CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1043**

Chapter 409, Laws of 2023

68th Legislature

2023 Regular Session

COMMON INTEREST COMMUNITIES—RECORDS

EFFECTIVE DATE: July 23, 2023

|  |  |
| --- | --- |
| Passed by the House April 14, 2023  Yeas 96 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate April 11, 2023  Yeas 49 Nays 0  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1043** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved May 11, 2023 9:36 AM | May 11, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1043**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Housing (originally sponsored by Representatives McEntire, Leavitt, and Walsh)

AN ACT Relating to association records in common interest communities; and amending RCW 64.32.170, 64.34.372, 64.38.045, and 64.90.495.

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

**Sec.**  RCW 64.32.170 and 1965 ex.s. c 11 s 5 are each amended to read as follows:

((~~The manager or board of directors, as the case may be, shall keep complete and accurate books and records of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such books and records and the vouchers authorizing payments shall be available for examination by the apartment owners, their agents or attorneys, at any reasonable time or times.~~)) (1) An association of apartment owners must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its apartment owners and board other than executive sessions, a record of all actions taken by the apartment owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current apartment owners, addresses used by the association to communicate with them, and the number of votes allocated to each apartment;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to apartment owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by apartment owners for one year after the election, action, or vote to which they relate.

(2)(a) Subject to subsections (3) through (5) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association of apartment owners must be made available for examination and copying by all apartment owners, holders of mortgages on the apartments, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of apartment owners required to be retained by an association under subsection (1)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the apartments.

(3) Records retained by an association of apartment owners must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual apartment files other than those of the requesting apartment owner;

(i) Unlisted telephone number or electronic address of any apartment owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(4) In addition to the requirements in subsection (3) of this section, an association of apartment owners must, prior to disclosure of the list of apartment owners required to be retained by an association under subsection (1)(c) of this section, redact or otherwise remove the address of any apartment owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(5)(a) Except as provided in (b) of this subsection, an association of apartment owners may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the apartment owner's inspection.

(b) An apartment owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (1)(c) of this section from the association.

(6) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the apartment owner.

(7) An association of apartment owners is not obligated to compile or synthesize information.

(8) Information provided pursuant to this section may not be used for commercial purposes.

(9) An association of apartment owner's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(10) All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

(11) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

**Sec.**  RCW 64.34.372 and 1992 c 220 s 19 are each amended to read as follows:

(1) The association shall keep financial records sufficiently detailed to enable the association to comply with RCW 64.34.425. All financial and other records of the association, including but not limited to checks, bank records, and invoices, are the property of the association((~~, but shall be made reasonably available for examination and copying by the manager of the association, any unit owner, or the owner's authorized agents~~)). At least annually, the association shall prepare, or cause to be prepared, a financial statement of the association in accordance with generally accepted accounting principles. The financial statements of condominiums consisting of ((~~fifty~~)) 50 or more units shall be audited at least annually by a certified public accountant. In the case of a condominium consisting of fewer than ((~~fifty~~)) 50 units, an annual audit is also required but may be waived annually by unit owners other than the declarant of units to which ((~~sixty~~)) 60 percent of the votes are allocated, excluding the votes allocated to units owned by the declarant.

(2) The funds of an association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any manager of the association or any other person responsible for the custody of such funds. Any reserve funds of an association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the association.

(3) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its unit owners and board other than executive sessions, a record of all actions taken by the unit owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to unit owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate.

(4)(a) Subject to subsections (5) through (7) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all unit owners, holders of mortgages on the units, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of unit owners required to be retained by an association under subsection (3)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the units.

(5) Records retained by an association must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual unit files other than those of the requesting unit owner;

(i) Unlisted telephone number or electronic address of any unit owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(6) In addition to the requirements in subsection (5) of this section, an association must, prior to disclosure of the list of unit owners required to be retained by an association under subsection (3)(c) of this section, redact or otherwise remove the address of any unit owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(7)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the unit owner's inspection.

(b) A unit owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (3)(c) of this section from the association.

(8) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the unit owner.

(9) An association is not obligated to compile or synthesize information.

(10) Information provided pursuant to this section may not be used for commercial purposes.

