

Multiple Agency Fiscal Note Summary

Bill Number: 5796 SB	Title: Common interest communities
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Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.0	0	0	0	0.0	0	0	0	0.0	0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Gaius Horton, OFM	Phone: (360) 819-3112	Date Published: Final 1/ 8/2024
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Judicial Impact Fiscal Note

Bill Number: 5796 SB	Title: Common interest communities	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note for Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Ryan Giannini	Phone: 3607867285	Date: 12/13/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 01/04/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/04/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/08/2024

188,243.00

Request # 004-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

This bill would amend and add sections to the Uniform Common Interest Ownership Act, Chapter 64.90 RCW – governance and operation of certain types of common interest communities; removal of discriminatory restrictions in governing documents; and rights, duties, and powers of involved unit owners and associations.

Section 325 would impact procedure codes creating a new cause of action for unit owners against violating associations.

Existing case management systems do not track these case filings with a unique cause of action, therefore no reliable case filing data is available. However, the increase in court filings is anticipated to be slight and only to the extent such actions are brought.

II. B - Cash Receipts Impact

None

II. C - Expenditures

No fiscal impact is expected to the Administrative Office of the Courts or the courts.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

NONE

III. B - Expenditure By Object or Purpose (County)

NONE

III. C - Expenditure By Object or Purpose (City)

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

188,243.00

Form FN (Rev 1/00)

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NONE

None

188,243.00

Form FN (Rev 1/00)

3

Request # 004-1

Bill # 5796 SB

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5796 SB

Title: Common interest communities

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties: Counties in which amendments to common interest community governing documents are recorded.
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: The number of counties in which unlawful restrictions have been previously recorded and the number of amendments that will be filed in each county.

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Kristine Williams	Phone: (564) 669-3002	Date: 12/28/2023
Leg. Committee Contact: Ryan Giannini	Phone: 3607867285	Date: 12/13/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 12/28/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/08/2024

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

The proposed legislation requires that amendments to the governing documents of a common interest community, as defined, be recorded in each county where the unlawful restrictions have previously been recorded. The legislation would amend, reenact and amend, and repeal numerous RCWs that affect legal claims amongst and between owners of a common interest property. The legislation would also add new sections to chapter 64.90 RCW; recodifying several RCWs; provide effective dates, and an expiration date.

Section 101 adds a section to RCW 64.90 which grants certain authorities to an association board to remove unlawful restrictions in the association's governing documents without a vote of the unit owners. This section also specifies the method in which a unit owner may request a restriction to be removed and requires the board to act within 90 days of receiving such request.

An unlawful restriction is defined to be a prohibition, restriction, covenant, or condition in a governing document that purports to interfere with or restrict the transfer, use, or occupancy of a unit: (i) on the basis of race, color, religion, national origin, sex, familial status, disability, or other personal characteristics; and (ii) in violation of other law of this state or federal law.

Section 102 adds a section to RCW 64.90 which describes certain information that must be included in the amendment to ensure that lawful restrictions may still be enforced. Amendments must be recorded in each county where the unlawful restrictions have been previously recorded.

Section 201 amends RCW 64.90.085 to apply the amendments of this chapter to all common interest communities, regardless of when the community was created.

Section 202 amends RCW 64.90.105 to remove certain exemptions for out of state communities, not including those listed in 64.90.600(2).

Section 203 amends RCW 64.90.300 to include certain delegation powers which may be included in a declaration and also stipulates that chapter provisions will also apply to a master association, unless modified in the section. The section is also amended to include notice requirements, transfer of liability, and effective dates. This section is further amended to include certain requirements for master board elections.

Section 204 amends RCW 64.90.310 to allow two or more common interest communities to be merged or consolidated into a single community by agreement of unit owners or exercise of a special declarant right that does not require unit owner approval.

Section 205 is added to 64.90 RCW which will prohibit adverse possession claims towards commonly owned elements that disadvantage another owner.

Section 206 amends RCW 64.90.450 to provide clarification on quorum requirements.

Section 207 amends RCW 64.90.480 to specify how certain common expenses may be assessed in a declaration and when certain expenses may be assessed exclusively against a unit owner. This section is also amended to include notification and hearing requirements.

Section 208 amends RCW 64.90.520 RCW to add an option for unit owners to attend meetings by teleconference or other electronic communications. This section is also amended to clarify who can remove a board member approved through a declaration and when a member can be removed without a unit owner vote.

