

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5011

Chapter 227, Laws of 2021

67th Legislature
2021 Regular Session

COMMON INTEREST COMMUNITIES—ELECTRONIC MEETINGS AND NOTICES

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 14, 2021
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 6, 2021
Yeas 96 Nays 2

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 10, 2021 3:23 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5011** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 10, 2021

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5011

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Wilson, L., Brown, Kuderer, Mullet, and Warnick)

READ FIRST TIME 01/15/21.

1 AN ACT Relating to notice, meeting, and voting provisions for
2 common interest communities, condominiums, and homeowners'
3 associations; amending RCW 64.32.010, 64.34.332, 64.34.340,
4 64.34.352, 64.38.035, and 64.90.445; reenacting and amending RCW
5 64.34.020 and 64.38.010; adding new sections to chapter 64.32 RCW;
6 adding a new section to chapter 64.34 RCW; and adding new sections to
7 chapter 64.38 RCW.

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

9 **Sec. 1.** RCW 64.32.010 and 2008 c 114 s 3 are each amended to
10 read as follows:

11 As used in this chapter unless the context otherwise requires:

12 (1) "Apartment" means a part of the property intended for any
13 type of independent use, including one or more rooms or spaces
14 located on one or more floors (or part or parts thereof) in a
15 building, or if not in a building, a separately delineated place of
16 storage or moorage of a boat, plane, or motor vehicle, regardless of
17 whether it is destined for a residence, an office, storage or moorage
18 of a boat, plane, or motor vehicle, the operation of any industry or
19 business, or for any other use not prohibited by law, and which has a
20 direct exit to a public street or highway, or to a common area
21 leading to such street or highway. The boundaries of an apartment

1 located in a building are the interior surfaces of the perimeter
2 walls, floors, ceilings, windows and doors thereof, and the apartment
3 includes both the portions of the building so described and the air
4 space so encompassed. If the apartment is a separately delineated
5 place of storage or moorage of a boat, plane, or motor vehicle the
6 boundaries are those specified in the declaration. In interpreting
7 declarations, deeds, and plans, the existing physical boundaries of
8 the apartment as originally constructed or as reconstructed in
9 substantial accordance with the original plans thereof shall be
10 conclusively presumed to be its boundaries rather than the metes and
11 bounds expressed or depicted in the declaration, deed or plan,
12 regardless of settling or lateral movement of the building and
13 regardless of minor variance between boundaries shown in the
14 declaration, deed, or plan and those of apartments in the building.

15 (2) "Apartment owner" means the person or persons owning an
16 apartment, as herein defined, in fee simple absolute or qualified, by
17 way of leasehold or by way of a periodic estate, or in any other
18 manner in which real property may be owned, leased or possessed in
19 this state, together with an undivided interest in a like estate of
20 the common areas and facilities in the percentage specified and
21 established in the declaration as duly recorded or as it may be
22 lawfully amended.

23 (3) "Apartment number" means the number, letter, or combination
24 thereof, designating the apartment in the declaration as duly
25 recorded or as it may be lawfully amended.

26 (4) "Association of apartment owners" means all of the apartment
27 owners acting as a group in accordance with the bylaws and with the
28 declaration as it is duly recorded or as they may be lawfully
29 amended.

30 (5) "Building" means a building, containing two or more
31 apartments, or two or more buildings each containing one or more
32 apartments, and comprising a part of the property.

33 (6) "Common areas and facilities", unless otherwise provided in
34 the declaration as duly recorded or as it may be lawfully amended,
35 includes:

36 (a) The land on which the building is located;

37 (b) The foundations, columns, girders, beams, supports, main
38 walls, roofs, halls, corridors, lobbys, stairs, stairways, fire
39 escapes, and entrances and exits of the building;

1 (c) The basements, yards, gardens, parking areas and storage
2 spaces;

3 (d) The premises for the lodging of janitors or persons in charge
4 of the property;

5 (e) The installations of central services such as power, light,
6 gas, hot and cold water, heating, refrigeration, air conditioning and
7 incinerating;

8 (f) The elevators, tanks, pumps, motors, fans, compressors, ducts
9 and in general all apparatus and installations existing for common
10 use;

11 (g) Such community and commercial facilities as may be provided
12 for in the declaration as duly recorded or as it may be lawfully
13 amended;

14 (h) All other parts of the property necessary or convenient to
15 its existence, maintenance and safety, or normally in common use.

16 (7) "Common expenses" include:

17 (a) All sums lawfully assessed against the apartment owners by
18 the association of apartment owners;

19 (b) Expenses of administration, maintenance, repair, or
20 replacement of the common areas and facilities;

21 (c) Expenses agreed upon as common expenses by the association of
22 apartment owners;

23 (d) Expenses declared common expenses by the provisions of this
24 chapter, or by the declaration as it is duly recorded, or by the
25 bylaws, or as they may be lawfully amended.

26 (8) "Common profits" means the balance of all income, rents,
27 profits and revenues from the common areas and facilities remaining
28 after the deduction of the common expenses.

29 (9) "Declaration" means the instrument by which the property is
30 submitted to provisions of this chapter, as hereinafter provided, and
31 as it may be, from time to time, lawfully amended.

32 (10) "Land" means the material of the earth, whatever may be the
33 ingredients of which it is composed, whether soil, rock, or other
34 substance, whether or not submerged, and includes free or occupied
35 space for an indefinite distance upwards as well as downwards,
36 subject to limitations upon the use of airspace imposed, and rights
37 in the use of the airspace granted, by the laws of this state or of
38 the United States.

39 (11) "Limited common areas and facilities" includes those common
40 areas and facilities designated in the declaration, as it is duly

1 recorded or as it may be lawfully amended, as reserved for use of
2 certain apartment or apartments to the exclusion of the other
3 apartments.

4 (12) "Majority" or "majority of apartment owners" means the
5 apartment owners with fifty-one percent or more of the votes in
6 accordance with the percentages assigned in the declaration, as duly
7 recorded or as it may be lawfully amended, to the apartments for
8 voting purposes.

9 (13) "Person" includes any individual, corporation, partnership,
10 association, trustee, or other legal entity.

11 (14) "Property" means the land, the building, all improvements
12 and structures thereon, all owned in fee simple absolute or
13 qualified, by way of leasehold or by way of a periodic estate, or in
14 any other manner in which real property may be owned, leased or
15 possessed in this state, and all easements, rights and appurtenances
16 belonging thereto, none of which shall be considered as a security or
17 security interest, and all articles of personalty intended for use in
18 connection therewith, which have been or are intended to be submitted
19 to the provisions of this chapter.

20 (15) "Percent of the apartment owners" means the apartment owners
21 with the stated percent or more of the votes in accordance with the
22 percentages assigned in the declaration, as duly recorded or as it
23 may be lawfully amended, to the apartments for voting purposes.

24 (16) "Electronic transmission" or "electronically transmitted"
25 means any electronic communication not directly involving the
26 physical transfer of a writing in a tangible medium, but that may be
27 retained, retrieved, and reviewed by the sender and the recipient of
28 the communication, and that may be directly reproduced in a tangible
29 medium by a sender and recipient.

30 (17) "Tangible medium" means a writing, copy of a writing,
31 facsimile, or a physical reproduction, each on paper or on other
32 tangible material.

33 NEW SECTION. Sec. 2. A new section is added to chapter 64.32
34 RCW to read as follows:

35 (1) Notwithstanding any inconsistent provision in the governing
36 documents, notice to the association of apartment owners, board of
37 directors, or any apartment owner or occupant of an apartment under
38 this chapter shall be in writing and shall be provided to the
39 recipient by personal delivery, public or private mail or delivery

1 service, or by electronic transmission as provided in this section:
2 PROVIDED, That if this chapter requires different or additional
3 notice requirements for particular circumstances, those requirements
4 shall apply.

5 (2) Notice in a tangible medium shall be provided as follows:

6 (a) Notice to the association of apartment owners or board of
7 directors shall be addressed to the association's registered agent at
8 its registered office, to the association at its principal office
9 shown in its most recent annual report, or to an address provided by
10 the association to the apartment owners.

11 (b) Notice to an apartment owner or occupant shall be addressed
12 to the apartment address unless the apartment owner has requested, in
13 a writing delivered to the association, that notices be sent to an
14 alternate address.

15 (3) Notice in an electronic transmission shall be provided as
16 follows:

17 (a) Notice to the association of apartment owners, the board of
18 directors, or apartment owners by electronic transmission is
19 effective only upon those who have consented, in writing, to receive
20 electronically transmitted notices under this chapter and have
21 designated the address, location, or system to which such notices may
22 be electronically transmitted, provided that such notice otherwise
23 complies with any other requirements of this chapter and applicable
24 law.

