# HOUSE BILL REPORT
# EHB 1403

**As Passed Legislature**

**Title:** An act relating to increasing homeownership opportunities by simplifying condominium construction statutes.

**Brief Description:** Simplifying condominium construction statutes.

**Sponsors:** Representatives Taylor, Connors, Duerr, Jacobsen, Peterson, Reed, Barkis, Rule, Doglio, Tharinger, Salahuddin, Ormsby, Ryu, Entenman, Street and Hill.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 1/29/25, 2/14/25 [DP].

**Floor Activity:**

Passed House: 3/11/25, 89-7.
Senate Amended.
Passed Senate: 4/8/25, 47-1.
House Concurred.
Passed House: 4/17/25, 93-2.
Passed Legislature.

**Brief Summary of Engrossed Bill**

- Exempts a declarant or dealer from the implied warranties of quality under the Washington Uniform Common Interest Ownership Act (WUCIOA) if the declarant or dealer provide express warranty coverage that meets specified requirements.
- Removes references to engineering and construction standards from the implied warranty provisions of the WUCIOA and instead requires a declarant or dealer to impliedly warrant that a condominium unit is constructed in accordance with the plans, approved specifications, manufacturer installation guidelines, and any published industry standards incorporated into the applicable building codes.

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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.*

- Exempts accessory dwelling units organized under the WUCIOA as a condominium unit from building enclosure design and inspection requirements.

## HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** Do pass. Signed by 11 members: Representatives Taylor, Chair; Farivar, Vice Chair; Burnett, Entenman, Goodman, Graham, Jacobsen, Peterson, Salahuddin, Thai and Walen.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Abell, Assistant Ranking Minority Member.

**Staff:** Yelena Baker (786-7301).

**Background:**

State Law Governing Condominiums.
A condominium consists of real property that has individually owned units and also has commonly held elements in which all the individual unit owners have an undivided common interest. A condominium is created by the recording of a "declaration," and the person creating a condominium is referred to as the "declarant." A condominium may be created by the construction of a new condominium building, or by the conversion of an existing building, such as an existing apartment building.

Two main statutes that govern the creation, construction, management, and termination of condominiums are the Washington Uniform Common Interest Ownership Act (WUCIOA) and the Washington Condominium Act (WCA). The WUCIOA took effect on July 1, 2018, and is applicable to residential common interest communities, including condominiums, created after that date. The WCA controls the creation, construction, management, and termination of condominiums created after July 1, 1990, but before the effective date of the WUCIOA.

Implied Warranties under the Washington Uniform Common Interest Ownership Act.
The WUCIOA authorizes the use of express warranties and creates implied warranties regarding the quality of materials and construction in a condominium.

Under these provisions, a declarant and any dealer impliedly warrants to a purchaser of a condominium unit that the unit and the common elements are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by the declarant or dealer will be:

- free from defective materials;

- constructed in accordance with engineering and construction standards, including applicable building codes, generally accepted in Washington at the time of construction; and
- constructed in a workmanlike manner.

Any conveyance of a condominium unit transfers to the purchaser all of declarant's or dealer's implied warranties of quality.

The implied warranties may be excluded or modified by written agreement of the parties. The implied warranties are excluded by written disclaimer, such as "as is," "with all faults," or other language that in common understanding calls the buyer's attention to the exclusion of warranties.

In addition, a declarant or dealer may disclaim liability for a specified defect or failure to comply with applicable law in a written instrument that meets certain requirements, such as specifically describing the defect or failure, and that is signed by the purchaser.

A declarant or dealer may not make an express written warranty of quality that limits the implied warranties of quality made to the purchaser under the WUCIOA.

Disputes under the Washington Uniform Common Interest Ownership Act.
Parties to a dispute arising under the WUCIOA or the governing documents of a common interest community may agree to resolve the dispute by any form of binding or nonbinding alternative dispute resolution. A declarant, association, unit owner, or any other person subject to the WUCIOA may bring an action to enforce a right granted or an obligation imposed under the WUCIOA. The court may award reasonable attorneys' fees and costs.

Building Enclosure Requirements for Multiunit Residential Buildings.
A building enclosure is the part of a building that physically separates the exterior environment from interior environment and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Specific building enclosure requirements apply when constructing or rehabilitating a multiunit residential building, or when converting a multiunit residential building to condominium units.

Building enclosure design documents must be submitted with any application for a building permit for the construction of a multiunit residential building and must address waterproofing, weatherproofing, and other protections of the building from water or moisture intrusion. The building enclosure of a multiunit residential building must be inspected during initial or rehabilitative construction. The inspection must include testing of windows and window installations for water penetration problems.

A building department may not issue a certificate of occupancy for a multiunit residential building until the inspector submits a building enclosure inspection report certifying that the building enclosure was inspected during construction and that the building enclosure

was constructed in substantial compliance with the design documents.

A residential condominium unit in a multiunit residential building may not be sold without meeting the building enclosure design and inspection requirements. However, these requirements do not apply if the building enclosure meets certain alternative inspection requirements, including intrusive testing for water penetration and an evaluation of the condition of the building enclosure and its ability to waterproof or weatherproof the building from water or moisture intrusion.

A "multiunit residential building" is defined as a building with more than two attached dwelling units, but does not include certain buildings, such as hotels, motels, dormitories, care facilities, floating homes, buildings with 12 or fewer units and no more than two stories, and buildings with 12 or fewer units and no more than three stories so long as one story is used for parking or retail space.

**Summary of Engrossed Bill:**

Implied Warranties under the Washington Uniform Common Interest Ownership Act. The WUCIOA provisions related to implied warranties of quality are revised and apply to condominiums in common interest communities created on or after the effective date of the bill.

