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**HOUSE BILL 1569**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Leavitt and McEntire

Read first time 01/25/23. Referred to Committee on Housing.

1 AN ACT Relating to protecting unit owners in common interest  
2 communities; amending RCW 64.90.080, 64.90.495, 64.32.170, 64.34.372,  
3 64.38.045, 64.90.405, 64.32.090, 64.34.304, and 64.38.020; adding a  
4 new section to chapter 64.90 RCW; adding a new section to chapter  
5 64.38 RCW; adding a new section to chapter 64.32 RCW; adding a new  
6 section to chapter 64.34 RCW; and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.90  
9 RCW to read as follows:

10 (1) The legislature finds that the practices covered by this  
11 chapter are matters vitally affecting the public interest for the  
12 purpose of applying the consumer protection act, chapter 19.86 RCW.

13 (2) A violation of this chapter by a declarant, a unit owners  
14 association, a managing agent of a unit owners association, or other  
15 agent of a unit owners association is not reasonable in relation to  
16 the development and preservation of business and is an unfair or  
17 deceptive act in trade or commerce and an unfair method of  
18 competition for purposes of applying the consumer protection act,  
19 chapter 19.86 RCW.

20 (3) The remedies provided in chapter 19.86 RCW are in addition to  
21 any other remedies provided by law.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 64.38  
2 RCW to read as follows:

3        (1) The legislature finds that the practices covered by this  
4 chapter are matters vitally affecting the public interest for the  
5 purpose of applying the consumer protection act, chapter 19.86 RCW.

6        (2) A violation of this chapter by a homeowners' association or  
7 an agent of a homeowners' association is not reasonable in relation  
8 to the development and preservation of business and is an unfair or  
9 deceptive act in trade or commerce and an unfair method of  
10 competition for purposes of applying the consumer protection act,  
11 chapter 19.86 RCW.

12        (3) The remedies provided in chapter 19.86 RCW are in addition to  
13 any other remedies provided by law.

14        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 64.32  
15 RCW to read as follows:

16        (1) The legislature finds that the practices covered by this  
17 chapter are matters vitally affecting the public interest for the  
18 purpose of applying the consumer protection act, chapter 19.86 RCW.

19        (2) A violation of this chapter by an association of apartment  
20 owners or an agent of an association of apartment owners is not  
21 reasonable in relation to the development and preservation of  
22 business and is an unfair or deceptive act in trade or commerce and  
23 an unfair method of competition for purposes of applying the consumer  
24 protection act, chapter 19.86 RCW.

25        (3) The remedies provided in chapter 19.86 RCW are in addition to  
26 any other remedies provided by law.

27        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 64.34  
28 RCW to read as follows:

29        (1) The legislature finds that the practices covered by this  
30 chapter are matters vitally affecting the public interest for the  
31 purpose of applying the consumer protection act, chapter 19.86 RCW.

32        (2) A violation of this chapter by a declarant, a master  
33 association, a unit owners' association, or an agent of a unit  
34 owners' association is not reasonable in relation to the development  
35 and preservation of business and is an unfair or deceptive act in  
36 trade or commerce and an unfair method of competition for purposes of  
37 applying the consumer protection act, chapter 19.86 RCW.

1 (3) The remedies provided in chapter 19.86 RCW are in addition to  
2 any other remedies provided by law.

3 **Sec. 5.** RCW 64.90.080 and 2019 c 238 s 204 are each amended to  
4 read as follows:

5 (1) Except for a nonresidential common interest community  
6 described in RCW 64.90.100, RCW 64.90.095, 64.90.405(1) (b) and (c),  
7 64.90.495, 64.90.525, and 64.90.545 apply, and any inconsistent  
8 provisions of chapter 58.19, 64.32, 64.34, or 64.38 RCW do not apply,  
9 to a common interest community created in this state before July 1,  
10 2018.

