

**HB 1199** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/06/2023**

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32  
4 RCW to read as follows:

5 (1) An association of apartment owners may not adopt or enforce a  
6 restriction, covenant, condition, bylaw, rule, regulation, provision  
7 of a governing document, or master deed provision that effectively  
8 prohibits, unreasonably restricts, or limits, directly or indirectly,  
9 the use of an apartment as a licensed family home child care operated  
10 by a family day care provider or as a licensed child day care center,  
11 except as provided in subsection (2) of this section.

12 (2)(a) Nothing in this section prohibits an association of  
13 apartment owners from imposing reasonable regulations on a family  
14 home child care or a child day care center including, but not limited  
15 to, architectural standards, as long as those regulations are  
16 identical to those applied to all other apartments within the same  
17 association as the family home child care or the child day care  
18 center.

19 (b) An association may require that only an apartment with direct  
20 access may be used as a family home child care or child day care  
21 center. Direct access must be either from the outside of the building  
22 or through publicly accessible common areas and facilities.

23 (c) An association may adopt or enforce a restriction, covenant,  
24 condition, bylaw, rule, regulation, provision of a governing  
25 document, or master deed provision that requires a family home child  
26 care or a child day care center operating out of an apartment within  
27 the association to:

28 (i) Be licensed under chapter 43.216 RCW;

29 (ii) Indemnify and hold harmless the association against all  
30 claims, whether brought by judicial or administrative action,  
31 relating to the operation of the family home child care or the child

1 day care center, excluding claims arising in common areas and  
2 facilities that the association is solely responsible for maintaining  
3 under the governing documents;

4 (iii) Obtain a signed waiver of liability releasing the  
5 association from legal claims directly related to the operation of  
6 the family home child care or the child day care center from the  
7 parent, guardian, or caretaker of each child being cared for by the  
8 family home child care or the child day care center. However, an  
9 association may not require that a waiver of liability under this  
10 subsection be notarized; and

11 (iv) Obtain day care insurance as defined in RCW 48.88.020 or  
12 provide self-insurance pursuant to chapter 48.90 RCW, consistent with  
13 the requirements in RCW 43.216.700.

14 (3) An association of apartment owners that willfully violates  
15 this section is liable to the family day care provider or the child  
16 day care center for actual damages, and shall pay a civil penalty to  
17 the family day care provider or the child day care center in an  
18 amount not to exceed \$1,000.

19 (4) For the purposes of this section, the terms "family day care  
20 provider" and "child day care center" have the same meanings as in  
21 RCW 43.216.010.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34  
23 RCW to read as follows:

24 (1) A unit owners' association may not adopt or enforce a  
25 restriction, covenant, condition, bylaw, rule, regulation, provision  
26 of a governing document, or master deed provision that effectively  
27 prohibits, unreasonably restricts, or limits, directly or indirectly,  
28 the use of a unit as a licensed family home child care operated by a  
29 family day care provider or as a licensed child day care center,  
30 except as provided in subsection (2) of this section.

31 (2)(a) Nothing in this section prohibits a unit owners'  
32 association from imposing reasonable regulations on a family home  
33 child care or a child day care center including, but not limited to,  
34 architectural standards, as long as those regulations are identical  
35 to those applied to all other units within the same association as  
36 the family home child care or the child day care center.

37 (b) An association may require that only a unit with direct  
38 access may be used as a family home child care or child day care

1 center. Direct access must be either from the outside of the building  
2 or through publicly accessible common elements.

3 (c) An association may adopt or enforce a restriction, covenant,  
4 condition, bylaw, rule, regulation, provision of a governing  
5 document, or master deed provision that requires a family home child  
6 care or a child day care center operating out of a unit within the  
7 association to:

8 (i) Be licensed under chapter 43.216 RCW;

9 (ii) Indemnify and hold harmless the association against all  
10 claims, whether brought by judicial or administrative action,  
11 relating to the operation of the family home child care or the child  
12 day care center, excluding claims arising in common elements that the  
13 association is solely responsible for maintaining under the governing  
14 documents;

15 (iii) Obtain a signed waiver of liability releasing the  
16 association from legal claims directly related to the operation of  
17 the family home child care or the child day care center from the  
18 parent, guardian, or caretaker of each child being cared for by the  
19 family home child care or the child day care center. However, an  
20 association may not require that a waiver of liability under this  
21 subsection be notarized; and

22 (iv) Obtain day care insurance as defined in RCW 48.88.020 or  
23 provide self-insurance pursuant to chapter 48.90 RCW, consistent with  
24 the requirements in RCW 43.216.700.

25 (3) A unit owners' association that willfully violates this  
26 section is liable to the family day care provider or the child day  
27 care center for actual damages, and shall pay a civil penalty to the  
28 family day care provider or the child day care center in an amount  
29 not to exceed \$1,000.

30 (4) For the purposes of this section, the terms "family day care  
31 provider" and "child day care center" have the same meanings as in  
32 RCW 43.216.010.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38  
34 RCW to read as follows:

35 (1) A homeowners' association may not adopt or enforce a  
36 restriction, covenant, condition, bylaw, rule, regulation, provision  
37 of a governing document, or master deed provision that effectively  
38 prohibits, unreasonably restricts, or limits, directly or indirectly,  
39 the use of a lot as a licensed family home child care operated by a

1 family day care provider or as a licensed child day care center,  
2 except as provided in subsection (2) of this section.