25 (b) Notice under this subsection includes any materials that
26 accompany the notice.

27 (c) Owners who have consented to receipt of electronically
28 transmitted notices may revoke this consent by delivering a
29 revocation to the association of apartment owners in writing.

30 (d) The consent of any apartment owner is revoked if the
31 association is unable to electronically transmit two consecutive
32 notices and this inability becomes known to the secretary of the
33 association of apartment owners or any other person responsible for
34 giving the notice. The inadvertent failure by the association of
35 apartment owners to treat this inability as a revocation does not
36 invalidate any meeting or other action.

37 (e) Notice to apartment owners who have consented to receipt of
38 electronically transmitted notices may be provided by posting the
39 notice on an electronic network and delivering to the apartment owner
40 separate notice of the posting, together with comprehensible

1 instructions regarding how to obtain access to the posting on the
2 electronic network.

3 (4) Notice is effective as follows:

4 (a) Notice provided in a tangible medium is effective as of the
5 date of hand delivery, deposit with the carrier, or when sent by fax.

6 (b) Notice provided in an electronic transmission is effective as
7 of the date it:

8 (i) Is electronically transmitted to an address, location, or
9 system designated by the recipient for that purpose; or

10 (ii) Has been posted on an electronic network and separate notice
11 of the posting has been sent to the recipient containing instructions
12 regarding how to obtain access to the posting on the electronic
13 network.

14 (5) The ineffectiveness of a good faith effort to deliver notice
15 by an authorized means does not invalidate action taken at or without
16 a meeting.

17 (6) This chapter modifies, limits, and supersedes the federal
18 electronic signatures in global and national commerce act, 15 U.S.C.
19 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.
20 Sec. 7001(c) or authorize electronic delivery of any of the notices
21 described in 15 U.S.C. Sec. 7003(b).

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.32
23 RCW to read as follows:

24 (1) Apartment owners may vote at a meeting in person, by absentee
25 ballot pursuant to subsection (3)(d) of this section, or by a proxy
26 pursuant to subsection (5) of this section.

27 (2) When a vote is conducted without a meeting, apartment owners
28 may vote by ballot pursuant to subsection (6) of this section.

29 (3) At a meeting of apartment owners the following requirements
30 apply:

31 (a) Apartment owners or their proxies who are present in person
32 may vote by voice vote, show of hands, standing, written ballot, or
33 any other method for determining the votes of apartment owners, as
34 designated by the person presiding at the meeting.

35 (b) If only one of several apartment owners of an apartment is
36 present, that apartment owner is entitled to cast all the votes
37 allocated to that apartment. If more than one of the apartment owners
38 are present, the votes allocated to that apartment may be cast only
39 in accordance with the agreement of a majority in interest of the

1 apartment owners, unless the declaration expressly provides
2 otherwise. There is a majority agreement if any one of the apartment
3 owners casts the votes allocated to the apartment without protest
4 being made promptly to the person presiding over the meeting by any
5 of the other apartment owners of the apartment.

6 (c) Unless a greater number or fraction of the votes in the
7 association is required under this chapter or the declaration or
8 organizational documents, a majority of the votes cast determines the
9 outcome of any action of the association.

10 (d) Whenever proposals or board members are to be voted upon at a
11 meeting, an apartment owner may vote by duly executed absentee ballot
12 if:

13 (i) The name of each candidate and the text of each proposal to
14 be voted upon are set forth in a writing accompanying or contained in
15 the notice of meeting; and

16 (ii) A ballot is provided by the association for such purpose.

17 (4) When an apartment owner votes by absentee ballot, the
18 association must be able to verify that the ballot is cast by the
19 apartment owner having the right to do so.

20 (5) Except as provided otherwise in the declaration or
21 organizational documents, the following requirements apply with
22 respect to proxy voting:

23 (a) Votes allocated to an apartment may be cast pursuant to a
24 directed or undirected proxy duly executed by an apartment owner in
25 the same manner as provided in RCW 24.06.110.

26 (b) If an apartment is owned by more than one person, each
27 apartment owner of the apartment may vote or register protest to the
28 casting of votes by the other apartment owners of the apartment
29 through a duly executed proxy.

30 (c) An apartment owner may revoke a proxy given pursuant to this
31 section only by actual notice of revocation to the secretary or the
32 person presiding over a meeting of the association or by delivery of
33 a subsequent proxy. The death or disability of an apartment owner
34 does not revoke a proxy given by the apartment owner unless the
35 person presiding over the meeting has actual notice of the death or
36 disability.

37 (d) A proxy is void if it is not dated or purports to be
38 revocable without notice.

39 (e) Unless stated otherwise in the proxy, a proxy terminates
40 eleven months after its date of issuance.

1 (6) Unless prohibited or limited by the declaration or
2 organizational documents, an association may conduct a vote without a
3 meeting. In that event, the following requirements apply:

4 (a) The association must notify the apartment owners that the
5 vote will be taken by ballot.

6 (b) The notice must state:

7 (i) The time and date by which a ballot must be delivered to the
8 association to be counted, which may not be fewer than fourteen days
9 after the date of the notice, and which deadline may be extended in
10 accordance with (g) of this subsection;

11 (ii) The percent of votes necessary to meet the quorum
12 requirements;

13 (iii) The percent of votes necessary to approve each matter other
14 than election of board members; and

15 (iv) The time, date, and manner by which apartment owners wishing
16 to deliver information to all apartment owners regarding the subject
17 of the vote may do so.

18 (c) The association must deliver a ballot to every apartment
19 owner with the notice.

20 (d) The ballot must set forth each proposed action and provide an
21 opportunity to vote for or against the action.

22 (e) A ballot cast pursuant to this section may be revoked only by
23 actual notice to the association of revocation. The death or
24 disability of an apartment owner does not revoke a ballot unless the
25 association has actual notice of the death or disability prior to the
26 date set forth in (b) (i) of this subsection.

27 (f) Approval by ballot pursuant to this subsection is valid only
28 if the number of votes cast by ballot equals or exceeds the quorum
29 required to be present at a meeting authorizing the action.

30 (g) If the association does not receive a sufficient number of
31 votes to constitute a quorum or to approve the proposal by the date
32 and time established for return of ballots, the board of directors
33 may extend the deadline for a reasonable period not to exceed eleven
34 months upon further notice to all members in accordance with (b) of
35 this subsection. In that event, all votes previously cast on the
36 proposal must be counted unless subsequently revoked as provided in
37 this section.

38 (h) A ballot or revocation is not effective until received by the
39 association.

1 (i) The association must give notice to apartment owners of any
2 action taken pursuant to this subsection within a reasonable time
3 after the action is taken.

4 (j) When an action is taken pursuant to this subsection, a record
5 of the action, including the ballots or a report of the persons
6 appointed to tabulate such ballots, must be kept with the minutes of
7 meetings of the association.

8 (7) If the governing documents require that votes on specified
9 matters affecting the common interest community be cast by lessees
10 rather than apartment owners of leased apartments:

11 (a) This section applies to lessees as if they were apartment
12 owners;

13 (b) Apartment owners that have leased their apartments to other
14 persons may not cast votes on those specified matters; and

15 (c) Lessees are entitled to notice of meetings, access to
16 records, and other rights respecting those matters as if they were
17 apartment owners.

18 (8) Apartment owners must also be given notice, in the manner
19 provided in section 2 of this act, of all meetings at which lessees
20 may be entitled to vote.

21 (9) In any vote of the apartment owners, votes allocated to an
22 apartment owned by the association must be cast in the same
23 proportion as the votes cast on the matter by apartment owners other
24 than the association.

25 (10) Except as otherwise restricted by the declaration, bylaws,
26 or articles of incorporation, meetings of apartment owners may be
27 conducted by telephonic, video, or other conferencing process, if:

28 (a) The meeting notice states the conferencing process to be used and
29 provides information explaining how apartment owners may participate
30 in the conference directly or by meeting at a central location or
31 conference connection; and (b) the process provides all apartment
32 owners the opportunity to hear or perceive the discussion and to
33 comment.