11 (2) Except to the extent provided in this subsection, the  
12 sections listed in subsection (1) of this section apply only to  
13 events and circumstances occurring on or after July 1, 2018, and do  
14 not invalidate existing provisions of the governing documents of  
15 those common interest communities. To protect the public interest,  
16 RCW 64.90.095 and 64.90.525 supersede existing provisions of the  
17 governing documents of all plat communities and miscellaneous  
18 communities previously subject to chapter 64.38 RCW.

19 **Sec. 6.** RCW 64.90.495 and 2018 c 277 s 320 are each amended to  
20 read as follows:

21 (1) This section applies to an association subject to this  
22 chapter or chapter 64.32, 64.34, or 64.38 RCW, except that subsection  
23 (2)(h) of this section only applies to associations subject to this  
24 chapter.

25 (2) An association must retain the following:

26 (a) The current budget, detailed records of receipts and  
27 expenditures affecting the operation and administration of the  
28 association, and other appropriate accounting records within the last  
29 seven years;

30 (b) Minutes of all meetings of its unit owners and board other  
31 than executive sessions, a record of all actions taken by the unit  
32 owners or board without a meeting, and a record of all actions taken  
33 by a committee in place of the board on behalf of the association;

34 (c) The names of current unit owners, addresses used by the  
35 association to communicate with them, and the number of votes  
36 allocated to each unit;

1 (d) Its original or restated declaration, organizational  
2 documents, all amendments to the declaration and organizational  
3 documents, and all rules currently in effect;

4 (e) All financial statements and tax returns of the association  
5 for the past seven years;

6 (f) A list of the names and addresses of its current board  
7 members and officers;

8 (g) Its most recent annual report delivered to the secretary of  
9 state, if any;

10 (h) Financial and other records sufficiently detailed to enable  
11 the association to comply with RCW 64.90.640;

12 (i) Copies of contracts to which it is or was a party within the  
13 last seven years;

14 (j) Materials relied upon by the board or any committee to  
15 approve or deny any requests for design or architectural approval for  
16 a period of seven years after the decision is made;

17 (k) Materials relied upon by the board or any committee  
18 concerning a decision to enforce the governing documents for a period  
19 of seven years after the decision is made;

20 (l) Copies of insurance policies under which the association is a  
21 named insured;

22 (m) Any current warranties provided to the association;

23 (n) Copies of all notices provided to unit owners or the  
24 association in accordance with this chapter or the governing  
25 documents; and

26 (o) Ballots, proxies, absentee ballots, and other records related  
27 to voting by unit owners for one year after the election, action, or  
28 vote to which they relate.

29 ~~((2))~~ (3) Subject to subsections ~~((3))~~ (4) and ~~((4))~~ (5) of  
30 this section, all records required to be retained by an association  
31 must be made available for examination and copying by all unit  
32 owners, holders of mortgages on the units, and their respective  
33 authorized agents as follows, unless agreed otherwise:

34 (a) During reasonable business hours or at a mutually convenient  
35 time and location; and

36 (b) At the offices of the association or its managing agent.

37 ~~((3))~~ (4) Records retained by an association may be withheld  
38 from inspection and copying to the extent that they concern:

39 (a) Personnel and medical records relating to specific  
40 individuals;

1 (b) Contracts, leases, and other commercial transactions to  
2 purchase or provide goods or services currently being negotiated;

3 (c) Existing or potential litigation or mediation, arbitration,  
4 or administrative proceedings;

5 (d) Existing or potential matters involving federal, state, or  
6 local administrative or other formal proceedings before a  
7 governmental tribunal for enforcement of the governing documents;

8 (e) Legal advice or communications that are otherwise protected  
9 by the attorney-client privilege or the attorney work product  
10 doctrine, including communications with the managing agent or other  
11 agent of the association;

12 (f) Information the disclosure of which would violate a court  
13 order or law;

14 (g) Records of an executive session of the board;

15 (h) Individual unit files other than those of the requesting unit  
16 owner;

17 (i) Unlisted telephone number or electronic address of any unit  
18 owner or resident;

19 (j) Security access information provided to the association for  
20 emergency purposes; or

21 (k) Agreements that for good cause prohibit disclosure to the  
22 members.

