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**SUBSTITUTE SENATE BILL 5011**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Pedersen, Wilson, L., Brown, Kuderer, Mullet, and Warnick)

1 AN ACT Relating to notice, meeting, and voting provisions for  
2 common interest communities, condominiums, and homeowners'  
3 associations; amending RCW 64.32.010, 64.34.332, 64.34.340,  
4 64.34.352, 64.38.035, and 64.90.445; reenacting and amending RCW  
5 64.34.020 and 64.38.010; adding new sections to chapter 64.32 RCW;  
6 adding a new section to chapter 64.34 RCW; and adding new sections to  
7 chapter 64.38 RCW.

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

9 **Sec. 1.** RCW 64.32.010 and 2008 c 114 s 3 are each amended to  
10 read as follows:

11 As used in this chapter unless the context otherwise requires:

12 (1) "Apartment" means a part of the property intended for any  
13 type of independent use, including one or more rooms or spaces  
14 located on one or more floors (or part or parts thereof) in a  
15 building, or if not in a building, a separately delineated place of  
16 storage or moorage of a boat, plane, or motor vehicle, regardless of  
17 whether it is destined for a residence, an office, storage or moorage  
18 of a boat, plane, or motor vehicle, the operation of any industry or  
19 business, or for any other use not prohibited by law, and which has a  
20 direct exit to a public street or highway, or to a common area  
21 leading to such street or highway. The boundaries of an apartment

1 located in a building are the interior surfaces of the perimeter  
2 walls, floors, ceilings, windows and doors thereof, and the apartment  
3 includes both the portions of the building so described and the air  
4 space so encompassed. If the apartment is a separately delineated  
5 place of storage or moorage of a boat, plane, or motor vehicle the  
6 boundaries are those specified in the declaration. In interpreting  
7 declarations, deeds, and plans, the existing physical boundaries of  
8 the apartment as originally constructed or as reconstructed in  
9 substantial accordance with the original plans thereof shall be  
10 conclusively presumed to be its boundaries rather than the metes and  
11 bounds expressed or depicted in the declaration, deed or plan,  
12 regardless of settling or lateral movement of the building and  
13 regardless of minor variance between boundaries shown in the  
14 declaration, deed, or plan and those of apartments in the building.

15 (2) "Apartment owner" means the person or persons owning an  
16 apartment, as herein defined, in fee simple absolute or qualified, by  
17 way of leasehold or by way of a periodic estate, or in any other  
18 manner in which real property may be owned, leased or possessed in  
19 this state, together with an undivided interest in a like estate of  
20 the common areas and facilities in the percentage specified and  
21 established in the declaration as duly recorded or as it may be  
22 lawfully amended.

23 (3) "Apartment number" means the number, letter, or combination  
24 thereof, designating the apartment in the declaration as duly  
25 recorded or as it may be lawfully amended.

26 (4) "Association of apartment owners" means all of the apartment  
27 owners acting as a group in accordance with the bylaws and with the  
28 declaration as it is duly recorded or as they may be lawfully  
29 amended.

30 (5) "Building" means a building, containing two or more  
31 apartments, or two or more buildings each containing one or more  
32 apartments, and comprising a part of the property.

33 (6) "Common areas and facilities", unless otherwise provided in  
34 the declaration as duly recorded or as it may be lawfully amended,  
35 includes:

36 (a) The land on which the building is located;

37 (b) The foundations, columns, girders, beams, supports, main  
38 walls, roofs, halls, corridors, lobbys, stairs, stairways, fire  
39 escapes, and entrances and exits of the building;

1 (c) The basements, yards, gardens, parking areas and storage  
2 spaces;

3 (d) The premises for the lodging of janitors or persons in charge  
4 of the property;

5 (e) The installations of central services such as power, light,  
6 gas, hot and cold water, heating, refrigeration, air conditioning and  
7 incinerating;

8 (f) The elevators, tanks, pumps, motors, fans, compressors, ducts  
9 and in general all apparatus and installations existing for common  
10 use;

11 (g) Such community and commercial facilities as may be provided  
12 for in the declaration as duly recorded or as it may be lawfully  
13 amended;

14 (h) All other parts of the property necessary or convenient to  
15 its existence, maintenance and safety, or normally in common use.

16 (7) "Common expenses" include:

17 (a) All sums lawfully assessed against the apartment owners by  
18 the association of apartment owners;

19 (b) Expenses of administration, maintenance, repair, or  
20 replacement of the common areas and facilities;

21 (c) Expenses agreed upon as common expenses by the association of  
22 apartment owners;

23 (d) Expenses declared common expenses by the provisions of this  
24 chapter, or by the declaration as it is duly recorded, or by the  
25 bylaws, or as they may be lawfully amended.

26 (8) "Common profits" means the balance of all income, rents,  
27 profits and revenues from the common areas and facilities remaining  
28 after the deduction of the common expenses.

29 (9) "Declaration" means the instrument by which the property is  
30 submitted to provisions of this chapter, as hereinafter provided, and  
31 as it may be, from time to time, lawfully amended.

32 (10) "Land" means the material of the earth, whatever may be the  
33 ingredients of which it is composed, whether soil, rock, or other  
34 substance, whether or not submerged, and includes free or occupied  
35 space for an indefinite distance upwards as well as downwards,  
36 subject to limitations upon the use of airspace imposed, and rights  
37 in the use of the airspace granted, by the laws of this state or of  
38 the United States.

