

SENATE BILL REPORT

SHB 1043

As Reported by Senate Committee On:
Law & Justice, March 22, 2023

Title: An act relating to association records in common interest communities.

Brief Description: Concerning association records in common interest communities.

Sponsors: House Committee on Housing (originally sponsored by Representatives McEntire, Leavitt and Walsh).

Brief History: Passed House: 2/13/23, 96-0.

Committee Activity: Law & Justice: 3/20/23, 3/22/23 [DPA].

Brief Summary of Amended Bill

- Amends all common interest community association recordkeeping and disclosure requirements and aligns such requirements with the Washington Uniform Common Interest Ownership Act.
- Requires associations to redact or otherwise remove certain information from association records prior to disclosure.
- Allows unit owners of common interest communities to receive a free annual electronic or paper copy of the list of unit owners retained by a common interest community.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Ryan Giannini (786-7285)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Common Interest Communities. A common interest community (CIC) is a form of real estate in which each unit owner or homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. In Washington, several statutes govern residential CICs, such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities.

The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created on or after that date. A CIC created prior to the effective date of the WUCIOA may choose to opt in to the WUCIOA.

Otherwise, CICs created before July 1, 2018, typically are regulated by their governing documents and remain subject to the following acts:

- the Horizontal Property Regimes Act (HPRA), which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act (WCA), which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act (HOAA), which provides a framework for the formation and legal administration of homeowners' associations created before July 1, 2018.

Association Duties and Powers. A CIC is administered by an association of unit owners or a homeowners' association—an organization consisting of property owners and homeowners within the CIC. An association derives its authority from several documents, including the declaration of covenants, conditions, and restrictions; the association's bylaws and articles of incorporation; and the deeds to the property within a development.

Recordkeeping Requirements. *General.* All acts governing CICs contain association recordkeeping requirements, but only the WUCIOA and the HOAA contain a requirement to keep a list of the names and addresses of unit owners.

Recordkeeping under the Washington Uniform Common Interest Ownership Act. An association subject to the WUCIOA must retain the following records:

- its current budget, detailed records of receipts and expenditures, and other accounting records within the last seven years;
- minutes of meetings;
- names of current unit owners, including addresses used by the association to communicate with them, and the number of votes allocated to each unit;
- all financial statements and tax returns of the association for the past seven years;
- a list of the names and addresses of its current board members and officers;
- its most recent annual report delivered to the secretary of state, if any;
- financial and other records to enable the company to provide relevant information pertaining to unit resale certificates;
- copies of contracts that the association was a party to within the last seven years;
- materials relied upon by the board related to design or architectural approval for

- seven years;
- materials relied upon by the board concerning a decision to enforce the government documents for seven years;
- copies of insurance policies;
- current warranties provided to the association;
- copies of all notices provided to unit owners or the association; and
- ballots and other records related to voting by unit owners for one year.

An association must make the records available for examination and copying by all unit owners, unit mortgage holders, and their respective authorized agents during reasonable business hours or at a mutually convenient time and location, and at the offices of the association or its managing agent.

An association may withhold certain records from inspection and copying to the extent that the records concern certain subjects, such as information the disclosure of which would violate a court order or law, records of an executive session of the board, unlisted telephone number or electronic address of any unit owner or resident, or agreements that for good cause prohibit disclosure to the members.

Information that an association provides for examination and copying by unit owners may not be used for commercial purposes.

An association may charge a reasonable fee for producing and providing copies of records and for supervising inspection of records. The right to copy records includes the right to receive copies by photocopying or other means, including through electronic transmission if available upon request by the unit owner. An association is not obligated to compile or synthesize information.

Summary of Amended Bill: Recordkeeping Requirements. An association of unit owners in any CIC, regardless of the governing act, must follow the recordkeeping requirements of the WUCIOA.

Lists of unit owners are not required to be made available to holders of mortgages on the units, or their respective authorized agents. All unit owners are entitled to receive a free annual electronic or paper copy of unit owner lists from their association.

Instead of withholding records from inspection and copying, associations must redact certain information or otherwise remove such information from association records prior to disclosure.

An association must redact or otherwise remove the address of any unit owner or resident who is known to the association to be a participant in an address confidentiality program from a list of unit owners prior to disclosure of the list.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Requires all common interest communities to follow the recordkeeping requirements under the Washington Uniform Common Interest Ownership Act (WUCIOA) for all records in the possession of the association on the effective date of the act, and created or maintained by the association after the effective date of the act.
- Exempts associations from liability for records disposed of prior to the effective date of the act.
- Allows unit owners of common interest communities to receive a free annual electronic or paper copy of the list of unit owners retained by the common interest community association.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This legislation will require that common interest communities have a directory of owners, regardless of the type of common interest community or when the common interest community was established. Frequently, groups of people take over boards of homeowners' associations (HOAs) to benefit themselves at the expense of other members. These groups have control over all communication methods, and deny use of such methods to others. The directory will ensure that it is free and fair for everybody in a common interest community to participate in elections and allow people an opportunity to campaign to make the changes they want in their common interest community. The bill should be amended further to better align with the disclosure requirements of the Washington Uniform Common Interest Ownership Act and to include email addresses in the information that needs to be disclosed in the list of unit owners.

Persons Testifying: PRO: Representative Joel McEntire, Prime Sponsor; Steve Horvath, Condo Connection; Patrick Johansen, RiseUpWA, Housing Justice Committee.

Persons Signed In To Testify But Not Testifying: No one.