23 ~~((4))~~ (5) An association may charge a reasonable fee for  
24 producing and providing copies of any records under this section and  
25 for supervising the unit owner's inspection.

26 ~~((5))~~ (6) A right to copy records under this section includes  
27 the right to receive copies by photocopying or other means, including  
28 through an electronic transmission if available upon request by the  
29 unit owner.

30 ~~((6))~~ (7) An association is not obligated to compile or  
31 synthesize information.

32 ~~((7))~~ (8) Information provided pursuant to this section may not  
33 be used for commercial purposes.

34 ~~((8))~~ (9) An association's managing agent must deliver all of  
35 the association's original books and records to the association  
36 immediately upon termination of its management relationship with the  
37 association, or upon such other demand as is made by the board. An  
38 association managing agent may keep copies of the association records  
39 at its own expense.

1       **Sec. 7.** RCW 64.32.170 and 1965 ex.s. c 11 s 5 are each amended  
2 to read as follows:

3       (1) In addition to the requirements in subsection (2) of this  
4 section, an association must comply with the association records  
5 requirements in RCW 64.90.495, excluding RCW 64.90.495(2)(h)  
6 regarding records related to certain unit resale requirements that  
7 are applicable only to units subject to chapter 64.90 RCW. Any  
8 provisions in this chapter that are inconsistent with RCW 64.90.495,  
9 excluding RCW 64.90.495(2)(h), do not apply.

10       (2) The manager or board of directors, as the case may be, shall  
11 keep complete and accurate books and records of the receipts and  
12 expenditures affecting the common areas and facilities, specifying  
13 and itemizing the maintenance and repair expenses of the common areas  
14 and facilities and any other expenses incurred. Such books and  
15 records and the vouchers authorizing payments shall be available for  
16 examination by the apartment owners, their agents or attorneys, at  
17 any reasonable time or times. All books and records shall be kept in  
18 accordance with good accounting procedures and be audited at least  
19 once a year by an auditor outside of the organization.

20       **Sec. 8.** RCW 64.34.372 and 1992 c 220 s 19 are each amended to  
21 read as follows:

22       (1) In addition to the requirements in subsections (2) and (3) of  
23 this section, an association must comply with the association records  
24 requirements in RCW 64.90.495, excluding RCW 64.90.495(2)(h)  
25 regarding records related to certain unit resale requirements that  
26 are applicable only to units subject to chapter 64.90 RCW. Any  
27 provisions in this chapter that are inconsistent with RCW 64.90.495,  
28 excluding RCW 64.90.495(2)(h), do not apply.

29       (2) The association shall keep financial records sufficiently  
30 detailed to enable the association to comply with RCW 64.34.425. All  
31 financial and other records of the association, including but not  
32 limited to checks, bank records, and invoices, are the property of  
33 the association, but shall be made reasonably available for  
34 examination and copying by the manager of the association, any unit  
35 owner, or the owner's authorized agents. At least annually, the  
36 association shall prepare, or cause to be prepared, a financial  
37 statement of the association in accordance with generally accepted  
38 accounting principles. The financial statements of condominiums  
39 consisting of fifty or more units shall be audited at least annually

1 by a certified public accountant. In the case of a condominium  
2 consisting of fewer than (~~(fifty)~~) 50 units, an annual audit is also  
3 required but may be waived annually by unit owners other than the  
4 declarant of units to which (~~(sixty)~~) 60 percent of the votes are  
5 allocated, excluding the votes allocated to units owned by the  
6 declarant.

7 (~~((2))~~) (3) The funds of an association shall be kept in accounts  
8 in the name of the association and shall not be commingled with the  
9 funds of any other association, nor with the funds of any manager of  
10 the association or any other person responsible for the custody of  
11 such funds. Any reserve funds of an association shall be kept in a  
12 segregated account and any transaction affecting such funds,  
13 including the issuance of checks, shall require the signature of at  
14 least two persons who are officers or directors of the association.

