
SUBSTITUTE HOUSE BILL 1576

State of Washington

66th Legislature

2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Senn, Irwin, Goodman, Griffey, Ryu, Chapman, and Barkis)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to construction defect actions; and adding a new
2 section to chapter 64.50 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.50
5 RCW to read as follows:

6 (1)(a) In the event the board of directors, pursuant to RCW
7 64.90.405, proposes to initiate an action asserting defects in the
8 construction of two or more residences, common elements, or common
9 areas, this section applies.

10 (b) The board of directors shall substantially comply with the
11 provisions of this section.

12 (2) Prior to commencement of an action governed by this section,
13 the board of directors shall provide notice to unit owners and to
14 each construction professional against whom an action is proposed,
15 convene a meeting of unit owners to consider whether to initiate an
16 action, and conduct a vote of unit owners on whether to do so.

17 (3) The notice provided to unit owners and to each construction
18 professional against whom an action is proposed shall include:

19 (a) The date, time, and location of the meeting;

20 (b) The nature of the action and the relief sought; and

1 (c) The expenses and fees that the board of directors anticipates
2 will be incurred in prosecuting the action.

3 (4) The notice to unit owners shall, in addition, include:

4 (a) A ballot;

5 (b) The time and date by which a ballot must be delivered to the
6 association to be counted, which may not be fewer than forty-five
7 days after the date of the meeting; and

8 (c) The percent of votes necessary to reject the action.

9 (5) (a) The meeting of unit owners must be held within forty-five
10 days of the date the notice was provided. A quorum is not required at
11 the meeting.

12 (b) The construction professional against whom the construction
13 defect action is proposed shall be invited to attend and shall have
14 an opportunity to address the unit owners concerning the alleged
15 construction defects.

16 (c) The presentation at the meeting by the construction
17 professional or the construction professional's designee or designees
18 may, but is not required to, include an offer to remedy any defect in
19 accordance with this chapter.

20 (d) Following any presentations, unit owners in attendance may
21 cast their ballots at the meeting. Alternatively, unit owners may
22 deliver their ballots to the association on or before the date by
23 which all ballots must be delivered, which may not be fewer than
24 forty-five days after the date of the meeting.

25 (6) (a) Unless the unit owners of units to which a majority of the
26 votes in the association are allocated reject the action by the date
27 by which all ballots must be delivered, the action is ratified.

28 (b) If the board of directors proposes to initiate an action
29 asserting defects in the construction of two or more units, common
30 elements, or common areas in which the declarant or an affiliate of
31 the declarant would be a defendant, the declarant and any affiliate
32 of the declarant shall not be eligible to vote and the action will be
33 ratified unless a majority of the eligible votes in the association
34 reject the action.

35 (7) (a) Except as provided in (b) of this subsection, the board of
36 directors may commence the action only after ratification.

37 (b) Ratification is not required if the alleged construction
38 defect pertains to a facility that is intended and used for
39 nonresidential purposes and if the cost to repair the alleged defect
40 does not exceed one hundred thousand dollars or when the association

1 is the contracting party for the performance of labor or purchase of
2 services or materials.

3 (8) Nothing in this section shall require the disclosure of
4 attorney-client privileged information.

5 (9) This section supersedes all inconsistent provisions of the
6 governing documents of all common interest communities subject to
7 chapter 64.90 RCW.

8 (10)(a) For purposes of this section, "action" has the same
9 meaning as set forth in RCW 64.50.010.

10 (b) Unless otherwise defined in RCW 64.50.010, the terms in this
11 section have the meaning set forth in RCW 64.90.010.

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