

ESB 5334 - H COMM AMD

By Committee on Civil Rights & Judiciary

ADOPTED 04/04/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 **"PART I — CONDOMINIUM LIABILITY**

4 **Sec. 101.** RCW 64.90.410 and 2018 c 277 s 303 are each amended to
5 read as follows:

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

9 (b) In the performance of their duties, officers and board
10 members must exercise the degree of care and loyalty to the
11 association required of an officer or director of a corporation
12 organized, (~~and~~) are subject to the conflict of interest rules
13 governing directors and officers, and are entitled to the immunities
14 from liability available to officers and directors under chapter
15 24.06 RCW. The standards of care and loyalty, and conflict of
16 interest rules and immunities described in this section apply
17 regardless of the form in which the association is organized.

18 (2)(a) Except as provided otherwise in RCW 64.90.300(5),
19 effective as of the transition meeting held in accordance with RCW
20 64.90.415(4), the board must be comprised of at least three members,
21 at least a majority of whom must be unit owners. However, the number
22 of board members need not exceed the number of units then in the
23 common interest community.

24 (b) Unless the declaration or organizational documents provide
25 for the election of officers by the unit owners, the board must elect
26 the officers.

27 (c) Unless provided otherwise in the declaration or
28 organizational documents, board members and officers must take office
29 upon adjournment of the meeting at which they were elected or
30 appointed or, if not elected or appointed at a meeting, at the time

1 of such election or appointment, and must serve until their successor
2 takes office.

3 (d) In determining the qualifications of any officer or board
4 member of the association, "unit owner" includes, unless the
5 declaration or organizational documents provide otherwise, any board
6 member, officer, member, partner, or trustee of any person, who is,
7 either alone or in conjunction with another person or persons, a unit
8 owner.

9 (e) Any officer or board member of the association who would not
10 be eligible to serve as such if he or she were not a board member,
11 officer, partner in, or trustee of such a person is disqualified from
12 continuing in office if he or she ceases to have any such affiliation
13 with that person or that person would have been disqualified from
14 continuing in such office as a natural person.

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

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

- 20 (a) Amend the declaration, except as provided in RCW 64.90.285;
- 21 (b) Amend the organizational documents of the association;
- 22 (c) Terminate the common interest community;
- 23 (d) Elect members of the board, but may fill vacancies in its
24 membership not resulting from removal for the unexpired portion of
25 any term or, if earlier, until the next regularly scheduled election
26 of board members; or

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

29 (5) The board must adopt budgets as provided in RCW 64.90.525.

30 (6) Except for committees appointed by the declarant pursuant to
31 special declarant rights, all committees of the association must be
32 appointed by the board. Committees authorized to exercise any power
33 reserved to the board must include at least two board members who
34 have exclusive voting power for that committee. Committees that are
35 not so composed may not exercise the authority of the board and are
36 advisory only.

37 **Sec. 102.** RCW 64.90.670 and 2018 c 277 s 415 are each amended to
38 read as follows:

1 (1) A declarant and any dealer warrants to a purchaser of a
2 condominium unit that the unit will be in at least as good condition
3 at the earlier of the time of the conveyance or delivery of
4 possession as it was at the time of contracting, except for
5 reasonable wear and tear and damage by casualty or condemnation.

6 (2) A declarant and any dealer impliedly warrants to a purchaser
7 of a condominium unit that the unit and the common elements in the
8 condominium are suitable for the ordinary uses of real estate of its
9 type and that any improvements made or contracted for by such
10 declarant or dealer will be:

11 (a) Free from defective materials;

12 (b) Constructed in accordance with ~~((sound))~~ engineering and
13 construction standards, including applicable building codes,
14 generally accepted in the state of Washington at the time of
15 construction; and

16 (c) Constructed in a workmanlike manner ~~((; and~~

17 ~~((d) Constructed in compliance with all laws then applicable to~~
18 ~~such improvements))~~.

19 (3) A declarant and any dealer warrants to a purchaser of a
20 condominium unit that may be used for residential use that an
21 existing use, continuation of which is contemplated by the parties,
22 does not violate applicable law at the earlier of the time of
23 conveyance or delivery of possession.

24 (4) Warranties imposed under this section may be excluded or
25 modified as specified in RCW 64.90.675.

26 (5) For purposes of this section, improvements made or contracted
27 for by an affiliate of a declarant are made or contracted for by the
28 declarant.

29 (6) Any conveyance of a condominium unit transfers to the
30 purchaser all of a declarant's or dealer's implied warranties of
31 quality.

32 (7) (a) In a proceeding for breach of any of the obligations
33 arising under this section, the ~~((plaintiff))~~ purchaser must show
34 that the alleged breach has adversely affected or will adversely
35 affect the performance of that portion of the unit or common elements
36 alleged to be in breach. Nothing in this section limits the ability
37 of a board to bring claims on behalf of two or more unit owners
38 pursuant to RCW 64.90.405(2)(d).

39 (b) ~~((As used in this subsection, an adverse effect must be more~~
40 ~~than technical and must be significant to a reasonable person.))~~ To

1 establish an adverse effect on performance, the (~~person alleging the~~
2 ~~breach~~) purchaser is (~~not~~) required to prove that the alleged
3 ~~breach~~ (~~renders the unit or common element uninhabitable or unfit~~
4 ~~for its intended purpose~~):

5 (i) Is more than technical;

6 (ii) Is significant to a reasonable person; and

7 (iii) Has caused or will cause physical damage to the unit or
8 common elements; has materially impaired the performance of
9 mechanical, electrical, plumbing, elevator, or similar building
10 equipment; or presents an actual, unreasonable safety risk to the
11 occupants of the condominium.

12 (8) Proof of breach of any obligation arising under this section
13 is not proof of damages. Damages awarded for a breach of (~~a~~
14 ~~obligation~~) a warranty arising under subsection (2) of this section
15 are the reasonable cost of repairs. However, if it is established
16 that the cost of such repairs is clearly disproportionate to the loss
17 in market value caused by the breach, damages are limited to the loss
18 in market value.

19 **PART II — TECHNICAL CORRECTIONS**

20 **Sec. 201.** RCW 64.90.010 and 2018 c 277 s 102 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

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

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

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

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

34 (iii) Controls in any manner the election or appointment of a
35 majority of the directors, managing members, or general partners of
36 the declarant; or

37 (iv) Has contributed more than twenty percent of the capital of
38 the declarant.

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

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

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

8 (iii) Controls in any manner the election or appointment of a
9 majority of the directors, managing members, or general partners of
10 the person; or

11 (iv) Has contributed more than twenty percent of the capital of
12 the person.

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

16 (2) "Allocated interests" means the following interests allocated
17 to each unit:

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

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

22 (c) In a plat community and miscellaneous community, the common
23 expense liability and the votes in the association, and also the
24 undivided interest in the common elements if owned in common by the
25 unit owners rather than an association.

26 (3) "Assessment" means all sums chargeable by the association
27 against a unit, including any assessments levied pursuant to RCW
28 64.90.480, fines or fees levied or imposed by the association
29 pursuant to this chapter or the governing documents, interest and
30 late charges on any delinquent account, and all costs of collection
31 incurred by the association in connection with the collection of a
32 delinquent owner's account, including reasonable attorneys' fees.

33 (4) "Association" or "unit owners association" means the unit
34 owners association organized under RCW 64.90.400 and, to the extent
35 necessary to construe sections of this chapter made applicable to
36 common interest communities pursuant to RCW 64.90.080, 64.90.090, or
37 64.90.095, the association organized or created to administer such
38 common interest communities.

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

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

4 (7) "Common elements" means:

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

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

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

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

17 (9) "Common expense liability" means the liability for common
18 expenses allocated to each unit pursuant to RCW 64.90.235.

19 (10) "Common interest community" means real estate described in a
20 declaration with respect to which a person, by virtue of the person's
21 ownership of a unit, is obligated to pay for a share of real estate
22 taxes, insurance premiums, maintenance, or improvement of, or
23 services or other expenses related to, common elements, other units,
24 or other real estate described in the declaration. "Common interest
25 community" does not include an arrangement described in RCW 64.90.110
26 or 64.90.115. A common interest community may be a part of another
27 common interest community.

28 (11) "Condominium" means a common interest community in which
29 portions of the real estate are designated for separate ownership and
30 the remainder of the real estate is designated for common ownership
31 solely by the owners of those portions. A common interest community
32 is not a condominium unless the undivided interests in the common
33 elements are vested in the unit owners.

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

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

37 (i) That at any time before creation of the common interest
38 community was lawfully occupied wholly or partially by a tenant or
39 subtenant for residential purposes pursuant to a rental agreement,
40 oral or written, express or implied, who did not receive a

1 condominium notice prior to entering into the rental agreement or
2 lawfully taking occupancy, whichever event occurred first; or

3 (ii) That at any time within the twelve months preceding the
4 first acceptance of an agreement with the declarant to convey, or the
5 first conveyance of, any unit in the building, whichever event
6 occurred first, to any person who was not a declarant or dealer, or
7 affiliate of a declarant or dealer, was lawfully occupied wholly or
8 partially by a tenant or subtenant for residential purposes pursuant
9 to a rental agreement, oral or written, express or implied, who did
10 not receive a condominium notice prior to entering into the rental
11 agreement or lawfully taking occupancy, whichever event occurred
12 first.

13 (b) A building in a common interest community is a conversion
14 building only if:

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

17 (ii) Acceptance of an agreement to convey, or conveyance of, any
18 unit in the building to any person who was not a declarant or dealer,
19 or affiliate of a declarant or dealer, did not occur prior to July 1,
20 2018.

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

25 (14) "Convey" or "conveyance" means, with respect to a unit, any
26 transfer of ownership of the unit, including a transfer by deed or by
27 real estate contract and, with respect to a unit in a leasehold
28 common interest community or a proprietary lease in a cooperative, a
29 transfer by lease or assignment of the unit, but does not include the
30 creation, transfer, or release of a security interest.

31 (15) "Cooperative" means a common interest community in which the
32 real estate is owned by an association, each member of which is
33 entitled by virtue of the member's ownership interest in the
34 association and by a proprietary lease to exclusive possession of a
35 unit.

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

40 (17) "Declarant" means:

- 1 (a) Any person who executes as declarant a declaration;
- 2 (b) Any person who reserves any special declarant right in a
3 declaration;
- 4 (c) Any person who exercises special declarant rights or to whom
5 special declarant rights are transferred of record. The holding or
6 exercise of rights to maintain sales offices, signs advertising the
7 common interest community, and models, and related right of access,
8 does not confer the status of being a declarant; or
- 9 (d) Any person who is the owner of a fee interest in the real
10 estate that is subjected to the declaration at the time of the
11 recording of an instrument pursuant to RCW 64.90.425 and who directly
12 or through one or more affiliates is materially involved in the
13 construction, marketing, or sale of units in the common interest
14 community created by the recording of the instrument.
- 15 (18) "Declarant control" means the right of the declarant or
16 persons designated by the declarant to appoint or remove any officer
17 or board member of the association or to veto or approve a proposed
18 action of any board or association, pursuant to RCW 64.90.415(1) (a).
- 19 (19) "Declaration" means the instrument, however denominated,
20 that creates a common interest community, including any amendments to
21 the instrument.
- 22 (20) "Development rights" means any right or combination of
23 rights reserved by a declarant in the declaration to:
- 24 (a) Add real estate or improvements to a common interest
25 community;
- 26 (b) Create units, common elements, or limited common elements
27 within a common interest community;
- 28 (c) Subdivide or combine units or convert units into common
29 elements;
- 30 (d) Withdraw real estate from a common interest community; or
- 31 (e) Reallocate limited common elements with respect to units that
32 have not been conveyed by the declarant.
- 33 (21) "Effective age" means the difference between the useful life
34 and remaining useful life.
- 35 (22) "Electronic transmission" or "electronically transmitted"
36 means any electronic communication (a) not directly involving the
37 physical transfer of a record in a tangible medium and (b) that may
38 be retained, retrieved, and reviewed by the sender and the recipient
39 of the communication, and that may be directly reproduced in a
40 tangible medium by a sender and recipient.