3 (2)(a) Nothing in this section prohibits a homeowners'  
4 association from imposing reasonable regulations on a family home  
5 child care or a child day care center including, but not limited to,  
6 architectural standards, as long as those regulations are identical  
7 to those applied to all other lots within the same association as the  
8 family home child care or the child day care center.

9 (b) An association may require that only a lot with direct access  
10 may be used as a family home child care or child day care center.  
11 Direct access must be through publicly accessible common areas.

12 (c) An association may adopt or enforce a restriction, covenant,  
13 condition, bylaw, rule, regulation, provision of a governing  
14 document, or master deed provision that requires a family home child  
15 care or a child day care center operating out of a lot within the  
16 association to:

17 (i) Be licensed under chapter 43.216 RCW;

18 (ii) Indemnify and hold harmless the association against all  
19 claims, whether brought by judicial or administrative action,  
20 relating to the operation of the family home child care or the child  
21 day care center, excluding claims arising in common areas that the  
22 association is solely responsible for maintaining under the governing  
23 documents;

24 (iii) Obtain a signed waiver of liability releasing the  
25 association from legal claims directly related to the operation of  
26 the family home child care or the child day care center from the  
27 parent, guardian, or caretaker of each child being cared for by the  
28 family home child care or the child day care center. However, an  
29 association may not require that a waiver of liability under this  
30 subsection be notarized; and

31 (iv) Obtain day care insurance as defined in RCW 48.88.020 or  
32 provide self-insurance pursuant to chapter 48.90 RCW, consistent with  
33 the requirements in RCW 43.216.700.

34 (3) A homeowners' association that willfully violates this  
35 section is liable to the family day care provider or the child day  
36 care center for actual damages, and shall pay a civil penalty to the  
37 family day care provider or the child day care center in an amount  
38 not to exceed \$1,000.

1 (4) For the purposes of this section, the terms "family day care  
2 provider" and "child day care center" have the same meanings as in  
3 RCW 43.216.010.

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

6 (1) A unit owners association may not adopt or enforce a  
7 restriction, covenant, condition, bylaw, rule, regulation, provision  
8 of a governing document, or master deed provision that effectively  
9 prohibits, unreasonably restricts, or limits, directly or indirectly,  
10 the use of a unit as a licensed family home child care operated by a  
11 family day care provider or as a licensed child day care center,  
12 except as provided in subsection (2) of this section.

13 (2)(a) Nothing in this section prohibits a unit owners'  
14 association from imposing reasonable regulations on a family home  
15 child care or a child day care center including, but not limited to,  
16 architectural standards, as long as those regulations are identical  
17 to those applied to all other units within the same association as  
18 the family home child care or the child day care center.

19 (b) An association may require that only a unit with direct  
20 access may be used as a family home child care or child day care  
21 center. Direct access must be either from the outside of the building  
22 if the common interest community is in a building, or through  
23 publicly accessible common elements.

24 (c) An association may adopt or enforce a restriction, covenant,  
25 condition, bylaw, rule, regulation, provision of a governing  
26 document, or master deed provision that requires a family home child  
27 care or a child day care center operating out of a unit within the  
28 association to:

29 (i) Be licensed under chapter 43.216 RCW;

30 (ii) Indemnify and hold harmless the association against all  
31 claims, whether brought by judicial or administrative action,  
32 relating to the operation of the family home child care or the child  
33 day care center, excluding claims arising in common elements that the  
34 association is solely responsible for maintaining under the governing  
35 documents;

36 (iii) Obtain a signed waiver of liability releasing the  
37 association from legal claims directly related to the operation of  
38 the family home child care or the child day care center from the  
39 parent, guardian, or caretaker of each child being cared for by the

1 family home child care or the child day care center. However, an  
2 association may not require that a waiver of liability under this  
3 subsection be notarized; and

4 (iv) Obtain day care insurance as defined in RCW 48.88.020 or  
5 provide self-insurance pursuant to chapter 48.90 RCW, consistent with  
6 the requirements in RCW 43.216.700.

7 (3) A unit owners association that willfully violates this  
8 section is liable to the family day care provider or the child day  
9 care center for actual damages, and shall pay a civil penalty to the  
10 family day care provider or the child day care center in an amount  
11 not to exceed \$1,000.

12 (4) For the purposes of this section, the terms "family day care  
13 provider" and "child day care center" have the same meanings as in  
14 RCW 43.216.010.

15 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of  
17 the state government and its existing public institutions, and takes  
18 effect immediately."

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By Committee on Law & Justice

**ADOPTED 04/06/2023**

19 On page 1, line 2 of the title, after "communities;" strike the  
20 remainder of the title and insert "adding a new section to chapter  
21 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new  
22 section to chapter 64.38 RCW; adding a new section to chapter 64.90  
23 RCW; prescribing penalties; and declaring an emergency."

EFFECT: (1) Permits a common interest community association to  
require direct access to a unit in order for the unit to be used as a  
family home child care or child day care center.

(2) Establishes that direct access must be either from the  
outside of a building if a common interest community is in a  
building, or through publicly accessible common elements.

(3) Permits an association to require that a family home child  
care or a child day care center operating out of a unit be licensed  
by the Department of Children, Youth, and Families; indemnify the  
association against all claims related to the family home child care  
or child day care center except for claims that arise in common  
elements that the association is solely responsible for maintaining  
under the governing documents; obtain signed waivers from parents,  
guardians, or caretakers of each child being cared for that releases

the association from legal claims related to the operation of the family home child care or child day care center; and obtain day care insurance or provide self-insurance.

(4) Changes the effective date of the act to take effect immediately.

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