15 **Sec. 9.** RCW 64.38.045 and 1995 c 283 s 9 are each amended to  
16 read as follows:

17 (1) In addition to the requirements in subsections (2) through  
18 (5) of this section, an association must comply with the association  
19 records requirements in RCW 64.90.495, excluding RCW 64.90.495(2)(h)  
20 regarding records related to certain unit resale requirements that  
21 are applicable only to units subject to chapter 64.90 RCW. Any  
22 provisions in this chapter that are inconsistent with RCW 64.90.495,  
23 excluding RCW 64.90.495(2)(h), do not apply.

24 (2) The association or its managing agent shall keep financial  
25 and other records sufficiently detailed to enable the association to  
26 fully declare to each owner the true statement of its financial  
27 status. All financial and other records of the association, including  
28 but not limited to checks, bank records, and invoices, in whatever  
29 form they are kept, are the property of the association. Each  
30 association managing agent shall turn over all original books and  
31 records to the association immediately upon termination of the  
32 management relationship with the association, or upon such other  
33 demand as is made by the board of directors. An association managing  
34 agent is entitled to keep copies of association records. All records  
35 which the managing agent has turned over to the association shall be  
36 made reasonably available for the examination and copying by the  
37 managing agent.

38 (~~((2))~~) (3) All records of the association, including the names  
39 and addresses of owners and other occupants of the lots, shall be

1 available for examination by all owners, holders of mortgages on the  
2 lots, and their respective authorized agents on reasonable advance  
3 notice during normal working hours at the offices of the association  
4 or its managing agent. The association shall not release the unlisted  
5 telephone number of any owner. The association may impose and collect  
6 a reasonable charge for copies and any reasonable costs incurred by  
7 the association in providing access to records.

8 ~~((3))~~ (4) At least annually, the association shall prepare, or  
9 cause to be prepared, a financial statement of the association. The  
10 financial statements of associations with annual assessments of  
11 ~~((fifty thousand dollars))~~ \$50,000 or more shall be audited at least  
12 annually by an independent certified public accountant, but the audit  
13 may be waived if ~~((sixty-seven))~~ 67 percent of the votes cast by  
14 owners, in person or by proxy, at a meeting of the association at  
15 which a quorum is present, vote each year to waive the audit.

16 ~~((4))~~ (5) The funds of the association shall be kept in  
17 accounts in the name of the association and shall not be commingled  
18 with the funds of any other association, nor with the funds of any  
19 manager of the association or any other person responsible for the  
20 custody of such funds.

21 **Sec. 10.** RCW 64.90.405 and 2019 c 238 s 209 are each amended to  
22 read as follows:

23 (1) An association must:

24 (a) Adopt organizational documents;

25 (b) Adopt budgets as provided in RCW 64.90.525;

26 (c) Impose assessments for common expenses and specially  
27 allocated expenses on the unit owners as provided in RCW 64.90.080(1)  
28 and 64.90.525;

29 (d) Prepare financial statements as provided in RCW 64.90.530;  
30 and

31 (e) Deposit and maintain the funds of the association in accounts  
32 as provided in RCW 64.90.530.

33 (2) Except as provided otherwise in subsection (4) of this  
34 section and subject to the provisions of the declaration, the  
35 association may:

36 (a) Amend organizational documents and adopt and amend rules;

37 (b) Amend budgets under RCW 64.90.525;

38 (c) Hire and discharge managing agents and other employees,  
39 agents, and independent contractors. If an association hires a

1 managing agent, the association must make unit owners third-party  
2 beneficiaries of any contract with the managing agent;

3 (d) Institute, defend, or intervene in litigation or in  
4 arbitration, mediation, or administrative proceedings or any other  
5 legal proceeding in its own name on behalf of itself or two or more  
6 unit owners on matters affecting the common interest community;

7 (e) Make contracts and incur liabilities subject to subsection  
8 (4) of this section;

9 (f) Regulate the use, maintenance, repair, replacement, and  
10 modification of common elements;