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

5 (24) "Foreclosure" means a statutory forfeiture or a judicial or
6 nonjudicial foreclosure of a security interest or a deed or other
7 conveyance in lieu of a security interest.

8 (25) "Full funding plan" means a reserve funding goal of
9 achieving one hundred percent fully funded reserves by the end of the
10 thirty-year study period described under RCW 64.90.550, in which the
11 reserve account balance equals the sum of the estimated costs
12 required to maintain, repair, or replace the deteriorated portions of
13 all reserve components.

14 (26) "Fully funded balance" means the current value of the
15 deteriorated portion, not the total replacement value, of all the
16 reserve components. The fully funded balance for each reserve
17 component is calculated by multiplying the current replacement cost
18 of that reserve component by its effective age, then dividing the
19 result by that reserve component's useful life. The sum total of all
20 reserve components' fully funded balances is the association's fully
21 funded balance.

22 (27) "Governing documents" means the organizational documents,
23 map, declaration, rules, or other written instrument by which the
24 association has the authority to exercise any of the powers provided
25 for in this chapter or to manage, maintain, or otherwise affect the
26 property under its jurisdiction.

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

30 (29) "Leasehold common interest community" means a common
31 interest community in which all or a portion of the real estate is
32 subject to a lease the expiration or termination of which will
33 terminate the common interest community or reduce its size.

34 (30) "Limited common element" means a portion of the common
35 elements allocated by the declaration or by operation of RCW
36 64.90.210 (1)(b) or ~~((+2+))~~ (3) for the exclusive use of one or more,
37 but fewer than all, of the unit owners.

38 (31) "Map" means: (a) With respect to a plat community, the plat
39 as defined in RCW 58.17.020 and complying with the requirements of
40 Title 58 RCW, and (b) with respect to a condominium, cooperative, or

1 miscellaneous community, a map prepared in accordance with the
2 requirements of RCW 64.90.245.

3 (32) "Master association" means an organization described in RCW
4 64.90.300, whether or not it is also an association described in RCW
5 64.90.400.

6 (33) "Miscellaneous community" means a common interest community
7 in which units are lawfully created in a manner not inconsistent with
8 chapter 58.17 RCW and that is not a condominium, cooperative, or plat
9 community.

10 (34) "Nominal reserve costs" means that the current estimated
11 total replacement costs of the reserve components are less than fifty
12 percent of the annual budgeted expenses of the association, excluding
13 contributions to the reserve fund, for a condominium or cooperative
14 containing horizontal unit boundaries, and less than seventy-five
15 percent of the annual budgeted expenses of the association, excluding
16 contributions to the reserve fund, for all other common interest
17 communities.

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

23 (36) "Person" means an individual, corporation, business trust,
24 estate, the trustee or beneficiary of a trust that is not a business
25 trust, partnership, limited liability company, association, joint
26 venture, public corporation, government, or governmental subdivision,
27 agency, or instrumentality, or any other legal entity.

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

32 (38) "Proprietary lease" means a written and recordable lease
33 that is executed and acknowledged by the association as lessor and
34 that otherwise complies with requirements applicable to a residential
35 lease of more than one year and pursuant to which a member is
36 entitled to exclusive possession of a unit in a cooperative. A
37 proprietary lease governed under this chapter is not subject to
38 chapter 59.18 RCW except as provided in the declaration.

39 (39) "Purchaser" means a person, other than a declarant or a
40 dealer, which by means of a voluntary transfer acquires a legal or

1 equitable interest in a unit other than as security for an
2 obligation.

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

6 (41) "Real estate" means any leasehold or other estate or
7 interest in, over, or under land, including structures, fixtures, and
8 other improvements and interests that by custom, usage, or law pass
9 with a conveyance of land though not described in the contract of
10 sale or instrument of conveyance. "Real estate" includes parcels with
11 or without upper or lower boundaries and spaces that may be filled
12 with air or water.

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

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

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

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

23 (46) "Reserve component" means a physical component of the common
24 interest community which the association is obligated to maintain,
25 repair, or replace, which has an estimated useful life of less than
26 thirty years, and for which the cost of such maintenance, repair, or
27 replacement is infrequent, significant, and impractical to include in
28 an annual budget.

29 (47) "Reserve study professional" means an independent person who
30 is suitably qualified by knowledge, skill, experience, training, or
31 education to prepare a reserve study in accordance with RCW 64.90.545
32 and 64.90.550. For the purposes of this subsection, "independent"
33 means a person who is not an employee, officer, or director, and has
34 no pecuniary interest in the declarant, association, or any other
35 party for whom the reserve study is prepared.

36 (48) "Residential purposes" means use for dwelling or
37 recreational purposes, or both.

38 (49) "Rule" means a policy, guideline, restriction, procedure, or
39 regulation of an association, however denominated, that is not set

1 forth in the declaration or organizational documents and governs the
2 conduct of persons or the use or appearance of property.

3 (50) "Security interest" means an interest in real estate or
4 personal property, created by contract or conveyance that secures
5 payment or performance of an obligation. "Security interest" includes
6 a lien created by a mortgage, deed of trust, real estate contract,
7 lease intended as security, assignment of lease or rents intended as
8 security, pledge of an ownership interest in an association, and any
9 other consensual lien or title retention contract intended as
10 security for an obligation.

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

13 (a) Complete any improvements indicated on the map or described
14 in the declaration or the public offering statement pursuant to RCW
15 64.90.610(1)(h);

16 (b) Exercise any development right;

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

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

22 (e) Make the common interest community subject to a master
23 association;

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

26 (g) Appoint or remove any officer or board member of the
27 association or any master association or to veto or approve a
28 proposed action of any board or association, pursuant to RCW
29 64.90.415(1);

30 (h) Control any construction, design review, or aesthetic
31 standards committee or process;

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

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

36 (52) "Specially allocated expense" means any expense of the
37 association, including allocations to reserves, allocated to some or
38 all of the unit owners pursuant to RCW 64.90.480 (4) through (8).

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

1 (54) "Tangible medium" means a writing, copy of a writing,
2 facsimile, or a physical reproduction, each on paper or on other
3 tangible material.

4 (55) "Timeshare" has the same meaning as defined in RCW
5 64.36.010.

6 (56) "Transition meeting" means the meeting held pursuant to RCW
7 64.90.415(4).

8 (57)(a) "Unit" means a physical portion of the common interest
9 community designated for separate ownership or occupancy, the
10 boundaries of which are described pursuant to RCW 64.90.225(1)(d).

11 (b) If a unit in a cooperative is owned by a unit owner or is
12 sold, conveyed, voluntarily or involuntarily encumbered, or otherwise
13 transferred by a unit owner, the interest in that unit that is owned,
14 sold, conveyed, encumbered, or otherwise transferred is the right to
15 possession of that unit under a proprietary lease, coupled with the
16 allocated interests of that unit, and the association's interest in
17 that unit is not affected.

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

22 (58)(a) "Unit owner" means (i) a declarant or other person that
23 owns a unit or (ii) a lessee of a unit in a leasehold common interest
24 community whose lease expires simultaneously with any lease the
25 expiration or termination of which will remove the unit from the
26 common interest community, but does not include a person having an
27 interest in a unit solely as security for an obligation.

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

30 (c) In a condominium, plat community, or miscellaneous community,
31 the declarant is the unit owner of any unit created by the
32 declaration. In a cooperative, the declarant is treated as the unit
33 owner of any unit to which allocated interests have been allocated
34 until that unit has been conveyed to another person.

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

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

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

1 **Sec. 202.** RCW 64.90.025 and 2018 c 277 s 105 are each amended to
2 read as follows:

3 (1) A building, fire, health, or safety statute, ordinance, or
4 regulation may not impose any requirement upon any structure in a
5 common interest community that it would not impose upon a physically
6 identical development under a different form of ownership.

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

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

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

21 (5) This section does not prohibit a county legislative authority
22 from requiring the review and approval of declarations and amendments
23 to declarations and of termination agreements executed pursuant to
24 RCW 64.90.290(2) by the county assessor solely for the purpose of
25 allocating the assessed value and property taxes. The review by the
26 assessor must be done in a reasonable and timely manner.

27 **Sec. 203.** RCW 64.90.075 and 2018 c 277 s 116 are each amended to
28 read as follows:

29 (1) Except as provided otherwise in this section, this chapter
30 applies to all common interest communities created within this state
31 on or after July 1, 2018. Chapters (~~(59.18)~~) 58.19, 64.32, 64.34, and
32 64.38 RCW do not apply to common interest communities created on or
33 after July 1, 2018.

34 (2) Unless the declaration provides that this entire chapter is
35 applicable, a plat community or miscellaneous community that is not
36 subject to any development right is subject only to RCW 64.90.020,
37 64.90.025, and 64.90.030, if the community: (a) Contains no more than
38 twelve units; and (b) provides in its declaration that the annual
39 average assessment of all units restricted to residential purposes,

1 exclusive of optional user fees and any insurance premiums paid by
2 the association, may not exceed three hundred dollars, as adjusted
3 pursuant to RCW 64.90.065.

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

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

9 (b) The declaration provides that the assessment may not be
10 increased above the limitation in subsection (2) of this section
11 prior to the transition meeting without the consent of unit owners,
12 other than the declarant, holding ninety percent of the votes in the
13 association.

14 (4) Except as otherwise provided in RCW 64.90.080, this chapter
15 does not apply to any common interest community created within this
16 state on or after July 1, 2018, if:

17 (a) That common interest community is made part of a common
18 interest community created in this state prior to July 1, 2018,
19 pursuant to a right expressly set forth in the declaration of the
20 preexisting common interest community; and

21 (b) The declaration creating that common interest community
22 expressly subjects that common interest community to the declaration
23 of the preexisting common interest community pursuant to such right
24 described in (a) of this subsection.

25 **Sec. 204.** RCW 64.90.080 and 2018 c 277 s 117 are each amended to
26 read as follows:

27 (1) Except for a nonresidential common interest community
28 described in RCW 64.90.100, RCW 64.90.095 ~~((and))~~, 64.90.405(1) (b)
29 and (c), 64.90.525 and 64.90.545 apply, and any inconsistent
30 provisions of chapter ~~((59.18))~~ 58.19, 64.32, 64.34, or 64.38 RCW do
31 not apply, to a common interest community created in this state
32 before July 1, 2018.

33 (2) Except to the extent provided in this subsection, the
34 sections listed in subsection (1) of this section apply only to
35 events and circumstances occurring on or after July 1, 2018, and do
36 not invalidate existing provisions of the governing documents of
37 those common interest communities. To protect the public interest,
38 RCW 64.90.095 and 64.90.525 supersede existing provisions of the

1 governing documents of all plat communities and miscellaneous
2 communities previously subject to chapter 64.38 RCW.

