a reserve account for
30 the cost of such maintenance, repair, or replacement. The failure to
31 include a component in a reserve study, or to provide contributions
32 to a reserve account for a component, may, under some circumstances,
33 require the association to (1) defer major maintenance, repair, or
34 replacement, (2) increase future reserve contributions, (3) borrow
35 funds to pay for major maintenance, repair, or replacement, or (4)
36 impose special assessments for the cost of major maintenance, repair,
37 or replacement."

38 NEW SECTION. **Sec. 332.** RESERVE STUDY—DEMAND BY UNIT OWNERS—
39 ACTION TO ENFORCE. (1) When more than three years have passed since

1 the date of the last reserve study prepared by a reserve study
2 professional, unit owners of units to which at least twenty percent
3 of the votes in the association are allocated may demand in a record
4 delivered to the board that the cost of a reserve study be included
5 in the next annual budget and that the study be prepared by the end
6 of that budget year. The demand must refer to this section. The board
7 must, upon receipt of the demand, include the cost of a reserve study
8 in the next budget and, if that budget is not rejected by the unit
9 owners pursuant to section 326 of this act, arrange for the
10 preparation of a reserve study.

11 (2) One or more unit owners may bring an action to enforce the
12 requirements of this section and sections 330 and 331 of this act. In
13 such an action, a court may order specific performance and may award
14 reasonable attorneys' fees and costs to the prevailing party.

15 (3) A unit owner's duty to pay assessments is not excused because
16 of the association's failure to comply with this section and sections
17 330 and 331 of this act. A budget ratified by the unit owners
18 pursuant to section 326 of this act is not invalidated because of the
19 association's failure to comply with this section and sections 330
20 and 331 of this act.

21 NEW SECTION. **Sec. 333.** RESERVE STUDY—RESERVE ACCOUNT—IMMUNITY
22 FROM LIABILITY. Except for an award for attorneys' fees and costs
23 under section 332(2) of this act, monetary damages or other liability
24 may not be awarded against or imposed upon the association or its
25 officers or board members, or upon any person who may have provided
26 advice or assistance to the association or its officers or board
27 members, for failure to: Establish or replenish a reserve account,
28 have a current reserve study prepared or updated in accordance with
29 the requirements of this chapter, or make reserve disclosures in
30 accordance with this chapter.

31 **IV. PROTECTION OF PURCHASERS**

32 NEW SECTION. **Sec. 401.** APPLICABILITY—WAIVER. (1) Sections 402
33 through 420 of this act apply to all units subject to this chapter,
34 except as provided in subsection (2) of this section.

35 (2) Sections 402 through 420 of this act do not apply in the case
36 of:

37 (a) A conveyance by gift, devise, or descent;

- 1 (b) A conveyance pursuant to court order;
- 2 (c) A conveyance by a government or governmental agency;
- 3 (d) A conveyance by foreclosure;
- 4 (e) A conveyance of all of the units in a common interest
- 5 community in a single transaction;
- 6 (f) A conveyance to other than a purchaser;
- 7 (g) An agreement to convey that may be canceled at any time and
- 8 for any reason by the purchaser without penalty;
- 9 (h) A conveyance of a unit restricted to nonresidential uses,
- 10 except and to the extent otherwise agreed to in writing by the seller
- 11 and purchaser of that unit.

12 (3) Sections 415 and 416 of this act apply only to condominiums

13 created under this chapter, and do not apply to other common interest

14 communities.

15 NEW SECTION. **Sec. 402.** LIABILITY FOR PUBLIC OFFERING STATEMENT

16 REQUIREMENTS. (1) Except as provided otherwise in subsection (2) of

17 this section, a declarant required to deliver a public offering

18 statement pursuant to subsection (3) of this section must prepare a

19 public offering statement conforming to the requirements of sections

20 403, 404, and 405 of this act.

21 (2) A declarant may transfer responsibility for preparation of

22 all or a part of the public offering statement to a successor

23 declarant or to a dealer who intends to offer units in the

24 condominium.

25 (3)(a) Any declarant or dealer who offers to convey a unit for

26 the person's own account to a purchaser must provide a purchaser of a

27 unit with a copy of the public offering statement and all material

28 amendments to the offering statement before conveyance of that unit.

29 (b) Any agent, attorney, or other person assisting the declarant

30 or dealer in preparing the public offering statement may rely upon

31 information provided by the declarant or dealer without independent

32 investigation. The agent, attorney, or other person is not liable for

33 any material misrepresentation in or omissions of material facts from

34 the public offering statement unless the person had actual knowledge

35 of the misrepresentation or omission at the time the public offering

36 statement was prepared.

37 (c) The declarant or dealer is liable for any misrepresentation

38 contained in the public offering statement or for any omission of

39 material fact from the offering statement if the declarant or dealer

1 had actual knowledge of the misrepresentation or omission or, in the
2 exercise of reasonable care, should have known of the
3 misrepresentation or omission.

4 (4) If a unit is part of a common interest community and is part
5 of any other real estate regime in connection with the sale of which
6 the delivery of a public offering statement is required under the
7 laws of this state, a single public offering statement conforming to
8 the requirements of sections 403, 404, and 405 of this act as those
9 requirements relate to each regime in which the unit is located, and
10 to any other requirements imposed under the laws of this state, may
11 be prepared and delivered in lieu of providing two or more public
12 offering statements.

13 (5) A declarant is not required to prepare and deliver a public
14 offering statement in connection with the sale of any unit owned by
15 the declarant, or to obtain for or provide to the purchaser a report
16 or statement required under sections 403(1)(oo), 405(1), or 412 of
17 this act, upon the later of:

18 (a) The termination or expiration of all special declarant
19 rights;

20 (b) The expiration of all periods within which claims or actions
21 for a breach of warranty arising from defects involving the common
22 elements under section 417 of this act must be filed or commenced,
23 respectively, by the association against the declarant; or

24 (c) The time when the declarant ceases to meet the definition of
25 a dealer under section 102 of this act.

26 (6) After the last to occur of any of the events described in
27 subsection (5) of this section, a declarant must deliver to the
28 purchaser of a unit owned by the declarant a resale certificate under
29 section 409(2) of this act together with:

30 (a) The identification of any real property not in the common
31 interest community that unit owners have a right to use and a
32 description of the terms of such use;

33 (b) A brief description or a copy of any express construction
34 warranties to be provided to the purchaser;

35 (c) A statement of any litigation brought by an owners'
36 association, unit owner, or governmental entity in which the
37 declarant or any affiliate of the declarant has been a defendant
38 arising out of the construction, sale, or administration of any
39 common interest community within the state of Washington within the

1 previous five years, together with the results of the litigation, if
2 known;

3 (d) Whether timesharing is permitted or prohibited, and, if
4 permitted, a statement that the purchaser of a time share unit is
5 entitled to receive the disclosure document required under chapter
6 64.36 RCW; and

7 (e) Any other information and cross-references that the declarant
8 believes will be helpful in describing the common interest community
9 to the purchaser, all of which may be included or not included at the
10 option of the declarant.

11 (7) A declarant is not liable to a purchaser for the failure or
12 delay of the association to provide the resale certificate in a
13 timely manner, but the purchase contract is voidable by the purchaser
14 of a unit sold by the declarant until the resale certificate required
15 under section 409(2) of this act and the information required under
16 subsection (6) of this section have been provided and for five days
17 thereafter or until conveyance, whichever occurs first.

