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SENATE BILL 6055

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State of Washington

61st Legislature

2009 Regular Session

By Senator Fraser

Read first time 02/18/09. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the creation of a state homeowners' association  
2 ombudsman office; amending RCW 64.38.010; and adding new sections to  
3 chapter 64.38 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.38 RCW  
6 to read as follows:

7 The office of the state homeowners' association ombudsman is  
8 created in the office of the attorney general for the purpose of  
9 resolving disputes between homeowners and homeowners' associations.  
10 The attorney general shall adopt rules to carry out this purpose. The  
11 attorney general shall provide cities and counties that provide dispute  
12 resolution services for homeowners' association members with funding  
13 and technical assistance.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38 RCW  
15 to read as follows:

16 The ombudsman shall:

17 (1) Provide information to members of homeowners' associations

1 regarding their rights and duties under this chapter. This information  
2 must be made available on a web site maintained by the ombudsman;

3 (2) Maintain a toll-free telephone number to provide information or  
4 assistance on matters relating to homeowners' associations; and

5 (3) Provide assistance in resolving disputes between homeowners'  
6 associations and their members as required in section 3 of this act.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38 RCW  
8 to read as follows:

9 (1) An interested party may file a complaint with the ombudsman  
10 alleging that the association has violated its duties under this  
11 chapter or its governing documents.

12 (2) Upon receipt of a complaint, the ombudsman shall investigate,  
13 confer with the interested parties, and assist in efforts to resolve  
14 the dispute.

15 (3) The ombudsman shall issue a preliminary order based on its  
16 findings to resolve the dispute. The preliminary order may impose  
17 fines on either party and may provide for injunctive relief.

18 (4) The ombudsman may charge the complaining party a reasonable  
19 fee, not to exceed fifty dollars, for dispute resolution assistance.  
20 The ombudsman may increase the reasonable fee no more than three  
21 percent per annum.

22 (5) The ombudsman and the office of the attorney general shall  
23 adopt rules necessary to implement the dispute resolution procedures  
24 under this section.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.38 RCW  
26 to read as follows:

27 (1) Either party involved in the dispute resolution procedures  
28 under section 3 of this act may appeal the ombudsman's preliminary  
29 finding.

30 (2) The ombudsman shall establish procedures by rule to implement  
31 an appeals process that conforms to chapter 34.05 RCW.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 64.38 RCW  
33 to read as follows:

34 Cities and counties are encouraged to set up their own procedures  
35 for resolving disputes between homeowners' associations and their

1 members. Cities and counties that choose to provide dispute resolution  
2 services to homeowners' associations and their members are eligible to  
3 receive funding and technical assistance from the office of the  
4 attorney general.

5 **Sec. 6.** RCW 64.38.010 and 1995 c 283 s 2 are each amended to read  
6 as follows:

7 For purposes of this chapter:

8 (1) "Homeowners' association" or "association" means a corporation,  
9 unincorporated association, or other legal entity, each member of which  
10 is an owner of residential real property located within the  
11 association's jurisdiction, as described in the governing documents,  
12 and by virtue of membership or ownership of property is obligated to  
13 pay real property taxes, insurance premiums, maintenance costs, or for  
14 improvement of real property other than that which is owned by the  
15 member. "Homeowners' association" does not mean an association created  
16 under chapter 64.32 or 64.34 RCW.

17 (2) "Governing documents" means the articles of incorporation,  
18 bylaws, plat, declaration of covenants, conditions, and restrictions,  
19 rules and regulations of the association, or other written instrument  
20 by which the association has the authority to exercise any of the  
21 powers provided for in this chapter or to manage, maintain, or  
22 otherwise affect the property under its jurisdiction.

23 (3) "Board of directors" or "board" means the body, regardless of  
24 name, with primary authority to manage the affairs of the association.

25 (4) "Common areas" means property owned, or otherwise maintained,  
26 repaired or administered by the association.

27 (5) "Common expense" means the costs incurred by the association to  
28 exercise any of the powers provided for in this chapter.

29 (6) "Ombudsman" means the state homeowners' association ombudsman  
30 created under section 1 of this act.

31 (7) "Residential real property" means any real property, the use of  
32 which is limited by law, covenant or otherwise to primarily residential  
33 or recreational purposes.

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