3 **Sec. 205.** RCW 64.90.090 and 2018 c 277 s 119 are each amended to
4 read as follows:

5 (1) Chapter 64.32 RCW does not apply to condominiums created on
6 or after July 1, 1990, and except as otherwise provided in subsection
7 (2) of this section, chapter 64.34 RCW does not apply to condominiums
8 created on or after July 1, 2018.

9 (2) RCW 64.34.405, 64.34.410, 64.34.415, 64.34.417, 64.34.418,
10 and 64.34.420 continue to apply, and RCW 64.90.605, 64.90.610,
11 64.90.615, 64.90.620, 64.90.625, 64.90.630, and 64.90.635 do not
12 apply, to any public offering statement first delivered to a
13 prospective purchaser prior to July 1, 2018, for any common interest
14 community created on or after July 1, 2018. A declarant or dealer who
15 first delivered a public offering statement to a prospective
16 purchaser pursuant to chapter 64.34 RCW prior to July 1, 2018, is not
17 required to deliver a new or amended public offering statement to
18 that purchaser pursuant to this act.

19 **Sec. 206.** RCW 64.90.225 and 2018 c 277 s 206 are each amended to
20 read as follows:

21 (1) The declaration must contain:

22 (a) The names of the common interest community and the
23 association and, immediately following the initial recital of the
24 name of the community, a statement that the common interest community
25 is a condominium, cooperative, plat community, or miscellaneous
26 community;

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

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

32 (d) In all common interest communities, a reference to the
33 recorded map creating the units and common elements, if any, subject
34 to the declaration, and in a common interest community other than a
35 plat community, the identifying number of each unit created by the
36 declaration, a description of the boundaries of each unit if and to
37 the extent they are different from the boundaries stated in RCW
38 64.90.210(1)(a), and with respect to each existing unit, and if known

1 at the time the declaration is recorded, the (i) approximate square
2 footage, (ii) number of whole or partial bathrooms, (iii) number of
3 rooms designated primarily as bedrooms, and (iv) level or levels on
4 which each unit is located. The data described in this subsection
5 (1)(d)(ii) and (iii) may be omitted with respect to units restricted
6 to nonresidential use;

7 (e) A description of any limited common elements, other than
8 those specified in RCW 64.90.210 (1)(b) and (~~(+2+)~~) (3);

9 (f) A description of any real estate that may be allocated
10 subsequently by the declarant as limited common elements, other than
11 limited common elements specified in RCW 64.90.210 (1)(b) and (~~(+2+)~~)
12 (3), together with a statement that they may be so allocated;

13 (g) A description of any development right and any other special
14 declarant rights reserved by the declarant, and, if the boundaries of
15 the real estate subject to those rights are fixed in the declaration
16 pursuant to (h)(i) of this subsection, a description of the real
17 property affected by those rights, and a time limit within which each
18 of those rights must be exercised;

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

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

26 (ii) A statement as to whether, if any development right is
27 exercised in any portion of the real estate subject to that
28 development right, that development right must be exercised in all or
29 in any other portion of the remainder of that real estate;

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

32 (j) An allocation to each unit of the allocated interests in the
33 manner described in RCW 64.90.235;

34 (k) Any restrictions on alienation of the units, including any
35 restrictions on leasing that exceed the restrictions on leasing units
36 that boards may impose pursuant to RCW 64.90.510(9)(c) and on the
37 amount for which a unit may be sold or on the amount that may be
38 received by a unit owner on sale, condemnation, or casualty loss to
39 the unit or to the common interest community, or on termination of
40 the common interest community;

1 (1) A cross-reference by recording number to the map for the
2 units created by the declaration;

3 (m) Any authorization pursuant to which the association may
4 establish and enforce construction and design criteria and aesthetic
5 standards as provided in RCW 64.90.505;

6 (n) All matters required under RCW 64.90.230, 64.90.235,
7 64.90.240, 64.90.275, 64.90.280, and 64.90.410;

8 (o) A statement on the first page of the declaration whether the
9 common interest community is subject to this chapter.

10 (2) All amendments to the declaration must contain a cross-
11 reference by recording number to the declaration and to any prior
12 amendments to the declaration. All amendments to the declaration
13 adding units must contain a cross-reference by recording number to
14 the map relating to the added units and set forth all information
15 required under subsection (1) of this section with respect to the
16 added units.

17 (3) The declaration may contain any other matters the declarant
18 considers appropriate, including any restrictions on the uses of a
19 unit or the number or other qualifications of persons who may occupy
20 units.

21 **Sec. 207.** RCW 64.90.245 and 2018 c 277 s 210 are each amended to
22 read as follows:

23 (1) A map is required for all common interest communities. For
24 purposes of this chapter, a map must be construed as part of the
25 declaration.

26 (2) With the exception of subsections (1), (3), (4), and (14) of
27 this section, this section does not apply to a plat as defined in RCW
28 58.17.020.

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

32 (4) An amendment to a map for a common interest community must be
33 executed by the same party or parties authorized or required to
34 execute an amendment to the declaration, contain cross-references by
35 recording number to the declaration and any amendments to the
36 declaration, and be recorded concurrently with an amendment to the
37 declaration. With respect to a plat community, (a) any amendment to
38 the map must be prepared and recorded in compliance with the
39 requirements, processes, and procedures in chapter 58.17 RCW and of

1 the local subdivision ordinances of the city, town, or county in
2 which the plat community is located, and (b) any amendment to the
3 declaration must conform to the map as so approved and recorded.

4 (5) A map for a cooperative may be prepared by a licensed land
5 surveyor, and may be incorporated into the declaration to satisfy
6 subsection (3) of this section and RCW 64.90.225(1)(d). If the map
7 for a cooperative is not prepared by a licensed land surveyor, the
8 map need not contain the certification required in subsection (6)(a)
9 of this section.

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

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

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

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

31 DECLARANT CERTIFICATE: I hereby certify on behalf of
32 (declarant) that this map for (name of common interest
33 community) was made by me or under my direction in conformance with
34 the requirements of RCW 64.90.245; that all information required by
35 the Washington Uniform Common Interest Ownership Act is supplied
36 herein; and that all horizontal and vertical boundaries of the units,
37 (1) to the extent determined by the walls, floors, or ceilings
38 thereof, or other physical monuments, are substantially completed in
39 accordance with said map, or (2) to the extent such boundaries are

1 not defined by physical monuments, such boundaries are shown on the
2 map. (Declarant's name, signature, and acknowledgment)

3 (c) A declaration by the declarant in substantially the following
4 form:

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

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

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

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

31 (b) A legal description of the land in the common interest
32 community;

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

37 (d) If the boundaries of land subject to the development right to
38 withdraw are fixed in the declaration or an amendment to the
39 declaration pursuant to RCW 64.90.225(1)(h)(i), and subject to the

1 provisions of the declaration, an amendment to the map if not
2 contained in the initial recorded map, the legal description and
3 boundaries of that land, labeled "MAY BE WITHDRAWN FROM THE [COMMON
4 INTEREST COMMUNITY];

5 (e) If the boundaries of land subject to the development right to
6 add units that will result in the reallocation of allocated interests
7 is fixed in the declaration or an amendment to the declaration
8 pursuant to RCW 64.90.225(1)(h)(i), and subject to the provisions of
9 the declaration, the legal description and boundaries of that land,
10 labeled "SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT
11 IN A REALLOCATION OF ALLOCATED INTERESTS";

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

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

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

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

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

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

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

33 (m) The general location of any existing principal common
34 amenities listed in a public offering statement under RCW
35 64.90.610(1)(k);

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

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

3 (9) The map for a common interest community may also show the
4 anticipated approximate location and dimensions of any contemplated
5 improvement to be constructed anywhere within the common interest
6 community, and any contemplated improvement shown must be labeled
7 either "MUST BE BUILT" or "NEED NOT BE BUILT."

8 (10) The map for a common interest community must identify any
9 unit in which the declarant has reserved the right to create
10 additional units or common elements under RCW 64.90.250(3).

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

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

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

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

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

1 location of the vertical boundaries are shown in relation to the
2 exterior surfaces of that building and to the vertical boundaries of
3 other units within that building.

4 **Sec. 208.** RCW 64.90.285 and 2018 c 277 s 218 are each amended to
5 read as follows:

6 (1)(a) Except in cases of amendments that may be executed by: A
7 declarant under subsection (10) of this section, RCW 64.90.240(2),
8 64.90.245(12), 64.90.250, or 64.90.415(2)(d); the association under
9 RCW 64.90.030, 64.90.230(5), 64.90.240(3), 64.90.260(1), or 64.90.265
10 or subsection (11) of this section; or certain unit owners under RCW
11 64.90.240(2), 64.90.260(1), 64.90.265(2), or 64.90.290(2), and except
12 as limited by subsections (4), (6), (7), (8), and (12) of this
13 section, the declaration may be amended only by vote or agreement of
14 unit owners of units to which at least sixty-seven percent of the
15 votes in the association are allocated, unless the declaration
16 specifies a different percentage not to exceed ninety percent for all
17 amendments or for specific subjects of amendment. For purposes of
18 this section, "amendment" means any change to the declaration,
19 including adding, removing, or modifying restrictions contained in a
20 declaration.

21 (b) If the declaration requires the approval of another person as
22 a condition of its effectiveness, the amendment is not valid without
23 that approval; however, any right of approval may not result in an
24 expansion of special declarant rights reserved in the declaration or
25 violate any other section of this chapter, including RCW 64.90.015,
26 64.90.050, 64.90.055, and 64.90.060.

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

30 (3) Every amendment to the declaration must be recorded in every
31 county in which any portion of the common interest community is
32 located and is effective only upon recordation. An amendment, except
33 an amendment pursuant to RCW 64.90.260(1), must be indexed in the
34 grantee's index in the name of the common interest community and the
35 association and in the grantor's index in the name of the parties
36 executing the amendment.

37 (4) Except to the extent expressly permitted or required under
38 this chapter, an amendment may not create or increase special
39 declarant rights, increase the number of units, change the boundaries

1 of any unit, or change the allocated interests of a unit without the
2 consent of unit owners to which at least ninety percent of the votes
3 in the association are allocated, including the consent of any unit
4 owner of a unit, the boundaries of which or allocated interest of
5 which is changed by the amendment.

6 (5) Amendments to the declaration required to be executed by the
7 association must be executed by any authorized officer of the
8 association who must certify in the amendment that it was properly
9 adopted.

10 (6) The declaration may require a higher percentage of unit owner
11 approval for an amendment that is intended to prohibit or materially
12 restrict the uses of units permitted under the applicable zoning
13 ordinances, or to protect the interests of members of a defined class
14 of owners, or to protect other legitimate interests of the
15 association or its members. Subject to subsection (13) of this
16 section, a declaration may not require, as a condition for amendment,
17 approval by more than ninety percent of the votes in the association
18 or by all but one unit owner, whichever is less. An amendment
19 approved under this subsection must provide reasonable protection for
20 a use permitted at the time the amendment was adopted.

21 (7) The time limits specified in the declaration pursuant to RCW
22 64.90.225(1)(g) within which reserved development rights must be
23 exercised may be extended, and additional development rights may be
24 created, if persons entitled to cast at least eighty percent of the
25 votes in the association, including eighty percent of the votes
26 allocated to units not owned by the declarant, agree to that action.
27 The agreement is effective thirty days after an amendment to the
28 declaration reflecting the terms of the agreement is recorded unless
29 all the persons holding the affected special declarant rights, or
30 security interests in those rights, record a written objection within
31 the thirty-day period, in which case the amendment is void, or
32 consent in writing at the time the amendment is recorded, in which
33 case the amendment is effective when recorded.