34 **Sec. 4.** RCW 64.34.020 and 2011 c 189 s 1 are each reenacted and
35 amended to read as follows:

36 In the declaration and bylaws, unless specifically provided
37 otherwise or the context requires otherwise, and in this chapter:

38 (1) "Affiliate" means any person who controls, is controlled by,
39 or is under common control with the referenced person. A person

1 "controls" another person if the person: (a) Is a general partner,
2 officer, director, or employer of the referenced person; (b) directly
3 or indirectly or acting in concert with one or more other persons, or
4 through one or more subsidiaries, owns, controls, holds with power to
5 vote, or holds proxies representing, more than twenty percent of the
6 voting interest in the referenced person; (c) controls in any manner
7 the election of a majority of the directors of the referenced person;
8 or (d) has contributed more than twenty percent of the capital of the
9 referenced person. A person "is controlled by" another person if the
10 other person: (i) Is a general partner, officer, director, or
11 employer of the person; (ii) directly or indirectly or acting in
12 concert with one or more other persons, or through one or more
13 subsidiaries, owns, controls, holds with power to vote, or holds
14 proxies representing, more than twenty percent of the voting interest
15 in the person; (iii) controls in any manner the election of a
16 majority of the directors of the person; or (iv) has contributed more
17 than twenty percent of the capital of the person. Control does not
18 exist if the powers described in this subsection are held solely as
19 security for an obligation and are not exercised.

20 (2) "Allocated interests" means the undivided interest in the
21 common elements, the common expense liability, and votes in the
22 association allocated to each unit.

23 (3) "Assessment" means all sums chargeable by the association
24 against a unit including, without limitation: (a) Regular and special
25 assessments for common expenses, charges, and fines imposed by the
26 association; (b) interest and late charges on any delinquent account;
27 and (c) costs of collection, including reasonable attorneys' fees,
28 incurred by the association in connection with the collection of a
29 delinquent owner's account.

30 (4) "Association" or "unit owners' association" means the unit
31 owners' association organized under RCW 64.34.300.

32 (5) "Baseline funding plan" means establishing a reserve funding
33 goal of maintaining a reserve account balance above zero dollars
34 throughout the thirty-year study period described under RCW
35 64.34.380.

36 (6) "Board of directors" means the body, regardless of name, with
37 primary authority to manage the affairs of the association.

38 (7) "Common elements" means all portions of a condominium other
39 than the units.

1 (8) "Common expense liability" means the liability for common
2 expenses allocated to each unit pursuant to RCW 64.34.224.

3 (9) "Common expenses" means expenditures made by or financial
4 liabilities of the association, together with any allocations to
5 reserves.

6 (10) "Condominium" means real property, portions of which are
7 designated for separate ownership and the remainder of which is
8 designated for common ownership solely by the owners of those
9 portions. Real property is not a condominium unless the undivided
10 interests in the common elements are vested in the unit owners, and
11 unless a declaration and a survey map and plans have been recorded
12 pursuant to this chapter.

13 (11) "Contribution rate" means, in a reserve study as described
14 in RCW 64.34.380, the amount contributed to the reserve account so
15 that the association will have cash reserves to pay major
16 maintenance, repair, or replacement costs without the need of a
17 special assessment.

18 (12) "Conversion condominium" means a condominium (a) that at any
19 time before creation of the condominium was lawfully occupied wholly
20 or partially by a tenant or subtenant for residential purposes
21 pursuant to a rental agreement, oral or written, express or implied,
22 for which the tenant or subtenant had not received the notice
23 described in (b) of this subsection; or (b) that, at any time within
24 twelve months before the conveyance of, or acceptance of an agreement
25 to convey, any unit therein other than to a declarant or any
26 affiliate of a declarant, was lawfully occupied wholly or partially
27 by a residential tenant of a declarant or an affiliate of a declarant
28 and such tenant was not notified in writing, prior to lawfully
29 occupying a unit or executing a rental agreement, whichever event
30 first occurs, that the unit was part of a condominium and subject to
31 sale. "Conversion condominium" shall not include a condominium in
32 which, before July 1, 1990, any unit therein had been conveyed or
33 been made subject to an agreement to convey to any transferee other
34 than a declarant or an affiliate of a declarant.

35 (13) "Conveyance" means any transfer of the ownership of a unit,
36 including a transfer by deed or by real estate contract and, with
37 respect to a unit in a leasehold condominium, a transfer by lease or
38 assignment thereof, but shall not include a transfer solely for
39 security.

1 (14) "Dealer" means a person who, together with such person's
2 affiliates, owns or has a right to acquire either six or more units
3 in a condominium or fifty percent or more of the units in a
4 condominium containing more than two units.

5 (15) "Declarant" means:

6 (a) Any person who executes as declarant a declaration as defined
7 in subsection (17) of this section; or

8 (b) Any person who reserves any special declarant right in the
9 declaration; or

10 (c) Any person who exercises special declarant rights or to whom
11 special declarant rights are transferred; or

12 (d) Any person who is the owner of a fee interest in the real
13 property which is subjected to the declaration at the time of the
14 recording of an instrument pursuant to RCW 64.34.316 and who directly
15 or through one or more affiliates is materially involved in the
16 construction, marketing, or sale of units in the condominium created
17 by the recording of the instrument.

18 (16) "Declarant control" means the right of the declarant or
19 persons designated by the declarant to appoint and remove officers
20 and members of the board of directors, or to veto or approve a
21 proposed action of the board or association, pursuant to RCW
22 64.34.308 (5) or (6).

23 (17) "Declaration" means the document, however denominated, that
24 creates a condominium by setting forth the information required by
25 RCW 64.34.216 and any amendments to that document.

26 (18) "Development rights" means any right or combination of
27 rights reserved by a declarant in the declaration to: (a) Add real
28 property or improvements to a condominium; (b) create units, common
29 elements, or limited common elements within real property included or
30 added to a condominium; (c) subdivide units or convert units into
31 common elements; (d) withdraw real property from a condominium; or
32 (e) reallocate limited common elements with respect to units that
33 have not been conveyed by the declarant.

34 (19) "Dispose" or "disposition" means a voluntary transfer or
35 conveyance to a purchaser or lessee of any legal or equitable
36 interest in a unit, but does not include the transfer or release of a
37 security interest.

38 (20) "Effective age" means the difference between the estimated
39 useful life and remaining useful life.

1 (21) "Eligible mortgagee" means the holder of a mortgage on a
2 unit that has filed with the secretary of the association a written
3 request that it be given copies of notices of any action by the
4 association that requires the consent of mortgagees.

5 (22) "Foreclosure" means a forfeiture or judicial or nonjudicial
6 foreclosure of a mortgage or a deed in lieu thereof.

7 (23) "Full funding plan" means setting a reserve funding goal of
8 achieving one hundred percent fully funded reserves by the end of the
9 thirty-year study period described under RCW 64.34.380, in which the
10 reserve account balance equals the sum of the deteriorated portion of
11 all reserve components.

12 (24) "Fully funded balance" means the current value of the
13 deteriorated portion, not the total replacement value, of all the
14 reserve components. The fully funded balance for each reserve
15 component is calculated by multiplying the current replacement cost
16 of that reserve component by its effective age, then dividing the
17 result by that reserve component's useful life. The sum total of all
18 reserve components' fully funded balances is the association's fully
19 funded balance.

20 (25) "Identifying number" means the designation of each unit in a
21 condominium.

22 (26) "Leasehold condominium" means a condominium in which all or
23 a portion of the real property is subject to a lease, the expiration
24 or termination of which will terminate the condominium or reduce its
25 size.

26 (27) "Limited common element" means a portion of the common
27 elements allocated by the declaration or by operation of RCW
28 64.34.204 (2) or (4) for the exclusive use of one or more but fewer
29 than all of the units.

30 (28) "Master association" means an organization described in RCW
31 64.34.276, whether or not it is also an association described in RCW
32 64.34.300.

33 (29) "Mortgage" means a mortgage, deed of trust or real estate
34 contract.

35 (30) "Person" means a natural person, corporation, partnership,
36 limited partnership, trust, governmental subdivision or agency, or
37 other legal entity.

38 (31) "Purchaser" means any person, other than a declarant or a
39 dealer, who by means of a disposition acquires a legal or equitable
40 interest in a unit other than (a) a leasehold interest, including

1 renewal options, of less than twenty years at the time of creation of
2 the unit, or (b) as security for an obligation.

3 (32) "Real property" means any fee, leasehold or other estate or
4 interest in, over, or under land, including structures, fixtures, and
5 other improvements thereon and easements, rights and interests
6 appurtenant thereto which by custom, usage, or law pass with a
7 conveyance of land although not described in the contract of sale or
8 instrument of conveyance. "Real property" includes parcels, with or
9 without upper or lower boundaries, and spaces that may be filled with
10 air or water.

11 (33) "Remaining useful life" means the estimated time, in years,
12 before a reserve component will require major maintenance, repair, or
13 replacement to perform its intended function.

14 (34) "Replacement cost" means the current cost of replacing,
15 repairing, or restoring a reserve component to its original
16 functional condition.

17 (35) "Reserve component" means a common element whose cost of
18 maintenance, repair, or replacement is infrequent, significant, and
19 impractical to include in an annual budget.

20 (36) "Reserve study professional" means an independent person who
21 is suitably qualified by knowledge, skill, experience, training, or
22 education to prepare a reserve study in accordance with RCW 64.34.380
23 and 64.34.382.