11 (g) Cause additional improvements to be made as a part of the  
12 common elements;

13 (h) Acquire, hold, encumber, and convey in its own name any  
14 right, title, or interest to real estate or personal property, but:

15 (i) Common elements in a condominium, plat community, or  
16 miscellaneous community may be conveyed or subjected to a security  
17 interest pursuant to RCW 64.90.465 only; and

18 (ii) Part of a cooperative may be conveyed, or all or part of a  
19 cooperative may be subjected to a security interest pursuant to RCW  
20 64.90.465 only;

21 (i) Grant easements, leases, licenses, and concessions through or  
22 over the common elements and petition for or consent to the vacation  
23 of streets and alleys;

24 (j) Impose and collect any reasonable payments, fees, or charges  
25 for:

26 (i) The use, rental, or operation of the common elements, other  
27 than limited common elements described in RCW 64.90.210 (1)(b) and  
28 (3);

29 (ii) Services provided to unit owners; and

30 (iii) Moving in, moving out, or transferring title to units to  
31 the extent provided for in the declaration;

32 (k) Collect assessments and impose and collect reasonable charges  
33 for late payment of assessments;

34 (l) Enforce the governing documents and, after notice and  
35 opportunity to be heard, impose and collect reasonable fines for  
36 violations of the governing documents in accordance with a previously  
37 established schedule of fines adopted by the board of directors and  
38 furnished to the owners;

39 (m) Impose and collect reasonable charges for the preparation and  
40 recordation of amendments to the declaration, resale certificates

1 required under RCW 64.90.640, lender questionnaires, or statements of  
2 unpaid assessments;

3 (n) Provide for the indemnification of its officers and board  
4 members, to the extent provided in RCW 23B.17.030;

5 (o) Maintain directors' and officers' liability insurance;

6 (p) Subject to subsection (4) of this section, assign its right  
7 to future income, including the right to receive assessments;

8 (q) Join in a petition for the establishment of a parking and  
9 business improvement area, participate in the ratepayers' board or  
10 other advisory body set up by the legislative authority for operation  
11 of a parking and business improvement area, and pay special  
12 assessments levied by the legislative authority on a parking and  
13 business improvement area encompassing the condominium property for  
14 activities and projects that benefit the condominium directly or  
15 indirectly;

16 (r) Establish and administer a reserve account as described in  
17 RCW 64.90.535;

18 (s) Prepare a reserve study as described in RCW 64.90.545;

19 (t) Exercise any other powers conferred by the declaration or  
20 organizational documents;

21 (u) Exercise all other powers that may be exercised in this state  
22 by the same type of entity as the association;

23 (v) Exercise any other powers necessary and proper for the  
24 governance and operation of the association;

25 (w) Require that disputes between the association and unit owners  
26 or between two or more unit owners regarding the common interest  
27 community, other than those governed by chapter 64.50 RCW, be  
28 submitted to nonbinding alternative dispute resolution as a  
29 prerequisite to commencement of a judicial proceeding; and

30 (x) Suspend any right or privilege of a unit owner who fails to  
31 pay an assessment, but may not:

32 (i) Deny a unit owner or other occupant access to the owner's  
33 unit;

34 (ii) Suspend a unit owner's right to vote; or

35 (iii) Withhold services provided to a unit or a unit owner by the  
36 association if the effect of withholding the service would be to  
37 endanger the health, safety, or property of any person.

38 (3) The declaration may not limit the power of the association  
39 beyond the limit authorized in subsection (2)(w) of this section to:

1 (a) Deal with the declarant if the limit is more restrictive than  
2 the limit imposed on the power of the association to deal with other  
3 persons; or

4 (b) Institute litigation or an arbitration, mediation, or  
5 administrative proceeding against any person, subject to the  
6 following:

7 (i) The association must comply with chapter 64.50 RCW, if  
8 applicable, before instituting any proceeding described in chapter  
9 64.50 RCW in connection with construction defects; and

10 (ii) The board must promptly provide notice to the unit owners of  
11 any legal proceeding in which the association is a party other than  
12 proceedings involving enforcement of rules or to recover unpaid  
13 assessments or other sums due the association.