34 (8) A provision in the declaration creating special declarant
35 rights that have not expired may not be amended without the consent
36 of the declarant.

37 (9) If any provision of this chapter or the declaration requires
38 the consent of a holder of a security interest in a unit as a
39 condition to the effectiveness of an amendment to the declaration,
40 the consent is deemed granted if a refusal to consent in a record is

1 not received by the association within sixty days after the
2 association delivers notice of the proposed amendment to the holder
3 at an address for notice provided by the holder or mails the notice
4 to the holder by certified mail, return receipt requested, at that
5 address. If the holder has not provided an address for notice to the
6 association, the association must provide notice to the address in
7 the security interest of record.

8 (10) Upon thirty-day advance notice to unit owners, the declarant
9 may, without a vote of the unit owners or approval by the board,
10 unilaterally adopt, execute, and record a corrective amendment or
11 supplement to the governing documents to correct a mathematical
12 mistake, an inconsistency, or a scrivener's error, or clarify an
13 ambiguity in the governing documents with respect to an objectively
14 verifiable fact including, without limitation, recalculating the
15 undivided interest in the common elements, the liability for common
16 expenses, or the number of votes in the unit owners' association
17 appertaining to a unit, within five years after the recordation or
18 adoption of the governing document containing or creating the
19 mistake, inconsistency, error, or ambiguity. Any such amendment or
20 supplement may not materially reduce what the obligations of the
21 declarant would have been if the mistake, inconsistency, error, or
22 ambiguity had not occurred.

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

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

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

35 (c) To remove language and otherwise amend as necessary to effect
36 the removal of language that purports to impose limitations on the
37 power of the association beyond the limit authorized in RCW
38 64.90.405(~~((1)-(u))~~) (3)(a) to deal with the declarant that are more
39 restrictive than the limitations imposed on the power of the
40 association to deal with other persons; and

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

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

11 (13)(a) If the declaration requires that amendments to the
12 declaration may be adopted only by the vote or agreement of unit
13 owners of units to which more than sixty-seven percent of the votes
14 in the association are allocated, and the percentage required is
15 otherwise consistent with this chapter, the amendment is approved if:

16 (i) The approval of the percentage specified in the declaration
17 is obtained;

18 (ii)(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) A unit owner does not vote against the proposed amendment;
22 and

23 (C) Notice of the proposed amendment, including notice that the
24 failure of a unit owner to object may result in the adoption of the
25 amendment, is delivered to the unit owners holding the votes in the
26 association that have not voted or agreed to the proposed amendment
27 and no written objection to the proposed amendment is received by the
28 association within sixty days after the association delivers notice;
29 or

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

33 (B) At least one unit owner objects to the proposed amendment;
34 and

35 (C) Pursuant to an action brought by the association in the
36 county in which the common interest community is situated against all
37 objecting unit owners, the court finds, under the totality of
38 circumstances including, but not limited to, the subject matter of
39 the amendment, the purpose of the amendment, the percentage voting to

1 approve the amendment, and the percentage objecting to the amendment,
2 that the amendment is reasonable.

3 (b) If the declaration requires the affirmative vote or approval
4 of any particular unit owner or class of unit owners as a condition
5 of its effectiveness, the amendment is not valid without that vote or
6 approval.

7 **Sec. 209.** RCW 64.90.405 and 2018 c 277 s 302 are each amended to
8 read as follows:

9 (1) An association must:

10 (a) Adopt organizational documents;

11 (b) Adopt budgets as provided in RCW 64.90.525;

12 (c) Impose assessments for common expenses and specially
13 allocated expenses on the unit owners as provided in RCW 64.90.080(1)
14 and 64.90.525;

15 (d) Prepare financial statements as provided in RCW 64.90.530;
16 and

17 (e) Deposit and maintain the funds of the association in accounts
18 as provided in RCW 64.90.530.

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 RCW 64.90.525;

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 RCW 64.90.465 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 RCW
6 64.90.465 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 RCW 64.90.210 (1)(b) and
14 (3);
- 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 RCW 64.90.640, lender questionnaires, or statements of
28 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 RCW 64.90.535;

5 (s) Prepare a reserve study as described in RCW 64.90.545;

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) The board must promptly provide notice to the unit owners of
37 any legal proceeding in which the association is a party other than
38 proceedings involving enforcement of rules or to recover unpaid
39 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~~) fifty days after mailing of the notice, to consider
14 ratification of 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)(l) 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 **Sec. 210.** RCW 64.90.445 and 2018 c 277 s 310 are each amended to
25 read as follows:

26 (1) The following requirements apply to unit owner meetings:

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

31 (b) (i) An association must hold a special meeting of unit owners
32 to address any matter affecting the common interest community or the
33 association if its president, a majority of the board, or unit owners
34 having at least twenty percent, or any lower percentage specified in
35 the organizational documents, of the votes in the association request
36 that the secretary call the meeting.

37 (ii) If the association does not provide notice to unit owners of
38 a special meeting within thirty days after the requisite number or
39 percentage of unit owners request the secretary to do so, the

1 requesting members may directly provide notice to all the unit owners
2 of the meeting. Only matters described in the meeting notice required
3 in (c) of this subsection may be considered at a special meeting.

4 (c) An association must provide notice to unit owners of the
5 time, date, and place of each annual and special unit owners meeting
6 not less than fourteen days and not more than fifty days before the
7 meeting date. Notice may be by any means described in RCW 64.90.515.
8 The notice of any meeting must state the time, date, and place of the
9 meeting and the items on the agenda, including:

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

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

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

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

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

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

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

27 (a) Meetings must be open to the unit owners except during
28 executive sessions, but the board may expel or prohibit attendance by
29 any person who, after warning by the chair of the meeting, disrupts
30 the meeting. The board and those committees may hold an executive
31 session only during a regular or special meeting of the board or a
32 committee. A final vote or action may not be taken during an
33 executive session.

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

35 (i) Consult with the association's attorney concerning legal
36 matters;

37 (ii) Discuss existing or potential litigation or mediation,
38 arbitration, or administrative proceedings;

39 (iii) Discuss labor or personnel matters;

1 (iv) Discuss contracts, leases, and other commercial transactions
2 to purchase or provide goods or services currently being negotiated,
3 including the review of bids or proposals, if premature general
4 knowledge of those matters would place the association at a
5 disadvantage; or

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

9 (c) For purposes of this subsection, a gathering of members of
10 the board or committees at which the board or committee members do
11 not conduct association business is not a meeting of the board or
12 committee. Board members and committee members may not use incidental
13 or social gatherings to evade the open meeting requirements of this
14 subsection.

15 (d) During the period of declarant control, the board must meet
16 at least four times a year. At least one of those meetings must be
17 held at the common interest community or at a place convenient to the
18 community. After the transition meeting, all board meetings must be
19 at the common interest community or at a place convenient to the
20 common interest community unless the unit owners amend the bylaws to
21 vary the location of those meetings.

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

25 (f) Unless the meeting is included in a schedule given to the
26 unit owners or the meeting is called to deal with an emergency, the
27 secretary or other officer specified in the organizational documents
28 must provide notice of each board meeting to each board member and to
29 the unit owners. The notice must be given at least fourteen days
30 before the meeting and must state the time, date, place, and agenda
31 of the meeting.

32 (g) If any materials are distributed to the board before the
33 meeting, the board must make copies of those materials reasonably
34 available to (~~those~~) the unit owners, except that the board need
35 not make available copies of unapproved minutes or materials that are
36 to be considered in executive session.

37 (h) Unless the organizational documents provide otherwise, fewer
38 than all board members may participate in a regular or special
39 meeting by or conduct a meeting through the use of any means of
40 communication by which all board members participating can hear each

1 other during the meeting. A board member participating in a meeting
2 by these means is deemed to be present in person at the meeting.

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

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

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

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

16 (k) Instead of meeting, the board may act by unanimous consent as
17 documented in a record by all its members. Actions taken by unanimous
18 consent must be kept as a record of the association with the meeting
19 minutes. After the transition meeting, the board may act by unanimous
20 consent only to undertake ministerial actions, actions subject to
21 ratification by the unit owners, or to implement actions previously
22 taken at a meeting of the board.

23 (l) A board member who is present at a board meeting at which any
24 action is taken is presumed to have assented to the action taken
25 unless the board member's dissent or abstention to such action is
26 lodged with the person acting as the secretary of the meeting before
27 adjournment of the meeting or provided in a record to the secretary
28 of the association immediately after adjournment of the meeting. The
29 right to dissent or abstain does not apply to a board member who
30 voted in favor of such action at the meeting.

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

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

39 (3) Minutes of all unit owner meetings and board meetings,
40 excluding executive sessions, must be maintained in a record. The

1 decision on each matter voted upon at a board meeting or unit owner
2 meeting must be recorded in the minutes.

3 **Sec. 211.** RCW 64.90.485 and 2018 c 277 s 318 are each amended to
4 read as follows:

5 (1) The association has a statutory lien on each unit for any
6 unpaid assessment against the unit from the time such assessment is
7 due.

8 (2) A lien under this section has priority over all other liens
9 and encumbrances on a unit except:

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

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

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

21 (3)(a) A lien under this section also has priority over the
22 security interests described in subsection (2)(b) of this section to
23 the extent of an amount equal to the following:

24 (i) The common expense assessments, excluding any amounts for
25 capital improvements, based on the periodic budget adopted by the
26 association pursuant to RCW 64.90.480(1), along with any specially
27 allocated assessments that are properly assessable against the unit
28 under such periodic budget, which would have become due in the
29 absence of acceleration during the six months immediately preceding
30 the institution of proceedings to foreclose either the association's
31 lien or a security interest described in subsection (2)(b) of this
32 section;

33 (ii) The association's actual costs and reasonable attorneys'
34 fees incurred in foreclosing its lien but incurred after the giving
35 of the notice described in (a)(iii) of this subsection; provided,
36 however, that the costs and reasonable attorneys' fees that will have
37 priority under this subsection (3)(a)(ii) shall not exceed two
38 thousand dollars or an amount equal to the amounts described in
39 (a)(i) of this subsection, whichever is less;

1 (iii) The amounts described in (a)(ii) of this subsection shall
2 be prior only to the security interest of the holder of a security
3 interest on the unit recorded before the date on which the unpaid
4 assessment became due and only if the association has given that
5 holder not less than sixty days' prior written notice that the owner
6 of the unit is in default in payment of an assessment. The notice
7 shall contain:

8 (A) Name of the borrower;

9 (B) Recording date of the trust deed or mortgage;

10 (C) Recording information;

11 (D) Name of condominium, unit owner, and unit designation stated
12 in the declaration or applicable supplemental declaration;

13 (E) Amount of unpaid assessment; and

14 (F) A statement that failure to, within sixty days of the written
15 notice, submit the association payment of six months of assessments
16 as described in (a)(i) of this subsection will result in the priority
17 of the amounts described in (a)(ii) of this subsection; and

18 (iv) Upon payment of the amounts described in (a)(i) and (ii) of
19 this subsection by the holder of a security interest, the
20 association's lien described in this subsection (3)(a) shall
21 thereafter be fully subordinated to the lien of such holder's
22 security interest on the unit.

23 (b) For the purposes of this subsection:

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

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

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

30 (C) The date of recording of a notice of intention to forfeit in
31 a real estate contract forfeiture proceeding by the vendor under a
32 real estate contract.