24 (37) "Residential purposes" means use for dwelling or
25 recreational purposes, or both.

26 (38) "Significant assets" means that the current total cost of
27 major maintenance, repair, and replacement of the reserve components
28 is fifty percent or more of the gross budget of the association,
29 excluding reserve account funds.

30 (39) "Special declarant rights" means rights reserved for the
31 benefit of a declarant to: (a) Complete improvements indicated on
32 survey maps and plans filed with the declaration under RCW 64.34.232;
33 (b) exercise any development right under RCW 64.34.236; (c) maintain
34 sales offices, management offices, signs advertising the condominium,
35 and models under RCW 64.34.256; (d) use easements through the common
36 elements for the purpose of making improvements within the
37 condominium or within real property which may be added to the
38 condominium under RCW 64.34.260; (e) make the condominium part of a
39 larger condominium or a development under RCW 64.34.280; (f) make the
40 condominium subject to a master association under RCW 64.34.276; or

1 (g) appoint or remove any officer of the association or any master
2 association or any member of the board of directors, or to veto or
3 approve a proposed action of the board or association, during any
4 period of declarant control under RCW 64.34.308(5).

5 (40) "Timeshare" shall have the meaning specified in the
6 timeshare act, RCW 64.36.010(11).

7 (41) "Unit" means a physical portion of the condominium
8 designated for separate ownership, the boundaries of which are
9 described pursuant to RCW 64.34.216(1)(d). "Separate ownership"
10 includes leasing a unit in a leasehold condominium under a lease that
11 expires contemporaneously with any lease, the expiration or
12 termination of which will remove the unit from the condominium.

13 (42) "Unit owner" means a declarant or other person who owns a
14 unit or leases a unit in a leasehold condominium under a lease that
15 expires simultaneously with any lease, the expiration or termination
16 of which will remove the unit from the condominium, but does not
17 include a person who has an interest in a unit solely as security for
18 an obligation. "Unit owner" means the vendee, not the vendor, of a
19 unit under a real estate contract.

20 (43) "Useful life" means the estimated time, between years, that
21 major maintenance, repair, or replacement is estimated to occur.

22 (44) "Electronic transmission" or "electronically transmitted"
23 means any electronic communication not directly involving the
24 physical transfer of a writing in a tangible medium, but that may be
25 retained, retrieved, and reviewed by the sender and the recipient of
26 the communication, and that may be directly reproduced in a tangible
27 medium by a sender and recipient.

28 (45) "Tangible medium" means a writing, copy of a writing,
29 facsimile, or a physical reproduction, each on paper or on other
30 tangible material.

31 **Sec. 5.** RCW 64.34.332 and 1989 c 43 s 3-109 are each amended to
32 read as follows:

33 (1) A meeting of the association must be held at least once each
34 year. Special meetings of the association may be called by the
35 president, a majority of the board of directors, or by unit owners
36 having twenty percent or any lower percentage specified in the
37 declaration or bylaws of the votes in the association. Not less than
38 ~~((ten))~~ fourteen nor more than ~~((sixty))~~ fifty days in advance of any
39 meeting, the secretary or other officer specified in the bylaws shall

1 cause notice to be (~~hand-delivered or sent prepaid by first-class~~
2 ~~United States mail to the mailing address of each unit or to any~~
3 ~~other mailing address designated in writing by the unit owner~~))
4 provided in accordance with this chapter. The notice of any meeting
5 shall state the time and place of the meeting and the items on the
6 agenda to be voted on by the members, including the general nature of
7 any proposed amendment to the declaration or bylaws, changes in the
8 previously approved budget that result in a change in assessment
9 obligations, and any proposal to remove a director or officer.

10 (2) Except as otherwise restricted by the declaration, bylaws, or
11 articles of incorporation, meetings of unit owners may be conducted
12 by telephonic, video, or other conferencing process, if: (a) The
13 meeting notice states the conferencing process to be used and
14 provides information explaining how unit owners may participate in
15 the conference directly or by meeting at a central location or
16 conference connection; and (b) the process provides all unit owners
17 the opportunity to hear or perceive the discussion and to comment.

18 **Sec. 6.** RCW 64.34.340 and 1992 c 220 s 17 are each amended to
19 read as follows:

20 ~~((1) If only one of the multiple owners of a unit is present at~~
21 ~~a meeting of the association or has delivered a written ballot or~~
22 ~~proxy to the association secretary, the owner is entitled to cast all~~
23 ~~the votes allocated to that unit. If more than one of the multiple~~
24 ~~owners are present or has delivered a written ballot or proxy to the~~
25 ~~association secretary, the votes allocated to that unit may be cast~~
26 ~~only in accordance with the agreement of a majority in interest of~~
27 ~~the multiple owners, unless the declaration expressly provides~~
28 ~~otherwise. There is majority agreement if any one of the multiple~~
29 ~~owners casts the votes allocated to that unit without protest being~~
30 ~~made promptly to the person presiding over the meeting by any of the~~
31 ~~other owners of the unit.~~

32 ~~(2) Votes allocated to a unit may be cast pursuant to a proxy~~
33 ~~duly executed by a unit owner. If a unit is owned by more than one~~
34 ~~person, each owner of the unit may vote or register protest to the~~
35 ~~casting of votes by the other owners of the unit through a duly~~
36 ~~executed proxy. A unit owner may not revoke a proxy given pursuant to~~
37 ~~this section except by actual notice of revocation to the person~~
38 ~~presiding over a meeting of the association. A proxy is void if it is~~
39 ~~not dated or purports to be revocable without notice. Unless stated~~

1 otherwise in the proxy, a proxy terminates eleven months after its
2 date of issuance.

3 ~~(3) If the declaration requires that votes on specified matters
4 affecting the condominium be cast by lessees rather than unit owners
5 of leased units: (a) The provisions of subsections (1) and (2) of
6 this section apply to lessees as if they were unit owners; (b) unit
7 owners who have leased their units to other persons may not cast
8 votes on those specified matters; and (c) lessees are entitled to
9 notice of meetings, access to records, and other rights respecting
10 those matters as if they were unit owners. Unit owners must also be
11 given notice, in the manner provided in RCW 64.34.332, of all
12 meetings at which lessees may be entitled to vote.~~

13 ~~(4) No votes allocated to a unit owned by the association may be
14 east, and in determining the percentage of votes required to act on
15 any matter, the votes allocated to units owned by the association
16 shall be disregarded.)~~ (1) Unit owners may vote at a meeting in
17 person, by absentee ballot pursuant to subsection (3)(d) of this
18 section, or by a proxy pursuant to subsection (5) of this section.

19 (2) When a vote is conducted without a meeting, unit owners may
20 vote by ballot pursuant to subsection (6) of this section.

21 (3) At a meeting of unit owners the following requirements apply:

22 (a) Unit owners or their proxies who are present in person may
23 vote by voice vote, show of hands, standing, written ballot, or any
24 other method for determining the votes of unit owners, as designated
25 by the person presiding at the meeting.

26 (b) If only one of several unit owners of a unit is present, that
27 unit owner is entitled to cast all the votes allocated to that unit.
28 If more than one of the unit owners are present, the votes allocated
29 to that unit may be cast only in accordance with the agreement of a
30 majority in interest of the unit owners, unless the declaration
31 expressly provides otherwise. There is a majority agreement if any
32 one of the unit owners casts the votes allocated to the unit without
33 protest being made promptly to the person presiding over the meeting
34 by any of the other unit owners of the unit.

35 (c) Unless a greater number or fraction of the votes in the
36 association is required under this chapter or the declaration or
37 organizational documents, a majority of the votes cast determines the
38 outcome of any action of the association.

39 (d) Whenever proposals or board members are to be voted upon at a
40 meeting, a unit owner may vote by duly executed absentee ballot if:

1 (i) The name of each candidate and the text of each proposal to
2 be voted upon are set forth in a writing accompanying or contained in
3 the notice of meeting; and

4 (ii) A ballot is provided by the association for such purpose.

5 (4) When a unit owner votes by absentee ballot, the association
6 must be able to verify that the ballot is cast by the unit owner
7 having the right to do so.

8 (5) Except as provided otherwise in the declaration or
9 organizational documents, the following requirements apply with
10 respect to proxy voting:

11 (a) Votes allocated to a unit may be cast pursuant to a directed
12 or undirected proxy duly executed by a unit owner in the same manner
13 as provided in RCW 24.06.110.

14 (b) If a unit is owned by more than one person, each unit owner
15 of the unit may vote or register protest to the casting of votes by
16 the other unit owners of the unit through a duly executed proxy.

