

SENATE BILL REPORT

HB 1054

As Reported by Senate Committee On:
Law & Justice, February 15, 2024

Title: An act relating to the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons.

Brief Description: Addressing the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons.

Sponsors: Representatives Walen, Simmons, Ryu, Bateman, Ramel, Doglio, Macri, Gregerson, Springer, Thai, Kloba and Donaghy.

Brief History: Passed House: 1/22/24, 68-29.

Committee Activity: Law & Justice: 3/09/23, 3/22/23 [DPA, DNP, w/oRec]; 1/30/24, 2/15/24 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Prohibits an association of unit owners in a common interest community from regulating or limiting the number of unrelated persons that may occupy a unit.
- Provides exceptions to the prohibition.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators McCune, Wagoner and Wilson, L..

Minority Report: That it be referred without recommendation.

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.

Signed by Senators Padden, Ranking Member; Torres.

Staff: Ryan Giannini (786-7285)

Background: 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 WUCIOA may choose to opt in to WUCIOA.

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.

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 of unit owners 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.

An association's duties include managing and maintaining common areas for the benefit of the community, imposing and collecting assessments on unit owners, and enforcing restrictive covenants that govern the community. A unit owners' association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Summary of Amended Bill: An association of unit owners in a CIC is generally prohibited from regulating or limiting the number of unrelated persons that may occupy a unit. An association may regulate or limit the number of unrelated persons that may occupy a unit as a short-term rental, and based on any lawful limits on occupant load per square foot or generally applicable health and safety provisions established by applicable building code, city ordinance, or county ordinance.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Allows associations to limit occupancy of unrelated persons based on any lawful limits on occupant load per square foot or generally applicable health and safety provisions established by applicable building code, city ordinance, or county ordinance.
- Makes corrections to references of master deed provisions.
- Provides a contingent expiration date of January 1, 2028, for sections added to older common interest community chapters of law.

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 House Bill (Regular Session 2023): *The committee recommended a different version of the bill than what was heard.* PRO: In central Puget Sound on any given night, over 100,000 bedrooms go unused. This bill could go a long way toward solving the homelessness crisis if the state can figure out how to use these empty rooms. One step is to pass this bill to prevent arbitrary occupancy limits from being imposed by homeowners' associations. If homeowners want to let friends in need stay with them, they should be allowed to do so.

CON: Community associations are governed differently than single family non-association housing communities. Communities may create restrictions that are not discriminatory or arbitrary. Occupancy limits are implemented for many legal reasons. The bill does not differentiate between the different types and sizes of associations. The unintended consequences of the bill will be detrimental to community associations and the people who live in them.

Persons Testifying (Law & Justice): PRO: Toby Nixon, Self.

CON: Valerie Oman, Washington State Chapter of Community Association Institute.

Persons Signed In To Testify But Not Testifying (Law & Justice):

PRO: p j, RiseUpWA, Housing Justice Committee.

Staff Summary of Public Testimony on Bill as Amended by Committee (Law & Justice) (Regular Session 2024): *The committee recommended a different version of the bill than what was heard.* CON: What this bill effectively does is put no cap on the limit of unrelated occupants who can live together in condos. Condo owners share a number of expenses that are not submetered. Condo owners would be forced to bear increased

expenses. Prohibiting the enforcement of covenants would strain amenities that members sought out when moving to a condo unit. Access to parking would be an issue due to the increased vehicles of each unrelated occupants compared to only some vehicles for a family. Occupancy of condo units need to be safe and consistent with local codes. A two person per bedroom limitation would accomplish this.

Persons Testifying (Law & Justice): CON: Steve Horvath, HOA United; Valerie Oman, Condominium Law Group, PLLC; Omar Nur, Innis Arden Club; Michael Feinberg, Sheridan Beach Community Club.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.