33 (ii) "Capital improvements" does not include making, in the
34 ordinary course of management, repairs to common elements or
35 replacements of the common elements with substantially similar items,
36 subject to: (A) Availability of materials and products, (B)
37 prevailing law, or (C) sound engineering and construction standards
38 then prevailing.

39 (c) The adoption of a periodic budget that purports to allocate
40 to a unit any fines, late charges, interest, attorneys' fees and

1 costs incurred for services unrelated to the foreclosure of the
2 association's lien, other collection charges, or specially allocated
3 assessments assessed under RCW 64.90.480 (6) or (7) does not cause
4 any such items to be included in the priority amount affecting such
5 unit.

6 (4) Subsections (2) and (3) of this section do not affect the
7 priority of mechanics' or material suppliers' liens to the extent
8 that law of this state other than chapter 277, Laws of 2018 gives
9 priority to such liens, or the priority of liens for other
10 assessments made by the association.

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

12 (6) If the association forecloses its lien under this section
13 nonjudicially pursuant to chapter 61.24 RCW, as provided under
14 subsection (13) of this section, the association is not entitled to
15 the lien priority provided for under subsection (3) of this section,
16 and is subject to the limitations on deficiency judgments as provided
17 in chapter 61.24 RCW.

18 (7) Unless the declaration provides otherwise, if two or more
19 associations have liens for assessments created at any time on the
20 same property, those liens have equal priority as to each other, and
21 any foreclosure of one such lien shall not affect the lien of the
22 other.

23 (8) Recording of the declaration constitutes record notice and
24 perfection of the statutory lien created under this section. Further
25 notice or recordation of any claim of lien for assessment under this
26 section is not required, but is not prohibited.

27 (9) A lien for unpaid assessments and the personal liability for
28 payment of those assessments are extinguished unless proceedings to
29 enforce the lien or collect the debt are instituted within six years
30 after the full amount of the assessments sought to be recovered
31 becomes due.

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

36 (11) The association upon written request must furnish to a unit
37 owner or a mortgagee a statement signed by an officer or authorized
38 agent of the association setting forth the amount of unpaid
39 assessments or the priority amount against that unit, or both. The
40 statement must be furnished within fifteen days after receipt of the

1 request and is binding on the association, the board, and every unit
2 owner unless, and to the extent, known by the recipient to be false.
3 The liability of a recipient who reasonably relies upon the statement
4 must not exceed the amount set forth in any statement furnished
5 pursuant to this section or RCW 64.90.640(1)(b).

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

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

12 (a) In a common interest community other than a cooperative, the
13 association's lien may be foreclosed judicially in accordance with
14 chapter 61.12 RCW, subject to any rights of redemption under chapter
15 6.23 RCW.

16 (b) The lien may be enforced nonjudicially in the manner set
17 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of
18 trust if the declaration: Contains a grant of the common interest
19 community in trust to a trustee qualified under RCW 61.24.010 to
20 secure the obligations of the unit owners to the association for the
21 payment of assessments, contains a power of sale, provides in its
22 terms that the units are not used principally for agricultural
23 purposes, and provides that the power of sale is operative in the
24 case of a default in the obligation to pay assessments. The
25 association or its authorized representative may purchase the unit at
26 the foreclosure sale and acquire, hold, lease, mortgage, or convey
27 the unit. Upon an express waiver in the complaint of any right to a
28 deficiency judgment in a judicial foreclosure action, the period of
29 redemption is eight months.

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

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

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

1 (a) The association, upon nonpayment of assessments and
2 compliance with this subsection, may sell that unit at a public sale
3 or by private negotiation, and at any time and place. The association
4 must give to the unit owner and any lessee of the unit owner
5 reasonable notice in a record of the time, date, and place of any
6 public sale or, if a private sale is intended, of the intention of
7 entering into a contract to sell and of the time and date after which
8 a private conveyance may be made. Such notice must also be sent to
9 any other person that has a recorded interest in the unit that would
10 be cut off by the sale, but only if the recorded interest was on
11 record seven weeks before the date specified in the notice as the
12 date of any public sale or seven weeks before the date specified in
13 the notice as the date after which a private sale may be made. The
14 notices required under this subsection may be sent to any address
15 reasonable in the circumstances. A sale may not be held until five
16 weeks after the sending of the notice. The association may buy at any
17 public sale and, if the sale is conducted by a fiduciary or other
18 person not related to the association, at a private sale.

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

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

23 (i) The reasonable expenses of sale;

24 (ii) The reasonable expenses of securing possession before sale;
25 the reasonable expenses of holding, maintaining, and preparing the
26 unit for sale, including payment of taxes and other governmental
27 charges and premiums on insurance; and, to the extent provided for by
28 agreement between the association and the unit owner, reasonable
29 attorneys' fees, costs, and other legal expenses incurred by the
30 association;

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

32 (iv) Satisfaction in the order of priority of any subordinate
33 claim of record; and

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

35 (d) A good-faith purchaser for value acquires the unit free of
36 the association's debt that gave rise to the lien under which the
37 foreclosure sale occurred and any subordinate interest, even though
38 the association or other person conducting the sale failed to comply
39 with this section. The person conducting the sale must execute a
40 conveyance to the purchaser sufficient to convey the unit and stating

1 that it is executed by the person after a foreclosure of the
2 association's lien by power of sale and that the person was empowered
3 to make the sale. Signature and title or authority of the person
4 signing the conveyance as grantor and a recital of the facts of
5 nonpayment of the assessment and of the giving of the notices
6 required under this subsection are sufficient proof of the facts
7 recited and of the authority to sign. Further proof of authority is
8 not required even though the association is named as grantee in the
9 conveyance.

10 (e) At any time before the association has conveyed a unit in a
11 cooperative or entered into a contract for its conveyance under the
12 power of sale, the unit owners or the holder of any subordinate
13 security interest may cure the unit owner's default and prevent sale
14 or other conveyance by tendering the performance due under the
15 security agreement, including any amounts due because of exercise of
16 a right to accelerate, plus the reasonable expenses of proceeding to
17 foreclosure incurred to the time of tender, including reasonable
18 attorneys' fees and costs of the creditor.

19 (15) In an action by an association to collect assessments or to
20 foreclose a lien on a unit under this section, the court may appoint
21 a receiver to collect all sums alleged to be due and owing to a unit
22 owner before commencement or during pendency of the action. The
23 receivership is governed under chapter 7.60 RCW. During pendency of
24 the action, the court may order the receiver to pay sums held by the
25 receiver to the association for any assessments against the unit. The
26 exercise of rights under this subsection by the association does not
27 affect the priority of preexisting liens on the unit.

28 (16) Except as provided in subsection (3) of this section, the
29 holder of a mortgage or other purchaser of a unit who obtains the
30 right of possession of the unit through foreclosure is not liable for
31 assessments or installments of assessments that became due prior to
32 such right of possession. Such unpaid assessments are deemed to be
33 common expenses collectible from all the unit owners, including such
34 mortgagee or other purchaser of the unit. Foreclosure of a mortgage
35 does not relieve the prior unit owner of personal liability for
36 assessments accruing against the unit prior to the date of such sale
37 as provided in this subsection.

38 (17) In addition to constituting a lien on the unit, each
39 assessment is the joint and several obligation of the unit owner of
40 the unit to which the same are assessed as of the time the assessment

1 is due. A unit owner may not exempt himself or herself from liability
2 for assessments. In a voluntary conveyance other than by foreclosure,
3 the grantee of a unit is jointly and severally liable with the
4 grantor for all unpaid assessments against the grantor up to the time
5 of the grantor's conveyance, without prejudice to the grantee's right
6 to recover from the grantor the amounts paid by the grantee. Suit to
7 recover a personal judgment for any delinquent assessment is
8 maintainable in any court of competent jurisdiction without
9 foreclosing or waiving the lien securing such sums.

10 (18) The association may from time to time establish reasonable
11 late charges and a rate of interest to be charged, not to exceed the
12 maximum rate calculated under RCW 19.52.020, on all subsequent
13 delinquent assessments or installments of assessments. If the
14 association does not establish such a rate, delinquent assessments
15 bear interest from the date of delinquency at the maximum rate
16 calculated under RCW 19.52.020 on the date on which the assessments
17 became delinquent.

18 (19) The association is entitled to recover any costs and
19 reasonable attorneys' fees incurred in connection with the collection
20 of delinquent assessments, whether or not such collection activities
21 result in a suit being commenced or prosecuted to judgment. The
22 prevailing party is also entitled to recover costs and reasonable
23 attorneys' fees in such suits, including any appeals, if it prevails
24 on appeal and in the enforcement of a judgment.

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

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

- 30 (a) The unit owner, at the time the action is commenced, owes a
31 sum equal to at least three months of common expense assessments; and
32 (b) The board approves commencement of a foreclosure action
33 specifically against that unit.

34 (22) Every aspect of a collection, foreclosure, sale, or other
35 conveyance under this section, including the method, advertising,
36 time, date, place, and terms, must be commercially reasonable.

37 **Sec. 212.** RCW 64.90.610 and 2018 c 277 s 403 are each amended to
38 read as follows:

- 1 (1) A public offering statement must contain the following
2 information:
- 3 (a) The name and address of the declarant;
- 4 (b) The name and address or location of the management company,
5 if any;
- 6 (c) The relationship of the management company to the declarant,
7 if any;
- 8 (d) The name and address of the common interest community;
- 9 (e) A statement whether the common interest community is a
10 condominium, cooperative, plat community, or miscellaneous community;
- 11 (f) A list, current as of the date the public offering statement
12 is prepared, of up to the five most recent common interest
13 communities in which at least one unit was sold by the declarant or
14 an affiliate of the declarant within the past five years, including
15 the names of the common interest communities and their addresses;
- 16 (g) The nature of the interest being offered for sale;
- 17 (h) A general description of the common interest community,
18 including to the extent known to the declarant, the types and number
19 of buildings that the declarant anticipates including in the common
20 interest community and the declarant's schedule of commencement and
21 completion of such buildings and principal common amenities;
- 22 (i) The status of construction of the units and common elements,
23 including estimated dates of completion if not completed;
- 24 (j) The number of existing units in the common interest
25 community;
- 26 (k) Brief descriptions of (i) the existing principal common
27 amenities, (ii) those amenities that will be added to the common
28 interest community, and (iii) those amenities that may be added to
29 the common interest community;
- 30 (l) A brief description of the limited common elements, other
31 than those described in RCW 64.90.210 (1)(b) and (3), that may be
32 allocated to the units being offered for sale;
- 33 (m) The identification of any rights of persons other than unit
34 owners to use any of the common elements, and a description of the
35 terms of such use;
- 36 (n) The identification of any real property not in the common
37 interest community that unit owners have a right to use and a
38 description of the terms of such use;
- 39 (o) Any services the declarant provides or expenses that the
40 declarant pays that are not reflected in the budget, but that the

1 declarant expects may become at any subsequent time a common expense
2 of the association, and the projected common expense attributable to
3 each of those services or expenses;

4 (p) An estimate of any assessment or payment required by the
5 declaration to be paid by the purchaser of a unit at closing;

6 (q) A brief description of any liens or monetary encumbrances on
7 the title to the common elements that will not be discharged at
8 closing;

9 (r) A brief description or a copy of any express construction
10 warranties to be provided to the purchaser;

11 (s) A statement, as required under RCW 64.35.210, as to whether
12 the units or common elements of the common interest community are
13 covered by a qualified warranty;