Section 209 amends RCW 64.90.610 to require a statement regarding unit owner consent in public offering statements for condominiums, plat communities, or miscellaneous communities containing a unit not having horizontal boundaries in a declaration, as required in RCW 64.90.290.

Section 301 amends RCW 64.90.010 RCW (Definitions) to add new definitions or clarification to existing definitions. Specifically:

- The definition of “association” and “unit owners association” is added.
- The definition of “Declarant” is amended to include a person who “succeeds” to any special declarant right in a declaration.
- The definition of “Electronic” is added.
- The definition of “Master association” is amended to include an association serving more than one community interest community or a power delegated under RCW 64.90.300(1)(a).
- The definition of “Rule” is amended to remove two requirements related to the conduct of persons or use of property.
- The definition of “Special declarant rights” is amended to include certain applicable RCW citations.
- The definition of “Specially allocated expense” is amended to describe how these expenses are allocated.

Section 302 amends RCW 64.90.065 to recodify the RCW.

Section 303 adds a section to RCW 64.90 which lists the governing provisions that may be modified and how they may be modified.

Section 304 amends RCW 64.90.100 RCW to recodify the RCW.

Section 305 amends RCW 64.90.225 to provide a real estate description declaration exemption for real estate that is subject to development rights. The description of development rights and other special declarant rights reserved by the declarant is also amended to remove the description of certain real estate boundaries listed in subsection (h) (i) and to require a legal description of the real property to which each development right applies.

Section 306 amends RCW 64.90.240 to specify how an amendment is processed and recorded. This section is also amended to clarify the process, including owner notification, in which a common element or limited common element shall be allocated in a declaration amendment.

Section 307 amends RCW 64.90.260 to describe how a unit boundary relocation is addressed in the declaration amendment process and allows the board to prescribe certain fees or charges to the unit owner. Subsection (3) is amended to describe certain amendment requirements for condominium, plat community, miscellaneous community, and cooperatives including which party that is responsible for preparing and recording amendments.

Section 308 adds a new section to RCW 64.90 to not allow an encroachment to change the legal physical boundaries of a property listed in a declaration unless there are certain exceptions, as described.

Section 309 amends RCW 64.90.285 RCW to recodify the section. Subsection (6) is amended to remove the option for a declaration to require a higher percentage of unit owner approval in order to prohibit or restrict certain uses or protect certain interests as listed. Subsection (10) (b) is also amended to remove the option for a declaration to remove language which restricts the property rights of an individual in a protected class.

Section 310 amends RCW 64.90.290 to require that at least 80 percent of the votes that are required to terminate a common interest community must be allocated to units not owned by the declarant. Subsection (3) is amended to allow

the sale of some of the common elements. Subsection (4)(a) and (5) are amended to stipulate conditions for the sale of real estate not already owned or real estate not to be sold following termination of the association. Subsection (9) is amended to include appraisal selection and approval requirements along with the objection process to be used by a unit owner and association. A new subsection (13) is added which allows for the termination of fewer than all of the units in a common interest community, subject to the rules included in the subsection related to voter approval, allocation of interest, sale proceeds, security interests, and recording.

Section 311 amends RCW 64.90.405 RCW to recodify the section. Subsection (2) (h) (i) is amended to allow a grant easement to benefit to an owner's unit after being reallocated in accordance with RCW 64.90.240(3). Subsection (2) (l) is amended to include the notification requirements listed in RCW 64.90.505 for establishing a fine schedule. Subsection (2) (x) is amended to clarify the time period for, and type of suspension that may be imposed on a unit owner who fails to pay an assessment.

Section 312 amends RCW 64.90.410 to recodify the section. A new subsection (7) is added to allow for board appointments during and after declarant control, subject to certain conditions. This subsection is moved from Section 314 (3).

Section 313 adds a new section to 64.90 RCW which requires the association to provide certain notice to all unit owners prior to the election of board members.

Section 314 amends RCW 64.90.420 to add a new subsection (1) (t) which requires a declarant to provide the originals, or a copy of the most recent reserve study prepared pursuant to RCW 64.90.545 to the board, if one exists, within 30 days following a transition meeting.

Section 315 amends RCW 64.90.425 to remove subsections (1) through (6) which describe special declarant rights that may or may not be transferred as well as transferor declarant obligations and liabilities. This section is further amended to include the definition of "Involuntary transfer" and "Nonaffiliate successor" in the new subsection (1) (a) and (b). Subsections (2) through (12) are added which include special declarant rights and how those rights may be transferred as well as certain obligations and liabilities.