(11) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(12) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

**Sec.**  RCW 64.38.045 and 1995 c 283 s 9 are each amended to read as follows:

(1) The association or its managing agent shall keep financial and other records sufficiently detailed to enable the association to fully declare to each owner the true statement of its financial status. All financial and other records of the association, including but not limited to checks, bank records, and invoices, in whatever form they are kept, are the property of the association. Each association managing agent shall turn over all original books and records to the association immediately upon termination of the management relationship with the association, or upon such other demand as is made by the board of directors. An association managing agent is entitled to keep copies of association records. All records which the managing agent has turned over to the association shall be made reasonably available for the examination and copying by the managing agent.

(2) ((~~All records of the association, including the names and addresses of owners and other occupants of the lots, shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent. The association shall not release the unlisted telephone number of any owner. The association may impose and collect a reasonable charge for copies and any reasonable costs incurred by the association in providing access to records.~~

~~(3)~~)) At least annually, the association shall prepare, or cause to be prepared, a financial statement of the association. The financial statements of associations with annual assessments of ((~~fifty thousand dollars~~)) $50,000 or more shall be audited at least annually by an independent certified public accountant, but the audit may be waived if ((~~sixty-seven~~)) 67 percent of the votes cast by owners, in person or by proxy, at a meeting of the association at which a quorum is present, vote each year to waive the audit.

((~~(4)~~)) (3) The funds of the association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any manager of the association or any other person responsible for the custody of such funds.

(4) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its owners and board other than executive sessions, a record of all actions taken by the owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current owners, addresses used by the association to communicate with them, and the number of votes allocated to each lot;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by owners for one year after the election, action, or vote to which they relate.

(5)(a) Subject to subsections (6) through (8) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all owners, holders of mortgages on the lots, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of owners required to be retained by an association under subsection (4)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the lots.

(6) Records retained by an association must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual lot files other than those of the requesting owner;

(i) Unlisted telephone number or electronic address of any owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(7) In addition to the requirements in subsection (6) of this section, an association must, prior to disclosure of the list of owners required to be retained by an association under subsection (4)(c) of this section, redact or otherwise remove the address of any owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(8)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the owner's inspection.

(b) An owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (4)(c) of this section from the association.

(9) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the owner.

(10) An association is not obligated to compile or synthesize information.

(11) Information provided pursuant to this section may not be used for commercial purposes.

(12) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(13) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

**Sec.**  RCW 64.90.495 and 2018 c 277 s 320 are each amended to read as follows:

(1) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its unit owners and board other than executive sessions, a record of all actions taken by the unit owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Financial and other records sufficiently detailed to enable the association to comply with RCW 64.90.640;

(i) Copies of contracts to which it is or was a party within the last seven years;

(j) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(k) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(l) Copies of insurance policies under which the association is a named insured;

(m) Any current warranties provided to the association;

(n) Copies of all notices provided to unit owners or the association in accordance with this chapter or the governing documents; and

(o) Ballots, proxies, absentee ballots, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate.

(2)(a) Subject to subsections (3) ((~~and (4)~~)) through (5) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all unit owners, holders of mortgages on the units, and their respective authorized agents as follows, unless agreed otherwise:

((~~(a)~~)) (i) During reasonable business hours or at a mutually convenient time and location; and

((~~(b)~~)) (ii) At the offices of the association or its managing agent.

(b) The list of unit owners required to be retained by an association under subsection (1)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the units.

(3) Records retained by an association ((~~may be withheld from inspection and copying to the extent that they concern~~)) must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual unit files other than those of the requesting unit owner;

(i) Unlisted telephone number or electronic address of any unit owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(4) In addition to the requirements in subsection (3) of this section, an association must, prior to disclosure of the list of unit owners required to be retained by an association under subsection (1)(c) of this section, redact or otherwise remove the address of any unit owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

((~~An~~)) (5)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the unit owner's inspection.

(b) A unit owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (1)(c) of this section from the association.

((~~(5)~~)) (6) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the unit owner.

((~~(6)~~)) (7) An association is not obligated to compile or synthesize information.

((~~(7)~~)) (8) Information provided pursuant to this section may not be used for commercial purposes.

((~~(8)~~)) (9) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

**--- END ---**

Passed by the House April 14, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 11, 2023.

Filed in Office of Secretary of State May 11, 2023.