For such condominium units, a declarant or dealer impliedly warrants to a purchaser that the unit will be constructed in accordance with the plans, specifications approved by the applicable jurisdiction for the construction of the condominium, manufacturer installation guidelines, applicable building code in effect at the time of permit approval, and any published industry standards specifically incorporated into the applicable building codes at the time of permit approval, instead of in accordance with engineering and construction standards and applicable building codes generally accepted in Washington at the time of construction.

Additionally, the term "workmanlike manner" is defined to mean the degree of care that a reasonably prudent licensed contractor would exercise under the same or similar circumstances.

An additional exclusion from implied warranties of quality is created for any condominium unit that is an accessory dwelling unit organized as a condominium under the WUCIOA and that is located in a new or a conversion building containing 12 or fewer units.

For such units, a declarant or dealer is not subject to the implied warranties of quality if the declarant or dealer provides an express warranty of quality (2-10 warranty) and express warranty insurance coverage that:

- requires acknowledgement by the purchaser that the express warranty of quality applies;

- allows for recovery of defects under the express warranty;
- applies to all units and common areas within the building; and
- provides minimum coverage periods for: defective workmanship and materials (one year); defective plumbing, electrical, and ductwork distribution systems (two years); and structural defects to load-bearing structural members (10 years).

A proceeding for the breach of an express 2-10 warranty of quality and insurance coverage must be commenced pursuant to the WUCIOA provisions that govern breach of warranties of quality and actions for construction defect claims.

Building Enclosure Requirements for Multiunit Residential Buildings.
The building enclosure design and inspection requirements do not apply to any accessory dwelling unit organized under the WUCIOA as a condominium unit in a common interest community created on or after the effective date of the bill.

If a building with 12 or fewer units and no more than three stories is subject to an express 2-10 warranty (instead of the implied warranty of quality under the WUCIOA), the building is not excluded from the definition of "multiunit residential building," and, as a result, the building is subject to building enclosure design and inspection requirements.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains multiple effective dates. Please see the bill.

**Staff Summary of Public Testimony:**

(In support) There is a great need to increase the supply of affordable housing in the state, and condominiums represent an opportunity for first-time home buyers, people who are aging in place, and families that are looking to build equity and security. This bill unlocks this type of really valuable construction while preserving important protections for consumers.

A report from the Department of Commerce a number of years ago identified state liability laws as the single obstacle to creating more condominiums. Even if modified, the liability provisions in Washington would still be among the most protective of consumers anywhere in the country, and this bill is a balanced and fair way to modify liability laws.

The alternative warranty provision would apply to smaller condominium projects of 12 units or less. The developer could provide what is called a 2-10 warranty, which is typically used for a single-family new home construction. It is an established type of express warranty that has a very good track record, so the owner of a new condominium unit would have the same level of protection under that express warranty as the owner of a home that

gets a 2-10 warranty from the builder.

Statewide condominium production has been adversely impacted by unclear statutes for condominium warranty. This ambiguity has resulted in legal risk that has impacted developers' ability and willingness to advance condominium development. This legislation provides guidelines for condominium construction, including clear warranty periods and conflict resolution process, and helps make new condo development more predictable and potentially less expensive.

(Opposed) This bill reduces essential statutory warranty protections for all condominiums and eliminates them for smaller condominiums. There needs to be a much better balance between the desire to promote home ownership and the reduction of these warranties that exist in so many other states.

While the need for housing is great, fundamental protections should not be taken away, and this is particularly true for small condominiums. Two years ago, the Legislature removed the requirement for building enclosure and design documents and third-party inspections for small condominiums. The effect of those changes was supposed to be blunted by the fact that they still had statutory warranty protections, but now this bill largely removes them.

The so-called 2-10 warranty proposed in the bill is a fundamentally lower level of protection. The bill does not define the standards for that warranty. Instead, that standard is going to be defined by the warranty provider who has a profit incentive to provide a warranty that is profitable to the provider.

The bill reduces warranties that apply to all condominiums. The bill removes the requirement for compliance with construction and engineering standards, and instead says that plans and specifications must be complied with. But plans and specifications are not as broad and can be very minimal, and they can be defective. If there are minimal plans and specifications, and the defective work isn't addressed by them, that means the warranty does not cover it. If the plans and specifications are defective, then the defective work that's done in compliance with those plans and specifications wouldn't be protected either. This creates a very large loophole in the warranties that should not exist, and it also incentivizes developers to use minimal plans and specifications to avoid liability. This also creates too much of an exposure for those people who live in the buildings afterwards. The dream is not purchasing one's own home. The dream is owning the home, and that means being able to live in it and maintain it without an excessive financial burden.

**Persons Testifying:** (In support) Representative Jamila Taylor, prime sponsor; Dave Hamilton, Councilmember, City of Bellevue; Rico Quirindongo, City of Seattle; Brent Ludeman, Building Industry Association of Washington; Brady Nordstrom, Housing Development Consortium; and Bill Clarke, WA REALTORS.

(Opposed) Dean Martin, Community Assoc. Institute.

**Persons Signed In To Testify But Not Testifying:** Todd Sullivan, Sullivan Homes; Brian Holtzclaw, Master Builders Association of King and Snohomish Counties; Ethan Robinson, Habitat for Humanity Seattle-King and Kittitas Counties; Blake Lyon, Director of Planning and Community Development for the City of Bellingham, WA; Angela Birney, City of Redmond; John Butler; and Uche Okezie, HomeSight.