H-1955.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1576**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Senn, Irwin, Goodman, Griffey, Ryu, Chapman, and Barkis)

AN ACT Relating to construction defect actions; and adding a new section to chapter 64.50 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 64.50 RCW to read as follows:

(1)(a) In the event the board of directors, pursuant to RCW 64.90.405, proposes to initiate an action asserting defects in the construction of two or more residences, common elements, or common areas, this section applies.

(b) The board of directors shall substantially comply with the provisions of this section.

(2) Prior to commencement of an action governed by this section, the board of directors shall provide notice to unit owners and to each construction professional against whom an action is proposed, convene a meeting of unit owners to consider whether to initiate an action, and conduct a vote of unit owners on whether to do so.

(3) The notice provided to unit owners and to each construction professional against whom an action is proposed shall include:

(a) The date, time, and location of the meeting;

(b) The nature of the action and the relief sought; and

(c) The expenses and fees that the board of directors anticipates will be incurred in prosecuting the action.

(4) The notice to unit owners shall, in addition, include:

(a) A ballot;

(b) The time and date by which a ballot must be delivered to the association to be counted, which may not be fewer than forty-five days after the date of the meeting; and

(c) The percent of votes necessary to reject the action.

(5)(a) The meeting of unit owners must be held within forty-five days of the date the notice was provided. A quorum is not required at the meeting.

(b) The construction professional against whom the construction defect action is proposed shall be invited to attend and shall have an opportunity to address the unit owners concerning the alleged construction defects.

(c) The presentation at the meeting by the construction professional or the construction professional's designee or designees may, but is not required to, include an offer to remedy any defect in accordance with this chapter.

(d) Following any presentations, unit owners in attendance may cast their ballots at the meeting. Alternatively, unit owners may deliver their ballots to the association on or before the date by which all ballots must be delivered, which may not be fewer than forty-five days after the date of the meeting.

(6)(a) Unless the unit owners of units to which a majority of the votes in the association are allocated reject the action by the date by which all ballots must be delivered, the action is ratified.

(b) If the board of directors proposes to initiate an action asserting defects in the construction of two or more units, common elements, or common areas in which the declarant or an affiliate of the declarant would be a defendant, the declarant and any affiliate of the declarant shall not be eligible to vote and the action will be ratified unless a majority of the eligible votes in the association reject the action.

(7)(a) Except as provided in (b) of this subsection, the board of directors may commence the action only after ratification.

(b) Ratification is not required if the alleged construction defect pertains to a facility that is intended and used for nonresidential purposes and if the cost to repair the alleged defect does not exceed one hundred thousand dollars or when the association is the contracting party for the performance of labor or purchase of services or materials.

(8) Nothing in this section shall require the disclosure of attorney-client privileged information.

(9) This section supersedes all inconsistent provisions of the governing documents of all common interest communities subject to chapter 64.90 RCW.

(10)(a) For purposes of this section, "action" has the same meaning as set forth in RCW 64.50.010.

(b) Unless otherwise defined in RCW 64.50.010, the terms in this section have the meaning set forth in RCW 64.90.010.

**--- END ---**