CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1403

Chapter 201, Laws of 2025

69th Legislature
2025 Regular Session

CONDOMINIUM CONSTRUCTION—CONSTRUCTION DEFECTS AND WARRANTIES

EFFECTIVE DATE: July 27, 2025—Except for sections 3 and 6, which take effect January 1, 2028.

Passed by the House April 17, 2025
Yeas 93 Nays 2

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate April 8, 2025
Yeas 47 Nays 1

JOHN LOVICK

President of the Senate

Approved May 7, 2025 1:17 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1403** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 12, 2025

Secretary of State
State of Washington

ENGROSSED HOUSE BILL 1403

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Representatives Taylor, Connors, Duerr, Jacobsen, Peterson, Reed, Barkis, Rule, Doglio, Tharinger, Salahuddin, Ormsby, Ryu, Entenman, Street, and Hill

Read first time 01/20/25. Referred to Committee on Civil Rights & Judiciary.

AN ACT Relating to increasing homeownership opportunities by simplifying condominium construction statutes; amending RCW 64.90.670, 64.55.005, 64.55.005, 64.90.675, and 64.55.010; reenacting and amending RCW 64.55.010; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 64.90.670 and 2019 c 238 s 102 are each amended to read as follows:

(1) A declarant and any dealer warrants to a purchaser of a condominium unit that the unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, except for reasonable wear and tear and damage by casualty or condemnation.

(2) ((~~A~~)) (a) If a condominium unit is part of a common interest community organized under this chapter and created prior to the effective date of this section, a declarant and any dealer impliedly warrants to a purchaser of ((~~a~~)) the condominium unit that the unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by such declarant or dealer will be:

((~~(a)~~)) (i) Free from defective materials;

((~~(b)~~)) (ii) Constructed in accordance with engineering and construction standards, including applicable building codes, generally accepted in the state of Washington at the time of construction; and

((~~(c)~~)) (iii) Constructed in a workmanlike manner.

(b) If a condominium unit is part of a common interest community created on or after the effective date of this section, a declarant and any dealer impliedly warrants to a purchaser of the condominium unit that the unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by such declarant or dealer will be:

(i) Free from defective materials;

(ii) Constructed in accordance with the plans, specifications approved by the applicable jurisdiction for the construction of the condominium, manufacturer installation guidelines, applicable building codes in effect at the time of permit approval, and any published industry standards specifically incorporated into the applicable building codes in effect at the time of permit approval; and

(iii) Constructed in a workmanlike manner. For purposes of this subsection (2)(b)(iii), "workmanlike manner" means the degree of care that a reasonably prudent contractor licensed in the state of Washington would exercise under the same or similar circumstances.

(3) A declarant and any dealer warrants to a purchaser of a condominium unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(4) Warranties imposed under this section may be excluded or modified as specified in RCW 64.90.675.

(5) For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

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

(7)(a) In a proceeding for breach of any of the obligations arising under this section, the purchaser must show that the alleged breach has adversely affected or will adversely affect the

performance of that portion of the unit or common elements alleged to be in breach. Nothing in this section limits the ability of a board to bring claims on behalf of two or more unit owners pursuant to RCW 64.90.405(2)(d).

(b) To establish an adverse effect on performance, the purchaser is required to prove that the alleged breach:

(i) Is more than technical;

(ii) Is significant to a reasonable person; and

(iii) Has caused or will cause physical damage to the unit or common elements; has materially impaired the performance of mechanical, electrical, plumbing, elevator, or similar building equipment; or presents an actual, unreasonable safety risk to the occupants of the condominium.

(8) Proof of breach of any obligation arising under this section is not proof of damages. Damages awarded for a breach of a warranty arising under subsection (2) of this section are the reasonable cost of repairs. However, if it is established that the cost of such repairs is clearly disproportionate to the loss in market value caused by the breach, damages are limited to the loss in market value.

Sec. 2. RCW 64.55.005 and 2019 c 238 s 216 are each amended to read as follows:

(1)(a) RCW 64.55.010 through 64.55.090 apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after August 1, 2005.

(b) RCW 64.55.010 and 64.55.090 apply to conversion condominiums as defined in RCW 64.34.020 or conversion buildings as defined in RCW 64.90.010, provided that RCW 64.55.090 shall not apply to a condominium conversion for which a public offering statement had been delivered pursuant to chapter 64.34 RCW prior to August 1, 2005.

(c) RCW 64.55.010 through 64.55.090 do not apply to an accessory dwelling unit organized pursuant to chapter 64.90 RCW as a condominium unit in a common interest community created on or after the effective date of this section.

(2) RCW 64.55.010 and 64.55.100 through 64.55.160 and 64.34.415 apply to any action that alleges breach of an implied or express warranty under chapter 64.34 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory pleaded,

except that RCW 64.55.100 through 64.55.160 and 64.34.415 shall not apply to:

(a) Actions filed or served prior to August 1, 2005;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to August 1, 2005;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after August 1, 2005, unless the letter required by RCW 64.55.060 has been submitted to the appropriate building department or the requirements of RCW 64.55.090 have been satisfied.

(3) Other than the requirements imposed by RCW 64.55.010 through 64.55.090, nothing in this chapter amends or modifies the provisions of RCW 64.34.050.

Sec. 3. RCW 64.55.005 and 2024 c 321 s 423 are each amended to read as follows:

(1)(a) RCW 64.55.010 through 64.55.090 apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after August 1, 2005.

(b) RCW 64.55.010 and 64.55.090 apply to conversion buildings as defined in RCW 64.90.010.