18 NEW SECTION. **Sec. 403.** PUBLIC OFFERING STATEMENT—GENERAL
19 PROVISIONS. (1) A public offering statement must contain the
20 following information:

21 (a) The name and address of the declarant;

22 (b) The name and address or location of the management company,
23 if any;

24 (c) The relationship of the management company to the declarant,
25 if any;

26 (d) The name and address of the common interest community;

27 (e) A statement that the common interest community is a
28 condominium, cooperative, plat community, or miscellaneous community;

29 (f) A list, current as of the date the public offering statement
30 is prepared, of up to the five most recent common interest
31 communities in which at least one unit was sold by the declarant or
32 an affiliate of the declarant within the past five years, including
33 the names of the common interest communities and their addresses;

34 (g) The nature of the interest being offered for sale;

35 (h) A general description of the common interest community,
36 including to the extent known to the declarant, the types and number
37 of buildings that the declarant anticipates including in the common
38 interest community and the declarant's schedule of commencement and
39 completion of such buildings and principal common amenities;

1 (i) The status of construction of the units and common elements,
2 including estimated dates of completion if not completed;

3 (j) The number of existing units in the common interest
4 community;

5 (k) Separate lists and descriptions of (i) the existing principal
6 common amenities, (ii) those amenities that will be added to the
7 common interest community, and (iii) those amenities that may be
8 added to the common interest community;

9 (l) A description of the limited common elements, other than
10 those described in section 203 (1)(b) and (3) of this act, that may
11 be allocated to the units being offered for sale;

12 (m) The identification of any rights of persons other than unit
13 owners to use any of the common elements, and a description of the
14 terms of such use;

15 (n) The identification of any real property not in the common
16 interest community that unit owners have a right to use and a
17 description of the terms of such use;

18 (o) Any services the declarant provides or expenses that the
19 declarant pays that are not reflected in the budget, but that the
20 declarant expects may become at any subsequent time a common expense
21 of the association, and the projected common expense attributable to
22 each of those services or expenses;

23 (p) An estimate of any assessment or payment required by the
24 declaration to be paid by the purchaser of a unit at closing;

25 (q) A description of any liens or monetary encumbrances on the
26 title to the common elements that will not be discharged at closing;

27 (r) A brief description or a copy of any express construction
28 warranties to be provided to the purchaser;

29 (s) A statement, as required under RCW 64.35.210, as to whether
30 the units or common elements of the common interest community are
31 covered by a qualified warranty;

32 (t) If applicable to the common interest community, a statement
33 whether the common interest community contains any multiunit
34 residential building subject to chapter 64.55 RCW and, if so,
35 whether:

36 (i) The building enclosure has been designed and inspected to the
37 extent required under RCW 64.55.010 through 64.55.090; and

38 (ii) The repairs required under RCW 64.55.090 have been made;

39 (u) A statement of any unsatisfied judgments or pending suits
40 against the association and the status of any pending suits material

1 to the common interest community of which the declarant has actual
2 knowledge;

3 (v) A statement of any litigation brought by an owners'
4 association, unit owner, or governmental entity in which the
5 declarant or any affiliate of the declarant has been a defendant
6 arising out of the construction, sale, or administration of any
7 common interest community within the previous five years, together
8 with the results of the litigation, if known;

9 (w) A brief description of:

10 (i) Any restrictions on use or occupancy of the units contained
11 in the governing documents;

12 (ii) Any restrictions on the renting or leasing of units by the
13 declarant or other unit owners contained in the governing documents;

14 (iii) Any rights of first refusal to lease or purchase any unit
15 or any of the common elements contained in the governing documents;
16 and

17 (iv) Any restriction on the amount for which a unit may be sold
18 or on the amount that may be received by a unit owner on sale;

19 (x) A description of the insurance coverage provided for the
20 benefit of unit owners;

21 (y) Any current or expected fees or charges not included in the
22 common expenses to be paid by unit owners for the use of the common
23 elements and other facilities related to the common interest
24 community, together with any fees or charges not included in the
25 common expenses to be paid by unit owners to any master or other
26 association;

27 (z) The extent, if any, to which bonds or other assurances from
28 third parties have been provided for completion of all improvements
29 that the declarant is obligated to build pursuant to section 420 of
30 this act;

31 (aa) In a cooperative, a statement whether the unit owners are
32 entitled, for federal, state, and local income tax purposes, to a
33 pass-through of any deductions for payments made by the association
34 for real estate taxes and interest paid to the holder of a security
35 interest encumbering the cooperative;

36 (bb) In a cooperative, a statement as to the effect on every unit
37 owner's interest in a cooperative if the association fails to pay
38 real estate taxes or payments due to the holder of a security
39 interest encumbering the cooperative;

1 (cc) In a leasehold common interest community, a statement
2 whether the expiration or termination of any lease may terminate the
3 common interest community or reduce its size, the recording number of
4 any such lease or a statement of where the complete lease may be
5 inspected, the date on which such lease is scheduled to expire, a
6 description of the real estate subject to such lease, a statement
7 whether the unit owners have a right to redeem the reversion, a
8 statement whether the unit owners have a right to remove any
9 improvements at the expiration or termination of such lease, a
10 statement of any rights of the unit owners to renew such lease, and a
11 reference to the sections of the declaration where such information
12 may be found;

13 (dd) A summary of, and information on how to obtain a full copy
14 of, any reserve study and a statement as to whether or not it was
15 prepared in accordance with sections 330 and 331 of this act or the
16 governing documents;

17 (ee) A brief description of any arrangement described in section
18 123 of this act binding the association;

19 (ff) The estimated current common expense liability for the units
20 being offered;

21 (gg) Except for real property taxes, real property assessments
22 and utility liens, any assessments, fees, or other charges known to
23 the declarant and which, if not paid, may constitute a lien against
24 any unit or common elements in favor of any governmental agency;

25 (hh) The identification of any parts of the common interest
26 community, other than the owner's unit, which any owner must
27 maintain;

28 (ii) Whether timesharing is permitted or prohibited, and, if
29 permitted, a statement that the purchaser of a timeshare unit is
30 entitled to receive the disclosure document required under chapter
31 64.36 RCW;

32 (jj) If the common interest community is subject to any special
33 declarant rights, the information required under section 404 of this
34 act;

35 (kk) Any liens on real estate to be conveyed to the association
36 required to be disclosed pursuant to section 411(3)(b) of this act;

37 (ll) A list of any physical hazards known to the declarant that
38 particularly affect the common interest community or the immediate
39 vicinity in which the common interest community is located and which
40 are not readily ascertainable by the purchaser;

1 (mm) Any building code violation of which the declarant has
2 actual knowledge and which has not been corrected;

3 (nn) If the common interest community contains one or more
4 conversion buildings, the information required under sections 405 and
5 412(6)(a) of this act;

6 (oo) If the public offering statement is related to conveyance of
7 a unit in a multiunit residential building as defined in RCW
8 64.55.010, for which the final certificate of occupancy was issued
9 more than sixty calendar months prior to the preparation of the
10 public offering statement either: A copy of a report prepared by an
11 independent, licensed architect or engineer or a statement by the
12 declarant based on such report that describes, to the extent
13 reasonably ascertainable, the present condition of all structural
14 components and mechanical and electrical installations of the
15 conversion buildings material to the use and enjoyment of the
16 buildings;

17 (pp) Any other information and cross-references that the
18 declarant believes will be helpful in describing the common interest
19 community to the recipients of the public offering statement, all of
20 which may be included or not included at the option of the declarant;
21 and

22 (qq) A description of any age-related occupancy restrictions
23 affecting the common interest community.

