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## Housing Committee

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### HB 1043

**Brief Description:** Concerning association records in common interest communities.

**Sponsors:** Representatives McEntire and Leavitt.

**Brief Summary of Bill**

- Amends association recordkeeping requirements in the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act to align with association recordkeeping requirements for lists of unit owners under the Washington Uniform Common Interest Ownership Act.

**Hearing Date:** 1/9/23

**Staff:** Audrey Vasek (786-7383).

**Background:**

A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities, sometimes referred to as homeowners' associations.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created after that date. A CIC created prior to the effective date of the WUCIOA may choose to opt in to the WUCIOA, which contains comprehensive provisions addressing the management of property under its jurisdiction.

Otherwise, CICs created before July 1, 2018, remain subject to the following acts, which

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generally leave much of the working of a CIC to the governing documents:

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

A CIC is administered by an association of unit owners or a homeowners' association—an organization consisting of property owners and homeowners within the CIC. An association of unit owners derives its authority from several documents, including the declaration of covenants, conditions, and restrictions, the association's bylaws and articles of incorporation, and the deeds to the property within a development.

The primary functions of a unit owners' association include: managing and maintaining common areas, such as parks, roads, and community centers for the benefit of the community; imposing and collecting assessments on unit owners; and enforcing restrictive covenants that govern the community. In addition, a unit owners' association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

All four statutes governing CICs contain association recordkeeping requirements, but only the WUCIOA and the Homeowners' Association Act contain a requirement to keep a list of the names and addresses of unit owners.

#### Recordkeeping Requirements for Lists of Unit Owners under the WUCIOA.

An association subject to the WUCIOA must retain, among other records, the names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit.

As with other association records, an association must make the list of unit owners available for examination and copying by all unit owners, unit mortgage holders, and their respective authorized agents during reasonable business hours or at a mutually convenient time and location, and at the offices of the association or its managing agent.

Information that an association provides for examination and copying by unit owners may not be used for commercial purposes.

An association may charge a reasonable fee for producing and providing copies of records and for supervising inspection of records. The right to copy records includes the right to receive copies by photocopying or other means, including through electronic transmission if available upon request by the unit owner.

An association may withhold certain records from inspection and copying to the extent that the records concern certain subjects, such as information the disclosure of which would violate a court order or law, records of an executive session of the board, unlisted telephone number or electronic address of any unit owner or resident, or agreements that for good cause prohibit disclosure to the members.

#### Recordkeeping Requirements for Lists of Lot Owners under the Homeowners' Association Act.

An association subject to the Homeowners' Association Act must retain, among other records, the names and addresses of owners and occupants of the lots.

As with other association records, an association must make the list of lot owners available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent.

An association may collect a reasonable charge for copies and any reasonable costs related to providing access to the records.

An association may not release the unlisted telephone number of any owner.

#### **Summary of Bill:**

Provisions related to association recordkeeping requirements in the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act are amended to align with association recordkeeping requirements for lists of unit owners under the Washington Uniform Common Interest Ownership Act.

An association of unit owners in a common interest community must keep a complete and accurate list of unit owners, including the names of the current unit owners, addresses used for communication, and the number of votes allocated to each unit.

An association must make the list of unit owners available for examination and copying by all unit owners, unit mortgage holders, and their authorized agents during reasonable business hours or at a mutually convenient time and location, and at the offices of the association or its managing agent.

Information that an association provides for examination and copying by unit owners may not be used for commercial purposes.

An association may charge a reasonable fee for producing and providing copies of the list of unit owners and for supervising inspection of the list. The right to copy the list of unit owners includes the right to receive copies by photocopying or other means, including through electronic transmission if available upon request by the unit owner.

An association may withhold the list of unit owners from inspection and copying to the extent that it concerns:

- the unlisted telephone number or electronic address of a unit owner or resident;
- the address of a unit owner or resident who is known to the association to participate in the address confidentiality program for victims of domestic violence, sexual assault, and stalking, or a similar program established by law;
- agreements that for good cause prohibit disclosure; or
- information the disclosure of which would violate a law or a court order.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.