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**HOUSE BILL 1576**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Senn, Irwin, Goodman, Griffey, Ryu, Chapman, and Barkis

AN ACT Relating to construction defect actions; and adding a new section to chapter 64.50 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 64.50 RCW to read as follows:

(1)(a) In the event the board of directors, pursuant to RCW 64.90.405, institutes an action asserting defects in the construction of two or more residences, common elements, or common areas, this section applies.

(b) The board of directors shall substantially comply with the provisions of this section.

(2) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the board of directors shall provide notice to homeowners and to each construction professional against whom an action is proposed, convene a meeting of homeowners to consider whether to bring an action, and secure the vote of the majority of the homeowners to proceed with the action.

(3) The notice provided to homeowners and to each construction professional against whom an action is proposed shall include:

(a) A general description of the alleged defects with reasonable specificity, the relief sought, a good faith estimate of the benefits and risks involved, the expenses and fees that the board of directors anticipates will be incurred in prosecuting the action, and any other pertinent information;

(b) A general description of the process and outcome following service of the notice of claim under RCW 64.50.020; and

(c) Notice of the meeting of the homeowners to consider whether to bring an action.

(4)(a) The meeting of homeowners must be held within forty-five days of the date the notice was provided, in accordance with RCW 64.90.515, to homeowners. A quorum is not required at the meeting.

(b) The construction professional against whom the construction defect action is proposed, who may be the declarant or any other person or entity included within the definition of construction professional, as defined in RCW 64.50.010, shall be invited to attend and shall have an opportunity to address the homeowners concerning the alleged construction defects.

(c) The presentation at the meeting by the construction professional or the construction professional's designee or designees may, but is not required to, include an offer to remedy any defect in accordance with this chapter.

(5)(a) The board of directors may initiate an action only after the meeting of the homeowners to consider whether to bring an action and only if authorized by a majority of the homeowners. More than a simple majority vote may not be required in the governing documents or in any contract or agreement. Such approval is not required if the alleged construction defect pertains to a facility that is intended and used for nonresidential purposes and if the cost to repair the alleged defect does not exceed one hundred thousand dollars or when the association is the contracting party for the performance of labor or purchase of services or materials.

(b) Notwithstanding any other provision of law, a homeowner's vote shall be submitted only once and may be obtained in any written format confirming the homeowner's vote to approve or reject the proposed action. The association shall maintain a record of all votes until the conclusion of the action, including all appeals, if any.

(c)(i) For purposes of calculating the total number of eligible votes and the number of votes needed for the required majority vote under this section only, the residences owned by a development party are excluded.

(ii) As used in this subsection (5)(c), "development party" means a contractor, subcontractor, developer, or builder responsible for any part of the design, construction, or repair of any portion of the common interest community and any of that party's affiliates; and "affiliate" includes an entity controlled or owned, in whole or in part, by any person that controls or owns a development party or by the spouse of a development party.

(6) For purposes of this section, "action" has the same meaning as set forth in RCW 64.50.010.

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