24 (2) The public offering statement must begin with notices
25 substantially in the following forms and in conspicuous type:

26 (a) "RIGHT TO CANCEL. (1) You are entitled to receive a copy of
27 this public offering statement and all material amendments to the
28 statement before conveyance of your unit. You have the right to
29 cancel your contract for the purchase of your unit within seven days
30 after first receiving this public offering statement. If this public
31 offering statement is first provided to you more than seven days
32 before you sign your contract for the purchase of your unit, you have
33 no right to cancel your contract. If this public offering statement
34 is first provided to you seven days or less before you sign your
35 contract for the purchase of your unit, you have the right to cancel,
36 before conveyance of the unit, the executed contract by delivering,
37 no later than the seventh day after first receiving this public
38 offering statement, a notice of cancellation pursuant to section (3)
39 of this notice. If this public offering statement is first provided
40 to you less than seven days before the closing date for the

1 conveyance of your unit, you may, before conveyance of your unit to
2 you, extend the closing date to a date not more than seven days after
3 you first received this public offering statement.

4 (2) You have no right to cancel your contract upon receipt of an
5 amendment to this public offering statement; however, this does not
6 eliminate any right to rescind your contract due to the disclosure of
7 the information in the amendment that is otherwise available to you
8 under generally applicable legal principles of contract law.

9 (3) If you elect to cancel your contract pursuant to this notice,
10 you may do so by hand-delivering notice of cancellation, or by
11 mailing notice of cancellation by prepaid United States mail, to the
12 seller at the address set forth in this public offering statement or
13 at the address of the seller's registered agent for service of
14 process. The date of such notice is the date of receipt, if hand-
15 delivered, or the date of deposit in the United States mail, if
16 mailed. Cancellation is without penalty, and all payments made to the
17 seller by you before cancellation must be refunded promptly."

18 (b) "OTHER DOCUMENTS CREATING BINDING LEGAL OBLIGATIONS. This
19 public offering statement is a summary of some of the significant
20 aspects of purchasing a unit in this common interest community. The
21 governing documents and the purchase agreement are complex, contain
22 other important information, and create binding legal obligations.
23 You should consider seeking the assistance of legal counsel."

24 (c) "OTHER REPRESENTATIONS. You may not rely on any statement,
25 promise, model, depiction, or description unless it is (1) made in
26 the public offering statement delivered to you, (2) made in writing
27 signed by the declarant or dealer or the declarant's or dealer's
28 agent identified in the public offering statement, or (3) made in an
29 advertisement or promotional material approved or authorized by the
30 declarant or dealer. A statement of opinion, or a commendation of the
31 real estate, its quality, or its value, does not create a warranty,
32 and a statement, promise, model, depiction, or description does not
33 create a warranty if it discloses that it is only proposed, is not
34 representative, or is subject to change."

35 (d) "MODEL UNITS. Model units are intended to provide you with a
36 general idea of what a finished unit might look like. Units being
37 offered for sale may vary from the model unit in terms of floor plan,
38 fixtures, finishes, and equipment. You are advised to obtain specific
39 information about the unit you are considering purchasing."

1 (e) "RESERVE STUDY. The association [does] [does not] have a
2 current reserve study. Any reserve study should be reviewed
3 carefully. It may not include all reserve components that will
4 require major maintenance, repair, or replacement in future years,
5 and may not include regular contributions to a reserve account for
6 the cost of such maintenance, repair, or replacement. You may
7 encounter certain risks, including being required to pay as a special
8 assessment your share of expenses for the cost of major maintenance,
9 repair, or replacement of a reserve component, as a result of the
10 failure to: (1) Have a current reserve study or fully funded
11 reserves, (2) include a component in a reserve study, or (3) provide
12 any or sufficient contributions to a reserve account for a
13 component."

14 (f) "DEPOSITS AND PAYMENTS. Only earnest money and reservation
15 deposits are required to be placed in an escrow or trust account. Any
16 other payments you make to the seller of a unit are at risk and may
17 be lost if the seller defaults."

18 (g) "CONSTRUCTION DEFECT CLAIMS. Chapter 64.50 RCW contains
19 important requirements you must follow before you may file a lawsuit
20 for defective construction against the seller or builder of your
21 home. Forty-five days before you file your lawsuit, you must deliver
22 to the seller or builder a written notice of any construction
23 conditions you allege are defective and provide your seller or
24 builder the opportunity to make an offer to repair or pay for the
25 defects. You are not obligated to accept any offer made by the
26 builder or seller. There are strict deadlines and procedures under
27 state law, and failure to follow them may affect your ability to file
28 a lawsuit."

29 (h) "ASSOCIATION INSURANCE. The extent to which association
30 insurance provides coverage for the benefit of unit owners (including
31 furnishings, fixtures, and equipment in a unit) is determined by the
32 provisions of the declaration and the association's insurance policy,
33 which may be modified from time to time. You and your personal
34 insurance agent should read the declaration and the association's
35 policy prior to closing to determine what insurance is required of
36 the association and unit owners, unit owners' rights and duties, what
37 is and is not covered by the association's policy, and what
38 additional insurance you should obtain."

39 (i) "QUALIFIED WARRANTY. Your unit [is] [is not] covered by a
40 qualified warranty under chapter 64.35 RCW. "

1 (3) The public offering statement must include copies of each of
2 the following documents: The declaration; the survey; the
3 organizational documents; the rules and regulations, if any; the
4 current or proposed budget for the association; a dated balance sheet
5 of the association; any inspection and repair report or reports
6 prepared in accordance with the requirements of RCW 64.55.090; and
7 any qualified warranty provided to a purchaser by a declarant
8 together with a history of claims under the qualified warranty. If
9 any of these documents are not in final form, the documents must be
10 marked "draft" and, before closing the sale of a unit, the purchaser
11 must be given notice of any material changes to the draft documents.

12 (4) A declarant must promptly amend the public offering statement
13 to reflect any material change in the information required under this
14 section.

15 NEW SECTION. **Sec. 404.** COMMON INTEREST COMMUNITIES SUBJECT TO
16 DEVELOPMENT RIGHTS. If the declaration provides that a common
17 interest community is subject to any development rights or if the
18 declarant reserves any special declarant rights, the public offering
19 statement must include, in addition to the information required under
20 section 403 of this act:

21 (1) A statement of all development rights and special declarant
22 rights reserved to the declarant, together with the dates or other
23 circumstances under which such rights must terminate; and

24 (2) A statement describing how the allocated interests of a unit
25 may be changed by the exercise of any development right.

26 NEW SECTION. **Sec. 405.** COMMON INTEREST COMMUNITIES CONTAINING
27 CONVERSION BUILDINGS. (1) A public offering statement for a unit in a
28 conversion building must contain, in addition to the information
29 required under sections 403, 404, and 412(6)(a) of this act:

30 (a) Either a copy of a report prepared by an independent,
31 licensed architect or engineer or a statement by the declarant based
32 on such report that describes, to the extent reasonably
33 ascertainable, the present condition of all structural components and
34 mechanical and electrical installations material to the use and
35 enjoyment of the common interest community;

36 (b) A statement by the declarant or dealer of the expected useful
37 life of each item reported on in (a) of this subsection or a
38 statement that no representations are made in that regard;

1 (c) A copy of any inspection and repair report for the conversion
2 building required under RCW 64.55.090, if applicable;

3 (d) A list of any outstanding notices of uncured violations of
4 building code or other municipal ordinances and regulations, together
5 with the estimated cost of curing those violations and a statement
6 that such list is not a representation that the conversion building
7 is in compliance with the current building code or other municipal
8 ordinances and regulations;

9 (e) A statement of the improvements to the conversion building
10 made or contracted for by the declarant or dealer, or affiliate of
11 either, offering the unit for sale; and

12 (f) The current deficiency or surplus in reserve funding
13 expressed on a per unit basis.

