

HOUSE BILL REPORT

HB 1054

As Amended by the Senate

Title: An act relating to the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons.

Brief Description: Addressing the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons.

Sponsors: Representatives Walen, Simmons, Ryu, Bateman, Ramel, Doglio, Macri, Gregerson, Springer, Thai, Kloba and Donaghy.

Brief History:

Committee Activity:

Housing: 1/9/23, 1/16/23 [DP].

Floor Activity:

Passed House: 2/6/23, 67-26.

Floor Activity:

Passed House: 1/22/24, 68-29.

Senate Amended.

Passed Senate: 2/22/24, 30-19.

Brief Summary of Bill

- Prohibits an association of unit owners in a common interest community from regulating or limiting the number of unrelated persons that may occupy a unit.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 11 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Low, Reed and Taylor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 2 members: Representatives Connors, Assistant Ranking Minority Member; Hutchins.

Staff: Austin Borcharding (786-7094).

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 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.

Summary of Bill:

An association of unit owners in a common interest community is prohibited from regulating or limiting the number of unrelated persons that may occupy a unit.

This prohibition applies to associations of unit owners in common interest communities subject to the Washington Uniform Common Interest Ownership Act, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment creates an exception to the bill's prohibition against an association of apartment owners' regulation of the number of unrelated persons that may occupy an apartment. The exception provides that lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code, city ordinance, or county ordinance do not violate this prohibition. The Senate amendment also corrects the term "master" to "master deed," and provides a contingent expiration date of January 1, 2028, for sections added to older common interest community chapters of law.

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.

Staff Summary of Public Testimony:

(In support) We could go a long way to solving our homelessness crisis if we allowed more people to live in spare bedrooms. Sharing homes is common and allows more people to buy homes and have housing. Some homeowners' associations have threatened to create rules limiting occupancy to five related people. There is no difference between a family having five kids living in their home and a homeowner having five unrelated guests living in their home. This bill would prevent arbitrary occupancy limits from being imposed by homeowners' associations.

(Opposed) The current language in the bill raises concerns about fire code, life safety, and other reasonable occupancy standards. A common interest community might want to impose occupancy limits for reasonable, nondiscriminatory purposes, such as safety reasons or to address spillover effects. For example, high occupancy levels could lead to parking impacts in the community. What is appropriate for one association might not be appropriate for another association.

Persons Testifying: (In support) Toby Nixon; Patrick Johansen, RiseUpWA, Housing Justice Committee.

(Opposed) Valerie Oman, Condo Law Group and Washington State Chapter of Community

Association Institute; Krystelle Purkey, Washington State Chapter of Community Association Institute; and Brian Mackey, Wynbrook II Homeowners' Association.

Persons Signed In To Testify But Not Testifying: None.