17 (c) A unit owner may revoke a proxy given pursuant to this
18 section only by actual notice of revocation to the secretary or the
19 person presiding over a meeting of the association or by delivery of
20 a subsequent proxy. The death or disability of a unit owner does not
21 revoke a proxy given by the unit owner unless the person presiding
22 over the meeting has actual notice of the death or disability.

23 (d) A proxy is void if it is not dated or purports to be
24 revocable without notice.

25 (e) Unless stated otherwise in the proxy, a proxy terminates
26 eleven months after its date of issuance.

27 (6) Unless prohibited or limited by the declaration or
28 organizational documents, an association may conduct a vote without a
29 meeting. In that event, the following requirements apply:

30 (a) The association must notify the unit owners that the vote
31 will be taken by ballot.

32 (b) The notice must state:

33 (i) The time and date by which a ballot must be delivered to the
34 association to be counted, which may not be fewer than fourteen days
35 after the date of the notice, and which deadline may be extended in
36 accordance with (g) of this subsection;

37 (ii) The percent of votes necessary to meet the quorum
38 requirements;

39 (iii) The percent of votes necessary to approve each matter other
40 than election of board members; and

1 (iv) The time, date, and manner by which unit owners wishing to
2 deliver information to all unit owners regarding the subject of the
3 vote may do so.

4 (c) The association must deliver a ballot to every unit owner
5 with the notice.

6 (d) The ballot must set forth each proposed action and provide an
7 opportunity to vote for or against the action.

8 (e) A ballot cast pursuant to this section may be revoked only by
9 actual notice to the association of revocation. The death or
10 disability of a unit owner does not revoke a ballot unless the
11 association has actual notice of the death or disability prior to the
12 date set forth in (b) (i) of this subsection.

13 (f) Approval by ballot pursuant to this subsection is valid only
14 if the number of votes cast by ballot equals or exceeds the quorum
15 required to be present at a meeting authorizing the action.

16 (g) If the association does not receive a sufficient number of
17 votes to constitute a quorum or to approve the proposal by the date
18 and time established for return of ballots, the board of directors
19 may extend the deadline for a reasonable period not to exceed eleven
20 months upon further notice to all members in accordance with (b) of
21 this subsection. In that event, all votes previously cast on the
22 proposal must be counted unless subsequently revoked as provided in
23 this section.

24 (h) A ballot or revocation is not effective until received by the
25 association.

26 (i) The association must give notice to unit owners of any action
27 taken pursuant to this subsection within a reasonable time after the
28 action is taken.

29 (j) When an action is taken pursuant to this subsection, a record
30 of the action, including the ballots or a report of the persons
31 appointed to tabulate such ballots, must be kept with the minutes of
32 meetings of the association.

33 (7) If the governing documents require that votes on specified
34 matters affecting the common interest community be cast by lessees
35 rather than unit owners of leased units:

36 (a) This section applies to lessees as if they were unit owners;

37 (b) Unit owners that have leased their units to other persons may
38 not cast votes on those specified matters; and

1 (c) Lessees are entitled to notice of meetings, access to
2 records, and other rights respecting those matters as if they were
3 unit owners.

4 (8) Unit owners must also be given notice, in the manner provided
5 in section 8 of this act, of all meetings at which lessees may be
6 entitled to vote.

7 (9) In any vote of the unit owners, votes allocated to a unit
8 owned by the association must be cast in the same proportion as the
9 votes cast on the matter by unit owners other than the association.

10 **Sec. 7.** RCW 64.34.352 and 1992 c 220 s 18 are each amended to
11 read as follows:

12 (1) Commencing not later than the time of the first conveyance of
13 a unit to a person other than a declarant, the association shall
14 maintain, to the extent reasonably available:

15 (a) Property insurance on the condominium, which may, but need
16 not, include equipment, improvements, and betterments in a unit
17 installed by the declarant or the unit owners, insuring against all
18 risks of direct physical loss commonly insured against. The total
19 amount of insurance after application of any deductibles shall be not
20 less than eighty percent, or such greater amount specified in the
21 declaration, of the actual cash value of the insured property at the
22 time the insurance is purchased and at each renewal date, exclusive
23 of land, excavations, foundations, and other items normally excluded
24 from property policies; and

25 (b) Liability insurance, including medical payments insurance, in
26 an amount determined by the board of directors but not less than the
27 amount specified in the declaration, covering all occurrences
28 commonly insured against for death, bodily injury, and property
29 damage arising out of or in connection with the use, ownership, or
30 maintenance of the common elements.

31 (2) If the insurance described in subsection (1) of this section
32 is not reasonably available, or is modified, canceled, or not
33 renewed, the association promptly shall cause notice of that fact to
34 be provided to each unit owner in accordance with this chapter and
35 hand-delivered or sent prepaid by first-class United States mail ((~~to~~
36 ~~all unit owners,~~)) to each eligible mortgagee((~~7~~)) and to each
37 mortgagee to whom a certificate or memorandum of insurance has been
38 issued at their respective last known addresses. The declaration may
39 require the association to carry any other insurance, and the

1 association in any event may carry any other insurance it deems
2 appropriate to protect the association or the unit owners.

3 (3) Insurance policies carried pursuant to subsection (1) of this
4 section shall provide that:

5 (a) Each unit owner is an insured person under the policy with
6 respect to liability arising out of the owner's interest in the
7 common elements or membership in the association;

8 (b) The insurer waives its right to subrogation under the policy
9 against any unit owner, member of the owner's household, and lessee
10 of the owner;

11 (c) No act or omission by any unit owner, unless acting within
12 the scope of the owner's authority on behalf of the association, will
13 void the policy or be a condition to recovery under the policy; and

14 (d) If, at the time of a loss under the policy, there is other
15 insurance in the name of a unit owner covering the same risk covered
16 by the policy, the association's policy provides primary insurance.

17 (4) Any loss covered by the property insurance under subsection
18 (1)(a) of this section must be adjusted with the association, but the
19 insurance proceeds for that loss are payable to any insurance trustee
20 designated for that purpose, or otherwise to the association, and not
21 to any holder of a mortgage. The insurance trustee or the association
22 shall hold any insurance proceeds in trust for unit owners and
23 lienholders as their interests may appear. Subject to the provisions
24 of subsection (7) of this section, the proceeds must be disbursed
25 first for the repair or restoration of the damaged property, and unit
26 owners and lienholders are not entitled to receive payment of any
27 portion of the proceeds unless there is a surplus of proceeds after
28 the property has been completely repaired or restored or the
29 condominium is terminated.

30 (5) An insurance policy issued to the association does not
31 prevent a unit owner from obtaining insurance for the owner's own
32 benefit.

33 (6) An insurer that has issued an insurance policy under this
34 section shall issue certificates or memoranda of insurance to the
35 association and, upon written request, to any unit owner or holder of
36 a mortgage. The insurer issuing the policy may not modify the amount
37 or the extent of the coverage of the policy or cancel or refuse to
38 renew the policy unless the insurer has complied with all applicable
39 provisions of chapter 48.18 RCW pertaining to the cancellation or
40 nonrenewal of contracts of insurance. The insurer shall not modify

1 the amount or the extent of the coverage of the policy, or cancel or
2 refuse to renew the policy without complying with this section.

3 (7) Any portion of the condominium for which insurance is
4 required under this section which is damaged or destroyed shall be
5 repaired or replaced promptly by the association unless: (a) The
6 condominium is terminated; (b) repair or replacement would be illegal
7 under any state or local health or safety statute or ordinance; or
8 (c) eighty percent of the unit owners, including every owner of a
9 unit or assigned limited common element which will not be rebuilt,
10 vote not to rebuild. The cost of repair or replacement in excess of
11 insurance proceeds and reserves is a common expense. If all of the
12 damaged or destroyed portions of the condominium are not repaired or
13 replaced: (i) The insurance proceeds attributable to the damaged
14 common elements shall be used to restore the damaged area to a
15 condition compatible with the remainder of the condominium; (ii) the
16 insurance proceeds attributable to units and limited common elements
17 which are not rebuilt shall be distributed to the owners of those
18 units and the owners of the units to which those limited common
19 elements were allocated, or to lienholders, as their interests may
20 appear; and (iii) the remainder of the proceeds shall be distributed
21 to all the unit owners or lienholders, as their interests may appear,
22 in proportion to the common element interests of all the units. If
23 the unit owners vote not to rebuild any unit, that unit's allocated
24 interests are automatically reallocated upon the vote as if the unit
25 had been condemned under RCW 64.34.060(1), and the association
26 promptly shall prepare, execute, and record an amendment to the
27 declaration reflecting the reallocations. Notwithstanding the
28 provisions of this subsection, RCW 64.34.268 governs the distribution
29 of insurance proceeds if the condominium is terminated.