14 (2) The obligation to provide the information required in
15 subsection (1) of this section as to any particular conversion
16 building ceases on the earlier of (a) the date when all units in the
17 building have been conveyed to persons other than the declarant or a
18 dealer, or any affiliate of the dealer, or (b) the date set forth in
19 section 402(5) of this act.

20 NEW SECTION. **Sec. 406.** PUBLIC OFFERING STATEMENT—USE OF SINGLE
21 DISCLOSURE DOCUMENT. If a unit is offered for sale for which the
22 delivery of a public offering statement or other disclosure document
23 is required under the laws of any state or the United States, a
24 single disclosure document conforming to the requirements of sections
25 403, 404, and 405 of this act and conforming to any other requirement
26 imposed under such laws may be prepared and delivered in lieu of
27 providing two or more disclosure documents.

28 NEW SECTION. **Sec. 407.** PUBLIC OFFERING STATEMENT—CONTRACT OF
29 SALE—RESTRICTION ON INTEREST CONVEYED. In the case of a sale of a
30 unit in which delivery of a public offering statement is required, a
31 contract of sale may be executed unless otherwise prohibited by
32 applicable law, but interest in that unit may not be conveyed until:

33 (1) The declaration and map that create the common interest
34 community in which that unit is located are recorded pursuant to
35 sections 201(1) and 210(3) of this act; and

36 (2) In the case of a unit in a building containing that unit or a
37 building comprising that unit, the unit is substantially completed

1 and available for occupancy, and all structural components and
2 mechanical systems of the building containing or comprising that unit
3 are substantially completed, but a declarant or dealer and a
4 purchaser may otherwise specifically agree in writing as to the
5 extent to which the unit will not be substantially completed and
6 available and to which any structural components and mechanical
7 systems will not be substantially completed at the time of
8 conveyance.

9 NEW SECTION. **Sec. 408.** PURCHASER'S RIGHT TO CANCEL. (1) The
10 purchaser may cancel a contract for the purchase of the unit within
11 seven days after first receiving the public offering statement. If
12 the public offering statement is first provided to a purchaser more
13 than seven days before execution of a contract for the purchase of a
14 unit, the purchaser may not cancel the executed contract. If the
15 public offering statement is first provided to a purchaser seven days
16 or less before the purchaser signs a contract for the purchase of a
17 unit, the purchaser, before conveyance of the unit to the purchaser,
18 may cancel the contract by delivering, no later than the seventh day
19 after first receiving the public offering statement, a notice of
20 cancellation, delivered pursuant to subsection (3) of this section.
21 If the public offering statement is first provided to a purchaser
22 less than seven days before the closing date for the conveyance of
23 that unit, the purchaser may, before conveyance of the unit to the
24 purchaser, extend the closing date to a date not more than seven days
25 after the purchaser first received the public offering statement.

26 (2) A purchaser may not cancel a contract upon receipt of an
27 amendment to a public offering statement. This subsection must not be
28 construed to eliminate any right that is otherwise available to the
29 purchaser under generally applicable legal principles of contract law
30 to rescind the contract due to the disclosure of the information in
31 the amendment.

32 (3) If a purchaser elects to cancel a contract under subsection
33 (1) of this section, the purchaser may do so by hand-delivering
34 notice of cancellation, or by mailing notice of cancellation by
35 prepaid United States mail, to the declarant at the address set forth
36 in the public offering statement or at the address of the declarant's
37 registered agent for service of process. The date of such notice is
38 the date of receipt of delivery, if hand-delivered, or the date of
39 deposit in the United States mail, if mailed. Cancellation is without

1 penalty, and all payments made to the seller by the purchaser before
2 cancellation must be refunded promptly. There is no liability for
3 failure to deliver any amendment unless such failure would have
4 entitled the purchaser under generally applicable legal principles to
5 cancel the contract for the purchase of the unit had the undisclosed
6 information been evident to the purchaser before the closing of the
7 purchase.

8 NEW SECTION. **Sec. 409.** RESALES OF UNITS. (1) Except in the case
9 of a sale when delivery of a public offering statement is required,
10 or unless exempt under section 401(2) of this act, a unit owner must
11 furnish to a purchaser before execution of any contract for sale of a
12 unit, or otherwise before conveyance, a resale certificate, signed by
13 an officer or authorized agent of the association and based on the
14 books and records of the association and the actual knowledge of the
15 person signing the certificate, containing:

16 (a) A statement disclosing any right of first refusal or other
17 restraint on the free alienability of the unit contained in the
18 declaration;

19 (b) With respect to the selling unit owner's unit, a statement
20 setting forth the amount of any assessment currently due, any
21 delinquent assessments, and a statement of any special assessments
22 that have been levied and have not been paid even though not yet due;

23 (c) A statement, which must be current to within forty-five days,
24 of any assessments against any unit in the condominium that are past
25 due over thirty days;

26 (d) A statement, which must be current to within forty-five days,
27 of any monetary obligation of the association that is past due over
28 thirty days;

29 (e) A statement of any other fees payable to the association by
30 unit owners;

31 (f) A statement of any expenditure or anticipated repair or
32 replacement cost reasonably anticipated to be in excess of five
33 percent of the board-approved annual budget of the association,
34 regardless of whether the unit owners are entitled to approve such
35 cost;

36 (g) A statement whether the association does or does not have a
37 reserve study prepared in accordance with sections 330 and 331 of
38 this act;

1 (h) The annual financial statement of the association, including
2 the audit report if it has been prepared, for the year immediately
3 preceding the current year;

4 (i) The most recent balance sheet and revenue and expense
5 statement, if any, of the association;

6 (j) The current operating budget of the association;

7 (k) A statement of any unsatisfied judgments against the
8 association and the status of any legal actions in which the
9 association is a party or a claimant as defined in RCW 64.50.010;

10 (l) A statement describing any insurance coverage carried by the
11 association and contact information for the association's insurance
12 broker or agent;

13 (m) A statement as to whether the board has given or received
14 notice in a record that any existing uses, occupancies, alterations,
15 or improvements in or to the seller's unit or to the limited common
16 elements allocated to the unit violate any provision of the governing
17 documents;

18 (n) A statement of the number of units, if any, still owned by
19 the declarant, whether the declarant has transferred control of the
20 association to the unit owners, and the date of such transfer;

21 (o) A statement as to whether the board has received notice in a
22 record from a governmental agency of any violation of environmental,
23 health, or building codes with respect to the seller's unit, the
24 limited common elements assigned to that unit, or any other portion
25 of the common interest community that has not been cured;

26 (p) A statement of the remaining term of any leasehold estate
27 affecting the common interest community and the provisions governing
28 any extension or renewal of the leasehold estate;

29 (q) A statement of any restrictions in the declaration affecting
30 the amount that may be received by a unit owner upon sale;

31 (r) In a cooperative, an accountant's statement, if any was
32 prepared, as to the deductibility for federal income tax purposes by
33 the unit owner of real estate taxes and interest paid by the
34 association;

35 (s) A statement describing any pending sale or encumbrance of
36 common elements;

37 (t) A statement disclosing the effect on the unit to be conveyed
38 of any restrictions on the owner's right to use or occupy the unit or
39 to lease the unit to another person;

1 (u) A copy of the declaration, the organizational documents, the
2 rules or regulations of the association, the minutes of board
3 meetings and association meetings, except for any information exempt
4 from disclosure under section 320(3) of this act, for the last twelve
5 months, a summary of the current reserve study for the association,
6 and any other information reasonably requested by mortgagees of
7 prospective purchasers of units. Information requested generally by
8 the federal national mortgage association, the federal home loan bank
9 board, the government national mortgage association, the veterans
10 administration, and the department of housing and urban development
11 is deemed reasonable if the information is reasonably available to
12 the association;

13 (v) A statement whether the units or common elements of the
14 common interest community are covered by a qualified warranty under
15 chapter 64.35 RCW and, if so, a history of claims known to the
16 association as having been made under any such warranty;

17 (w) A description of any age-related occupancy restrictions
18 affecting the common interest community; and

19 (x) If the association does not have a reserve study that has
20 been prepared in accordance with sections 330 and 331 of this act or
21 its governing documents, the following disclosure:

22 "This association does not have a current reserve study. The lack
23 of a current reserve study poses certain risks to you, the purchaser.
24 Insufficient reserves may, under some circumstances, require you to
25 pay on demand as a special assessment your share of common expenses
26 for the cost of major maintenance, repair, or replacement of a common
27 element."