39 (11) "Limited common areas and facilities" includes those common  
40 areas and facilities designated in the declaration, as it is duly

1 recorded or as it may be lawfully amended, as reserved for use of  
2 certain apartment or apartments to the exclusion of the other  
3 apartments.

4 (12) "Majority" or "majority of apartment owners" means the  
5 apartment owners with fifty-one percent or more of the votes in  
6 accordance with the percentages assigned in the declaration, as duly  
7 recorded or as it may be lawfully amended, to the apartments for  
8 voting purposes.

9 (13) "Person" includes any individual, corporation, partnership,  
10 association, trustee, or other legal entity.

11 (14) "Property" means the land, the building, all improvements  
12 and structures thereon, all owned in fee simple absolute or  
13 qualified, by way of leasehold or by way of a periodic estate, or in  
14 any other manner in which real property may be owned, leased or  
15 possessed in this state, and all easements, rights and appurtenances  
16 belonging thereto, none of which shall be considered as a security or  
17 security interest, and all articles of personalty intended for use in  
18 connection therewith, which have been or are intended to be submitted  
19 to the provisions of this chapter.

20 (15) "Percent of the apartment owners" means the apartment owners  
21 with the stated percent or more of the votes in accordance with the  
22 percentages assigned in the declaration, as duly recorded or as it  
23 may be lawfully amended, to the apartments for voting purposes.

24 (16) "Electronic transmission" or "electronically transmitted"  
25 means any electronic communication not directly involving the  
26 physical transfer of a writing in a tangible medium, but that may be  
27 retained, retrieved, and reviewed by the sender and the recipient of  
28 the communication, and that may be directly reproduced in a tangible  
29 medium by a sender and recipient.

30 (17) "Tangible medium" means a writing, copy of a writing,  
31 facsimile, or a physical reproduction, each on paper or on other  
32 tangible material.

33 NEW SECTION. Sec. 2. A new section is added to chapter 64.32  
34 RCW to read as follows:

35 (1) Notwithstanding any inconsistent provision in the governing  
36 documents, notice to the association of apartment owners, board of  
37 directors, or any apartment owner or occupant of an apartment under  
38 this chapter shall be in writing and shall be provided to the  
39 recipient by personal delivery, public or private mail or delivery

1 service, or by electronic transmission as provided in this section:  
2 PROVIDED, That if this chapter requires different or additional  
3 notice requirements for particular circumstances, those requirements  
4 shall apply.

5 (2) Notice in a tangible medium shall be provided as follows:

6 (a) Notice to the association of apartment owners or board of  
7 directors shall be addressed to the association's registered agent at  
8 its registered office, to the association at its principal office  
9 shown in its most recent annual report, or to an address provided by  
10 the association to the apartment owners.

11 (b) Notice to an apartment owner or occupant shall be addressed  
12 to the apartment address unless the apartment owner has requested, in  
13 a writing delivered to the association, that notices be sent to an  
14 alternate address.

15 (3) Notice in an electronic transmission shall be provided as  
16 follows:

17 (a) Notice to the association of apartment owners, the board of  
18 directors, or apartment owners by electronic transmission is  
19 effective only upon those who have consented, in writing, to receive  
20 electronically transmitted notices under this chapter and have  
21 designated the address, location, or system to which such notices may  
22 be electronically transmitted, provided that such notice otherwise  
23 complies with any other requirements of this chapter and applicable  
24 law.

25 (b) Notice under this subsection includes any materials that  
26 accompany the notice.

27 (c) Owners who have consented to receipt of electronically  
28 transmitted notices may revoke this consent by delivering a  
29 revocation to the association of apartment owners in writing.

30 (d) The consent of any apartment owner is revoked if the  
31 association is unable to electronically transmit two consecutive  
32 notices and this inability becomes known to the secretary of the  
33 association of apartment owners or any other person responsible for  
34 giving the notice. The inadvertent failure by the association of  
35 apartment owners to treat this inability as a revocation does not  
36 invalidate any meeting or other action.

37 (e) Notice to apartment owners who have consented to receipt of  
38 electronically transmitted notices may be provided by posting the  
39 notice on an electronic network and delivering to the apartment owner  
40 separate notice of the posting, together with comprehensible

1 instructions regarding how to obtain access to the posting on the  
2 electronic network.

3 (4) Notice is effective as follows:

4 (a) Notice provided in a tangible medium is effective as of the  
5 date of hand delivery, deposit with the carrier, or when sent by fax.

6 (b) Notice provided in an electronic transmission is effective as  
7 of the date it:

8 (i) Is electronically transmitted to an address, location, or  
9 system designated by the recipient for that purpose; or

10 (ii) Has been posted on an electronic network and separate notice  
11 of the posting has been sent to the recipient containing instructions  
12 regarding how to obtain access to the posting on the electronic  
13 network.

14 (5) The ineffectiveness of a good faith effort to deliver notice  
15 by an authorized means does not invalidate action taken at or without  
16 a meeting.

17 (6) This chapter modifies, limits, and supersedes the federal  
18 electronic signatures in global and national commerce act, 15 U.S.C.  
19 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.  
20 Sec. 7001(c) or authorize electronic delivery of any of the notices  
21 described in 15 U.S.C. Sec. 7003(b).