14 (4) Any borrowing by an association that is to be secured by an  
15 assignment of the association's right to receive future income  
16 pursuant to subsection (2)(e) and (p) of this section requires  
17 ratification by the unit owners as provided in this subsection.

18 (a) The board must provide notice of the intent to borrow to all  
19 unit owners. The notice must include the purpose and maximum amount  
20 of the loan, the estimated amount and term of any assessments  
21 required to repay the loan, a reasonably detailed projection of how  
22 the money will be expended, and the interest rate and term of the  
23 loan.

24 (b) In the notice, the board must set a date for a meeting of the  
25 unit owners, which must not be less than fourteen and no more than  
26 (~~fifty~~) 50 days after mailing of the notice, to consider  
27 ratification of the borrowing.

28 (c) Unless at that meeting, whether or not a quorum is present,  
29 unit owners holding a majority of the votes in the association or any  
30 larger percentage specified in the declaration reject the proposal to  
31 borrow funds, the association may proceed to borrow the funds in  
32 substantial accordance with the terms contained in the notice.

33 (5) If a tenant of a unit owner violates the governing documents,  
34 in addition to exercising any of its powers against the unit owner,  
35 the association may:

36 (a) Exercise directly against the tenant the powers described in  
37 subsection (2)(1) of this section;

38 (b) After giving notice to the tenant and the unit owner and an  
39 opportunity to be heard, levy reasonable fines against the tenant and  
40 unit owner for the violation; and

1 (c) Enforce any other rights against the tenant for the violation  
2 that the unit owner as the landlord could lawfully have exercised  
3 under the lease or that the association could lawfully have exercised  
4 directly against the unit owner, or both; but the association does  
5 not have the right to terminate a lease or evict a tenant unless  
6 permitted by the declaration. The rights referred to in this  
7 subsection (5)(c) may be exercised only if the tenant or unit owner  
8 fails to cure the violation within (~~ten~~) 10 days after the  
9 association notifies the tenant and unit owner of that violation.

10 (6) Unless a lease otherwise provides, this section does not:

11 (a) Affect rights that the unit owner has to enforce the lease or  
12 that the association has under other law; or

13 (b) Permit the association to enforce a lease to which it is not  
14 a party in the absence of a violation of the governing documents.

15 (7) The board may determine whether to take enforcement action by  
16 exercising the association's power to impose sanctions or commencing  
17 an action for a violation of the governing documents, including  
18 whether to compromise any claim for unpaid assessments or other claim  
19 made by or against it.

20 (8) The board does not have a duty to take enforcement action if  
21 it determines that, under the facts and circumstances presented:

22 (a) The association's legal position does not justify taking any  
23 or further enforcement action;

24 (b) The covenant, restriction, or rule being enforced is, or is  
25 likely to be construed as, inconsistent with law;

26 (c) Although a violation may exist or may have occurred, it is  
27 not so material as to be objectionable to a reasonable person or to  
28 justify expending the association's resources; or

29 (d) It is not in the association's best interests to pursue an  
30 enforcement action.

31 (9) The board's decision under subsections (7) and (8) of this  
32 section to not pursue enforcement under one set of circumstances does  
33 not prevent the board from taking enforcement action under another  
34 set of circumstances, but the board may not be arbitrary or  
35 capricious in taking enforcement action.

