

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1165**

66th Legislature  
2020 Regular Session

Passed by the House January 27, 2020  
Yeas 93 Nays 4

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**Speaker of the House of  
Representatives**

Passed by the Senate March 3, 2020  
Yeas 46 Nays 2

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1165** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**HOUSE BILL 1165**

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Passed Legislature - 2020 Regular Session

**State of Washington                      66th Legislature                      2019 Regular Session**

**By** Representatives Orwall, Dent, Blake, Fitzgibbon, and Doglio

Read first time 01/16/19.            Referred to Committee on Rural  
Development, Agriculture, & Natural Resources.

1            AN ACT Relating to encouraging low-water landscaping practices as  
2 a drought alleviation tool; adding a new section to chapter 64.38  
3 RCW; adding a new section to chapter 64.34 RCW; adding a new section  
4 to chapter 64.90 RCW; adding a new section to chapter 39.35D RCW; and  
5 creating a new section.

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

7            NEW SECTION.    **Sec. 1.** (1) The legislature finds that:

8            (a) Water is a finite resource whose importance is heightened  
9 during the periodic drought conditions and increased wildfire risk  
10 that the state experiences;

11            (b) The maintenance of lawns of green grass during the summer  
12 months for aesthetic purposes can be responsible for a noteworthy  
13 portion of summer water use by households; and

14            (c) (i) In the event of a drought, state law already grants  
15 extraordinary powers to the department of ecology to manage water  
16 resources and provides for other policy responses to encourage  
17 efficient use of the state's limited water supplies;

18            (ii) However, in certain instances, property association rules do  
19 not take into account the public goal of making efficient use of  
20 water supplies while also protecting properties from wildfire. These  
21 association rules can prohibit private property owners from deciding

1 to use low-water plants or other low-water landscaping practices in  
2 place of grass lawns. Association rules can also limit the use of  
3 landscaping materials that are both drought resistant and fire  
4 ignition resistant, making it difficult to create fire safe, drought  
5 resistant landscapes and establish defensible space. Similar laws  
6 also sometimes prohibit private property owners from allowing their  
7 grass to go dormant and brown.

8 (2) (a) Therefore, it is the intent of the legislature to empower  
9 private property owners and remove an obstacle to water use  
10 efficiency by prohibiting unreasonable homeowner association, common  
11 interest ownership association, and condominium association  
12 restrictions that limit private property owners' ability to deploy  
13 low-water landscaping techniques, while also ensuring private  
14 property owners' ability to create fire safe landscapes.

15 (b) It is also the intent of the legislature to encourage the use  
16 of landscaping design techniques that meet the highest standards for  
17 water efficiency in the design and construction of state-funded  
18 buildings.

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

21 (1) The governing documents may not prohibit the installation of  
22 drought resistant landscaping or wildfire ignition resistant  
23 landscaping. However, the governing documents may include reasonable  
24 rules regarding the placement and aesthetic appearance of drought  
25 resistant landscaping or wildfire ignition resistant landscaping, as  
26 long as the rules do not render the use of drought resistant  
27 landscaping or wildfire ignition resistant landscaping unreasonably  
28 costly or otherwise effectively infeasible.

29 (2) If a property is located within the geographic designation of  
30 an order of a drought condition issued by the department of ecology  
31 under RCW 43.83B.405, an association may not sanction or impose a  
32 fine or assessment against an owner, or resident on the owner's  
33 property, for reducing or eliminating the watering of vegetation or  
34 lawns for the duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or  
36 restrict the establishment and maintenance of a fire buffer within  
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this  
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding  
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any  
4 noninvasive vegetation adapted to arid or dry conditions, stone, or  
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed  
7 by the national fire protection association, which encourages local  
8 solutions for wildfire safety by involving homeowners, community  
9 leaders, planners, developers, firefighters, and others in the effort  
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive  
13 vegetation, that do not readily ignite from a flame or other ignition  
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a  
16 building ignition zone.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.34  
18 RCW to read as follows:

19 (1) The declaration of a condominium and any bylaws, rules, and  
20 regulations adopted by the association may not prohibit the  
21 installation of drought resistant landscaping or wildfire ignition  
22 resistant landscaping. However, the declaration or bylaws, rules, and  
23 regulations may include reasonable rules regarding the placement and  
24 aesthetic appearance of drought resistant landscaping or wildfire  
25 ignition resistant landscaping, as long as the rules do not render  
26 the use of drought resistant landscaping or wildfire ignition  
27 resistant landscaping unreasonably costly or otherwise effectively  
28 infeasible.

