**1199 AMS LAW S2234.2 - NOT FOR FLOOR USE**

**HB 1199** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/06/2023**

Strike everything after the enacting clause and insert the following:

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

(1) An association of apartment owners may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of an apartment as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits an association of apartment owners from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other apartments within the same association as the family home child care or the child day care center.

(b) An association may require that only an apartment with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building or through publicly accessible common areas and facilities.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of an apartment within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common areas and facilities that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) An association of apartment owners that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

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

(1) A unit owners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a unit as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a unit owners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other units within the same association as the family home child care or the child day care center.

(b) An association may require that only a unit with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building or through publicly accessible common elements.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a unit within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common elements that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A unit owners' association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

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

(1) A homeowners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a lot as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a homeowners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other lots within the same association as the family home child care or the child day care center.

(b) An association may require that only a lot with direct access may be used as a family home child care or child day care center. Direct access must be through publicly accessible common areas.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a lot within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common areas that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A homeowners' association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec.**  A new section is added to chapter 64.90 RCW to read as follows:

(1) A unit owners association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a unit as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a unit owners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other units within the same association as the family home child care or the child day care center.

(b) An association may require that only a unit with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building if the common interest community is in a building, or through publicly accessible common elements.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a unit within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common elements that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A unit owners association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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**ADOPTED 04/06/2023**

On page 1, line 2 of the title, after "communities;" strike the remainder of the title and insert "adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; prescribing penalties; and declaring an emergency."

EFFECT: (1) Permits a common interest community association to require direct access to a unit in order for the unit to be used as a family home child care or child day care center.

(2) Establishes that direct access must be either from the outside of a building if a common interest community is in a building, or through publicly accessible common elements.

(3) Permits an association to require that a family home child care or a child day care center operating out of a unit be licensed by the Department of Children, Youth, and Families; indemnify the association against all claims related to the family home child care or child day care center except for claims that arise in common elements that the association is solely responsible for maintaining under the governing documents; obtain signed waivers from parents, guardians, or caretakers of each child being cared for that releases the association from legal claims related to the operation of the family home child care or child day care center; and obtain day care insurance or provide self-insurance.

(4) Changes the effective date of the act to take effect immediately.