36 **Sec. 11.** RCW 64.32.090 and 1963 c 156 s 9 are each amended to  
37 read as follows:

38 The declaration shall contain the following:

- 1 (1) A description of the land on which the building and  
2 improvement are or are to be located;
- 3 (2) A description of the building, stating the number of stories  
4 and basements, the number of apartments and the principal materials  
5 of which it is or is to be constructed;
- 6 (3) The apartment number of each apartment, and a statement of  
7 its location, approximate area, number of rooms, and immediate common  
8 area to which it has access, and any other data necessary for its  
9 proper identification;
- 10 (4) A description of the common areas and facilities;
- 11 (5) A description of the limited common areas and facilities, if  
12 any, stating to which apartments their use is reserved;
- 13 (6) The value of the property and of each apartment, and the  
14 percentage of undivided interest in the common areas and facilities  
15 appertaining to each apartment and its owner for all purposes,  
16 including voting;
- 17 (7) A statement of the purposes for which the building and each  
18 of the apartments are intended and restricted as to use;
- 19 (8) The name of a person to receive service of process in the  
20 cases provided for in this chapter, together with a residence or  
21 place of business of such person which shall be within the county in  
22 which the building is located;
- 23 (9) A provision as to the percentage of votes by the apartment  
24 owners which shall be determinative of whether to rebuild, repair,  
25 restore, or sell the property in event of damage or destruction of  
26 all or part of the property;
- 27 (10) A provision authorizing and establishing procedures for the  
28 subdividing and/or combining of any apartment or apartments, common  
29 areas and facilities or limited common areas and facilities, which  
30 procedures may provide for the accomplishment thereof through means  
31 of a metes and bounds description;
- 32 (11) A provision requiring the adoption of bylaws for the  
33 administration of the property or for other purposes not inconsistent  
34 with this chapter, which may include whether administration of the  
35 property shall be by a board of directors elected from among the  
36 apartment owners, by a manager, or managing agent, or otherwise, and  
37 the procedures for the adoption thereof and amendments thereto. If an  
38 association hires a managing agent, the association must make  
39 apartment owners third-party beneficiaries of any contract with the  
40 managing agent;

1 (12) Any further details in connection with the property which  
2 the person executing the declaration may deem desirable to set forth  
3 consistent with this chapter; and

4 (13) The method by which the declaration may be amended,  
5 consistent with this chapter: PROVIDED, That not less than (~~sixty~~)  
6 60 percent of the apartment owners shall consent to any amendment  
7 except that any amendment altering the value of the property and of  
8 each apartment and the percentage of undivided interest in the common  
9 areas and facilities shall require the unanimous consent of the  
10 apartment owners.

11 **Sec. 12.** RCW 64.34.304 and 2008 c 115 s 9 are each amended to  
12 read as follows:

13 (1) Except as provided in subsection (2) of this section, and  
14 subject to the provisions of the declaration, the association may:

15 (a) Adopt and amend bylaws, rules, and regulations;

16 (b) Adopt and amend budgets for revenues, expenditures, and  
17 reserves, and impose and collect assessments for common expenses from  
18 unit owners;

19 (c) Hire and discharge or contract with managing agents and other  
20 employees, agents, and independent contractors. If an association  
21 hires a managing agent, the association must make unit owners third-  
22 party beneficiaries of any contract with the managing agent;

23 (d) Institute, defend, or intervene in litigation or  
24 administrative proceedings in its own name on behalf of itself or two  
25 or more unit owners on matters affecting the condominium;

26 (e) Make contracts and incur liabilities;

27 (f) Regulate the use, maintenance, repair, replacement, and  
28 modification of common elements;

29 (g) Cause additional improvements to be made as a part of the  
30 common elements;

31 (h) Acquire, hold, encumber, and convey in its own name any  
32 right, title, or interest to real or personal property, but common  
33 elements may be conveyed or subjected to a security interest only  
34 pursuant to RCW 64.34.348;

35 (i) Grant easements, leases, licenses, and concessions through or  
36 over the common elements and petition for or consent to the vacation  
37 of streets and alleys;

38 (j) Impose and collect any payments, fees, or charges for the  
39 use, rental, or operation of the common elements, other than limited

1 common elements described in RCW 64.34.204 (2) and (4), and for  
2 services provided to unit owners;