28 (2) The association, within ten days after a request by a unit
29 owner, and subject to the payment of any fees imposed pursuant to
30 section 302(2)(m) of this act, must furnish a resale certificate
31 signed by an officer or authorized agent of the association and
32 containing the information necessary to enable the unit owner to
33 comply with this section. For the purposes of this chapter, a
34 reasonable charge for the preparation of a resale certificate may not
35 exceed two hundred seventy-five dollars. The association may charge a
36 unit owner a nominal fee not to exceed one hundred dollars for
37 updating a resale certificate within six months of the unit owner's
38 request. A unit owner is not liable to the purchaser for any
39 erroneous information provided by the association and included in the
40 certificate.

1 (3)(a) A purchaser is not liable for any unpaid assessment or fee
2 greater than the amount set forth in the certificate prepared by the
3 association.

4 (b) A unit owner is not liable to a purchaser for the failure or
5 delay of the association to provide the certificate in a timely
6 manner, but the purchase contract is voidable by the purchaser until
7 the certificate has been provided and for five days thereafter or
8 until conveyance, whichever occurs first.

9 NEW SECTION. **Sec. 410.** ESCROW OF DEPOSITS. Any earnest money
10 deposit, as defined in RCW 64.04.005, or any reservation deposit made
11 in connection with the right to purchase a unit from a person
12 required to deliver a public offering statement pursuant to section
13 402(3) of this act must be placed in escrow and held in this state in
14 an escrow or trust account designated solely for that purpose by a
15 licensed title insurance company or agent, a licensed attorney, a
16 real estate broker or independent bonded escrow company, or an
17 institution whose accounts are insured by a governmental agency or
18 instrumentality until: (1) Delivered to the declarant at closing, (2)
19 delivered to the declarant because of the purchaser's default under a
20 contract to purchase the unit, (3) refunded to the purchaser, or (4)
21 delivered to a court in connection with the filing of an interpleader
22 action.

23 NEW SECTION. **Sec. 411.** RELEASE OF LIENS. (1) In the case of a
24 sale of a unit when delivery of a public offering statement is
25 required pursuant to section 402(3) of this act and subject to
26 subsection (2) of this section, a seller before conveying a unit:

27 (a) Must record or furnish to the purchaser releases of all liens
28 that encumber:

29 (i) In a condominium, that unit and its common element interest;
30 and

31 (ii) In a cooperative, plat community, or miscellaneous
32 community, that unit and any limited common elements assigned to that
33 unit; or

34 (b) Must provide the purchaser of that unit with title insurance
35 from a licensed title insurance company against any lien not released
36 pursuant to (a) of this subsection.

37 (2) Subsection (1) of this section does not apply to liens that
38 encumber:

1 (a) Real estate that a declarant has the right to withdraw from
2 the common interest community;

3 (b) In a condominium, the unit and its common element interest
4 being purchased, but no other unit, if the purchaser expressly agrees
5 in writing to take subject to or assume such lien;

6 (c) In a cooperative, plat community, or miscellaneous community,
7 the unit and any limited common element assigned to the unit being
8 purchased, but no other unit, if the purchaser expressly agrees in
9 writing to take subject to or assume such lien.

10 (3) Before conveying real property to the association, the
11 declarant must have that real property released from:

12 (a) All liens the foreclosure of which would deprive unit owners
13 of any right of access to or easement of support of their units; and

14 (b) All other liens on that real property unless the public
15 offering statement describes certain real property that may be
16 conveyed subject to liens in specified amounts.

17 NEW SECTION. **Sec. 412.** CONVERSION BUILDINGS—TENANT RIGHTS.

18 (1)(a) A declarant or dealer who intends to offer units in a
19 conversion building must give each of the residential tenants and any
20 residential subtenants in possession of a portion of a conversion
21 building notice of the conversion and provide those persons with the
22 public offering statement no later than one hundred twenty days
23 before the tenants and any subtenants in possession are required to
24 vacate. The notice must:

25 (i) Set forth generally the rights of residential tenants and
26 residential subtenants under this section;

27 (ii) Be delivered pursuant to notice requirements set forth in
28 RCW 59.12.040;

29 (iii) Expressly state whether there is a county or city
30 relocation assistance program for residential tenants or residential
31 subtenants of conversion buildings in the jurisdiction in which the
32 property is located. If the county or city does have a relocation
33 assistance program, the following must also be included in the
34 notice:

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

37 (B) Contact information for the city or county relocation
38 assistance program, which must include, at a minimum, a telephone

1 number of the city or county department that administers the
2 relocation assistance program for conversion buildings.

3 (b) A residential tenant or residential subtenant may not be
4 required to vacate upon less than one hundred twenty days' notice,
5 except by reason of nonpayment of rent, waste, or conduct that
6 disturbs other residential tenants' or residential subtenants'
7 peaceful enjoyment of the premises, or act of unlawful detainer as
8 defined in RCW 59.12.030, and the terms of the tenancy may not be
9 altered during that period except as provided in (c) of this
10 subsection.

11 (c) At the declarant's option, the declarant may provide all
12 residential tenants and residential subtenants in a single conversion
13 building with an option to terminate their lease or rental agreements
14 without cause or consequence after providing the declarant with
15 thirty days' notice. In such case, residential tenants and
16 residential subtenants continue to have access to relocation
17 assistance under subsection (6)(e)(i) of this section.

18 (d)(i) Nothing in this subsection (1) waives or repeals RCW
19 59.18.200(2)(b).

20 (ii) Failure to give notice as required under this section is a
21 defense to an action for possession.

22 (e) The city or county in which the property is located may
23 require the declarant to forward a copy of the conversion notice
24 required in this subsection (1) to the appropriately designated
25 department or agency in the city or county for the purpose of
26 maintaining a list of common interest communities containing
27 conversion buildings in the jurisdiction.

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

38 (i) Such offeror, by written notice mailed to the residential
39 tenant's or residential subtenant's last known address, offers to

1 sell an interest in that unit at the more favorable price and terms;
2 and

3 (ii) Such residential tenant or residential subtenant fails to
4 accept the offer in writing within ten days following the mailing of
5 the offer to the tenant or subtenant.

6 (b) This subsection (2) does not apply to any unit in a
7 conversion building if that unit will be restricted exclusively to
8 nonresidential use or the boundaries of the converted unit do not
9 substantially conform to the dimensions of the residential unit
10 before conversion.

11 (3) If a seller, in violation of subsection (2) of this section,
12 conveys a unit to a purchaser for value who has no actual knowledge
13 of the violation, the recording of the deed conveying the unit, or,
14 in a cooperative, the conveyance of the unit, extinguishes any right
15 a residential tenant or residential subtenant may have under
16 subsection (2) of this section to purchase that unit, but does not
17 affect the right of a residential tenant or residential subtenant to
18 recover damages from the seller for a violation of subsection (2) of
19 this section.