29 (2) If a property is located within the geographic designation of  
30 an order of a drought condition issued by the department of ecology  
31 under RCW 43.83B.405, an association may not impose a fine or  
32 assessment against an owner, or resident on the owner's property, for  
33 reducing or eliminating the watering of vegetation or lawns for the  
34 duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or  
36 restrict the establishment and maintenance of a fire buffer within  
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this  
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding  
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any  
4 noninvasive vegetation adapted to arid or dry conditions, stone, or  
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed  
7 by the national fire protection association, which encourages local  
8 solutions for wildfire safety by involving homeowners, community  
9 leaders, planners, developers, firefighters, and others in the effort  
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive  
13 vegetation, that do not readily ignite from a flame or other ignition  
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a  
16 building ignition zone.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90  
18 RCW to read as follows:

19 (1) The declaration of a common interest ownership and any  
20 governing documents adopted by an association may not prohibit the  
21 installation of drought resistant landscaping or wildfire ignition  
22 resistant landscaping. However, the declaration or governing  
23 documents may include reasonable rules regarding the placement and  
24 aesthetic appearance of drought resistant landscaping or wildfire  
25 ignition resistant landscaping, as long as the rules do not render  
26 the use of drought resistant landscaping or wildfire ignition  
27 resistant landscaping unreasonably costly or otherwise effectively  
28 infeasible.

29 (2) If a property is located within the geographic designation of  
30 an order of a drought condition issued by the department of ecology  
31 under RCW 43.83B.405, an association may not impose a fine or  
32 assessment against an owner, or resident on the owner's property, for  
33 reducing or eliminating the watering of vegetation or lawns for the  
34 duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or  
36 restrict the establishment and maintenance of a fire buffer within  
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this  
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding  
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any  
4 noninvasive vegetation adapted to arid or dry conditions, stone, or  
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed  
7 by the national fire protection association, which encourages local  
8 solutions for wildfire safety by involving homeowners, community  
9 leaders, planners, developers, firefighters, and others in the effort  
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive  
13 vegetation, that do not readily ignite from a flame or other ignition  
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a  
16 building ignition zone.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 39.35D  
18 RCW to read as follows:

19 (1)(a) The legislature intends to encourage the use of  
20 landscaping design techniques that meet the highest standards for  
21 water efficiency in the design and construction of state-funded  
22 buildings. Except as provided in subsection (2) of this section, any  
23 public agency, public school district, or other entity undertaking a  
24 major facility project subject to the requirements of RCW 39.35D.030  
25 or 39.35D.040 are encouraged to design and construct such projects to  
26 receive all practical water efficient landscaping credits available  
27 under the United States green building council rating system,  
28 international green construction code, other nationally recognized  
29 consensus standard, or the Washington sustainable school design  
30 protocol, as each standard existed on the effective date of this  
31 section. Entities undertaking major facility projects may consider  
32 costs and potential benefits when determining the practicality of  
33 incorporating water efficient landscaping measures into the design  
34 and construction of the projects.

35 (b) Water efficient landscaping techniques may include:

36 (i) Reducing or eliminating the use of potable water for  
37 irrigation; and

38 (ii) Configuring irrigation and sprinkler systems to avoid  
39 spraying water directly on buildings, sidewalks, or other hardscapes.

1 (2) This section does not apply to athletic fields or other  
2 project elements that are eligible for exclusion from water efficient  
3 landscaping standards under either the United States green building  
4 council rating system, international green construction code, other  
5 nationally recognized consensus standard, or the Washington  
6 sustainable school design protocol, as each standard existed on the  
7 effective date of this section.

8 (3)(a) Nothing in this section may prohibit or restrict the use  
9 of wildfire ignition resistant landscaping, including the  
10 establishment and maintenance of a fire buffer in the building  
11 ignition zone, in the design and construction of major facility  
12 projects subject to the requirements of RCW 39.35D.030 or 39.35D.040.

13 (b) The definitions in this subsection (3)(b) apply throughout  
14 this subsection unless the context clearly requires otherwise.

15 (i) "Building ignition zone" means a building and surrounding  
16 area up to two hundred feet from the foundation.

17 (ii) "Firewise" means the firewise communities program developed  
18 by the national fire protection association, which encourages local  
19 solutions for wildfire safety by involving homeowners, community  
20 leaders, planners, developers, firefighters, and others in the effort  
21 to protect people and property from wildfire risks.

22 (iii) "Wildfire ignition resistant landscaping" includes:

23 (A) Any landscaping tools or techniques, or noninvasive  
24 vegetation, that do not readily ignite from a flame or other ignition  
25 source; or

26 (B) The use of firewise methods to reduce ignition risk in a  
27 building ignition zone.

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