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## Civil Rights & Judiciary Committee

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### HB 1793

**Brief Description:** Concerning electric vehicle charging stations in common interest communities.

**Sponsors:** Representatives Hackney, Fitzgibbon, Berry, Bateman, Macri, Ramel, Senn, Wylie, Bergquist, Valdez, Pollet and Kloba.

#### Brief Summary of Bill

- Prohibits an association of unit owners in a common interest community from prohibiting or unreasonably restricting the installation or use of an electric vehicle charging station within the boundaries of an owner's unit or in a designated parking space.
- Authorizes an association to impose reasonable restrictions on the electric vehicle charging stations, including requiring an application for approval prior to installation.
- Requires an association to approve an application to install an electric vehicle charging station if the unit owner meets specified requirements.
- Provides that a unit owner is responsible for all the costs associated with the electric vehicle charging station, including the costs of electricity.
- Provides a cause of action against an association for willful violations and sets forth penalties.

**Hearing Date:** 1/18/22

**Staff:** Yelena Baker (786-7301).

**Background:**

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*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.*

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, sometimes referred to as homeowners' associations.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created after that date. A CIC created prior to the effective date of the WUCIOA may choose to opt-in to the WUCIOA, which contains comprehensive provisions addressing the management of property under its jurisdiction.

Otherwise, CICs created before July 1, 2018, remain subject to the following acts, which generally leave much of the working of a CIC to the governing documents:

- the Horizontal Property Regimes Act, which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act, which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act, which provides a framework for the formation and legal administration of homeowners' associations.

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 of unit owners derives its authority from several documents, including the declaration of covenants, conditions, and restrictions, the association's bylaws and articles of incorporation, and the deeds to the property within a development.

The primary functions of a unit owners' association include: managing and maintaining common areas, such as parks, roads, and community centers, 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.

### **Summary of Bill:**

Provisions governing the installation and use of electric vehicle charging stations (EVCS) in common interest communities are added to the Washington Uniform Common Interest Ownership Act, the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act, and apply to associations of unit owners or homeowners in common interest communities subject to these statutes.

An association of unit owners in a common interest community may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, or a provision of a governing document that effectively prohibits or otherwise restricts the installation or use of an EVCS within the boundaries of a unit or in a designated parking space.

An association may impose reasonable restrictions on EVCS installations. "Reasonable restriction" means a restriction that does not significantly increase the cost of an EVCS or significantly decrease its efficiency or specified performance.

An association may also require a unit owner to submit an application for approval prior to the installation of an EVCS. If approval for the installation or use of an EVCS is required, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification. An association may charge a reasonable fee for processing the application, but only if such a fee exists for all applications for approval of architectural modifications.

The approval or denial of an application must be in writing and must not be willfully avoided or delayed. If not denied in writing within 60 days from the date of receipt of the application, the application is deemed approved, unless the delay is the result of a reasonable request for additional information. An association must approve the installation of an EVCS if the installation is reasonably possible and the unit owner agrees in writing to:

- comply with reasonable architectural standards;
- engage an electrical contractor to install the EVCS;
- provide a certificate of insurance within 14 days of approval of the EVCS installation;
- register the EVCS with the association within 30 days after installation; and
- pay for the electricity usage associated with the separately metered EVCS.

Additionally, a unit owner must obtain any permit or approval for an EVCS as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards.

A unit owners' association may create a new parking space where one did not previously exist to facilitate the installation of an EVCS. If installation of an EVCS within the boundaries of a unit or in a designated parking space is impossible or unreasonably expensive, an association may authorize the installation of an EVCS for the exclusive use of an owner in a common element that is not a limited common element designated for the use of that owner. In such cases, the association may enter into a license agreement with the owner for the use of the space in a common element. An association may also install an EVCS in the common element for the use of all unit owners and, in that case, the association must develop appropriate terms of use for the EVCS.

Unless otherwise agreed to in a written contract with the association, a unit owner is responsible for the costs of installing an EVCS. An association may not assess or charge a unit owner a fee for the placement of an EVCS.

An EVCS installed at the unit owner's expense is property of that unit owner. Upon sale of the unit, the unit owner may either remove the EVCS or sell it to the buyer of the unit or to the association for an agreed price. The unit owner must disclose to any prospective buyers of the

unit the existence of the EVCS and the related responsibilities of the unit owner. Neither the buyer nor the association is required to purchase the EVCS.

A unit owner and each successive owner of an EVCS is responsible for all the costs related to the maintenance, repair, or replacement of the EVCS, as well as the costs for damage to common element or limited common element resulting from the installation, maintenance, removal, or replacement of the EVCS.

If an association reasonably determines that the cumulative use of electricity in the community attributable to the installation and use of EVCS requires infrastructure improvements to provide the community with a sufficient supply of electricity, the association may assess the cost of the infrastructure improvements against each unit owner that has, or will, install an EVCS.

An association that willfully violates these provisions is liable to the unit owner for actual damages and a civil penalty in an amount not to exceed \$1,000. The court must award reasonable attorneys' fees and costs to any unit owner who prevails in an action to enforce compliance with these provisions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.