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.32  
23 RCW to read as follows:

24 (1) Apartment owners may vote at a meeting in person, by absentee  
25 ballot pursuant to subsection (3)(d) of this section, or by a proxy  
26 pursuant to subsection (5) of this section.

27 (2) When a vote is conducted without a meeting, apartment owners  
28 may vote by ballot pursuant to subsection (6) of this section.

29 (3) At a meeting of apartment owners the following requirements  
30 apply:

31 (a) Apartment owners or their proxies who are present in person  
32 may vote by voice vote, show of hands, standing, written ballot, or  
33 any other method for determining the votes of apartment owners, as  
34 designated by the person presiding at the meeting.

35 (b) If only one of several apartment owners of an apartment is  
36 present, that apartment owner is entitled to cast all the votes  
37 allocated to that apartment. If more than one of the apartment owners  
38 are present, the votes allocated to that apartment may be cast only  
39 in accordance with the agreement of a majority in interest of the

1 apartment owners, unless the declaration expressly provides  
2 otherwise. There is a majority agreement if any one of the apartment  
3 owners casts the votes allocated to the apartment without protest  
4 being made promptly to the person presiding over the meeting by any  
5 of the other apartment owners of the apartment.

6 (c) Unless a greater number or fraction of the votes in the  
7 association is required under this chapter or the declaration or  
8 organizational documents, a majority of the votes cast determines the  
9 outcome of any action of the association.

10 (d) Whenever proposals or board members are to be voted upon at a  
11 meeting, an apartment owner may vote by duly executed absentee ballot  
12 if:

13 (i) The name of each candidate and the text of each proposal to  
14 be voted upon are set forth in a writing accompanying or contained in  
15 the notice of meeting; and

16 (ii) A ballot is provided by the association for such purpose.

17 (4) When an apartment owner votes by absentee ballot, the  
18 association must be able to verify that the ballot is cast by the  
19 apartment owner having the right to do so.

20 (5) Except as provided otherwise in the declaration or  
21 organizational documents, the following requirements apply with  
22 respect to proxy voting:

23 (a) Votes allocated to an apartment may be cast pursuant to a  
24 directed or undirected proxy duly executed by an apartment owner in  
25 the same manner as provided in RCW 24.06.110.

26 (b) If an apartment is owned by more than one person, each  
27 apartment owner of the apartment may vote or register protest to the  
28 casting of votes by the other apartment owners of the apartment  
29 through a duly executed proxy.

30 (c) An apartment owner may revoke a proxy given pursuant to this  
31 section only by actual notice of revocation to the secretary or the  
32 person presiding over a meeting of the association or by delivery of  
33 a subsequent proxy. The death or disability of an apartment owner  
34 does not revoke a proxy given by the apartment owner unless the  
35 person presiding over the meeting has actual notice of the death or  
36 disability.

37 (d) A proxy is void if it is not dated or purports to be  
38 revocable without notice.

39 (e) Unless stated otherwise in the proxy, a proxy terminates  
40 eleven months after its date of issuance.

1 (6) Unless prohibited or limited by the declaration or  
2 organizational documents, an association may conduct a vote without a  
3 meeting. In that event, the following requirements apply:

4 (a) The association must notify the apartment owners that the  
5 vote will be taken by ballot.

6 (b) The notice must state:

7 (i) The time and date by which a ballot must be delivered to the  
8 association to be counted, which may not be fewer than fourteen days  
9 after the date of the notice, and which deadline may be extended in  
10 accordance with (g) of this subsection;

11 (ii) The percent of votes necessary to meet the quorum  
12 requirements;

13 (iii) The percent of votes necessary to approve each matter other  
14 than election of board members; and

15 (iv) The time, date, and manner by which apartment owners wishing  
16 to deliver information to all apartment owners regarding the subject  
17 of the vote may do so.

18 (c) The association must deliver a ballot to every apartment  
19 owner with the notice.

20 (d) The ballot must set forth each proposed action and provide an  
21 opportunity to vote for or against the action.

22 (e) A ballot cast pursuant to this section may be revoked only by  
23 actual notice to the association of revocation. The death or  
24 disability of an apartment owner does not revoke a ballot unless the  
25 association has actual notice of the death or disability prior to the  
26 date set forth in (b)(i) of this subsection.

27 (f) Approval by ballot pursuant to this subsection is valid only  
28 if the number of votes cast by ballot equals or exceeds the quorum  
29 required to be present at a meeting authorizing the action.

30 (g) If the association does not receive a sufficient number of  
31 votes to constitute a quorum or to approve the proposal by the date  
32 and time established for return of ballots, the board of directors  
33 may extend the deadline for a reasonable period not to exceed eleven  
34 months upon further notice to all members in accordance with (b) of  
35 this subsection. In that event, all votes previously cast on the  
36 proposal must be counted unless subsequently revoked as provided in  
37 this section.

38 (h) A ballot or revocation is not effective until received by the  
39 association.



1 (i) The association must give notice to apartment owners of any  
2 action taken pursuant to this subsection within a reasonable time  
3 after the action is taken.

4 (j) When an action is taken pursuant to this subsection, a record  
5 of the action, including the ballots or a report of the persons  
6 appointed to tabulate such ballots, must be kept with the minutes of  
7 meetings of the association.