30 (8) The provisions of this section may be varied or waived as
31 provided in the declaration if all units of a condominium are
32 restricted to nonresidential use.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.34
34 RCW to read as follows:

35 (1) Notwithstanding any inconsistent provision in the governing
36 documents, notice to the association, board of directors, or any
37 owner or occupant of a unit under this chapter shall be in writing
38 and shall be provided to the recipient by personal delivery, public
39 or private mail or delivery service, or by electronic transmission as

1 provided in this section: PROVIDED, That if this chapter requires
2 different or additional notice requirements for particular
3 circumstances, those requirements shall apply.

4 (2) Notice in a tangible medium shall be provided as follows:

5 (a) Notice to the association or board of directors shall be
6 addressed to the association's registered agent at its registered
7 office, to the association at its principal office shown in its most
8 recent annual report, or to an address provided by the association to
9 the unit owners.

10 (b) Notice to a unit owner or occupant shall be addressed to the
11 unit address unless the unit owner has requested, in a writing
12 delivered to the association, that notices be sent to an alternate
13 address.

14 (3) Notice in an electronic transmission shall be provided as
15 follows:

16 (a) Notice to the association, the board of directors, or unit
17 owners by electronic transmission is effective only upon those who
18 have consented, in writing, to receive electronically transmitted
19 notices under this chapter and have designated the address, location,
20 or system to which such notices may be electronically transmitted,
21 provided that such notice otherwise complies with any other
22 requirements of this chapter and applicable law.

23 (b) Notice under this subsection includes any materials that
24 accompany the notice.

25 (c) Owners who have consented to receipt of electronically
26 transmitted notices may revoke this consent by delivering a
27 revocation to the association in writing.

28 (d) The consent of any owner is revoked if the association is
29 unable to electronically transmit two consecutive notices and this
30 inability becomes known to the secretary of the association or any
31 other person responsible for giving the notice. The inadvertent
32 failure by the association to treat this inability as a revocation
33 does not invalidate any meeting or other action.

34 (e) Notice to unit owners who have consented to receipt of
35 electronically transmitted notices may be provided by posting the
36 notice on an electronic network and delivering to the unit owner
37 separate notice of the posting, together with comprehensible
38 instructions regarding how to obtain access to the posting on the
39 electronic network.

40 (4) Notice is effective as follows:

1 (a) Notice provided in a tangible medium is effective as of the
2 date of hand delivery, deposit with the carrier, or when sent by fax.

3 (b) Notice provided in an electronic transmission is effective as
4 of the date it:

5 (i) Is electronically transmitted to an address, location, or
6 system designated by the recipient for that purpose; or

7 (ii) Has been posted on an electronic network and separate notice
8 of the posting has been sent to the recipient containing instructions
9 regarding how to obtain access to the posting on the electronic
10 network.

11 (5) The ineffectiveness of a good faith effort to deliver notice
12 by an authorized means does not invalidate action taken at or without
13 a meeting.

14 (6) This chapter modifies, limits, and supersedes the federal
15 electronic signatures in global and national commerce act, 15 U.S.C.
16 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.
17 Sec. 7001(c) or authorize electronic delivery of any of the notices
18 described in 15 U.S.C. Sec. 7003(b).

19 **Sec. 9.** RCW 64.38.010 and 2011 c 189 s 7 are each reenacted and
20 amended to read as follows:

21 For purposes of this chapter:

22 (1) "Assessment" means all sums chargeable to an owner by an
23 association in accordance with RCW 64.38.020.

24 (2) "Baseline funding plan" means establishing a reserve funding
25 goal of maintaining a reserve account balance above zero dollars
26 throughout the thirty-year study period described under RCW
27 64.38.065.

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

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

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

35 (6) "Contribution rate" means, in a reserve study as described in
36 RCW (~~64.34.380~~) 64.38.065, the amount contributed to the reserve
37 account so that the association will have cash reserves to pay major
38 maintenance, repair, or replacement costs without the need of a
39 special assessment.

1 (7) "Effective age" means the difference between the estimated
2 useful life and remaining useful life.

3 (8) "Full funding plan" means setting a reserve funding goal of
4 achieving one hundred percent fully funded reserves by the end of the
5 thirty-year study period described under RCW 64.38.065, in which the
6 reserve account balance equals the sum of the deteriorated portion of
7 all reserve components.

8 (9) "Fully funded balance" means the current value of the
9 deteriorated portion, not the total replacement value, of all the
10 reserve components. The fully funded balance for each reserve
11 component is calculated by multiplying the current replacement cost
12 of the reserve component by its effective age, then dividing the
13 result by the reserve component's useful life. The sum total of all
14 reserve components' fully funded balances is the association's fully
15 funded balance.

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

22 (11) "Homeowners' association" or "association" means a
23 corporation, unincorporated association, or other legal entity, each
24 member of which is an owner of residential real property located
25 within the association's jurisdiction, as described in the governing
26 documents, and by virtue of membership or ownership of property is
27 obligated to pay real property taxes, insurance premiums, maintenance
28 costs, or for improvement of real property other than that which is
29 owned by the member. "Homeowners' association" does not mean an
30 association created under chapter 64.32 or 64.34 RCW.

31 (12) "Lot" means a physical portion of the real property located
32 within an association's jurisdiction designated for separate
33 ownership.

34 (13) "Owner" means the owner of a lot, but does not include a
35 person who has an interest in a lot solely as security for an
36 obligation. "Owner" also means the vendee, not the vendor, of a lot
37 under a real estate contract.

38 (14) "Remaining useful life" means the estimated time, in years,
39 before a reserve component will require major maintenance, repair, or
40 replacement to perform its intended function.

1 (15) "Replacement cost" means the current cost of replacing,
2 repairing, or restoring a reserve component to its original
3 functional condition.

4 (16) "Reserve component" means a common element whose cost of
5 maintenance, repair, or replacement is infrequent, significant, and
6 impractical to include in an annual budget.

7 (17) "Reserve study professional" means an independent person who
8 is suitably qualified by knowledge, skill, experience, training, or
9 education to prepare a reserve study in accordance with RCW
10 (~~64.34.380~~) 64.38.065 and (~~64.34.382~~) 64.38.070.

11 (18) "Residential real property" means any real property, the use
12 of which is limited by law, covenant or otherwise to primarily
13 residential or recreational purposes.

14 (19) "Significant assets" means that the current replacement
15 value of the major reserve components is seventy-five percent or more
16 of the gross budget of the association, excluding the association's
17 reserve account funds.

18 (20) "Useful life" means the estimated time, between years, that
19 major maintenance, repair, or replacement is estimated to occur.

20 (21) "Electronic transmission" or "electronically transmitted"
21 means any electronic communication not directly involving the
22 physical transfer of a writing in a tangible medium, but that may be
23 retained, retrieved, and reviewed by the sender and the recipient of
24 the communication, and that may be directly reproduced in a tangible
25 medium by a sender and recipient.

26 (22) "Tangible medium" means a writing, copy of a writing,
27 facsimile, or a physical reproduction, each on paper or on other
28 tangible material.

29 **Sec. 10.** RCW 64.38.035 and 2014 c 20 s 1 are each amended to
30 read as follows:

31 (1) A meeting of the association must be held at least once each
32 year. Special meetings of the association may be called by the
33 president, a majority of the board of directors, or by owners having
34 ten percent of the votes in the association. The association must
35 make available to each owner of record for examination and copying
36 minutes from the previous association meeting not more than sixty
37 days after the meeting. Minutes of the previous association meeting
38 must be approved at the next association meeting in accordance with
39 the association's governing documents.

1 (2) Not less than fourteen nor more than ((sixty)) fifty days in
2 advance of any meeting of the association, the secretary or other
3 officers specified in the bylaws shall ((provide written)) cause
4 notice of the meeting to be provided to each owner ((of record by:

5 ~~(a) Hand-delivery to the mailing address of the owner or other~~
6 ~~address designated in writing by the owner;~~

7 ~~(b) Prepaid first-class United States mail to the mailing address~~
8 ~~of the owner or to any other mailing address designated in writing by~~
9 ~~the owner; or~~

10 ~~(c) Electronic transmission to an address, location, or system~~
11 ~~designated in writing by the owner. Notice to owners by an electronic~~
12 ~~transmission complies with this section only with respect to those~~
13 ~~owners who have delivered to the secretary or other officers~~
14 ~~specified in the bylaws a written record consenting to receive~~
15 ~~electronically transmitted notices. An owner who has consented to~~
16 ~~receipt of electronically transmitted notices may revoke the consent~~
17 ~~at any time by delivering a written record of the revocation to the~~
18 ~~secretary or other officer specified in the bylaws. Consent is deemed~~
19 ~~revoked if the secretary or other officer specified in the bylaws is~~
20 ~~unable to electronically transmit two consecutive notices given in~~
21 ~~accordance with the consent)) in accordance with this chapter.~~

22 (3) The notice of any meeting shall state the time and place of
23 the meeting and the business to be placed on the agenda by the board
24 of directors for a vote by the owners, including the general nature
25 of any proposed amendment to the articles of incorporation, bylaws,
26 any budget or changes in the previously approved budget that result
27 in a change in assessment obligation, and any proposal to remove a
28 director.