Section 316 amends RCW 64.90.445 to allow unit owners to discuss matters not included in a meeting notice as long as action is not taken on the matter. This section is also amended to allow the meeting to be conducted remotely using communications described and provides clarification on what actions may be taken.

Section 317 amends RCW 64.90.455 to include the process by which unit owners may vote in person or remotely. This section is amended to provide additional clarification on how votes are cast by proxy and recorded. This section is also amended to provide clarification on what voting instructions the association must send to unit owners and the process for verifying ballots. Subsection (8) (a) is added which states that unless a majority vote determines the outcome, unless otherwise specified in the declaration.

Section 318 (which expires on January 1, 2025) and Section 319 (that takes effect on January 1, 2025) amend RCW 64.90.485 to add a new subsection (13) (e) which prohibits association board members, or their immediate family members and affiliates, to acquire an interest in a unit during a foreclosure process. A definition of "immediate family member" and "affiliate" are included.

Section 320 amends RCW 64.90.495 to add new subsections (1) (p) (q) and (r) which list additional records to be maintained by an association which include originals or copies of plans and specifications, instruments of conveyance, and permits or certificates of occupancy pursuant to RCW 64.90.420 (1), not including the electronic addresses of unit owners

who wish their address to remain confidential. Subsection (9) is amended to state that these records must be delivered to the association within five business days following the termination of a managing agent.

Section 321 adds a new section to 64.90 RCW which provides the following definition of “emergency”:

- (a) A state of emergency declared by a government for an area that includes the common interest community; or
- (b) An event or condition that constitutes an imminent:
 - (i) Threat to the health or safety of the public or residents of the common interest community.
 - (ii) Threat to the habitability of units; or
 - (iii) Risk of substantial economic loss to the association.

The section also describes the actions the association board may take during an emergency necessary to protect the interests of the unit owners including the use of association funds and fund reserves.

Section 322 amends RCW 64.90.510 subsection (4) to prohibit an association from restricting unit owners from using certain types of materials or containers. The association may set requirements that receptacles are screened from view during periods they are not scheduled for collection.

Section 323 amends RCW 64.90.515 which will allow a unit owner’s electronic address to be kept confidential and exempt from disclosure by the association pursuant to RCW 64.90.495 (2) if requested.

Section 324 amends RCW 64.90.570 to remove the use of “regulations” in governing documents or master deed provisions in reference to units that are being used for a licensed family home childcare facility. The section is amended to allow an association to impose “rules” for these facilities if they are applied equally to other similar uses. The section is also amended to clarify that certain operating costs and expenses are the responsibility of the childcare facility.

Section 325 adds a new section to 64.90 RCW which will prohibit any action taken by an association to restrict the use of a unit as an adult family home as defined in RCW 70.128.010. This section does allow an association to impose reasonable rules, licensing, liability waiver, insurance, and facility access requirements. Associations that violate provisions in this section are subject to a civil penalty not to exceed \$1,000.

Section 326 amends RCW 64.90.605 to provide clarification on the preparation of a public offering statement prepared by a declarant or a successor declarant. These statements must conform to the RCW requirements listed in subsection (1) and delivered to a purchaser in accordance with RCW 64.90.635. This section is also amended to assign the same responsibilities and liabilities of a declarant to a dealer if the dealer helped to prepare a public offering statement.

Section 327 amends RCW 64.90.635 to stipulate certain requirements for the delivery and acceptance of public offering statements.

Section 328 amends RCW 64.90.640 to include language that must be included in a resale certificate.

Section 401 amends RCW 7.60.025 to remove subsections (1) (ee) and (ff) and add a new subsection under RCW 64.90.485 (15) related to the collection of assessments and foreclosure of a lien on a unit.

Section 402 amends RCW 7.60.110 to recodify the RCW.

Section 403 amends RCW 18.85.151 to recodify the RCW.

Section 404 amends RCW 36.70A.699 to recodify the RCW.

Section 405 amends RCW 43.185B.020 to recodify the RCW.

Section 406 amends RCW 46.61.419 to recodify the RCW and to replace various references to associations with “unit

owners” association. “Common interest” is also added to the term community.

Section 407 amends RCW 58.17.040 to recodify the RCW and to add the term “cooperative” to the list of land divisions that are subject to the provisions of this chapter.