8 (7) If the governing documents require that votes on specified  
9 matters affecting the common interest community be cast by lessees  
10 rather than apartment owners of leased apartments:

11 (a) This section applies to lessees as if they were apartment  
12 owners;

13 (b) Apartment owners that have leased their apartments to other  
14 persons may not cast votes on those specified matters; and

15 (c) Lessees are entitled to notice of meetings, access to  
16 records, and other rights respecting those matters as if they were  
17 apartment owners.

18 (8) Apartment owners must also be given notice, in the manner  
19 provided in section 2 of this act, of all meetings at which lessees  
20 may be entitled to vote.

21 (9) In any vote of the apartment owners, votes allocated to an  
22 apartment owned by the association must be cast in the same  
23 proportion as the votes cast on the matter by apartment owners other  
24 than the association.

25 (10) Except as otherwise restricted by the declaration, bylaws,  
26 or articles of incorporation, meetings of apartment owners may be  
27 conducted by telephonic, video, or other conferencing process, if:

28 (a) The meeting notice states the conferencing process to be used and  
29 provides information explaining how apartment owners may participate  
30 in the conference directly or by meeting at a central location or  
31 conference connection; and (b) the process provides all apartment  
32 owners the opportunity to hear or perceive the discussion and to  
33 comment.

34 **Sec. 4.** RCW 64.34.020 and 2011 c 189 s 1 are each reenacted and  
35 amended to read as follows:

36 In the declaration and bylaws, unless specifically provided  
37 otherwise or the context requires otherwise, and in this chapter:

38 (1) "Affiliate" means any person who controls, is controlled by,  
39 or is under common control with the referenced person. A person

1 "controls" another person if the person: (a) Is a general partner,  
2 officer, director, or employer of the referenced person; (b) directly  
3 or indirectly or acting in concert with one or more other persons, or  
4 through one or more subsidiaries, owns, controls, holds with power to  
5 vote, or holds proxies representing, more than twenty percent of the  
6 voting interest in the referenced person; (c) controls in any manner  
7 the election of a majority of the directors of the referenced person;  
8 or (d) has contributed more than twenty percent of the capital of the  
9 referenced person. A person "is controlled by" another person if the  
10 other person: (i) Is a general partner, officer, director, or  
11 employer of the person; (ii) directly or indirectly or acting in  
12 concert with one or more other persons, or through one or more  
13 subsidiaries, owns, controls, holds with power to vote, or holds  
14 proxies representing, more than twenty percent of the voting interest  
15 in the person; (iii) controls in any manner the election of a  
16 majority of the directors of the person; or (iv) has contributed more  
17 than twenty percent of the capital of the person. Control does not  
18 exist if the powers described in this subsection are held solely as  
19 security for an obligation and are not exercised.

20 (2) "Allocated interests" means the undivided interest in the  
21 common elements, the common expense liability, and votes in the  
22 association allocated to each unit.

23 (3) "Assessment" means all sums chargeable by the association  
24 against a unit including, without limitation: (a) Regular and special  
25 assessments for common expenses, charges, and fines imposed by the  
26 association; (b) interest and late charges on any delinquent account;  
27 and (c) costs of collection, including reasonable attorneys' fees,  
28 incurred by the association in connection with the collection of a  
29 delinquent owner's account.

30 (4) "Association" or "unit owners' association" means the unit  
31 owners' association organized under RCW 64.34.300.

32 (5) "Baseline funding plan" means establishing a reserve funding  
33 goal of maintaining a reserve account balance above zero dollars  
34 throughout the thirty-year study period described under RCW  
35 64.34.380.

36 (6) "Board of directors" means the body, regardless of name, with  
37 primary authority to manage the affairs of the association.

38 (7) "Common elements" means all portions of a condominium other  
39 than the units.

1 (8) "Common expense liability" means the liability for common  
2 expenses allocated to each unit pursuant to RCW 64.34.224.

3 (9) "Common expenses" means expenditures made by or financial  
4 liabilities of the association, together with any allocations to  
5 reserves.

6 (10) "Condominium" means real property, portions of which are  
7 designated for separate ownership and the remainder of which is  
8 designated for common ownership solely by the owners of those  
9 portions. Real property is not a condominium unless the undivided  
10 interests in the common elements are vested in the unit owners, and  
11 unless a declaration and a survey map and plans have been recorded  
12 pursuant to this chapter.

13 (11) "Contribution rate" means, in a reserve study as described  
14 in RCW 64.34.380, the amount contributed to the reserve account so  
15 that the association will have cash reserves to pay major  
16 maintenance, repair, or replacement costs without the need of a  
17 special assessment.

18 (12) "Conversion condominium" means a condominium (a) that at any  
19 time before creation of the condominium was lawfully occupied wholly  
20 or partially by a tenant or subtenant for residential purposes  
21 pursuant to a rental agreement, oral or written, express or implied,  
22 for which the tenant or subtenant had not received the notice  
23 described in (b) of this subsection; or (b) that, at any time within  
24 twelve months before the conveyance of, or acceptance of an agreement  
25 to convey, any unit therein other than to a declarant or any  
26 affiliate of a declarant, was lawfully occupied wholly or partially  
27 by a residential tenant of a declarant or an affiliate of a declarant  
28 and such tenant was not notified in writing, prior to lawfully  
29 occupying a unit or executing a rental agreement, whichever event  
30 first occurs, that the unit was part of a condominium and subject to  
31 sale. "Conversion condominium" shall not include a condominium in  
32 which, before July 1, 1990, any unit therein had been conveyed or  
33 been made subject to an agreement to convey to any transferee other  
34 than a declarant or an affiliate of a declarant.