29 (4) Except as provided in this subsection, all meetings of the
30 board of directors shall be open for observation by all owners of
31 record and their authorized agents. The board of directors shall keep
32 minutes of all actions taken by the board, which shall be available
33 to all owners. Upon the affirmative vote in open meeting to assemble
34 in closed session, the board of directors may convene in closed
35 executive session to consider personnel matters; consult with legal
36 counsel or consider communications with legal counsel; and discuss
37 likely or pending litigation, matters involving possible violations
38 of the governing documents of the association, and matters involving
39 the possible liability of an owner to the association. The motion
40 shall state specifically the purpose for the closed session.

1 Reference to the motion and the stated purpose for the closed session
2 shall be included in the minutes. The board of directors shall
3 restrict the consideration of matters during the closed portions of
4 meetings only to those purposes specifically exempted and stated in
5 the motion. No motion, or other action adopted, passed, or agreed to
6 in closed session may become effective unless the board of directors,
7 following the closed session, reconvenes in open meeting and votes in
8 the open meeting on such motion, or other action which is reasonably
9 identified. The requirements of this subsection shall not require the
10 disclosure of information in violation of law or which is otherwise
11 exempt from disclosure.

12 (5) Except as otherwise restricted by the governing documents,
13 meetings of the association may be conducted by telephonic, video, or
14 other conferencing process, if: (a) The meeting notice states the
15 conferencing process to be used and provides information explaining
16 how owners may participate in the conference directly or by meeting
17 at a central location or conference connection; and (b) the process
18 provides all owners the opportunity to hear or perceive the
19 discussion and to comment.

20 NEW SECTION. Sec. 11. A new section is added to chapter 64.38
21 RCW to read as follows:

22 (1) Notwithstanding any inconsistent provision in the governing
23 documents, notice to the association of apartment owners, board, or
24 any apartment owner or occupant of an apartment under this chapter
25 shall be in writing and shall be provided to the recipient by
26 personal delivery, public or private mail or delivery service, or by
27 electronic transmission as provided in this section: PROVIDED, That
28 if this chapter requires different or additional notice requirements
29 for particular circumstances, those requirements shall apply.

30 (2) Notice in a tangible medium shall be provided as follows:

31 (a) Notice to the association or board shall be addressed to the
32 association's registered agent at its registered office, to the
33 association at its principal office shown in its most recent annual
34 report, or to an address provided by the association to the apartment
35 owners.

36 (b) Notice to a lot owner or occupant shall be addressed to the
37 lot address unless the owner has requested, in a writing delivered to
38 the association, that notices be sent to an alternate address.

1 (3) Notice in an electronic transmission shall be provided as
2 follows:

3 (a) Notice to the association, the board, or lot owners by
4 electronic transmission is effective only upon those who have
5 consented, in writing, to receive electronically transmitted notices
6 under this chapter and have designated the address, location, or
7 system to which such notices may be electronically transmitted,
8 provided that such notice otherwise complies with any other
9 requirements of this chapter and applicable law.

10 (b) Notice under this subsection includes any materials that
11 accompany the notice.

12 (c) Owners who have consented to receipt of electronically
13 transmitted notices may revoke this consent by delivering a
14 revocation to the association in writing.

15 (d) The consent of any lot owner is revoked if the association is
16 unable to electronically transmit two consecutive notices and this
17 inability becomes known to the secretary of the association of
18 apartment owners or any other person responsible for giving the
19 notice. The inadvertent failure by the association of apartment
20 owners to treat this inability as a revocation does not invalidate
21 any meeting or other action.

22 (e) Notice to lot owners who have consented to receipt of
23 electronically transmitted notices may be provided by posting the
24 notice on an electronic network and delivering to the owner separate
25 notice of the posting, together with comprehensible instructions
26 regarding how to obtain access to the posting on the electronic
27 network.

28 (4) Notice is effective as follows:

29 (a) Notice provided in a tangible medium is effective as of the
30 date of hand delivery, deposit with the carrier, or when sent by fax.

31 (b) Notice provided in an electronic transmission is effective as
32 of the date it:

33 (i) Is electronically transmitted to an address, location, or
34 system designated by the recipient for that purpose; or

35 (ii) Has been posted on an electronic network and separate notice
36 of the posting has been sent to the recipient containing instructions
37 regarding how to obtain access to the posting on the electronic
38 network.

1 (5) The ineffectiveness of a good faith effort to deliver notice
2 by an authorized means does not invalidate action taken at or without
3 a meeting.

4 (6) This chapter modifies, limits, and supersedes the federal
5 electronic signatures in global and national commerce act, 15 U.S.C.
6 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.
7 Sec. 7001(c) or authorize electronic delivery of any of the notices
8 described in 15 U.S.C. Sec. 7003(b).

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38
10 RCW to read as follows:

11 (1) Owners may vote at a meeting in person, by absentee ballot
12 pursuant to subsection (3)(d) of this section, or by a proxy pursuant
13 to subsection (5) of this section.

14 (2) When a vote is conducted without a meeting, owners may vote
15 by ballot pursuant to subsection (6) of this section.

16 (3) At a meeting of owners the following requirements apply:

17 (a) Owners or their proxies who are present in person may vote by
18 voice vote, show of hands, standing, written ballot, or any other
19 method for determining the votes of owners, as designated by the
20 person presiding at the meeting.

21 (b) If only one of several owners of a lot is present, that lot
22 owner is entitled to cast all the votes allocated to that lot. If
23 more than one of the lot owners are present, the votes allocated to
24 that lot may be cast only in accordance with the agreement of a
25 majority in interest of the lot owners, unless the declaration
26 expressly provides otherwise. There is a majority agreement if any
27 one of the lot owners casts the votes allocated to the lot without
28 protest being made promptly to the person presiding over the meeting
29 by any of the other lot owners of the lot.

30 (c) Unless a greater number or fraction of the votes in the
31 association is required under this chapter or the declaration or
32 organizational documents, a majority of the votes cast determines the
33 outcome of any action of the association.

34 (d) Whenever proposals or board members are to be voted upon at a
35 meeting, an owner may vote by duly executed absentee ballot if:

36 (i) The name of each candidate and the text of each proposal to
37 be voted upon are set forth in a writing accompanying or contained in
38 the notice of meeting; and

39 (ii) A ballot is provided by the association for such purpose.

1 (4) When an owner votes by absentee ballot, the association must
2 be able to verify that the ballot is cast by the owner having the
3 right to do so.

4 (5) Except as provided otherwise in the declaration or
5 organizational documents, the following requirements apply with
6 respect to proxy voting:

7 (a) Votes allocated to a lot may be cast pursuant to a directed
8 or undirected proxy duly executed by a lot owner in the same manner
9 as provided in RCW 24.06.110.

10 (b) If a lot is owned by more than one person, each lot owner of
11 the lot may vote or register protest to the casting of votes by the
12 other lot owners of the lot through a duly executed proxy.

13 (c) An owner may revoke a proxy given pursuant to this section
14 only by actual notice of revocation to the secretary or the person
15 presiding over a meeting of the association or by delivery of a
16 subsequent proxy. The death or disability of an owner does not revoke
17 a proxy given by the owner unless the person presiding over the
18 meeting has actual notice of the death or disability.

19 (d) A proxy is void if it is not dated or purports to be
20 revocable without notice.

21 (e) Unless stated otherwise in the proxy, a proxy terminates
22 eleven months after its date of issuance.

23 (6) Unless prohibited or limited by the declaration or
24 organizational documents, an association may conduct a vote without a
25 meeting. In that event, the following requirements apply:

26 (a) The association must notify the owners that the vote will be
27 taken by ballot.

28 (b) The notice must state:

29 (i) The time and date by which a ballot must be delivered to the
30 association to be counted, which may not be fewer than fourteen days
31 after the date of the notice, and which deadline may be extended in
32 accordance with (g) of this subsection;

33 (ii) The percent of votes necessary to meet the quorum
34 requirements;

35 (iii) The percent of votes necessary to approve each matter other
36 than election of board members; and

37 (iv) The time, date, and manner by which owners wishing to
38 deliver information to all owners regarding the subject of the vote
39 may do so.

1 (c) The association must deliver a ballot to every owner with the
2 notice.

3 (d) The ballot must set forth each proposed action and provide an
4 opportunity to vote for or against the action.