14 (t) If applicable to the common interest community, a statement
15 whether the common interest community contains any multiunit
16 residential building subject to chapter 64.55 RCW and, if so,
17 whether:

18 (i) The building enclosure has been designed and inspected to the
19 extent required under RCW 64.55.010 through 64.55.090; and

20 (ii) Any repairs required under RCW 64.55.090 have been made;

21 (u) A statement of any unsatisfied judgments or pending suits
22 against the association and the status of any pending suits material
23 to the common interest community of which the declarant has actual
24 knowledge;

25 (v) A statement of any litigation brought by an owners'
26 association, unit owner, or governmental entity in which the
27 declarant or any affiliate of the declarant has been a defendant
28 arising out of the construction, sale, or administration of any
29 common interest community within the previous five years, together
30 with the results of the litigation, if known;

31 (w) A brief description of:

32 (i) Any restrictions on use or occupancy of the units contained
33 in the governing documents;

34 (ii) Any restrictions on the renting or leasing of units by the
35 declarant or other unit owners contained in the governing documents;

36 (iii) Any rights of first refusal to lease or purchase any unit
37 or any of the common elements contained in the governing documents;
38 and

39 (iv) Any restriction on the amount for which a unit may be sold
40 or on the amount that may be received by a unit owner on sale;

1 (x) A description of the insurance coverage provided for the
2 benefit of unit owners;

3 (y) Any current or expected fees or charges not included in the
4 common expenses to be paid by unit owners for the use of the common
5 elements and other facilities related to the common interest
6 community, together with any fees or charges not included in the
7 common expenses to be paid by unit owners to any master or other
8 association;

9 (z) The extent, if any, to which bonds or other assurances from
10 third parties have been provided for completion of all improvements
11 that the declarant is obligated to build pursuant to RCW 64.90.695;

12 (aa) In a cooperative, a statement whether the unit owners are
13 entitled, for federal, state, and local income tax purposes, to a
14 pass-through of any deductions for payments made by the association
15 for real estate taxes and interest paid to the holder of a security
16 interest encumbering the cooperative;

17 (bb) In a cooperative, a statement as to the effect on every unit
18 owner's interest in the cooperative if the association fails to pay
19 real estate taxes or payments due to the holder of a security
20 interest encumbering the cooperative;

21 (cc) In a leasehold common interest community, a statement
22 whether the expiration or termination of any lease may terminate the
23 common interest community or reduce its size, the recording number of
24 any such lease or a statement of where the complete lease may be
25 inspected, the date on which such lease is scheduled to expire, a
26 description of the real estate subject to such lease, a statement
27 whether the unit owners have a right to redeem the reversion, a
28 statement whether the unit owners have a right to remove any
29 improvements at the expiration or termination of such lease, a
30 statement of any rights of the unit owners to renew such lease, and a
31 reference to the sections of the declaration where such information
32 may be found;

33 (dd) A summary of, and information on how to obtain a full copy
34 of, any reserve study and a statement as to whether or not it was
35 prepared in accordance with RCW 64.90.545 and 64.90.550 or the
36 governing documents;

37 (ee) A brief description of any arrangement described in RCW
38 64.90.110 binding the association;

39 (ff) The estimated current common expense liability for the units
40 being offered;

1 (gg) Except for real property taxes, real property assessments
2 and utility liens, any assessments, fees, or other charges known to
3 the declarant and which, if not paid, may constitute a lien against
4 any unit or common elements in favor of any governmental agency;

5 (hh) A brief description of any parts of the common interest
6 community, other than the owner's unit, which any owner must
7 maintain;

8 (ii) Whether timesharing is permitted or prohibited, and, if
9 permitted, a statement that the purchaser of a timeshare unit is
10 entitled to receive the disclosure document required under chapter
11 64.36 RCW;

12 (jj) If the common interest community is subject to any special
13 declarant rights, the information required under RCW 64.90.615;

14 (kk) Any liens on real estate to be conveyed to the association
15 required to be disclosed pursuant to RCW 64.90.650(3)(b);

16 (ll) A list of any physical hazards known to the declarant that
17 particularly affect the common interest community or the immediate
18 vicinity in which the common interest community is located and which
19 are not readily ascertainable by the purchaser;

20 (mm) Any building code violation of which the declarant has
21 actual knowledge and which has not been corrected;

22 (nn) If the common interest community contains one or more
23 conversion buildings, the information required under RCW 64.90.620
24 and 64.90.655(6)(a);

25 (oo) If the public offering statement is related to conveyance of
26 a unit in a multiunit residential building as defined in RCW
27 64.55.010, for which the final certificate of occupancy was issued
28 more than sixty calendar months prior to the preparation of the
29 public offering statement either: A copy of a report prepared by an
30 independent, licensed architect or engineer or a statement by the
31 declarant based on such report that describes, to the extent
32 reasonably ascertainable, the present condition of all structural
33 components and mechanical and electrical installations of the
34 conversion buildings material to the use and enjoyment of the
35 conversion buildings;

36 (pp) Any other information and cross-references that the
37 declarant believes will be helpful in describing the common interest
38 community to the recipients of the public offering statement, all of
39 which may be included or not included at the option of the declarant;
40 and

1 (qq) A description of any age-related occupancy restrictions
2 affecting the common interest community.

3 (2) The public offering statement must begin with notices
4 substantially in the following forms and in conspicuous type:

5 (a) "RIGHT TO CANCEL. (1) You are entitled to receive a copy of
6 this public offering statement and all material amendments to this
7 public offering statement before conveyance of your unit. Under RCW
8 64.90.635, you have the right to cancel your contract for the
9 purchase of your unit within seven days after first receiving this
10 public offering statement. If this public offering statement is first
11 provided to you more than seven days before you sign your contract
12 for the purchase of your unit, you have no right to cancel your
13 contract. If this public offering statement is first provided to you
14 seven days or less before you sign your contract for the purchase of
15 your unit, you have the right to cancel, before conveyance of the
16 unit, the executed contract by delivering, no later than the seventh
17 day after first receiving this public offering statement, a notice of
18 cancellation pursuant to section (3) of this notice. If this public
19 offering statement is first provided to you less than seven days
20 before the closing date for the conveyance of your unit, you may,
21 before conveyance of your unit to you, extend the closing date to a
22 date not more than seven days after you first received this public
23 offering statement, so that you may have seven days to cancel your
24 contract for the purchase of your unit.

25 (2) You have no right to cancel your contract upon receipt of an
26 amendment to this public offering statement; however, this does not
27 eliminate any right to rescind your contract, due to the disclosure
28 of the information in the amendment, that is otherwise available to
29 you under generally applicable contract law.

30 (3) If you elect to cancel your contract pursuant to this notice,
31 you may do so by hand-delivering notice of cancellation, or by
32 mailing notice of cancellation by prepaid United States mail, to the
33 seller at the address set forth in this public offering statement or
34 at the address of the seller's registered agent for service of
35 process. The date of such notice is the date of receipt, if hand-
36 delivered, or the date of deposit in the United States mail, if
37 mailed. Cancellation is without penalty, and all payments made to the
38 seller by you before cancellation must be refunded promptly."

39 (b) "OTHER DOCUMENTS CREATING BINDING LEGAL OBLIGATIONS. This
40 public offering statement is a summary of some of the significant

1 aspects of purchasing a unit in this common interest community. The
2 governing documents and the purchase agreement are complex, contain
3 other important information, and create binding legal obligations.
4 You should consider seeking the assistance of legal counsel."

5 (c) "OTHER REPRESENTATIONS. You may not rely on any statement,
6 promise, model, depiction, or description unless it is (1) contained
7 in the public offering statement delivered to you or (2) made in
8 writing signed by the declarant or dealer or the declarant's or
9 dealer's agent identified in the public offering statement. A
10 statement of opinion, or a commendation of the real estate, its
11 quality, or its value, does not create a warranty, and a statement,
12 promise, model, depiction, or description does not create a warranty
13 if it discloses that it is only proposed, is not representative, or
14 is subject to change."

15 (d) "MODEL UNITS. Model units are intended to provide you with a
16 general idea of what a finished unit might look like. Units being
17 offered for sale may vary from the model unit in terms of floor plan,
18 fixtures, finishes, and equipment. You are advised to obtain specific
19 information about the unit you are considering purchasing."

20 (e) "RESERVE STUDY. The association [does] [does not] have a
21 current reserve study. Any reserve study should be reviewed
22 carefully. It may not include all reserve components that will
23 require major maintenance, repair, or replacement in future years,
24 and may not include regular contributions to a reserve account for
25 the cost of such maintenance, repair, or replacement. You may
26 encounter certain risks, including being required to pay as a special
27 assessment your share of expenses for the cost of major maintenance,
28 repair, or replacement of a reserve component, as a result of the
29 failure to: (1) Have a current reserve study or fully funded
30 reserves, (2) include a component in a reserve study, or (3) provide
31 any or sufficient contributions to a reserve account for a
32 component."

33 (f) "DEPOSITS AND PAYMENTS. Only earnest money and reservation
34 deposits are required to be placed in an escrow or trust account. Any
35 other payments you make to the seller of a unit are at risk and may
36 be lost if the seller defaults."

37 (g) "CONSTRUCTION DEFECT CLAIMS. Chapter 64.50 RCW contains
38 important requirements you must follow before you may file a lawsuit
39 for defective construction against the seller or builder of your
40 home. Forty-five days before you file your lawsuit, you must deliver

1 to the seller or builder a written notice of any construction
2 conditions you allege are defective and provide your seller or
3 builder the opportunity to make an offer to repair or pay for the
4 defects. You are not obligated to accept any offer made by the
5 builder or seller. There are strict deadlines and procedures under
6 state law, and failure to follow them may affect your ability to file
7 a lawsuit."

8 (h) "ASSOCIATION INSURANCE. The extent to which association
9 insurance provides coverage for the benefit of unit owners (including
10 furnishings, fixtures, and equipment in a unit) is determined by the
11 provisions of the declaration and the association's insurance policy,
12 which may be modified from time to time. You and your personal
13 insurance agent should read the declaration and the association's
14 policy prior to closing to determine what insurance is required of
15 the association and unit owners, unit owners' rights and duties, what
16 is and is not covered by the association's policy, and what
17 additional insurance you should obtain."

18 (i) "QUALIFIED WARRANTY. Your unit [is] [is not] covered by a
19 qualified warranty under chapter 64.35 RCW. "

20 (3) The public offering statement must include copies of each of
21 the following documents: The declaration; the ((survey)) map; the
22 organizational documents; the rules ((and regulations)), if any; the
23 current or proposed budget for the association; a dated balance sheet
24 of the association; any inspection and repair report or reports
25 prepared in accordance with the requirements of RCW 64.55.090; and
26 any qualified warranty provided to a purchaser by a declarant
27 together with a history of claims under the qualified warranty. If
28 any of these documents are not in final form, the documents must be
29 marked "draft" and, before closing the sale of a unit, the purchaser
30 must be given notice of any material changes to the draft documents.

31 (4) A declarant must promptly amend the public offering statement
32 to reflect any material change in the information required under this
33 section.

34 **Sec. 213.** RCW 64.90.650 and 2018 c 277 s 411 are each amended to
35 read as follows:

36 (1) In the case of a sale of a unit when delivery of a public
37 offering statement is required pursuant to RCW 64.90.605(3) and
38 subject to subsection (2) of this section, a seller before conveying
39 a unit:

1 (a) Must record or furnish to the purchaser releases of all liens
2 that encumber:

3 (i) In a condominium, that unit and its common element interest;
4 and

5 (ii) In a cooperative, plat community, or miscellaneous
6 community, that unit and any limited common elements assigned to that
7 unit; or

8 (b) Must provide the purchaser of that unit with title insurance
9 from a licensed title insurance company against any lien not released
10 pursuant to (a) of this subsection.