20 (4) If a notice of conversion specifies a date by which a unit or
21 proposed unit must be vacated and otherwise complies with this
22 chapter and chapter 59.18 RCW, the notice also constitutes a notice
23 to vacate specified under chapter 59.18 RCW.

24 (5) This section does not permit termination of a lease or
25 sublease by a declarant in violation of its terms.

26 (6) A city or county may by appropriate ordinance require with
27 respect to any conversion building within the jurisdiction of the
28 city or county that:

29 (a) In addition to the statement required under section 405(1)(a)
30 of this act, the public offering statement must contain a copy of the
31 written inspection report of that building prepared by the
32 appropriate department of the city or county. The report must list
33 any violations of the housing code or other governmental regulation
34 that is applicable regardless of whether the real property is owned
35 as a common interest community or in some other form of ownership.
36 The inspection must be made within forty-five days of the declarant's
37 written request, and the report must be issued within fourteen days
38 of the inspection being made. The inspection may not be required with
39 respect to any building for which a final certificate of occupancy
40 has been issued by the city or county within the preceding twenty-

1 four months, and any fee imposed for the making of such inspection
2 may not exceed the fee that would be imposed for the making of such
3 an inspection for a purpose other than complying with this subsection
4 (6)(a).

5 (b) Prior to the conveyance of any residential unit within a
6 conversion building, other than a conveyance to a declarant or
7 dealer, or affiliate of either:

8 (i) All violations disclosed in the inspection report provided
9 for in (a) of this subsection, and not otherwise waived by the city
10 or county, must be repaired; and

11 (ii) A certification must be obtained from the city or county
12 that such repairs have been made. The certification must be based on
13 a reinspection to be made within seven days of the declarant's
14 written request and be issued within seven days of the reinspection
15 being made;

16 (c) The repairs required to be made under (b) of this subsection
17 must be warranted by the declarant against defects due to workmanship
18 or materials for a period of one year following the completion of
19 such repairs;

20 (d) Prior to the conveyance of any residential unit within a
21 conversion building, other than a conveyance to a declarant or
22 dealer, or affiliate of either:

23 (i) The declarant must establish and maintain, during the one-
24 year warranty period provided under (c) of this subsection, an
25 account containing a sum equal to ten percent of the actual cost of
26 making the repairs required under (b) of this subsection;

27 (ii) During the one-year warranty period, the funds in the
28 account must be used exclusively for paying the actual cost of making
29 repairs required, or for otherwise satisfying claims made, under such
30 warranty;

31 (iii) Following the expiration of the one-year warranty period,
32 any funds remaining in the account must be immediately disbursed to
33 the declarant; and

34 (iv) The declarant must notify in writing the association and the
35 city or county as to the location of the account and any
36 disbursements from the account;

37 (e)(i) A declarant must pay relocation assistance, in an amount
38 to be determined by the city or county, which may not exceed a sum
39 equal to three months of the residential tenant's or residential
40 subtenant's rent at the time the conversion notice required under

1 subsection (1) of this section is received, to residential tenants or
2 residential subtenants:

3 (A) Who do not elect to purchase a unit in the common interest
4 community;

5 (B) Who are in lawful occupancy for residential purposes of a
6 unit in the conversion building; and

7 (C) Whose annual household income from all sources, on the date
8 of the notice described in subsection (1) of this section, was less
9 than an amount equal to eighty percent of:

10 (I) The annual median income for comparably sized households in
11 the standard metropolitan statistical area, as defined and
12 established by the United States department of housing and urban
13 development, in which the common interest community is located; or

14 (II) If the conversion building is not within a standard
15 metropolitan statistical area, the annual median income for
16 comparably sized households in the state of Washington, as defined
17 and determined by said department.

18 The household size of a unit must be based on the number of
19 persons actually in lawful occupancy of the unit. The residential
20 tenant or residential subtenant actually in lawful occupancy of the
21 unit is entitled to the relocation assistance. Relocation assistance
22 must be paid on or before the date the residential tenant or
23 residential subtenant vacates and is in addition to any damage
24 deposit or other compensation or refund to which the residential
25 tenant or residential subtenant is otherwise entitled. Unpaid rent or
26 other amounts owed by the residential tenant or residential subtenant
27 to the landlord may be offset against the relocation assistance.

28 (ii) Elderly residential tenants or residential subtenants and
29 residential tenants or residential subtenants with special needs who
30 otherwise meet the requirements of (e)(i)(A) of this subsection must
31 receive relocation assistance, the greater of:

32 (A) The sum described in (e)(i) of this subsection; or

33 (B) The sum of actual relocation expenses of the residential
34 tenant or residential subtenant, up to a maximum of one thousand five
35 hundred dollars in excess of the sum described in (e)(i) of this
36 subsection, which may include costs associated with the physical
37 move, first month's rent, and the security deposit for the dwelling
38 unit to which the residential tenant or residential subtenant is
39 relocating, rent differentials for up to a six-month period, and any
40 other reasonable costs or fees associated with the relocation.

1 Receipts for relocation expenses must be provided to the declarant by
2 eligible residential tenants or residential subtenants, and
3 declarants must provide the relocation assistance to residential
4 tenants or residential subtenants in a timely manner. The city or
5 county may provide additional guidelines for the relocation
6 assistance.

7 (iii) For the purposes of this subsection (6)(e):

8 (A) "Elderly" means a person who is at least sixty-five years of
9 age; and

10 (B) "Special needs" includes, but is not limited to, a chronic
11 mental illness or physical disability, a developmental disability, or
12 other condition affecting cognition, disease, chemical dependency, or
13 a medical condition that is permanent, not reversible or curable, or
14 is long lasting, and severely limits a person's mental or physical
15 capacity for self-care;

16 (f) Except as authorized under (g) of this subsection, a
17 declarant and any dealer may not begin any construction, remodeling,
18 or repairs to any interior portion of an occupied building that is to
19 become a conversion building during the one hundred twenty-day notice
20 period provided for in subsection (1) of this section unless all
21 residential tenants and residential subtenants who have elected not
22 to purchase a unit in the common interest community and who are in
23 lawful occupancy in the building have vacated the premises. For the
24 purposes of this subsection:

25 (i) "Construction, remodeling, or repairs" means the work that is
26 done for the purpose of establishing or selling units in a conversion
27 building, and does not mean the work that is done to maintain the
28 building or lot for the residential use of the existing residential
29 tenants or residential subtenants; and

30 (ii) "Occupied building" means a stand-alone structure occupied
31 by tenants or subtenants and does not include other stand-alone
32 buildings located on the property or detached common area facilities;
33 and

34 (g)(i) If a declarant or dealer has offered existing residential
35 tenants or residential subtenants an option to terminate an existing
36 lease or rental agreement without cause or consequence as authorized
37 under subsection (1)(c) of this section, a declarant and any dealer
38 may begin construction, remodeling, or repairs to interior portions
39 of an occupied building (A) to repair or remodel vacant units to be
40 used as model units, if the repair or remodel is limited to one model

1 for each unit type in the building; (B) to repair or remodel a vacant
2 unit or common element for use as a sales office; or (C) to do both.

3 (ii) The work performed under this subsection (6)(g) must not
4 violate the residential tenants' or residential subtenants' rights of
5 quiet enjoyment during the one hundred twenty-day notice period.

6 (7) Violations of any city or county ordinance adopted as
7 authorized under subsection (6) of this section gives rise to such
8 remedies, penalties, and causes of action that may be lawfully
9 imposed by the city or county. Such violations do not invalidate the
10 creation of the common interest community or the conveyance of any
11 interest in the community.

