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## Housing Committee

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### ESSB 5973

**Brief Description:** Concerning heat pumps in common interest communities.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Liias, Nguyen, Kuderer, Mullet, Nobles, Shewmake and Valdez).

#### Brief Summary of Engrossed Substitute Bill

- Specifies requirements for an apartment, condominium unit, or homeowners' association (Association) regarding heat pump installation by property owners, including application fees, processing, and approval timeline.
- Allows apartment, condominium unit, or homeowner (Owner) to install or remove a heat pump, subject to certain costs and restrictions.
- Requires an Association to compensate an Owner for actual damages, \$1,000 civil penalty, and attorney fees for willful violation of heat pump requirements.

**Hearing Date:** 2/14/24

**Staff:** Martha Wehling (786-7067).

#### **Background:**

##### Common Interest Communities.

A common interest community (CIC) is a form of real estate in which the property owner has an exclusive interest in a unit or lot, and a shared or undivided interest in common area property. Several statutes govern different types of residential CICs, including the Horizontal Property Regimes Act, Condominium Act, Homeowners' Associations, and the Washington Uniform Common Interest Ownership Act.

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Any CICs created on or after July 1, 2018, are governed by the Washington Uniform Common Interest Ownership Act. A CIC created before July 1, 2018, may amend its declarations to be governed by the Washington Uniform Common Interest Ownership Act.

#### Common Interest Communities Management and Duties.

A CIC is administered by an association. The association's authority is derived from the declaration of covenants, conditions, and restrictions (also known as CC&Rs), bylaws and articles of incorporation, and the deeds to the property. The association manages and maintains common areas for the benefit of the community, imposing and collecting assessments on owners, and enforcing the restrictive covenants that govern the community. An association may adopt rules and regulations governing property use and may impose fines for violations.

#### Heat Pumps.

Heat pumps use electricity to transfer heat in order to cool or heat an area. There are three types of heat pumps connected by ducts: air-to-air, water source, and geothermal. The most common type of heat pump is an air-source heat pump, which transfers heat between a home and the outside air. A mini-split heat pump is a type of heat pump that can be used for buildings without ducts.

#### **Summary of Bill:**

##### Association Authority for Heat Pump Installation.

Associations of apartment owners, unit owners' associations, homeowners' associations, and unit owners' associations created after July 1, 2018, (collectively, "Associations") may not adopt or enforce any limitation that would prohibit or restrict the installation of a heat pump. A "heat pump" is a heating or refrigerating system which is used to cool or heat by receiving the flow of air or other fluid.

##### Restrictions on and Applications for Heat Pumps.

Associations may impose reasonable restrictions on heat pumps, including requiring an application for approval of heat pump installation. A "reasonable restriction" is a restriction that does not significantly increase the cost of the heat pump or significantly decrease its efficiency or performance.

Associations may not assess or charge the apartment, unit, or homeowner (collectively, "Owner") a fee for heat pump installation. Any heat pump application must be processed and approved like an architectural modification. The Association may charge a reasonable fee to process the application, but only if a similar fee exists for architectural modifications.

Denial of an application must be in writing and not willfully delayed. Failure to act on an application within 60 days is deemed approval of the application, unless there is a reasonable request for additional information.

##### Installation, Maintenance, and Removal of Heat Pump.

When approval is required, the Association must approve the installation if the Owner agrees in writing to comply with reasonable architectural standards and engage a contractor familiar with installation standards. The Owner and successive owners are responsible for the costs of installation, maintenance, repair, and replacement, as well as costs for damage resulting from the heat pump.

The Owner must obtain all permits or approvals required by the local government and comply with all building codes and safety standards. The heat pump must meet all health and safety standards.

A heat pump may be removed by the Owner, at the Owner's expense, if it can be removed without damage to the property. The Owner is also responsible for costs to restore common areas.

Penalties.

Willful violation of the requirements subject the Association to actual damages, as well as a civil penalty of \$1,000 or less, paid to the Owner. The Association is also liable for the Owner's attorney fees and costs.

Contingent Expiration.

The provisions relating to associations of apartment owners, unit owners' associations, and homeowners' associations expire on January 1, 2028, if SB 5796, concerning CICs, is enacted by June 30, 2024. The provision relating to unit owners' associations created after July 1, 2018, the Washington Uniform Common Interest Ownership Act, does not expire.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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