11 (2) Subsection (1) of this section does not apply to liens that
12 encumber:

13 (a) Real estate that a declarant has the right to withdraw from
14 the common interest community;

15 (b) In a condominium, the unit and its common element interest
16 being purchased, but no other unit, if the purchaser expressly agrees
17 in writing to take subject to or assume such lien;

18 (c) In a cooperative, plat community, or miscellaneous community,
19 the unit and any limited common element allocated to the unit being
20 purchased, but no other unit, if the purchaser expressly agrees in
21 writing to take subject to or assume such lien.

22 (3) Before conveying real property to the association, the
23 declarant must have that real property released from:

24 (a) All liens the foreclosure of which would deprive unit owners
25 of any right of access to or easement of support of their units; and

26 (b) All other liens on that real property unless the public
27 offering statement describes certain real property that may be
28 conveyed subject to liens in specified amounts.

29 (4) In the case of a cooperative, the provisions of this section
30 do not apply to liens securing indebtedness that represent a common
31 expense liability for which the purchaser expressly agrees in writing
32 to be responsible.

33 **Sec. 214.** RCW 64.06.005 and 2010 c 64 s 1 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

37 (1) "Commercial real estate" has the same meaning as in RCW
38 60.42.005.

39 (2) "Improved residential real property" means:

1 (a) Real property consisting of, or improved by, one to four
2 residential dwelling units;

3 (b) A residential condominium as defined in RCW 64.34.020(~~((9))~~)
4 (10), unless the sale is subject to the public offering statement
5 requirement in the Washington condominium act, chapter 64.34 RCW;

6 (c) A residential timeshare, as defined in RCW 64.36.010(11),
7 unless subject to written disclosure under the Washington timeshare
8 act, chapter 64.36 RCW; (~~(10)~~)

9 (d) A mobile or manufactured home, as defined in RCW 43.22.335 or
10 46.04.302, that is personal property; or

11 (e) A residential common interest community as defined in RCW
12 64.90.010(10) unless the sale is subject to the public offering
13 statement requirement in the Washington uniform common interest
14 ownership act, chapter 64.90 RCW.

15 (3) "Residential real property" means both improved and
16 unimproved residential real property.

17 (4) "Seller disclosure statement" means the form to be completed
18 by the seller of residential real property as prescribed by this
19 chapter.

20 (5) "Unimproved residential real property" means property zoned
21 for residential use that is not improved by one or more residential
22 dwelling units, a residential condominium, a residential timeshare,
23 or a mobile or manufactured home. It does not include commercial real
24 estate or property defined as "timberland" under RCW 84.34.020.

25 (6) "Improved residential property," "unimproved residential
26 property," and "commercial real estate" do not include a condominium
27 unit created under chapter 64.90 RCW on or after July 1, 2018, if the
28 buyer of the unit entered into a contract to purchase the unit prior
29 to July 1, 2018, and received a public offering statement pursuant to
30 chapter 64.34 RCW prior to July 1, 2018.

31 **Sec. 215.** RCW 6.13.080 and 2018 c 277 s 501 are each amended to
32 read as follows:

33 The homestead exemption is not available against an execution or
34 forced sale in satisfaction of judgments obtained:

35 (1) On debts secured by mechanic's, laborer's, construction,
36 maritime, automobile repair, material supplier's, or vendor's liens
37 arising out of and against the particular property claimed as a
38 homestead;

1 (2) On debts secured (a) by security agreements describing as
2 collateral the property that is claimed as a homestead or (b) by
3 mortgages or deeds of trust on the premises that have been executed
4 and acknowledged by both spouses or both domestic partners or by any
5 claimant not married or in a state registered domestic partnership;

6 (3) On one spouse's or one domestic partner's or the community's
7 debts existing at the time of that spouse's or that domestic
8 partner's bankruptcy filing where (a) bankruptcy is filed by both
9 spouses or both domestic partners within a six-month period, other
10 than in a joint case or a case in which their assets are jointly
11 administered, and (b) the other spouse or other domestic partner
12 exempts property from property of the estate under the bankruptcy
13 exemption provisions of 11 U.S.C. Sec. 522(d);

14 (4) On debts arising from a lawful court order or decree or
15 administrative order establishing a child support obligation or
16 obligation to pay maintenance;

17 (5) On debts owing to the state of Washington for recovery of
18 medical assistance correctly paid on behalf of an individual
19 consistent with 42 U.S.C. Sec. 1396p;

20 (6) On debts secured by (~~an~~) a condominium, homeowners', or
21 common interest community association's lien; or

22 (7) On debts owed for taxes collected under chapters 82.08,
23 82.12, and 82.14 RCW but not remitted to the department of revenue.

24 **Sec. 216.** RCW 64.55.005 and 2005 c 456 s 1 are each amended to
25 read as follows:

26 (1)(a) RCW 64.55.010 through 64.55.090 apply to any multiunit
27 residential building for which the permit for construction or
28 rehabilitative construction of such building was issued on or after
29 August 1, 2005.

30 (b) RCW 64.55.010 and 64.55.090 apply to conversion condominiums
31 as defined in RCW 64.34.020 or conversion buildings as defined in RCW
32 64.90.010, provided that RCW 64.55.090 shall not apply to a
33 condominium conversion for which a public offering statement had been
34 delivered pursuant to chapter 64.34 RCW prior to August 1, 2005.

35 (2) RCW 64.55.010 and 64.55.100 through 64.55.160 and 64.34.415
36 apply to any action that alleges breach of an implied or express
37 warranty under chapter 64.34 RCW or that seeks relief that could be
38 awarded for such breach, regardless of the legal theory (~~pled~~)

1 pleaded, except that RCW 64.55.100 through 64.55.160 and 64.34.415
2 shall not apply to:

3 (a) Actions filed or served prior to August 1, 2005;

4 (b) Actions for which a notice of claim was served pursuant to
5 chapter 64.50 RCW prior to August 1, 2005;

6 (c) Actions asserting any claim regarding a building that is not
7 a multiunit residential building;

8 (d) Actions asserting any claim regarding a multiunit residential
9 building that was permitted on or after August 1, 2005, unless the
10 letter required by RCW 64.55.060 has been submitted to the
11 appropriate building department or the requirements of RCW 64.55.090
12 have been satisfied.

13 (3) Other than the requirements imposed by RCW 64.55.010 through
14 64.55.090, nothing in this chapter amends or modifies the provisions
15 of RCW 64.34.050.

16 **Sec. 217.** RCW 64.32.260 and 2018 c 277 s 503 are each amended to
17 read as follows:

18 (1) This chapter does not apply to common interest communities as
19 defined in RCW 64.90.010:

20 ~~((1))~~ (a) Created on or after July 1, 2018; or

21 ~~((2))~~ (b) That have amended their governing documents to
22 provide that chapter 64.90 RCW will apply to the common interest
23 community pursuant to RCW 64.90.095.

24 (2) Pursuant to RCW 64.90.080, the following provisions of
25 chapter 64.90 RCW apply, and any inconsistent provisions of this
26 chapter do not apply, to a common interest community created before
27 July 1, 2018:

28 (a) RCW 64.90.095;

29 (b) RCW 64.90.405(1) (b) and (c);

30 (c) RCW 64.90.525; and

31 (d) RCW 64.90.545.

32 **Sec. 218.** RCW 64.34.076 and 2018 c 277 s 504 are each amended to
33 read as follows:

34 (1) This chapter does not apply to common interest communities as
35 defined in RCW 64.90.010:

36 ~~((1))~~ (a) Created on or after July 1, 2018; or

1 (~~(2)~~) (b) That have amended their governing documents to
2 provide that chapter 64.90 RCW will apply to the common interest
3 community pursuant to RCW 64.90.095.

4 (2) Pursuant to RCW 64.90.080, the following provisions of
5 chapter 64.90 RCW apply, and any inconsistent provisions of this
6 chapter do not apply, to a common interest community created before
7 July 1, 2018:

8 (a) RCW 64.90.095;

9 (b) RCW 64.90.405(1) (b) and (c);

10 (c) RCW 64.90.525; and

11 (d) RCW 64.90.545.

12 **Sec. 219.** RCW 64.34.308 and 2011 c 189 s 2 are each amended to
13 read as follows:

14 (1) Except as provided in the declaration, the bylaws, subsection
15 (2) of this section, or other provisions of this chapter, the board
16 of directors shall act in all instances on behalf of the association.
17 In the performance of their duties, the officers and members of the
18 board of directors are required to exercise: (a) If appointed by the
19 declarant, the care required of fiduciaries of the unit owners; or
20 (b) if elected by the unit owners, ordinary and reasonable care.

21 (2) The board of directors shall not act on behalf of the
22 association to amend the declaration in any manner that requires the
23 vote or approval of the unit owners pursuant to RCW 64.34.264, to
24 terminate the condominium pursuant to RCW 64.34.268, or to elect
25 members of the board of directors or determine the qualifications,
26 powers, and duties, or terms of office of members of the board of
27 directors pursuant to subsection (7) of this section; but the board
28 of directors may fill vacancies in its membership for the unexpired
29 portion of any term.

30 (3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and
31 (c), and 64.90.525, within thirty days after adoption of any proposed
32 budget for the condominium, the board of directors shall provide a
33 summary of the budget to all the unit owners and shall set a date for
34 a meeting of the unit owners to consider ratification of the budget
35 not less than fourteen nor more than sixty days after mailing of the
36 summary. Unless at that meeting the owners of units to which a
37 majority of the votes in the association are allocated or any larger
38 percentage specified in the declaration reject the budget, the budget
39 is ratified, whether or not a quorum is present. In the event the

1 proposed budget is rejected or the required notice is not given, the
2 periodic budget last ratified by the unit owners shall be continued
3 until such time as the unit owners ratify a subsequent budget
4 proposed by the board of directors.

5 (4) As part of the summary of the budget provided to all unit
6 owners, the board of directors shall disclose to the unit owners:

7 (a) The current amount of regular assessments budgeted for
8 contribution to the reserve account, the recommended contribution
9 rate from the reserve study, and the funding plan upon which the
10 recommended contribution rate is based;

11 (b) If additional regular or special assessments are scheduled to
12 be imposed, the date the assessments are due, the amount of the
13 assessments per each unit per month or year, and the purpose of the
14 assessments;

15 (c) Based upon the most recent reserve study and other
16 information, whether currently projected reserve account balances
17 will be sufficient at the end of each year to meet the association's
18 obligation for major maintenance, repair, or replacement of reserve
19 components during the next thirty years;

20 (d) If reserve account balances are not projected to be
21 sufficient, what additional assessments may be necessary to ensure
22 that sufficient reserve account funds will be available each year
23 during the next thirty years, the approximate dates assessments may
24 be due, and the amount of the assessments per unit per month or year;

25 (e) The estimated amount recommended in the reserve account at
26 the end of the current fiscal year based on the most recent reserve
27 study, the projected reserve account cash balance at the end of the
28 current fiscal year, and the percent funded at the date of the latest
29 reserve study;

30 (f) The estimated amount recommended in the reserve account based
31 upon the most recent reserve study at the end of each of the next
32 five budget years, the projected reserve account cash balance in each
33 of those years, and the projected percent funded for each of those
34 years; and

35 (g) If the funding plan approved by the association is
36 implemented, the projected reserve account cash balance in each of
37 the next five budget years and the percent funded for each of those
38 years.