12 NEW SECTION. **Sec. 413.** CONVERSION COMMON INTEREST COMMUNITY
13 PROJECT—REPORT. (1) All cities and counties planning under RCW
14 36.70A.040, which have inspected any conversion buildings or managed
15 the payment of relocation assistance within the jurisdiction within
16 the previous twelve-month period, must report annually to the
17 department of commerce the following information:

18 (a) The total number of apartment units converted into common
19 interest community units;

20 (b) The total number of conversion common interest community
21 projects; and

22 (c) The total number of apartment tenants who receive relocation
23 assistance.

24 (2) Upon completion of a conversion common interest community
25 project, a city or county may require the declarant to provide the
26 information described in subsection (1)(a) and (c) of this section
27 for the converted common interest community to the appropriately
28 designated department or agency in the city or county for the purpose
29 of complying with subsection (1) of this section.

30 NEW SECTION. **Sec. 414.** EXPRESS WARRANTIES. (1) Subject to
31 subsections (2) and (3) of this section, express warranties made by
32 any declarant or dealer to a purchaser of a unit, if relied upon by
33 the purchaser in purchasing the unit, are created as follows:

34 (a) Any written statement of fact or written promise that relates
35 to the unit, its use, or rights appurtenant to the unit or its use,
36 improvements to the common interest community that would directly
37 benefit the unit, or the right to use or have the benefit of
38 facilities not located in the common interest community creates an

1 express warranty that the unit and related rights and uses will
2 conform to the statement or promise.

3 (b) Any model, depiction, or written description of the physical
4 characteristics of the common interest community, including plans and
5 specifications of or for improvements, creates an express warranty
6 that the common interest community will conform to the model,
7 depiction, or written description in all material respects.

8 (c) Any written description or depiction of the quantity or
9 extent of the real estate comprising the common interest community,
10 including plats or surveys, creates an express warranty that the
11 common interest community will conform to the description or
12 depiction, subject to customary tolerances.

13 (d) A written statement that a purchaser may put a unit only to a
14 specified use is an express warranty that the specified use is
15 lawful.

16 (2) Subject to subsection (3) of this section, neither formal
17 words, such as "warranty" or "guarantee," nor a specific intention to
18 make a warranty are necessary to create an express warranty, but a
19 statement of opinion or a commendation of the real estate, its
20 quality, or its value does not create a warranty, and a statement,
21 promise, model, depiction, or description does not create a warranty
22 if it discloses that it is only proposed, is not representative, or
23 is subject to change.

24 (3) A purchaser may not rely on any statement, promise, model,
25 depiction, or description unless it is made in: The public offering
26 statement delivered to the purchaser; a record signed by the
27 declarant or dealer, or the declarant's or dealer's agent identified
28 in the public offering statement; or an advertisement or promotional
29 material approved or authorized by the declarant or dealer.

30 (4) Any conveyance of a unit transfers to the purchaser all
31 express warranties of quality made by the declarant or dealer.

32 NEW SECTION. **Sec. 415.** IMPLIED WARRANTIES OF QUALITY. (1) A
33 declarant and any dealer warrants to a purchaser of a unit that the
34 unit will be in at least as good condition at the earlier of the time
35 of the conveyance or delivery of possession as it was at the time of
36 contracting, except for reasonable wear and tear and damage by
37 casualty or condemnation.

38 (2) A declarant and any dealer impliedly warrants to a purchaser
39 of a unit that the unit and the common elements in the common

1 interest community are suitable for the ordinary uses of real estate
2 of its type and that any improvements made or contracted for by such
3 declarant or dealer will be:

4 (a) Free from defective materials;

5 (b) Constructed in accordance with sound engineering and
6 construction standards;

7 (c) Constructed in a workmanlike manner; and

8 (d) Constructed in compliance with all laws then applicable to
9 such improvements.

10 (3) A declarant and any dealer warrants to a purchaser of a unit
11 that may be used for residential use that an existing use,
12 continuation of which is contemplated by the parties, does not
13 violate applicable law at the earlier of the time of conveyance or
14 delivery of possession.

15 (4) Warranties imposed under this section may be excluded or
16 modified as specified in section 416 of this act.

17 (5) For purposes of this section, improvements made or contracted
18 for by an affiliate of a declarant are made or contracted for by the
19 declarant.

20 (6) Any conveyance of a unit transfers to the purchaser all of a
21 declarant's or dealer's implied warranties of quality.

22 (7)(a) In a judicial proceeding for breach of any of the
23 obligations arising under this section, the plaintiff must show that
24 the alleged breach has adversely affected or will have an adverse
25 effect on the performance of that portion of the unit or common
26 elements alleged to be in breach.

27 (b) As used in this subsection, an adverse effect must be more
28 than technical and must be significant to a reasonable person. To
29 establish an adverse effect, the person alleging the breach is not
30 required to prove that the breach renders the unit or common element
31 uninhabitable or unfit for its intended purpose.

32 (8) Proof of breach of any obligation arising under this section
33 is not proof of damages. Damages awarded for a breach of an
34 obligation arising under this section are the cost of repairs.
35 However, if it is established that the cost of such repairs is
36 clearly disproportionate to the loss in market value caused by the
37 breach, damages are limited to the loss in market value.

38 NEW SECTION. **Sec. 416.** EXCLUSION OR MODIFICATION OF IMPLIED
39 WARRANTIES OF QUALITY. (1) Except as limited under subsection (2) of

1 this section with respect to a purchaser of a unit that may be used
2 for residential use, implied warranties of quality under section 415
3 of this act:

4 (a) May be excluded or modified by written agreement of the
5 parties; and

6 (b) Are excluded by written expression of disclaimer, such as "as
7 is," "with all faults," or other language that in common
8 understanding calls the buyer's attention to the exclusion of
9 warranties.

10 (2) With respect to a purchaser of a unit that may be occupied
11 for residential use, a general disclaimer of implied warranties of
12 quality under section 415 of this act is not effective, but a
13 declarant and any dealer may disclaim liability in an instrument
14 signed by the purchaser for one or more specified defects or failures
15 to comply with applicable law, if:

16 (a) The declarant or dealer knows or has reason to believe that
17 the specific defects or failures exist at the time of disclosure;

18 (b) The instrument specifically describes the defects or
19 failures;

20 (c) The instrument includes a brief statement as to the expected
21 effect of the defects or failures;

22 (d) The instrument is bold faced, capitalized, underlined, or
23 otherwise set out from surrounding material so as to be conspicuous;
24 and

25 (e) The instrument is signed by the purchaser.

26 (3) A declarant or dealer may not make an express written
27 warranty of quality to a purchaser of a unit in a condominium that
28 limits the implied warranty made to the purchaser set forth in
29 section 415 of this act.

30 NEW SECTION. **Sec. 417.** WARRANTIES OF QUALITY—BREACH—ACTIONS
31 FOR CONSTRUCTION DEFECT CLAIMS. (1) A judicial proceeding for breach
32 of any obligations arising under section 414, 415, or 416 of this act
33 must be commenced within four years after the cause of action
34 accrues. The period for commencing an action for a breach accruing
35 pursuant to subsection (2)(a) of this section does not expire prior
36 to one year after termination of the period of declarant control, if
37 any, under section 304 of this act. Such periods may not be reduced
38 by either oral or written agreement or through the use of contractual
39 claims or notice procedures that require the filing or service of any

1 claim or notice prior to the expiration of the period specified in
2 this section.

3 (2) Subject to subsection (3) of this section, a cause of action
4 for breach of warranty of quality, regardless of the purchaser's lack
5 of knowledge of the breach, accrues:

6 (a) As to a unit, the date the unit was conveyed to the purchaser
7 to whom the warranty is first made; and

8 (b) As to each common element, at the latest of:

9 (i) The date the common element was completed;

10 (ii) The date the common element was added to the common interest
11 community; or

12 (iii) The date the first unit in the common interest community
13 was conveyed to a bona fide purchaser.

