

SENATE BILL REPORT

SHB 1101

As of February 16, 2023

Title: An act relating to tenant screening in common interest communities.

Brief Description: Providing for tenant screening in common interest communities.

Sponsors: House Committee on Housing (originally sponsored by Representatives Taylor, Bergquist, Ramel and Gregerson).

Brief History: Passed House: 1/26/23, 95-0.

Committee Activity: Law & Justice: 2/16/23.

Brief Summary of Bill

- Authorizes an association of unit owners in a common interest community to require a unit owner to use a tenant screening service or obtain background information on a prospective tenant prior to entering into a lease.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Common Interest Communities. 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.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created on or after that date. A CIC created prior to the effective date of WUCIOA may choose to opt in to WUCIOA.

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.

Otherwise, CICs created before July 1, 2018, typically are regulated by their governing documents and remain subject to the following acts:

- 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 created before July 1, 2018.

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's duties include managing and maintaining common areas 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.

Tenant Screening. The Residential Landlord-Tenant Act (RLTA) sets forth the rights and duties of residential landlords and tenants. Under the RLTA, landlords may screen and evaluate prospective tenants either by conducting their own search or by using companies that provide tenant screening reports. Gathered information may include details about a prospective tenant's credit, employment, criminal history, eviction history, and rental history. A landlord may use this information to determine whether a prospective tenant would make a suitable tenant.

Summary of Bill: Except as otherwise prohibited by law, an association of unit owners in a CIC may require a unit owner to:

- use a tenant screening service or obtain background information on a prospective tenant, at the owner's sole cost and expense, prior to entering into a lease with a prospective tenant; and
- provide the association with proof that the unit owner has used a tenant screening service or obtained background information on a prospective tenant.

An association may not require a unit owner to provide the association with a copy of a tenant screening report or any background information pertaining to a tenant.

These provisions apply to associations subject to the WUCIOA, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are common interest communities who want to require property owners to screen tenants, but having the actual data from the screening can be a problem for an homeowners' association (HOA) because sensitive data is being passed around by HOA boards, who sometimes do not act in the best interest of communities. There is a duty to secure this information and an association might not know how to comply with such duty. This might open the associations up to potential discrimination claims. The board of an association should not ask for or accept tenant reports. Privacy rights of tenants should be protected, and HOAs should be kept out of the obligations of a contract between a tenant and property owner. This bill creates a right for HOAs to have a screening process, but limits such a right to just having the screening process and receipt that the tenant screening has taken place, and not the data that comes from the process.

Persons Testifying: PRO: Representative Jamila Taylor, Prime Sponsor; Krystelle Purkey, Washington State Chapter of Community Association Institute.

Persons Signed In To Testify But Not Testifying: No one.