39 (5) (a) Subject to subsection (6) of this section, the declaration
40 may provide for a period of declarant control of the association,

1 during which period a declarant, or persons designated by the
2 declarant, may: (i) Appoint and remove the officers and members of
3 the board of directors; or (ii) veto or approve a proposed action of
4 the board or association. A declarant's failure to veto or approve
5 such proposed action in writing within thirty days after receipt of
6 written notice of the proposed action shall be deemed approval by the
7 declarant.

8 (b) Regardless of the period provided in the declaration, a
9 period of declarant control terminates no later than the earlier of:

10 (i) Sixty days after conveyance of seventy-five percent of the units
11 which may be created to unit owners other than a declarant; (ii) two
12 years after the last conveyance or transfer of record of a unit
13 except as security for a debt; (iii) two years after any development
14 right to add new units was last exercised; or (iv) the date on which
15 the declarant records an amendment to the declaration pursuant to
16 which the declarant voluntarily surrenders the right to further
17 appoint and remove officers and members of the board of directors. A
18 declarant may voluntarily surrender the right to appoint and remove
19 officers and members of the board of directors before termination of
20 that period pursuant to (i), (ii), and (iii) of this subsection
21 (5)(b), but in that event the declarant may require, for the duration
22 of the period of declarant control, that specified actions of the
23 association or board of directors, as described in a recorded
24 instrument executed by the declarant, be approved by the declarant
25 before they become effective.

26 (6) Not later than sixty days after conveyance of twenty-five
27 percent of the units which may be created to unit owners other than a
28 declarant, at least one member and not less than twenty-five percent
29 of the members of the board of directors must be elected by unit
30 owners other than the declarant. Not later than sixty days after
31 conveyance of fifty percent of the units which may be created to unit
32 owners other than a declarant, not less than thirty-three and one-
33 third percent of the members of the board of directors must be
34 elected by unit owners other than the declarant.

35 (7) Within thirty days after the termination of any period of
36 declarant control, the unit owners shall elect a board of directors
37 of at least three members, at least a majority of whom must be unit
38 owners. The number of directors need not exceed the number of units
39 then in the condominium. The board of directors shall elect the

1 officers. Such members of the board of directors and officers shall
2 take office upon election.

3 (8) Notwithstanding any provision of the declaration or bylaws to
4 the contrary, the unit owners, by a two-thirds vote of the voting
5 power in the association present and entitled to vote at any meeting
6 of the unit owners at which a quorum is present, may remove any
7 member of the board of directors with or without cause, other than a
8 member appointed by the declarant. The declarant may not remove any
9 member of the board of directors elected by the unit owners. Prior to
10 the termination of the period of declarant control, the unit owners,
11 other than the declarant, may remove by a two-thirds vote, any
12 director elected by the unit owners.

13 **Sec. 220.** RCW 64.34.380 and 2011 c 189 s 3 are each amended to
14 read as follows:

15 (1) An association is encouraged to establish a reserve account
16 with a financial institution to fund major maintenance, repair, and
17 replacement of common elements, including limited common elements
18 that will require major maintenance, repair, or replacement within
19 thirty years. If the association establishes a reserve account, the
20 account must be in the name of the association. The board of
21 directors is responsible for administering the reserve account.

22 (2) Except as provided in RCW 64.90.080 and 64.90.545, unless
23 doing so would impose an unreasonable hardship, an association with
24 significant assets shall prepare and update a reserve study, in
25 accordance with the association's governing documents and RCW
26 64.34.224(1). The initial reserve study must be based upon a visual
27 site inspection conducted by a reserve study professional.

28 (3) Except as provided in RCW 64.90.080 and 64.90.545, unless
29 doing so would impose an unreasonable hardship, the association shall
30 update the reserve study annually. At least every three years, an
31 updated reserve study must be prepared and based upon a visual site
32 inspection conducted by a reserve study professional.

33 (4) Except as provided in RCW 64.90.080 and 64.90.545, this
34 section and RCW 64.34.382 through 64.34.392 apply to condominiums
35 governed by chapter 64.32 RCW or this chapter and intended in whole
36 or in part for residential purposes. These sections do not apply to
37 condominiums consisting solely of units that are restricted in the
38 declaration to nonresidential use. An association's governing
39 documents may contain stricter requirements.

1 **Sec. 221.** RCW 64.34.392 and 2009 c 307 s 1 are each amended to
2 read as follows:

3 (1) Except as provided in RCW 64.90.080 and 64.90.545, a
4 condominium association with ten or fewer unit owners is not required
5 to follow the requirements under RCW 64.34.380 through 64.34.390 if
6 two-thirds of the owners agree to exempt the association from the
7 requirements.

8 (2) The unit owners must agree to maintain an exemption under
9 subsection (1) of this section by a two-thirds vote every three
10 years.

11 (3) Notwithstanding subsections (1) and (2) of this section, a
12 disclosure that the condominium association does not have a reserve
13 study must be included in a unit's public offering statement as
14 required under RCW 64.34.410 or resale certificate as required under
15 RCW 64.34.425.

16 **Sec. 222.** RCW 64.38.025 and 2011 c 189 s 8 are each amended to
17 read as follows:

18 (1) Except as provided in the association's governing documents
19 or this chapter, the board of directors shall act in all instances on
20 behalf of the association. In the performance of their duties, the
21 officers and members of the board of directors shall exercise the
22 degree of care and loyalty required of an officer or director of a
23 corporation organized under chapter 24.03 RCW.

24 (2) The board of directors shall not act on behalf of the
25 association to amend the articles of incorporation, to take any
26 action that requires the vote or approval of the owners, to terminate
27 the association, to elect members of the board of directors, or to
28 determine the qualifications, powers, and duties, or terms of office
29 of members of the board of directors; but the board of directors may
30 fill vacancies in its membership of the unexpired portion of any
31 term.

32 (3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and
33 (c), and 64.90.525, within thirty days after adoption by the board of
34 directors of any proposed regular or special budget of the
35 association, the board shall set a date for a meeting of the owners
36 to consider ratification of the budget not less than fourteen nor
37 more than sixty days after mailing of the summary. Unless at that
38 meeting the owners of a majority of the votes in the association are
39 allocated or any larger percentage specified in the governing

1 documents reject the budget, in person or by proxy, the budget is
2 ratified, whether or not a quorum is present. In the event the
3 proposed budget is rejected or the required notice is not given, the
4 periodic budget last ratified by the owners shall be continued until
5 such time as the owners ratify a subsequent budget proposed by the
6 board of directors.

7 (4) As part of the summary of the budget provided to all owners,
8 the board of directors shall disclose to the owners:

9 (a) The current amount of regular assessments budgeted for
10 contribution to the reserve account, the recommended contribution
11 rate from the reserve study, and the funding plan upon which the
12 recommended contribution rate is based;

13 (b) If additional regular or special assessments are scheduled to
14 be imposed, the date the assessments are due, the amount of the
15 assessments per each owner per month or year, and the purpose of the
16 assessments;

17 (c) Based upon the most recent reserve study and other
18 information, whether currently projected reserve account balances
19 will be sufficient at the end of each year to meet the association's
20 obligation for major maintenance, repair, or replacement of reserve
21 components during the next thirty years;

22 (d) If reserve account balances are not projected to be
23 sufficient, what additional assessments may be necessary to ensure
24 that sufficient reserve account funds will be available each year
25 during the next thirty years, the approximate dates assessments may
26 be due, and the amount of the assessments per owner per month or
27 year;

28 (e) The estimated amount recommended in the reserve account at
29 the end of the current fiscal year based on the most recent reserve
30 study, the projected reserve account cash balance at the end of the
31 current fiscal year, and the percent funded at the date of the latest
32 reserve study;

33 (f) The estimated amount recommended in the reserve account based
34 upon the most recent reserve study at the end of each of the next
35 five budget years, the projected reserve account cash balance in each
36 of those years, and the projected percent funded for each of those
37 years; and

38 (g) If the funding plan approved by the association is
39 implemented, the projected reserve account cash balance in each of

1 the next five budget years and the percent funded for each of those
2 years.

3 (5) The owners by a majority vote of the voting power in the
4 association present, in person or by proxy, and entitled to vote at
5 any meeting of the owners at which a quorum is present, may remove
6 any member of the board of directors with or without cause.

7 **Sec. 223.** RCW 64.38.065 and 2011 c 189 s 9 are each amended to
8 read as follows:

9 (1) An association is encouraged to establish a reserve account
10 with a financial institution to fund major maintenance, repair, and
11 replacement of common elements, including limited common elements
12 that will require major maintenance, repair, or replacement within
13 thirty years. If the association establishes a reserve account, the
14 account must be in the name of the association. The board of
15 directors is responsible for administering the reserve account.

16 (2) Except as provided in RCW 64.90.080 and 64.90.545, unless
17 doing so would impose an unreasonable hardship, an association with
18 significant assets shall prepare and update a reserve study, in
19 accordance with the association's governing documents and this
20 chapter. The initial reserve study must be based upon a visual site
21 inspection conducted by a reserve study professional.

22 (3) Except as provided in RCW 64.90.080 and 64.90.545, unless
23 doing so would impose an unreasonable hardship, the association shall
24 update the reserve study annually. At least every three years, an
25 updated reserve study must be prepared and based upon a visual site
26 inspection conducted by a reserve study professional.

27 (4) The decisions relating to the preparation and updating of a
28 reserve study must be made by the board of directors in the exercise
29 of the reasonable discretion of the board. The decisions must include
30 whether a reserve study will be prepared or updated, and whether the
31 assistance of a reserve study professional will be utilized.

32 **Sec. 224.** RCW 64.38.090 and 2011 c 189 s 14 are each amended to
33 read as follows:

34 Except as provided in RCW 64.90.080 and 64.90.545, an association
35 is not required to follow the reserve study requirements under RCW
36 64.38.025 and RCW 64.38.065 through 64.38.085 if the cost of the
37 reserve study exceeds five percent of the association's annual

1 budget, the association does not have significant assets, or there
2 are ten or fewer homes in the association.

3 **Sec. 225.** RCW 64.38.095 and 2018 c 277 s 505 are each amended to
4 read as follows:

5 (1) This chapter does not apply to common interest communities as
6 defined in RCW 64.90.010:

7 ~~((1))~~ (a) Created on or after July 1, 2018; or

8 ~~((2))~~ (b) That have amended their governing documents to
9 provide that chapter 64.90 RCW will apply to the common interest
10 community pursuant to RCW 64.90.095.

11 (2) Pursuant to RCW 64.90.080, the following provisions of
12 chapter 64.90 RCW apply, and any inconsistent provisions of this
13 chapter do not apply, to a common interest community created before
14 July 1, 2018:

15 (a) RCW 64.90.095;

16 (b) RCW 64.90.405(1) (b) and (c);

17 (c) RCW 64.90.525; and

18 (d) RCW 64.90.545."

19 Correct the title.

EFFECT: Retains the entirety of the underlying bill and adds conforming provisions to chapters 64.32 (Horizontal Properties Regime Act), 64.34 (Condominium Act), and 64.38 (Homeowners' Association Act) RCW to set forth the sections found in WUCIOA that are made applicable to common interest communities created before July 1, 2018. Corrects a reference with respect to WUCIOA's applicability to provide that it is applicable to CICs created both on and after July 1, 2018.

--- END ---