

# HOUSE BILL REPORT

## HB 1500

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### As Reported by House Committee On:

Housing

**Title:** An act relating to resale certificates for units in common interest communities.

**Brief Description:** Concerning resale certificates for units in common interest communities.

**Sponsors:** Representatives Reed, Entenman, Gregerson, Peterson, Fosse, Farivar, Doglio, Alvarado, Hill, Berry, Simmons, Ormsby and Macri.

### Brief History:

#### Committee Activity:

Housing: 2/3/25, 2/4/25, 2/11/25 [DPS].

#### Brief Summary of Substitute Bill

- Makes several changes to the resale certificate requirements for units in a common interest community subject to the Washington Uniform Common Interest Ownership Act.

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## HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Peterson, Chair; Hill, Vice Chair; Richards, Vice Chair; Connors, Dufault, Entenman, Gregerson, Lekanoff, Reed, Thomas, Timmons and Zahn.

**Minority Report:** Without recommendation. Signed by 5 members: Representatives Low, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Manjarrez, Assistant Ranking Minority Member; Barkis and Engell.

**Staff:** Audrey Vasek (786-7383).

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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.*

## **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 effective date of the WUCIOA may choose to opt into the WUCIOA.

Older CICs that have not opted into the WUCIOA are regulated by different statutes depending on their ownership structure and the date they were created:

- the Horizontal Property Regimes Act governs residential condominiums created on or before July 1, 1990;
- the Washington Condominium Act (WCA) governs condominiums created after July 1, 1990; and
- the Homeowners' Association Act provides a framework for the formation and legal administration of homeowners' associations created before July 1, 2018.

Effective January 1, 2028, the older CIC statutes will be repealed and the WUCIOA will apply to all CICs regardless of their creation date.

### Resale Certificates.

With certain exceptions, prior to the execution of any contract for the sale of a unit in a CIC subject to the WCA or the WUCIOA, a unit owner must provide the purchaser with a resale certificate signed by an officer or authorized agent of the association. An association must furnish a resale certificate containing all of the required information to the unit owner within 10 days of a request by the unit owner. The WUCIOA and the WCA contain similar resale certificate requirements.

### *Required Contents of a Resale Certificate.*

Under the WUCIOA, the resale certificate must contain specified information regarding the unit and the CIC, including:

- a statement of the monthly common expense assessments, any unpaid common expenses or special assessments currently due and payable from the selling unit owner, any anticipated repair or replacement costs approved by the association, and any other fees payable by unit owners;
- the annual financial statement and the current operating budget of the association;
- a statement describing any insurance coverage provided for the benefit of unit owners;
- a statement as to whether there are any alterations or improvements to the unit or to

- the limited common elements assigned to the unit, or any violations of the health or building codes with respect to the unit; and
- certain other information.

*Charges for Preparation of a Resale Certificate.*

A reasonable charge for the preparation of a resale certificate may not exceed \$275. An association may charge a nominal fee, not to exceed \$100, for updating a resale certificate within six months of the request.

*Limitations on Liability.*

A unit owner is not liable to the purchaser for any erroneous information provided by the association in the resale certificate, or for the failure or delay of the association to provide the certificate in a timely manner. A purchaser is not liable for any unpaid assessment or fee greater than the amount specified by the association in the certificate.

*Cancellation of Purchase Contract.*

The purchaser may void the purchase contract up until five days after the resale certificate is provided, or up until the property is conveyed to the purchaser, whichever occurs first.

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**Summary of Substitute Bill:**

The resale certificate requirements for units in a CIC subject to the WUCIOA are modified.

*Required Contents of a Resale Certificate.*

In addition to all the other information that must be included in a resale certificate, the resale certificate must contain:

- the most recent financial audit report available, instead of the audit report for the year immediately preceding the current year;
- all policies, procedures, and resolutions approved by the board that are currently in effect; and
- the most current reserve study for the association, instead of a summary of the current reserve study.

The resale certificate must include the statement "NONE" or "RECORDS UNAVAILABLE" for each category of records that is not provided in the certificate.

*Charges for Preparation of a Resale Certificate.*

In addition to not exceeding \$275, a reasonable charge to the unit owner for preparation of a resale certificate must cover the direct out-of-pocket cost of copying and providing the required information, and may not include any additional charges for providing documents that are maintained in electronic form on a website, web portal, or application available to unit owners. However, an association may charge an additional \$100 for a rush service that must be completed within 72 hours of a request. An association may also still charge a

nominal fee, not to exceed \$100, for updating a resale certificate within six months of the unit owner's previous resale certificate request.

An association may not require a unit owner to contract or establish an account with a third party to provide payment or accept delivery of a resale certificate.

*Limitations on Liability.*

In addition to the existing limitations on liability, a purchaser is not liable for any violation of the governing documents created by an alteration to a unit that, with reasonable diligence, should have been known to the association or its authorized agent at the time of conveyance but was not identified in the resale certificate.