14 (3) If a warranty of quality explicitly extends to future
15 performance or duration of any improvement or component of the common
16 interest community, the cause of action accrues at the time the
17 breach is discovered or at the end of the period for which the
18 warranty explicitly extends, whichever is earlier.

19 (4) If a written notice of claim is served under RCW 64.50.020
20 within the time prescribed for the filing of an action under this
21 chapter, the statutes of limitation in this chapter and any
22 applicable statutes of repose for construction-related claims are
23 tolled until sixty days after the period of time during which the
24 filing of an action is barred under RCW 64.50.020.

25 NEW SECTION. **Sec. 418.** EFFECT OF VIOLATIONS ON RIGHTS OF ACTION
26 —ATTORNEYS' FEES. (1) A declarant, association, unit owner, or any
27 other person subject to this chapter may bring an action to enforce a
28 right granted or obligation imposed under this chapter or the
29 governing documents. The court may award reasonable attorneys' fees
30 and costs.

31 (2) Parties to a dispute arising under this chapter or the
32 governing documents may agree to resolve the dispute by any form of
33 binding or nonbinding alternative dispute resolution.

34 NEW SECTION. **Sec. 419.** LABELING OF PROMOTIONAL MATERIAL.
35 Promotional material may not be displayed or delivered to prospective
36 purchasers that describes or portrays an improvement that is not in
37 existence unless the description or portrayal of the improvement in
38 the promotional material is conspicuously labeled or identified

1 either as "MUST BE BUILT" or as "NEED NOT BE BUILT" or words to that
2 effect.

3 NEW SECTION. **Sec. 420.** IMPROVEMENTS—DECLARANT'S DUTIES. (1)
4 Except for improvements labeled "NEED NOT BE BUILT" on the map in
5 conformity to section 210(9) of this act, the declarant must complete
6 all improvements depicted on the map or other graphic representation,
7 if the map or other graphic representation is contained in the public
8 offering statement or in any promotional material approved or
9 authorized by the declarant.

10 (2) The declarant is subject to liability for the prompt repair
11 and restoration, to a condition compatible with the remainder of the
12 common interest community, of any portion of the common interest
13 community damaged by the exercise of rights reserved pursuant to or
14 created under sections 211 through 217 of this act.

15 **V. MISCELLANEOUS**

16 **Sec. 501.** RCW 6.13.080 and 2013 c 23 s 2 are each amended to
17 read as follows:

18 The homestead exemption is not available against an execution or
19 forced sale in satisfaction of judgments obtained:

20 (1) On debts secured by mechanic's, laborer's, construction,
21 maritime, automobile repair, material supplier's, or vendor's liens
22 arising out of and against the particular property claimed as a
23 homestead;

24 (2) On debts secured (a) by security agreements describing as
25 collateral the property that is claimed as a homestead or (b) by
26 mortgages or deeds of trust on the premises that have been executed
27 and acknowledged by both spouses or both domestic partners or by any
28 claimant not married or in a state registered domestic partnership;

29 (3) On one spouse's or one domestic partner's or the community's
30 debts existing at the time of that spouse's or that domestic
31 partner's bankruptcy filing where (a) bankruptcy is filed by both
32 spouses or both domestic partners within a six-month period, other
33 than in a joint case or a case in which their assets are jointly
34 administered, and (b) the other spouse or other domestic partner
35 exempts property from property of the estate under the bankruptcy
36 exemption provisions of 11 U.S.C. Sec. 522(d);

1 (4) On debts arising from a lawful court order or decree or
2 administrative order establishing a child support obligation or
3 obligation to pay maintenance;

4 (5) On debts owing to the state of Washington for recovery of
5 medical assistance correctly paid on behalf of an individual
6 consistent with 42 U.S.C. Sec. 1396p;

7 (6) On debts secured by a condominium's or homeowner
8 association's lien(~~(. In order for an association to be exempt under
9 this provision, the association must have provided a homeowner with
10 notice that nonpayment of the association's assessment may result in
11 foreclosure of the association lien and that the homestead protection
12 under this chapter shall not apply. An association has complied with
13 this notice requirement by mailing the notice, by first-class mail,
14 to the address of the owner's lot or unit. The notice required in
15 this subsection shall be given within thirty days from the date the
16 association learns of a new owner, but in all cases the notice must
17 be given prior to the initiation of a foreclosure. The phrase "learns
18 of a new owner" in this subsection means actual knowledge of the
19 identity of a homeowner acquiring title after June 9, 1988, and does
20 not require that an association affirmatively ascertain the identity
21 of a homeowner. Failure to give the notice specified in this
22 subsection affects an association's lien only for debts accrued up to
23 the time an association complies with the notice provisions under
24 this subsection))~~); or

25 (7) On debts owed for taxes collected under chapters 82.08,
26 82.12, and 82.14 RCW but not remitted to the department of revenue.

27 NEW SECTION. **Sec. 502.** A new section is added to chapter 59.18
28 RCW to read as follows:

29 This chapter does not apply to common interest communities as
30 defined in section 102 of this act:

31 (1) Created after the effective date of this section;

32 (2) Created before the effective date of this section, except
33 those that have elected out of applicability of chapter 64.--- RCW
34 (the new chapter created in section 506 of this act) pursuant to
35 section 117 of this act; and

36 (3) That have amended their governing documents to provide that
37 chapter 64.--- RCW (the new chapter created in section 506 of this
38 act) will apply to the common interest community pursuant to section
39 120 of this act.

1 NEW SECTION. **Sec. 503.** A new section is added to chapter 64.32
2 RCW to read as follows:

3 This chapter does not apply to common interest communities as
4 defined in section 102 of this act:

- 5 (1) Created after the effective date of this section;
- 6 (2) Created before the effective date of this section, except
7 those that have elected out of applicability of chapter 64.--- RCW
8 (the new chapter created in section 506 of this act) pursuant to
9 section 117 of this act; and
- 10 (3) That have amended their governing documents to provide that
11 chapter 64.--- RCW (the new chapter created in section 506 of this
12 act) will apply to the common interest community pursuant to section
13 120 of this act.

14 NEW SECTION. **Sec. 504.** A new section is added to chapter 64.34
15 RCW to read as follows:

16 This chapter does not apply to common interest communities as
17 defined in section 102 of this act:

- 18 (1) Created after the effective date of this section;
- 19 (2) Created before the effective date of this section, except
20 those that have elected out of applicability of chapter 64.--- RCW
21 (the new chapter created in section 506 of this act) pursuant to
22 section 117 of this act; and
- 23 (3) That have amended their governing documents to provide that
24 chapter 64.--- RCW (the new chapter created in section 506 of this
25 act) will apply to the common interest community pursuant to section
26 120 of this act.

27 NEW SECTION. **Sec. 505.** A new section is added to chapter 64.38
28 RCW to read as follows:

29 This chapter does not apply to common interest communities as
30 defined in section 102 of this act:

- 31 (1) Created after the effective date of this section;
- 32 (2) Created before the effective date of this section, except
33 those that have elected out of applicability of chapter 64.--- RCW
34 (the new chapter created in section 506 of this act) pursuant to
35 section 117 of this act; and
- 36 (3) That have amended their governing documents to provide that
37 chapter 64.--- RCW (the new chapter created in section 506 of this

1 act) will apply to the common interest community pursuant to section
2 120 of this act.

3 NEW SECTION. **Sec. 506.** Sections 101 through 420 of this act
4 constitute a new chapter in Title 64 RCW.

5 NEW SECTION. **Sec. 507.** This act takes effect July 3, 2016.

--- END ---