35 (13) "Conveyance" means any transfer of the ownership of a unit,  
36 including a transfer by deed or by real estate contract and, with  
37 respect to a unit in a leasehold condominium, a transfer by lease or  
38 assignment thereof, but shall not include a transfer solely for  
39 security.

1 (14) "Dealer" means a person who, together with such person's  
2 affiliates, owns or has a right to acquire either six or more units  
3 in a condominium or fifty percent or more of the units in a  
4 condominium containing more than two units.

5 (15) "Declarant" means:

6 (a) Any person who executes as declarant a declaration as defined  
7 in subsection (17) of this section; or

8 (b) Any person who reserves any special declarant right in the  
9 declaration; or

10 (c) Any person who exercises special declarant rights or to whom  
11 special declarant rights are transferred; or

12 (d) Any person who is the owner of a fee interest in the real  
13 property which is subjected to the declaration at the time of the  
14 recording of an instrument pursuant to RCW 64.34.316 and who directly  
15 or through one or more affiliates is materially involved in the  
16 construction, marketing, or sale of units in the condominium created  
17 by the recording of the instrument.

18 (16) "Declarant control" means the right of the declarant or  
19 persons designated by the declarant to appoint and remove officers  
20 and members of the board of directors, or to veto or approve a  
21 proposed action of the board or association, pursuant to RCW  
22 64.34.308 (5) or (6).

23 (17) "Declaration" means the document, however denominated, that  
24 creates a condominium by setting forth the information required by  
25 RCW 64.34.216 and any amendments to that document.

26 (18) "Development rights" means any right or combination of  
27 rights reserved by a declarant in the declaration to: (a) Add real  
28 property or improvements to a condominium; (b) create units, common  
29 elements, or limited common elements within real property included or  
30 added to a condominium; (c) subdivide units or convert units into  
31 common elements; (d) withdraw real property from a condominium; or  
32 (e) reallocate limited common elements with respect to units that  
33 have not been conveyed by the declarant.

34 (19) "Dispose" or "disposition" means a voluntary transfer or  
35 conveyance to a purchaser or lessee of any legal or equitable  
36 interest in a unit, but does not include the transfer or release of a  
37 security interest.

38 (20) "Effective age" means the difference between the estimated  
39 useful life and remaining useful life.

1 (21) "Eligible mortgagee" means the holder of a mortgage on a  
2 unit that has filed with the secretary of the association a written  
3 request that it be given copies of notices of any action by the  
4 association that requires the consent of mortgagees.

5 (22) "Foreclosure" means a forfeiture or judicial or nonjudicial  
6 foreclosure of a mortgage or a deed in lieu thereof.

7 (23) "Full funding plan" means setting a reserve funding goal of  
8 achieving one hundred percent fully funded reserves by the end of the  
9 thirty-year study period described under RCW 64.34.380, in which the  
10 reserve account balance equals the sum of the deteriorated portion of  
11 all reserve components.

12 (24) "Fully funded balance" means the current value of the  
13 deteriorated portion, not the total replacement value, of all the  
14 reserve components. The fully funded balance for each reserve  
15 component is calculated by multiplying the current replacement cost  
16 of that reserve component by its effective age, then dividing the  
17 result by that reserve component's useful life. The sum total of all  
18 reserve components' fully funded balances is the association's fully  
19 funded balance.

20 (25) "Identifying number" means the designation of each unit in a  
21 condominium.

22 (26) "Leasehold condominium" means a condominium in which all or  
23 a portion of the real property is subject to a lease, the expiration  
24 or termination of which will terminate the condominium or reduce its  
25 size.

26 (27) "Limited common element" means a portion of the common  
27 elements allocated by the declaration or by operation of RCW  
28 64.34.204 (2) or (4) for the exclusive use of one or more but fewer  
29 than all of the units.

30 (28) "Master association" means an organization described in RCW  
31 64.34.276, whether or not it is also an association described in RCW  
32 64.34.300.

33 (29) "Mortgage" means a mortgage, deed of trust or real estate  
34 contract.

35 (30) "Person" means a natural person, corporation, partnership,  
36 limited partnership, trust, governmental subdivision or agency, or  
37 other legal entity.

38 (31) "Purchaser" means any person, other than a declarant or a  
39 dealer, who by means of a disposition acquires a legal or equitable  
40 interest in a unit other than (a) a leasehold interest, including

1 renewal options, of less than twenty years at the time of creation of  
2 the unit, or (b) as security for an obligation.

3 (32) "Real property" means any fee, leasehold or other estate or  
4 interest in, over, or under land, including structures, fixtures, and  
5 other improvements thereon and easements, rights and interests  
6 appurtenant thereto which by custom, usage, or law pass with a  
7 conveyance of land although not described in the contract of sale or  
8 instrument of conveyance. "Real property" includes parcels, with or  
9 without upper or lower boundaries, and spaces that may be filled with  
10 air or water.

11 (33) "Remaining useful life" means the estimated time, in years,  
12 before a reserve component will require major maintenance, repair, or  
13 replacement to perform its intended function.