*Cancellation of Purchase Contract.*

The provisions regarding when a purchaser may cancel a contract are revised. A purchaser may cancel a contract for purchase of a unit within five days after first receiving the resale certificate. If the resale certificate is first provided to a purchaser more than five days before execution of the purchase contract, the purchaser does not have the right to cancel the executed contract.

If the resale certificate is first provided to a purchaser five days or less before the purchase contract is signed, the purchaser may cancel the contract before the property is conveyed to the purchaser by delivering a cancellation notice to the seller. The cancellation notice must be delivered to the seller no later than the fifth day after the purchaser first received the certificate.

If the resale certificate is first provided to a purchaser less than five days before the closing date for the conveyance of the unit, the purchaser may extend the closing date by up to five days after receipt of the resale certificate.

*Cause of Action to Enforce Resale Certificate Requirements.*

A unit owner may bring an action to enforce the resale certificate requirements related to fees, timeliness of delivery, accuracy, and completeness. In such an action, the court must award reasonable attorneys' fees and costs and actual damages to any prevailing unit owner. The court may also impose a civil penalty against the association or its authorized agent. An authorized agent that charges a fee for furnishing a resale certificate assumes all liability for the fees charged, and for the timeliness of delivery, accuracy, and completeness of the resale certificate.

**Substitute Bill Compared to Original Bill:**

The substitute bill modifies the required contents of a resale certificate to include:

- the most recent financial audit report available, instead of the most recent final financial audit report available and the current draft of a more recent report if available; and

- the most current reserve study for the association, instead of the most current final reserve study for the association and the most recent draft of a newer reserve study if available.

The substitute bill removes the requirement that fees for copying and providing documents required by a resale certificate must be distinguished, stated, and billed separately from all other fees, fines, or assessments. It also removes the requirement that a unit owner possessing current copies in electronic form of any document required by a resale certificate must provide them to a purchaser via electronic transmission at no cost.

The substitute bill provides that an authorized agent that charges a fee for furnishing a resale certificate assumes all liability for the fees charged, and for the timeliness of delivery, accuracy, and completeness of the resale certificate.

The substitute bill authorizes a unit owner to bring an action to enforce the requirements related to the fees charged, timeliness of delivery, accuracy, and completeness of a resale certificate. In such an action, the court must award reasonable attorneys' fees and costs and actual damages to any prevailing unit owner. The court may also impose a civil penalty against the association or its authorized agent.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill will create more transparency for purchasers and sellers. It increases some of the resale certificate requirements to ensure that people know what they are getting when they buy a condominium (condo). It also ensures that management companies cannot charge sellers exorbitant fees to access these legally required certificates and encourages companies to furnish certificates in a timely fashion. A sale on a condo unit cannot close until the resale certificate is provided.

When associations receive an updated reserve study or audit, they often do not release it right away. The draft documents should be available sooner.

Property owners are often forced to do a lot of running around if the association wants to use a third-party for resale certificates, and third-party providers charge all sorts of extra fees.

Realtors appreciate the clarifications around how the timing of the availability of the resale certificate impacts a transaction. For the buyer, the resale certificate information is critical. The bill gives buyers a chance to walk away if they find something in the certificate that is really concerning about the condo building.

(Opposed) The resale certificate requirements in the WUCIOA were carefully crafted with stakeholder input to ensure buyers understand the governance, financial health, and rules of their new community before purchasing. Volunteer board members and self-managed communities are already having difficulty keeping up with all the recent legislative changes affecting community associations. Maintaining the existing WUCIOA resale certificate requirements ensures consistency, efficiency, and clarity for all stakeholders.

Third-party resale certificate companies streamline the resale certificate process for buyers and management companies. Their services enhance efficiency, reduce costs, and ensure compliance with evolving legislation. They also provide standardized, legally compliant documents while easing the workload for management companies and self-managed homeowners' associations that are staffed by volunteers. Everyone benefits if third-party providers are allowed to continue to provide resale certificates.

Draft documents should not be required to be included in a resale certificate. Draft versions often include errors and misleading information that should be corrected before being provided to potential purchasers.

The WUCIOA already requires associations to disclose any known governing document violations. This bill would expand that obligation in a way that does not make sense. An association does not have control over information about modifications made by individual unit owners. Associations rely on unit owners to provide that information and potential purchasers should be getting that information from those sellers, not the association.

There are also significant concerns about the effect that the increased liability and potential civil penalties could have on volunteer board members. Associations want to encourage good people to volunteer for their boards and to serve their communities. The changes that the bill makes are likely to have the opposite effect.

**Persons Testifying:** (In support) Representative Julia Reed, prime sponsor; Bill Clarke, WA REALTORS; Steve Horvath, HOA United; and Joel Gilman.

(Opposed) Theresa Torgesen, Washington State Chapter of the Community Associations Institute; and Hilary Bublitz, Washington Community Associations Institute.

**Persons Signed In To Testify But Not Testifying:** None.