(c) RCW 64.55.010 through 64.55.090 do not apply to an accessory dwelling unit organized pursuant to chapter 64.90 RCW as a condominium unit in a common interest community created on or after the effective date of section 2 of this act.

(2) RCW 64.55.010 and 64.55.100 through 64.55.160 and 64.90.620 apply to any action that alleges breach of an implied or express warranty under chapter 64.90 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory pleaded, except that RCW 64.55.100 through 64.55.160 and 64.90.620 shall not apply to:

(a) Actions filed or served prior to August 1, 2005;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to August 1, 2005;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after August 1, 2005, unless the letter required by RCW 64.55.060 has been submitted to the appropriate building department or the requirements of RCW 64.55.090 have been satisfied.

(3) Other than the requirements imposed by RCW 64.55.010 through 64.55.090, nothing in this chapter amends or modifies the provisions of RCW 64.90.025.

Sec. 4. RCW 64.90.675 and 2018 c 277 s 416 are each amended to read as follows:

(1) Except as limited under subsections (2) and (4) of this section with respect to a purchaser of a condominium unit that may be used for residential use, implied warranties of quality under RCW 64.90.670:

(a) May be excluded or modified by written agreement of the parties; and

(b) Are excluded by written expression of 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.

(2) With respect to a purchaser of a condominium unit that may be used for residential use, no disclaimer of implied warranties of quality under RCW 64.90.670 is effective, except that a declarant and any dealer may disclaim liability in an instrument for one or more specified defects or failures to comply with applicable law, if:

(a) The declarant or dealer knows or has reason to believe that the specific defects or failures exist at the time of disclosure;

(b) The disclaimer specifically describes the defects or failures;

(c) The disclaimer includes a statement as to the effect of the defects or failures;

(d) The disclaimer is boldfaced, capitalized, underlined, or otherwise set out from surrounding material so as to be conspicuous; and

(e) The disclaimer is signed by the purchaser.

(3) ((~~A~~)) Except as provided in subsection (4) of this section, a declarant or dealer may not make an express written warranty of quality that limits the implied warranties of quality made to the purchaser set forth in RCW 64.90.670.

(4)(a) With respect to a unit in a condominium created on or after the effective date of this section, a declarant or dealer is not subject to the implied warranties of quality set forth in RCW 64.90.670 if the declarant or dealer provides for the condominium unit an express warranty of quality and express warranty insurance coverage that meets the requirements in (b) of this subsection, and the condominium unit is:

(i) An accessory dwelling unit organized as a condominium pursuant to this chapter;

(ii) Located in a new building or a conversion building containing 12 or fewer units and two or fewer stories;

(iii) Located in a new building or a conversion building containing 12 or fewer units and three or fewer stories, if one story is utilized for parking, either above or below ground, or as a commercial space; or

(iv) Located in a new building or a conversion building containing 12 or fewer units where no unit is physically located above or below any other unit, except for balconies, roof decks, overhangs, and minor building features.

(b) An express warranty of quality and insurance coverage provided under (a) of this subsection must:

(i) Require acknowledgment by the unit purchaser that the express warranty of quality applies;

(ii) Allow for recovery of defects under the express warranty of quality by the unit owner and any subsequent purchaser, and by the unit owners association for common areas;

(iii) Apply to all condominium units and common areas within the building; and

(iv) Provide minimum coverage periods as follows:

(A) One year for defective workmanship and materials;

(B) Two years for defective plumbing, electrical, and ductwork distribution systems; and

(C) 10 years for structural defects to load-bearing structural members.

(c) A proceeding for breach of an express warranty of quality and insurance coverage provided under (a) of this subsection must be commenced pursuant to RCW 64.90.680.

Sec. 5. RCW 64.55.010 and 2024 c 122 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer who prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection;

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant;

(vii) A building with 12 or fewer units that is no more than two stories; and

(viii) A building with 12 or fewer units that is no more than three stories so long as one story is utilized for parking, either above or below ground, or retail space, except if such building is subject to a 2-10 express warranty, as provided in RCW 64.90.675(4), as an alternative to the implied warranty in RCW 64.90.670.

(b) If the developer submits to the appropriate building department when applying for the building permit described in RCW 64.55.020 a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of RCW 64.55.040.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in RCW 64.55.090, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of RCW 64.55.010 through 64.55.090. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).
>
> This covenant terminates on the earlier of either: (a) Compliance with the requirements of RCW 64.55.090, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.

All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on

every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

Sec. 6. RCW 64.55.010 and 2024 c 321 s 424 and 2024 c 122 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in RCW 64.90.010 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer who prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a

building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection;

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant;

(vii) A building with 12 or fewer units that is no more than two stories; and

(viii) A building with 12 or fewer units that is no more than three stories so long as one story is utilized for parking, either above or below ground, or retail space, except if such building is subject to a 2-10 express warranty, as provided in RCW 64.90.675(4), as an alternative to the implied warranty in RCW 64.90.670.

(b) If the developer submits to the appropriate building department when applying for the building permit described in RCW 64.55.020 a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit

residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of RCW 64.55.040.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in RCW 64.55.090, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.90.600(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of RCW 64.55.010 through 64.55.090. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales or dispositions listed in RCW 64.90.600(2).
>
> This covenant terminates on the earlier of either: (a) Compliance with the requirements of RCW 64.55.090, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date

of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.

All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

NEW SECTION. **Sec. 7.** Sections 2 and 5 of this act expire January 1, 2028.

NEW SECTION. **Sec. 8.** Sections 3 and 6 of this act take effect January 1, 2028.

Passed by the House April 17, 2025.
Passed by the Senate April 8, 2025.
Approved by the Governor May 7, 2025.
Filed in Office of Secretary of State May 12, 2025.

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