5 (e) A ballot cast pursuant to this section may be revoked only by
6 actual notice to the association of revocation. The death or
7 disability of an owner does not revoke a ballot unless the
8 association has actual notice of the death or disability prior to the
9 date set forth in (b) (i) of this subsection.

10 (f) Approval by ballot pursuant to this subsection is valid only
11 if the number of votes cast by ballot equals or exceeds the quorum
12 required to be present at a meeting authorizing the action.

13 (g) If the association does not receive a sufficient number of
14 votes to constitute a quorum or to approve the proposal by the date
15 and time established for return of ballots, the board may extend the
16 deadline for a reasonable period not to exceed eleven months upon
17 further notice to all members in accordance with (b) of this
18 subsection. In that event, all votes previously cast on the proposal
19 must be counted unless subsequently revoked as provided in this
20 section.

21 (h) A ballot or revocation is not effective until received by the
22 association.

23 (i) The association must give notice to owners of any action
24 taken pursuant to this subsection within a reasonable time after the
25 action is taken.

26 (j) When an action is taken pursuant to this subsection, a record
27 of the action, including the ballots or a report of the persons
28 appointed to tabulate such ballots, must be kept with the minutes of
29 meetings of the association.

30 (7) If the governing documents require that votes on specified
31 matters affecting the common interest community be cast by lessees
32 rather than owners of leased lots:

33 (a) This section applies to lessees as if they were owners;

34 (b) Owners that have leased their lots to other persons may not
35 cast votes on those specified matters; and

36 (c) Lessees are entitled to notice of meetings, access to
37 records, and other rights respecting those matters as if they were
38 owners.

1 (8) Owners must also be given notice, in the manner provided in
2 section 11 of this act, of all meetings at which lessees may be
3 entitled to vote.

4 (9) In any vote of the lot owners, votes allocated to a lot owned
5 by the association must be cast in the same proportion as the votes
6 cast on the matter by lot owners other than the association.

7 **Sec. 13.** RCW 64.90.445 and 2019 c 238 s 210 are each amended to
8 read as follows:

9 (1) The following requirements apply to unit owner meetings:

10 (a) A meeting of the association must be held at least once each
11 year. Failure to hold an annual meeting does not cause a forfeiture
12 or give cause for dissolution of the association and does not affect
13 otherwise valid association acts.

14 (b) (i) An association must hold a special meeting of unit owners
15 to address any matter affecting the common interest community or the
16 association if its president, a majority of the board, or unit owners
17 having at least twenty percent, or any lower percentage specified in
18 the organizational documents, of the votes in the association request
19 that the secretary call the meeting.

20 (ii) If the association does not provide notice to unit owners of
21 a special meeting within thirty days after the requisite number or
22 percentage of unit owners request the secretary to do so, the
23 requesting members may directly provide notice to all the unit owners
24 of the meeting. Only matters described in the meeting notice required
25 in (c) of this subsection may be considered at a special meeting.

26 (c) An association must provide notice to unit owners of the
27 time, date, and place of each annual and special unit owners meeting
28 not less than fourteen days and not more than fifty days before the
29 meeting date. Notice may be by any means described in RCW 64.90.515.
30 The notice of any meeting must state the time, date, and place of the
31 meeting and the items on the agenda, including:

32 (i) The text of any proposed amendment to the declaration or
33 organizational documents;

34 (ii) Any changes in the previously approved budget that result in
35 a change in the assessment obligations; and

36 (iii) Any proposal to remove a board member or officer.

37 (d) The minimum time to provide notice required in (c) of this
38 subsection may be reduced or waived for a meeting called to deal with
39 an emergency.

1 (e) Unit owners must be given a reasonable opportunity at any
2 meeting to comment regarding any matter affecting the common interest
3 community or the association.

4 (f) ~~((The))~~ Except as otherwise restricted by the declaration or
5 organizational documents ~~((may allow for))~~, meetings of unit owners
6 ~~((to))~~ may be conducted by telephonic, video, or other conferencing
7 process, if the process is consistent with subsection (2)(i) of this
8 section.

9 (2) The following requirements apply to meetings of the board and
10 committees authorized to act for the board:

11 (a) Meetings must be open to the unit owners except during
12 executive sessions, but the board may expel or prohibit attendance by
13 any person who, after warning by the chair of the meeting, disrupts
14 the meeting. The board and those committees may hold an executive
15 session only during a regular or special meeting of the board or a
16 committee. A final vote or action may not be taken during an
17 executive session.

18 (b) An executive session may be held only to:

19 (i) Consult with the association's attorney concerning legal
20 matters;

21 (ii) Discuss existing or potential litigation or mediation,
22 arbitration, or administrative proceedings;

23 (iii) Discuss labor or personnel matters;

24 (iv) Discuss contracts, leases, and other commercial transactions
25 to purchase or provide goods or services currently being negotiated,
26 including the review of bids or proposals, if premature general
27 knowledge of those matters would place the association at a
28 disadvantage; or

29 (v) Prevent public knowledge of the matter to be discussed if the
30 board or committee determines that public knowledge would violate the
31 privacy of any person.

32 (c) For purposes of this subsection, a gathering of members of
33 the board or committees at which the board or committee members do
34 not conduct association business is not a meeting of the board or
35 committee. Board members and committee members may not use incidental
36 or social gatherings to evade the open meeting requirements of this
37 subsection.

38 (d) During the period of declarant control, the board must meet
39 at least four times a year. At least one of those meetings must be
40 held at the common interest community or at a place convenient to the

1 community. After the transition meeting, all board meetings must be
2 at the common interest community or at a place convenient to the
3 common interest community unless the unit owners amend the bylaws to
4 vary the location of those meetings.

5 (e) At each board meeting, the board must provide a reasonable
6 opportunity for unit owners to comment regarding matters affecting
7 the common interest community and the association.

8 (f) Unless the meeting is included in a schedule given to the
9 unit owners or the meeting is called to deal with an emergency, the
10 secretary or other officer specified in the organizational documents
11 must provide notice of each board meeting to each board member and to
12 the unit owners. The notice must be given at least fourteen days
13 before the meeting and must state the time, date, place, and agenda
14 of the meeting.

15 (g) If any materials are distributed to the board before the
16 meeting, the board must make copies of those materials reasonably
17 available to the unit owners, except that the board need not make
18 available copies of unapproved minutes or materials that are to be
19 considered in executive session.

20 (h) Unless the organizational documents provide otherwise, fewer
21 than all board members may participate in a regular or special
22 meeting by or conduct a meeting through the use of any means of
23 communication by which all board members participating can hear each
24 other during the meeting. A board member participating in a meeting
25 by these means is deemed to be present in person at the meeting.

26 (i) Unless the organizational documents provide otherwise, the
27 board may meet by participation of all board members by telephonic,
28 video, or other conferencing process if:

29 (i) The meeting notice states the conferencing process to be used
30 and provides information explaining how unit owners may participate
31 in the conference directly or by meeting at a central location or
32 conference connection; and

33 (ii) The process provides all unit owners the opportunity to hear
34 or perceive the discussion and to comment as provided in (e) of this
35 subsection.

36 (j) After the transition meeting, unit owners may amend the
37 organizational documents to vary the procedures for meetings
38 described in (i) of this subsection.

39 (k) Instead of meeting, the board may act by unanimous consent as
40 documented in a record by all its members. Actions taken by unanimous

1 consent must be kept as a record of the association with the meeting
2 minutes. After the transition meeting, the board may act by unanimous
3 consent only to undertake ministerial actions, actions subject to
4 ratification by the unit owners, or to implement actions previously
5 taken at a meeting of the board.

6 (l) A board member who is present at a board meeting at which any
7 action is taken is presumed to have assented to the action taken
8 unless the board member's dissent or abstention to such action is
9 lodged with the person acting as the secretary of the meeting before
10 adjournment of the meeting or provided in a record to the secretary
11 of the association immediately after adjournment of the meeting. The
12 right to dissent or abstain does not apply to a board member who
13 voted in favor of such action at the meeting.

14 (m) A board member may not vote by proxy or absentee ballot.

15 (n) Even if an action by the board is not in compliance with this
16 section, it is valid unless set aside by a court. A challenge to the
17 validity of an action of the board for failure to comply with this
18 section may not be brought more than ninety days after the minutes of
19 the board of the meeting at which the action was taken are approved
20 or the record of that action is distributed to unit owners, whichever
21 is later.

22 (3) Minutes of all unit owner meetings and board meetings,
23 excluding executive sessions, must be maintained in a record. The
24 decision on each matter voted upon at a board meeting or unit owner
25 meeting must be recorded in the minutes.

Passed by the Senate April 14, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 10, 2021.

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