14 (34) "Replacement cost" means the current cost of replacing,  
15 repairing, or restoring a reserve component to its original  
16 functional condition.

17 (35) "Reserve component" means a common element whose cost of  
18 maintenance, repair, or replacement is infrequent, significant, and  
19 impractical to include in an annual budget.

20 (36) "Reserve study professional" means an independent person who  
21 is suitably qualified by knowledge, skill, experience, training, or  
22 education to prepare a reserve study in accordance with RCW 64.34.380  
23 and 64.34.382.

24 (37) "Residential purposes" means use for dwelling or  
25 recreational purposes, or both.

26 (38) "Significant assets" means that the current total cost of  
27 major maintenance, repair, and replacement of the reserve components  
28 is fifty percent or more of the gross budget of the association,  
29 excluding reserve account funds.

30 (39) "Special declarant rights" means rights reserved for the  
31 benefit of a declarant to: (a) Complete improvements indicated on  
32 survey maps and plans filed with the declaration under RCW 64.34.232;  
33 (b) exercise any development right under RCW 64.34.236; (c) maintain  
34 sales offices, management offices, signs advertising the condominium,  
35 and models under RCW 64.34.256; (d) use easements through the common  
36 elements for the purpose of making improvements within the  
37 condominium or within real property which may be added to the  
38 condominium under RCW 64.34.260; (e) make the condominium part of a  
39 larger condominium or a development under RCW 64.34.280; (f) make the  
40 condominium subject to a master association under RCW 64.34.276; or

1 (g) appoint or remove any officer of the association or any master  
2 association or any member of the board of directors, or to veto or  
3 approve a proposed action of the board or association, during any  
4 period of declarant control under RCW 64.34.308(5).

5 (40) "Timeshare" shall have the meaning specified in the  
6 timeshare act, RCW 64.36.010(11).

7 (41) "Unit" means a physical portion of the condominium  
8 designated for separate ownership, the boundaries of which are  
9 described pursuant to RCW 64.34.216(1)(d). "Separate ownership"  
10 includes leasing a unit in a leasehold condominium under a lease that  
11 expires contemporaneously with any lease, the expiration or  
12 termination of which will remove the unit from the condominium.

13 (42) "Unit owner" means a declarant or other person who owns a  
14 unit or leases a unit in a leasehold condominium under a lease that  
15 expires simultaneously with any lease, the expiration or termination  
16 of which will remove the unit from the condominium, but does not  
17 include a person who has an interest in a unit solely as security for  
18 an obligation. "Unit owner" means the vendee, not the vendor, of a  
19 unit under a real estate contract.

20 (43) "Useful life" means the estimated time, between years, that  
21 major maintenance, repair, or replacement is estimated to occur.

22 (44) "Electronic transmission" or "electronically transmitted"  
23 means any electronic communication not directly involving the  
24 physical transfer of a writing in a tangible medium, but that may be  
25 retained, retrieved, and reviewed by the sender and the recipient of  
26 the communication, and that may be directly reproduced in a tangible  
27 medium by a sender and recipient.

28 (45) "Tangible medium" means a writing, copy of a writing,  
29 facsimile, or a physical reproduction, each on paper or on other  
30 tangible material.

31 **Sec. 5.** RCW 64.34.332 and 1989 c 43 s 3-109 are each amended to  
32 read as follows:

33 (1) A meeting of the association must be held at least once each  
34 year. Special meetings of the association may be called by the  
35 president, a majority of the board of directors, or by unit owners  
36 having twenty percent or any lower percentage specified in the  
37 declaration or bylaws of the votes in the association. Not less than  
38 ~~((ten))~~ fourteen nor more than ~~((sixty))~~ fifty days in advance of any  
39 meeting, the secretary or other officer specified in the bylaws shall

1 cause notice to be (~~hand-delivered or sent prepaid by first-class~~  
2 ~~United States mail to the mailing address of each unit or to any~~  
3 ~~other mailing address designated in writing by the unit owner~~)  
4 provided in accordance with this chapter. The notice of any meeting  
5 shall state the time and place of the meeting and the items on the  
6 agenda to be voted on by the members, including the general nature of  
7 any proposed amendment to the declaration or bylaws, changes in the  
8 previously approved budget that result in a change in assessment  
9 obligations, and any proposal to remove a director or officer.

10 (2) Except as otherwise restricted by the declaration, bylaws, or  
11 articles of incorporation, meetings of unit owners may be conducted  
12 by telephonic, video, or other conferencing process, if: (a) The  
13 meeting notice states the conferencing process to be used and  
14 provides information explaining how unit owners may participate in  
15 the conference directly or by meeting at a central location or  
16 conference connection; and (b) the process provides all unit owners  
17 the opportunity to hear or perceive the discussion and to comment.