3 (k) Impose and collect charges for late payment of assessments  
4 pursuant to RCW 64.34.364(13) and, after notice and an opportunity to  
5 be heard by the board of directors or by such representative  
6 designated by the board of directors and in accordance with such  
7 procedures as provided in the declaration or bylaws or rules and  
8 regulations adopted by the board of directors, levy reasonable fines  
9 in accordance with a previously established schedule thereof adopted  
10 by the board of directors and furnished to the owners for violations  
11 of the declaration, bylaws, and rules and regulations of the  
12 association;

13 (l) Impose and collect reasonable charges for the preparation and  
14 recording of amendments to the declaration, resale certificates  
15 required by RCW 64.34.425, and statements of unpaid assessments;

16 (m) Provide for the indemnification of its officers and board of  
17 directors and maintain directors' and officers' liability insurance;

18 (n) Assign its right to future income, including the right to  
19 receive common expense assessments, but only to the extent the  
20 declaration provides;

21 (o) Join in a petition for the establishment of a parking and  
22 business improvement area, participate in the ratepayers' board or  
23 other advisory body set up by the legislative authority for operation  
24 of a parking and business improvement area, and pay special  
25 assessments levied by the legislative authority on a parking and  
26 business improvement area encompassing the condominium property for  
27 activities and projects which benefit the condominium directly or  
28 indirectly;

29 (p) Establish and administer a reserve account as described in  
30 RCW 64.34.380;

31 (q) Prepare a reserve study as described in RCW 64.34.380;

32 (r) Exercise any other powers conferred by the declaration or  
33 bylaws;

34 (s) Exercise all other powers that may be exercised in this state  
35 by the same type of corporation as the association; and

36 (t) Exercise any other powers necessary and proper for the  
37 governance and operation of the association.

38 (2) The declaration may not impose limitations on the power of  
39 the association to deal with the declarant which are more restrictive

1 than the limitations imposed on the power of the association to deal  
2 with other persons.

3 **Sec. 13.** RCW 64.38.020 and 1995 c 283 s 4 are each amended to  
4 read as follows:

5 Unless otherwise provided in the governing documents, an  
6 association may:

7 (1) Adopt and amend bylaws, rules, and regulations;

8 (2) Adopt and amend budgets for revenues, expenditures, and  
9 reserves, and impose and collect assessments for common expenses from  
10 owners;

11 (3) Hire and discharge or contract with managing agents and other  
12 employees, agents, and independent contractors. If an association  
13 hires a managing agent, the association must make lot owners third-  
14 party beneficiaries of any contract with the managing agent;

15 (4) Institute, defend, or intervene in litigation or  
16 administrative proceedings in its own name on behalf of itself or two  
17 or more owners on matters affecting the homeowners' association, but  
18 not on behalf of owners involved in disputes that are not the  
19 responsibility of the association;

20 (5) Make contracts and incur liabilities;

21 (6) Regulate the use, maintenance, repair, replacement, and  
22 modification of common areas;

23 (7) Cause additional improvements to be made as a part of the  
24 common areas;

25 (8) Acquire, hold, encumber, and convey in its own name any  
26 right, title, or interest to real or personal property;

27 (9) Grant easements, leases, licenses, and concessions through or  
28 over the common areas and petition for or consent to the vacation of  
29 streets and alleys;

30 (10) Impose and collect any payments, fees, or charges for the  
31 use, rental, or operation of the common areas;

32 (11) Impose and collect charges for late payments of assessments  
33 and, after notice and an opportunity to be heard by the board of  
34 directors or by the representative designated by the board of  
35 directors and in accordance with the procedures as provided in the  
36 bylaws or rules and regulations adopted by the board of directors,  
37 levy reasonable fines in accordance with a previously established  
38 schedule adopted by the board of directors and furnished to the

1 owners for violation of the bylaws, rules, and regulations of the  
2 association;

3 (12) Exercise any other powers conferred by the bylaws;

4 (13) Exercise all other powers that may be exercised in this  
5 state by the same type of corporation as the association; and

6 (14) Exercise any other powers necessary and proper for the  
7 governance and operation of the association.

8 NEW SECTION. **Sec. 14.** This act may be known and cited as the  
9 common interest community unit owners protection act.

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