Section 408 amends RCW 59.18.200 to recodify the RCW.

Section 409 amends RCW 59.18.650 to recodify the RCW.

Section 410 amends RCW 61.24.030 to recodify the RCW.

Section 411 amends RCW 61.24.031 to recodify the RCW.

Section 412 amends RCW 61.24.040 to recodify the RCW.

Section 413 amends RCW 61.24.165 to recodify the RCW.

Section 414 amends RCW 61.24.190 to recodify the RCW.

Section 415 amends RCW 64.06.005 to clarify that public offering statements received prior to July 1, 2018, that do not include a condominium unit created on or after that date are subject to chapter 64.90 RCW.

Section 416 amends RCW 64.35.105 to recodify the RCW.

Section 417 amends RCW 64.35.405 to recodify the RCW.

Section 418 amends RCW 64.35.505 to recodify the RCW.

Section 419 amends RCW 64.35.610 to recodify the RCW.

Section 420 amends RCW 64.50.010 to recodify the RCW.

Section 421 amends RCW 64.50.040 to recodify the RCW and also to remove wording to provide consistency within the section.

Section 422 amends RCW 64.50.050 to recodify the RCW.

Section 423 amends RCW 64.55.055 to recodify the RCW and also to remove wording and add wording to provide consistency within the chapter.

Section 424 amends RCW 64.55.010 to recodify the RCW. Subsection (10) is also amended to add dispositions to the language that is used in a sale prohibition covenant.

Section 425 amends RCW 64.55.070 to recodify the RCW.

Section 426 amends RCW 64.55.090 to recodify the RCW.

Section 427 amends RCW 64.55.120 to recodify the RCW.

Section 428 amends RCW 64.55.130 to recodify the RCW.

Section 429 amends RCW 64.60.010 to recodify the RCW.

Section 430 amends RCW 64.70.020 to substitute the definition provided in RCW 64.90.010 for the “Common interest community” definition.

Section 431 amends RCW 82.02.020 to recodify the RCW.

Section 432 amends RCW 82.02.4298 to remove wording and add wording to that is consistent with the definitions in RCW 64.90.010.

Section 433 amends RCW 64.32.260 to recodify the references to RCW 64.90.095.

Section 434 amends RCW 64.34.076 to recodify the references to RCW 64.90.095 and 64.90.080.

Section 435 amends RCW 64.38.095 to recodify the references to RCW 64.90.095.

Sections 501 through Section 505 are new sections which repeal certain acts or parts of acts, effective January 1, 2026.

Section 506 amends RCW 64.90.075 to state that, except as otherwise specified in this section, this chapter applies to all common interest communities. Certain exceptions are made for communities until January 1, 2026.

Section 507 creates a new section to provide clarifications regarding the treatment of inconsistent government documents for community interest communities that were created before January 1, 2018.

Section 508 amends RCW 64.90.080 to list the specific sections that apply to a community interest community created before July 1, 2018, and the chapter provisions that do not apply to these communities. Exceptions are provided.

Section 509 amends RCW 64.90.095 to clarify the process in which the declaration of any community interest community, or plat community or miscellaneous community, created before July 1, 2018, may be amended.

Section 510 adds a new section to RCW 64.90.075, 64.90.080, and 64.90.095 to recodify section in chapter 64.90 RCW under the subchapter heading "APPLICABILITY AND TRANSITION."

Section 511 adds section 507 to chapter 64.90 RCW with the subchapter heading "APPLICABILITY AND TRANSITION."

Section 512 adds a new section setting an effective date of January 1, 2025, for Section 319 and January 1, 2026, for sections 401 through 432.

Section 513 adds a new section which sets an expiration date of January 1, 2025, for section 318 of this act.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

The legislation would not impact local government expenditures. The Washington State Association of County Auditors has determined that the bill does not create any additional costs for county recording offices.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

This legislation would have an indeterminate revenue impact on local governments.

The bill would require that amendments to the governing documents of common interest communities which address unlawful restrictions be recorded in each county where a community, or a portion of a community, is located. It can be assumed that this legislation will likely result in an increase in recording fee revenue during the first year in which it goes into effect. However, the number of counties and the number of recordings to be filed in each county is indeterminate.

SOURCES:

Association of Washington Cities

Spokane County Auditor's Office

Washington State Association of County Auditors

Washington State Association of Counties