

SENATE BILL REPORT

HB 1199

As Passed Senate - Amended, April 6, 2023

Title: An act relating to licensed child care in common interest communities.

Brief Description: Addressing licensed child care in common interest communities.

Sponsors: Representatives Senn, Eslick, Leavitt, Berry, Bateman, Kloba, Reed, Simmons, Tharinger, Ramel, Doglio, Goodman, Macri, Callan, Fosse and Pollet.

Brief History: Passed House: 1/25/23, 96-0.

Committee Activity: Law & Justice: 2/16/23, 3/09/23, 3/22/23 [DPA, w/oRec].

Floor Activity: Passed Senate - Amended: 4/6/23, 37-11.

Brief Summary of Bill (As Amended by Senate)

- Prohibits a common interest community association from prohibiting, unreasonably restricting, or limiting the use of a unit as a licensed family home child care or as a licensed child day care center.
- Allows a common interest community association to impose various requirements on a unit operating as a licensed family home child care or as a licensed child day care center.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon, Torres and Valdez.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; McCune, Wagoner and Wilson, L..

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.

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.

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. A unit owners' association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Child Care Providers. Licensed family home child care providers provide early childhood education and early learning services for 12 or fewer children in the home of the licensed provider. Licensed child care centers provide regularly scheduled early childhood education and early learning services for a group of children.

Summary of Amended Bill: An association of unit owners or homeowners in a common interest community subject to the WUCIOA, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act may not prohibit, unreasonably restrict, or limit the use of a unit as a licensed family home child care or as a licensed child day care center, except as provided below.

An association of unit owners or homeowners in a common interest community may:

- impose reasonable regulations on a family home child care or a child day care center as long as the regulations are identical to those applied to all other units within the

- same association;
- require direct access to a unit used as a family home child care or child day care center, which can be established from directly outside of a building if a common interest community is in a building or through publicly accessible common elements;
- require a family home child care or a child day care center to be licensed by the Department of Children, Youth, and Families;
- require a family home child care or a child day care center to 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;
- require a family home child care or a child day care center to 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
- require a family home child care or a child day care center obtain day care insurance or provide self-insurance.

An association that willfully violates this prohibition is liable to the child care provider for actual damages, and must pay a civil penalty not to exceed \$1,000.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This legislation ensures that associations cannot deny the existence and operation of a licensed child care. When child cares are being licensed, the space, operations, fire safety, and other components are examined. If these components are not safe, the child care would not be licensed. More child care is needed, especially near where families live. This is an important workforce bill and important community building. This is also a housing bill because some people need this for their livelihoods to be able to afford their homes.

OTHER: The Washington State chapter of Community Associations Institute (WSCAI) understands that Washington is in dire need of child care across the state. WSCAI still has concerns regarding this bill and are working with the prime sponsor to address continued concerns regarding liability. The top concerns that have been heard from homeowners are in regards to noise and traffic not just from cars, but people coming in and out of the facilities. The Department of Children, Youth, and Families has indicated that child care providers would be required to treat outings as field trips and would need to get approval from

associations prior to using common areas, such as pools, which alleviates WSCAI's concerns on the issue of outings.

Persons Testifying: PRO: Representative Tana Senn.

OTHER: Krystelle Purkey, Washington State Chapter of Community Association Institute.

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