

FINAL BILL REPORT

EHB 1482

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Synopsis as Enacted

Brief Description: Addressing foreclosure protections for homeowners in common interest communities.

Sponsors: Representatives Walsh, Orwall, Lekanoff, Leavitt, Sutherland, Jacobsen, Dufault and Pollet.

House Committee on Civil Rights & Judiciary
Senate Committee on Law & Justice

Background:

Several statutes govern residential common interest communities (CICs), such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities, sometimes referred to as homeowners' associations.

The Washington Uniform Common Interest Ownership Act (WUCIOA) is applicable to CICs created on or after July 1, 2018. A CIC created prior to July 1, 2018, may choose to opt-in to the WUCIOA, which contains comprehensive provisions addressing the management of property under its jurisdiction. Otherwise, CICs created before July 1, 2018, remain subject to the following acts, which generally leave much of the working of a CIC to the governing documents:

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

An association of unit owners in a CIC organized under these acts may impose assessments for common expenses, which usually include the association's expenditures for administration, maintenance, repair, and replacement of the common elements of a CIC, as

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well as any allocations to reserves. An association may also collect reasonable charges for late payments of assessments and establish a rate of interest to be charged on all subsequent delinquent assessments. An association may be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments.

Under the WUCIOA, the HPRA, and the WCA an association has a statutory lien on each unit for any unpaid assessment against the unit from the time the assessment is due. With some exceptions, the association's lien takes priority over all other liens and encumbrances. To collect unpaid assessments, an association may bring an action to collect unpaid assessments or foreclose its lien on the unit.

The WUCIOA prohibits an association from foreclosing a lien for past-due assessments unless the unit owner, at the time the action is commenced, owes a sum equal to at least three months of common expense assessments and the board approves commencement of a foreclosure action specifically against that unit. Additionally, the WUCIOA requires that every aspect of a collection, foreclosure, sale, or other conveyance to enforce a lien for unpaid assessments must be commercially reasonable.

Summary:

The WUCIOA, the HPRA, and the WCA are amended to prohibit an association from commencing an action to foreclose the association lien for past-due assessments, unless:

- the unit owner owes at least three months or more of assessments or \$200 of assessments, whichever is greater;
- at or after the date the assessments have become past due for at least 90 days, the association provides to the unit owner a notice of delinquency; and
- at least 180 days have elapsed from the date the minimum required amount of past-due assessments has accrued.

The required minimum amount of past-due assessments owed does not include fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account.

The notice of delinquency must follow a specific format and contain information about housing counseling and legal assistance that may be available to the unit owner.

Effective January 1, 2024, an association must wait 90 days, rather than 180 days, from the date the minimum required amount of past-due assessment has accrued before commencing an action for foreclose a lien.

These pre-foreclosure requirements also apply to a CIC organized under the HOAA if the governing documents of the CIC provide for a lien on the lot of any owner for unpaid assessments.

The WUCIOA requirement that every aspect of a collection, foreclosure, sale, or other conveyance under the lien foreclosure provisions must be commercially reasonable is extended to the HPRA, the WCA, and the HOAA.

Votes on Final Passage:

House	97	0
Senate	48	0 (Senate amended)
House	97	0 (House concurred)

Effective: May 10, 2021

January 1, 2024 (Sections 2, 4, 6, and 8)