18 **Sec. 6.** RCW 64.34.340 and 1992 c 220 s 17 are each amended to  
19 read as follows:

20 ~~((1) If only one of the multiple owners of a unit is present at~~  
21 ~~a meeting of the association or has delivered a written ballot or~~  
22 ~~proxy to the association secretary, the owner is entitled to cast all~~  
23 ~~the votes allocated to that unit. If more than one of the multiple~~  
24 ~~owners are present or has delivered a written ballot or proxy to the~~  
25 ~~association secretary, the votes allocated to that unit may be cast~~  
26 ~~only in accordance with the agreement of a majority in interest of~~  
27 ~~the multiple owners, unless the declaration expressly provides~~  
28 ~~otherwise. There is majority agreement if any one of the multiple~~  
29 ~~owners casts the votes allocated to that unit without protest being~~  
30 ~~made promptly to the person presiding over the meeting by any of the~~  
31 ~~other owners of the unit.~~

32 ~~(2) Votes allocated to a unit may be cast pursuant to a proxy~~  
33 ~~duly executed by a unit owner. If a unit is owned by more than one~~  
34 ~~person, each owner of the unit may vote or register protest to the~~  
35 ~~casting of votes by the other owners of the unit through a duly~~  
36 ~~executed proxy. A unit owner may not revoke a proxy given pursuant to~~  
37 ~~this section except by actual notice of revocation to the person~~  
38 ~~presiding over a meeting of the association. A proxy is void if it is~~  
39 ~~not dated or purports to be revocable without notice. Unless stated~~



1 otherwise in the proxy, a proxy terminates eleven months after its  
2 date of issuance.

3 ~~(3) If the declaration requires that votes on specified matters  
4 affecting the condominium be cast by lessees rather than unit owners  
5 of leased units: (a) The provisions of subsections (1) and (2) of  
6 this section apply to lessees as if they were unit owners; (b) unit  
7 owners who have leased their units to other persons may not cast  
8 votes on those specified matters; and (c) lessees are entitled to  
9 notice of meetings, access to records, and other rights respecting  
10 those matters as if they were unit owners. Unit owners must also be  
11 given notice, in the manner provided in RCW 64.34.332, of all  
12 meetings at which lessees may be entitled to vote.~~

13 ~~(4) No votes allocated to a unit owned by the association may be  
14 east, and in determining the percentage of votes required to act on  
15 any matter, the votes allocated to units owned by the association  
16 shall be disregarded.)~~ (1) Unit owners may vote at a meeting in  
17 person, by absentee ballot pursuant to subsection (3)(d) of this  
18 section, or by a proxy pursuant to subsection (5) of this section.

19 (2) When a vote is conducted without a meeting, unit owners may  
20 vote by ballot pursuant to subsection (6) of this section.

21 (3) At a meeting of unit owners the following requirements apply:

22 (a) Unit owners or their proxies who are present in person may  
23 vote by voice vote, show of hands, standing, written ballot, or any  
24 other method for determining the votes of unit owners, as designated  
25 by the person presiding at the meeting.

26 (b) If only one of several unit owners of a unit is present, that  
27 unit owner is entitled to cast all the votes allocated to that unit.  
28 If more than one of the unit owners are present, the votes allocated  
29 to that unit may be cast only in accordance with the agreement of a  
30 majority in interest of the unit owners, unless the declaration  
31 expressly provides otherwise. There is a majority agreement if any  
32 one of the unit owners casts the votes allocated to the unit without  
33 protest being made promptly to the person presiding over the meeting  
34 by any of the other unit owners of the unit.

35 (c) Unless a greater number or fraction of the votes in the  
36 association is required under this chapter or the declaration or  
37 organizational documents, a majority of the votes cast determines the  
38 outcome of any action of the association.

39 (d) Whenever proposals or board members are to be voted upon at a  
40 meeting, a unit owner may vote by duly executed absentee ballot if:

1 (i) The name of each candidate and the text of each proposal to  
2 be voted upon are set forth in a writing accompanying or contained in  
3 the notice of meeting; and

4 (ii) A ballot is provided by the association for such purpose.

5 (4) When a unit owner votes by absentee ballot, the association  
6 must be able to verify that the ballot is cast by the unit owner  
7 having the right to do so.

8 (5) Except as provided otherwise in the declaration or  
9 organizational documents, the following requirements apply with  
10 respect to proxy voting:

11 (a) Votes allocated to a unit may be cast pursuant to a directed  
12 or undirected proxy duly executed by a unit owner in the same manner  
13 as provided in RCW 24.06.110.

14 (b) If a unit is owned by more than one person, each unit owner  
15 of the unit may vote or register protest to the casting of votes by  
16 the other unit owners of the unit through a duly executed proxy.

17 (c) A unit owner may revoke a proxy given pursuant to this  
18 section only by actual notice of revocation to the secretary or the  
19 person presiding over a meeting of the association or by delivery of  
20 a subsequent proxy. The death or disability of a unit owner does not  
21 revoke a proxy given by the unit owner unless the person presiding  
22 over the meeting has actual notice of the death or disability.

23 (d) A proxy is void if it is not dated or purports to be  
24 revocable without notice.

25 (e) Unless stated otherwise in the proxy, a proxy terminates  
26 eleven months after its date of issuance.

27 (6) Unless prohibited or limited by the declaration or  
28 organizational documents, an association may conduct a vote without a  
29 meeting. In that event, the following requirements apply:

30 (a) The association must notify the unit owners that the vote  
31 will be taken by ballot.

32 (b) The notice must state:

33 (i) The time and date by which a ballot must be delivered to the  
34 association to be counted, which may not be fewer than fourteen days  
35 after the date of the notice, and which deadline may be extended in  
36 accordance with (g) of this subsection;

37 (ii) The percent of votes necessary to meet the quorum  
38 requirements;

39 (iii) The percent of votes necessary to approve each matter other  
40 than election of board members; and

1 (iv) The time, date, and manner by which unit owners wishing to  
2 deliver information to all unit owners regarding the subject of the  
3 vote may do so.

