S-5163.2

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**SENATE BILL 6595**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators Lovelett, Das, and Wilson, C.

AN ACT Relating to making condominium and homeowner association dues allocated based on the assessed value of each condominium or home as a percentage of the total value of all units or lots in the association; amending RCW 64.34.224 and 64.90.235; and adding a new section to chapter 64.38 RCW.

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

**Sec.**  RCW 64.34.224 and 1992 c 220 s 8 are each amended to read as follows:

(1) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas or methods used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant. A unit owner's percent share of the annual assessment for common expenses must not exceed the percentage of the assessed value of that unit in relation to the total assessed value of all units in the association as calculated in Title 84 RCW.

(2) If units may be added to or withdrawn from the condominium, the declaration shall state the formulas or methods to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(3) The declaration may provide: (a) For cumulative voting only for the purpose of electing members of the board of directors; and (b) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter, nor may units constitute a class because they are owned by a declarant.

(4) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or one hundred percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(5) Except where permitted by other sections of this chapter, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

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

An owner's percent share of the annual assessment for common expenses must not exceed the percentage of the assessed value of that unit in relation to the total assessed value of all lots in the homeowner's association as calculated in Title 84 RCW.

**Sec.**  RCW 64.90.235 and 2018 c 277 s 208 are each amended to read as follows:

(1)(a) The declaration must allocate to each unit:

((~~(a)~~)) (i) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association;

((~~(b)~~)) (ii) In a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association, and a portion of the votes in the association; and

((~~(c)~~)) (iii) In a plat community and miscellaneous community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.

(b) An owner's percent share of the annual assessment for common expenses must not exceed the percentage of the assessed value of that unit in relation to the total assessed value of all lots in the homeowner's association as calculated in Title 84 RCW.

(2) The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(3) If units may be added to or withdrawn from the common interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition or withdrawal.

(4)(a) The declaration may provide:

(i) That different allocations of votes are made to the units on particular matters specified in the declaration;

(ii) For cumulative voting only for the purpose of electing board members; and

(iii) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

(b) A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants under this chapter, and units do not constitute a class because they are owned by a declarant.

(5) Except for minor variations due to rounding, the sum of the common expense liabilities and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or one hundred percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(6)(a) In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

(b) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

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