

FINAL BILL REPORT

EHB 1636

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Synopsis as Enacted

Brief Description: Concerning foreclosure protections for homeowners in common interest communities.

Sponsors: Representatives Orwall, Walsh and Timmons.

House Committee on Housing
Senate Committee on Law & Justice

Background:

Common Interest Communities.

Several statutes govern residential common interest communities (CICs), such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities.

The Washington Uniform Common Interest Ownership Act (WUCIOA) is applicable to CICs created on or after July 1, 2018. A CIC created prior to July 1, 2018, 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 (HPRA), which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act (WCA), which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act (HOAA), which provides a framework for the formation and legal administration of homeowners' associations.

Assessments and Charges.

A CIC unit owners' association may impose assessments for common expenses, which usually include expenditures for administration, maintenance, repair, and replacement of the

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common elements of a CIC, as well as any allocations to reserves. An association may also collect reasonable charges for late payments of assessments and establish a rate of interest to be charged on all subsequent delinquent assessments.

Collection of Past-due Assessments.

An association may be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments. Under the WUCIOA, the HPRA, and the WCA, an association has a statutory lien on each unit for any unpaid assessment against the unit from the time the assessment is due. With some exceptions, the association's lien takes priority over all other liens and encumbrances. Under the HOAA, the governing documents of the CIC may provide for a lien on the lot of any owner for unpaid assessments.

To collect unpaid assessments, an association may bring an action to collect unpaid assessments or foreclose its lien on the unit. All four CIC statutes require that every aspect of a collection, foreclosure, sale, or other conveyance to enforce a lien for unpaid assessments must be commercially reasonable.

Preforeclosure Requirements.

The WUCIOA, the HPRA, and the WCA prohibit an association from commencing an action to foreclose the association's lien for past-due assessments unless certain preforeclosure requirements are met. These preforeclosure requirements also apply to a CIC organized under the HOAA if the governing documents of the CIC provide for a lien on the lot of any owner for unpaid assessments. These preforeclosure requirements include the following:

- The unit owner must owe at least three months or more of assessments or \$200 of assessments, whichever is greater. The required minimum amount of past-due assessments owed does not include fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account.
- On or after the date the assessments have become past due for at least 90 days, the association must mail to the unit owner a notice of delinquency. The notice of delinquency must follow a specific format and contain certain information about housing counseling and legal assistance that may be available to the unit owner.
- An association must wait 180 days from the date the minimum required amount of past-due assessments has accrued before commencing an action to foreclose a lien. Beginning January 1, 2024, the waiting period is shortened to 90 days.
- The board of the association must approve commencement of the foreclosure action against the specific unit.

Summary:

When mailing the first notice of delinquency for past-due assessments to a unit owner in a CIC, an association of unit owners is required to include a first preforeclosure notice that

follows a specific format and contains certain information about housing counseling and legal assistance that may be available to the unit owner.

If the first preforeclosure notice has not yet been mailed to the unit owner by the time the delinquent account is referred to the association's attorney, the association or the association's attorney must mail the first preforeclosure notice to the unit owner.

Before an association may commence an action to foreclose a lien on a unit for past-due assessments, an association must mail a second notice of delinquency and second preforeclosure notice to the unit owner containing the same information as the first notice. The second notice of delinquency and second preforeclosure notice must be mailed to the unit owner on or after the date that the assessments have become past due for at least 90 days but no sooner than 60 days after the first preforeclosure notice is mailed.

The amount of past-due assessments that a unit owner must owe before an association may bring an action to foreclose a lien on the unit is increased from \$200 to \$2000. A unit owner must owe at least three months or more of assessments, or \$2,000 of assessments, whichever is greater.

Until January 1, 2025, instead of January 1, 2024, an association must wait 180 days from the date the minimum required amount of past-due assessments has accrued before commencing an action to foreclose a lien on a unit for past-due assessments. Beginning January 1, 2025, the waiting period is shortened to 90 days.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 2023
January 1, 2025 (Sections 2, 4, 6, and 8)