

Housing Committee

HB 2118

Brief Description: Concerning common interest community restrictions.

Sponsors: Representatives Jacobsen and Reed.

Brief Summary of Bill

- Prohibits common interest community unit owners' associations from entering into, amending, or enforcing a covenant, condition, or restriction in a way that imposes more onerous restrictions on the types of use of a unit than those restrictions that existed when the unit owner acquired the unit, unless the unit owner agrees in writing.

Hearing Date: 1/13/26

Staff: Audrey Vasek (786-7383).

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 and a shared or undivided interest in common area property, such as condominiums, cooperatives, leasehold CICs, miscellaneous communities, and plat communities.

Governing Statutes.

In Washington, several statutes govern residential CICs. The Washington Uniform Common Interest Ownership Act (WUCIOA) took effect July 1, 2018, and is applicable to CICs created on or after that date. A CIC created prior to the effective date of the WUCIOA may choose to opt into the WUCIOA.

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.

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Effective January 1, 2028, the older CIC statutes will be repealed and the WUCIOA will apply to all CICs regardless of their creation date.

Associations.

A CIC is administered by a unit owners' or homeowners' association, which is an organization consisting of property owners within the CIC. An association derives its authority from several documents, including the declaration of covenants, conditions, and restrictions (CCRs); the association's bylaws and articles of incorporation; and the deeds to the property within a development.

The primary functions of an association include: managing and maintaining common areas, such as parks, roads, and community centers; imposing and collecting assessments; and enforcing any CCRs that govern the community. In addition, an association may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Limitations on Association Regulatory Authority.

The regulatory authority of CIC associations is limited with respect to certain matters, such as:

- display of the United States or Washington state flags;
- display of signs regarding candidates for public or association office or ballot issues;
- peaceful assembly of unit owners on the common elements to consider CIC matters;
- storage of compost, garbage, and recycling collection containers;
- installation of solar energy panels;
- installation or use of heat pumps;
- installation or use of electric vehicle charging stations;
- installation of drought resistant landscaping, pollinator habitat, or wildfire ignition resistant landscaping;
- use of a unit as a licensed family home child care or licensed child day care center;
- use of a unit as an adult family home;
- tenant screening requirements;
- occupancy limits on the number of unrelated persons that may occupy a unit;
- construction, development, or use of an accessory dwelling unit within urban growth areas; and
- construction or development of multifamily housing or transit-oriented development density within a station area.

Summary of Bill:

Limitations on Association Authority to Regulate Types of Use of a Unit.

Unit owners' associations are prohibited from entering into, amending, or enforcing a CCR in a way that imposes more onerous restrictions on the types of use of a unit than those restrictions that existed when the unit owner acquired the unit, unless the unit owner agrees in writing at the time of the adoption or amendment of the CCR.

"Types of use" means the ability to:

- use the unit for residential, agricultural, or commercial purposes, unless the use was impermissible according to the written or recorded restrictions;
- rent the unit, including the unit's land and structures, for any amount of time; and
- develop the unit in accordance with applicable federal, state, and local laws, unless the ability was impermissible according to the written or recorded restrictions.

The bill does not:

- prevent enforcement of a CCR limiting the types of use of a unit as long as the CCR applied to the unit at the time the unit owner acquired an interest in the unit;
- invalidate any CCRs that existed before the effective date of the bill; or
- create a private right of action for actions or omissions occurring before the effective date of the bill.

However, on or after the effective date of the bill, an association may not enforce a CCR in a way that limits the types of use that were allowed for a unit when the unit owner acquired the affected unit, unless the unit owner has consented.

Exemptions.

The following types of CCRs are exempt from the provisions of the bill:

- CCRs that are not subject to enforcement by a unit owners' association; or
- CCRs that are required in order to comply with applicable federal, state, and local laws, ordinances, and regulations.

Recording.

A unit owner who claims an exception to a CCR under the bill must request that the association record or allow recording of the exception, and the association, unit owner, or a designee must record the exception in every county in which the affected unit is situated. The unit owner is responsible for paying the recording fees and providing the association with the date on which the affected unit was conveyed to the unit owner.

Successors-in-Interest.

A unit owner's successor-in-interest is prohibited from claiming an exception to a CCR that was entered into, amended, or enforced before the successor-in-interest purchased the unit, even if the CCR was not enforceable against the previous unit owner, with the following exceptions:

- the successor-in-interest is owned by or shares ownership with the previous unit owner; or

- the successor-in-interest is a lender that acquired the unit through foreclosure.

Applicability and Expiration Dates.

Changes are made to each of the four CIC statutes, including the WUCIOA, HPRA, WCA, and HAA. However, the sections applying to the three older CIC statutes expire January 1, 2028, which aligns with the date that the older CIC statutes will be repealed in their entirety.

Appropriation: None.

Fiscal Note: Not requested.

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