

# SENATE BILL REPORT

## ESSB 5973

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As Passed Senate, February 8, 2024

**Title:** An act relating to heat pumps in common interest communities.

**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 History:**

**Committee Activity:** Law & Justice: 1/22/24, 1/25/24 [DPS, w/oRec].

**Floor Activity:** Passed Senate: 2/8/24, 48-0.

**Brief Summary of Engrossed First Substitute Bill**

- Prohibits common interest communities from adopting restrictions that effectively prohibit or unreasonably restrict the installation or use of heat pumps by unit owners.
- Establishes procedures and requirements for the approval, installation, maintenance, and removal of a heat pump.
- Establishes a civil penalty for common interest communities that violate the prohibitions.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5973 be substituted therefor, and the substitute bill do pass.

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

**Minority Report:** That it be referred without recommendation.

Signed by Senators Torres and Wilson, L..

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*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.*

**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.

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, remain subject to the following acts:

- the Horizontal Property Regimes Act, which applies to residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act, which applies to condominiums created after July 1, 1990; and
- the Homeowners' Association Act, which applies to homeowners' associations created before July 1, 2018.

Management and Duties of Common Interest Communities. 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 (CC&Rs); the association's bylaws and articles of incorporation; and the deeds to the property within a development.

The primary functions of a unit owners' association include managing and maintaining common areas, such as parks, roads, and community centers 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.

Heat Pumps. Heat pumps use electricity to transfer heat from a cool space to a warm space. There are three main 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. For homes without ducts, air-source heat pumps may also come in a ductless version called a mini-split heat pump.

**Summary of Engrossed First Substitute Bill:** An association may not effectively prohibit or unreasonably restrict the installation or personal use of heat pumps by unit owners within the boundaries of a unit. An association may impose reasonable restrictions on heat pumps.

An association may require a unit owner to submit an application before installing a heat

pump. An association may not charge a fee for the installation of a heat pump but may charge a reasonable application fee.

An association must approve installation of a heat pump if the installation is reasonably possible and the unit owner agrees to comply with the association's reasonable architectural standards, engage an HVAC contractor to install the heat pump, and comply with all other requirements.

A unit owner must obtain any permit or approval for a heat pump as required by local law, and the heat pump must meet all applicable health and safety standards as required by law.

The unit owner and each successive owner of the heat pump is responsible for costs and maintenance related to the heat pump.

An association that willfully violates the prohibitions must pay a civil penalty of up to \$1,000 to the unit owner and reasonable attorneys' fees.

**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 Original Bill.** *The committee recommended a different version of the bill than what was heard.* PRO: There are concerns in common interest communities where people are interested in installing heat pumps. Heat pumps save energy and help reduce climate emissions. Clarity should be provided so that people who want to install these energy-saving devices are able to do so. This would help solve the challenges faced by constituents in getting these devices installed and help the state meet its climate goals.

OTHER: Heat pump should be defined clearly. A definition should be provided so there is no confusion as to what the term means. A definition from the American Society of Heating and Air-Conditioning Engineers has been provided to the committee.

**Persons Testifying:** PRO: Senator Marko Liias, Prime Sponsor.

OTHER: Krystelle Purkey, Washington State Chapter of Community Association Institute.

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