

SENATE BILL REPORT

SHB 1043

As of March 20, 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.

Brief Summary of Bill

- Amends common interest community association recordkeeping and disclosure requirements for lists of unit owners.
- Amends disclosure requirements for other association records for associations subject to the Washington Uniform Common Interest Ownership Act.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

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

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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, among other records, the names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit.

As with other association records, an association must make the list of unit owners 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.

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 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.

Summary of Bill: Recordkeeping Requirements. *Recordkeeping under the Homeowners' Association Act, the Washington Condominium Act, and the Horizontal Property Regimes Act.* An association of unit owners in a CIC subject to the HOAA, the WCA, or the HPRA, must keep a complete and accurate list of unit owners, including the names of the current unit owners, addresses used for communication, and the number of votes allocated to each unit.

An association must make the list of unit owners available for examination and copying by all unit owners and their 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.

Lists of unit owners provided by an association subject to the WCA or HPRA, and information that an association subject to the HOAA provides for examination and copying, may not be used for commercial purposes.

An association subject to the WCA or HPRA providing a list of unit owners, and an association subject to the HOAA providing information for examination and copying, is not obligated to compile or synthesize information.

An association may charge a reasonable fee for producing and providing copies of the list of unit owners and for supervising inspection of the list. The right to copy the list of unit owners 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 must redact or otherwise remove the following information from the list of unit owners prior to disclosure of the list:

- the unlisted telephone number or electronic address of a unit owner or resident;
- the address of a unit owner or resident who is known to the association to participate in an address confidentiality program;
- agreements that for good cause prohibit disclosure; or
- information the disclosure of which would violate a law or a court order.

Recordkeeping under the Washington Uniform Common Interest Ownership Act. Lists of unit owners are not required to be made available to holders of mortgages on the units, or their respective authorized agents.

An association 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 the list of unit owners prior to disclosure of the list.

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: 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.