4 (c) The association must deliver a ballot to every unit owner  
5 with the notice.

6 (d) The ballot must set forth each proposed action and provide an  
7 opportunity to vote for or against the action.

8 (e) A ballot cast pursuant to this section may be revoked only by  
9 actual notice to the association of revocation. The death or  
10 disability of a unit owner does not revoke a ballot unless the  
11 association has actual notice of the death or disability prior to the  
12 date set forth in (b) (i) of this subsection.

13 (f) Approval by ballot pursuant to this subsection is valid only  
14 if the number of votes cast by ballot equals or exceeds the quorum  
15 required to be present at a meeting authorizing the action.

16 (g) If the association does not receive a sufficient number of  
17 votes to constitute a quorum or to approve the proposal by the date  
18 and time established for return of ballots, the board of directors  
19 may extend the deadline for a reasonable period not to exceed eleven  
20 months upon further notice to all members in accordance with (b) of  
21 this subsection. In that event, all votes previously cast on the  
22 proposal must be counted unless subsequently revoked as provided in  
23 this section.

24 (h) A ballot or revocation is not effective until received by the  
25 association.

26 (i) The association must give notice to unit owners of any action  
27 taken pursuant to this subsection within a reasonable time after the  
28 action is taken.

29 (j) When an action is taken pursuant to this subsection, a record  
30 of the action, including the ballots or a report of the persons  
31 appointed to tabulate such ballots, must be kept with the minutes of  
32 meetings of the association.

33 (7) If the governing documents require that votes on specified  
34 matters affecting the common interest community be cast by lessees  
35 rather than unit owners of leased units:

36 (a) This section applies to lessees as if they were unit owners;

37 (b) Unit owners that have leased their units to other persons may  
38 not cast votes on those specified matters; and

1 (c) Lessees are entitled to notice of meetings, access to  
2 records, and other rights respecting those matters as if they were  
3 unit owners.

4 (8) Unit owners must also be given notice, in the manner provided  
5 in section 8 of this act, of all meetings at which lessees may be  
6 entitled to vote.

7 (9) In any vote of the unit owners, votes allocated to a unit  
8 owned by the association must be cast in the same proportion as the  
9 votes cast on the matter by unit owners other than the association.

10 **Sec. 7.** RCW 64.34.352 and 1992 c 220 s 18 are each amended to  
11 read as follows:

12 (1) Commencing not later than the time of the first conveyance of  
13 a unit to a person other than a declarant, the association shall  
14 maintain, to the extent reasonably available:

15 (a) Property insurance on the condominium, which may, but need  
16 not, include equipment, improvements, and betterments in a unit  
17 installed by the declarant or the unit owners, insuring against all  
18 risks of direct physical loss commonly insured against. The total  
19 amount of insurance after application of any deductibles shall be not  
20 less than eighty percent, or such greater amount specified in the  
21 declaration, of the actual cash value of the insured property at the  
22 time the insurance is purchased and at each renewal date, exclusive  
23 of land, excavations, foundations, and other items normally excluded  
24 from property policies; and

25 (b) Liability insurance, including medical payments insurance, in  
26 an amount determined by the board of directors but not less than the  
27 amount specified in the declaration, covering all occurrences  
28 commonly insured against for death, bodily injury, and property  
29 damage arising out of or in connection with the use, ownership, or  
30 maintenance of the common elements.

31 (2) If the insurance described in subsection (1) of this section  
32 is not reasonably available, or is modified, canceled, or not  
33 renewed, the association promptly shall cause notice of that fact to  
34 be ~~((hand-delivered or sent prepaid by first-class United States~~  
35 ~~mail))~~ provided to each unit owner in accordance with this chapter,  
36 to all unit owners, to each eligible mortgagee, and to each mortgagee  
37 to whom a certificate or memorandum of insurance has been issued at  
38 their respective last known addresses. The declaration may require  
39 the association to carry any other insurance, and the association in

1 any event may carry any other insurance it deems appropriate to  
2 protect the association or the unit owners.

3 (3) Insurance policies carried pursuant to subsection (1) of this  
4 section shall provide that:

5 (a) Each unit owner is an insured person under the policy with  
6 respect to liability arising out of the owner's interest in the  
7 common elements or membership in the association;

8 (b) The insurer waives its right to subrogation under the policy  
9 against any unit owner, member of the owner's household, and lessee  
10 of the owner;

11 (c) No act or omission by any unit owner, unless acting within  
12 the scope of the owner's authority on behalf of the association, will  
13 void the policy or be a condition to recovery under the policy; and

14 (d) If, at the time of a loss under the policy, there is other  
15 insurance in the name of a unit owner covering the same risk covered  
16 by the policy, the association's policy provides primary insurance.

17 (4) Any loss covered by the property insurance under subsection  
18 (1)(a) of this section must be adjusted with the association, but the  
19 insurance proceeds for that loss are payable to any insurance trustee  
20 designated for that purpose, or otherwise to the association, and not  
21 to any holder of a mortgage. The insurance trustee or the association  
22 shall hold any insurance proceeds in trust for unit owners and  
23 lienholders as their interests may appear. Subject to the provisions  
24 of subsection (7) of this section, the proceeds must be disbursed  
25 first for the repair or restoration of the damaged property, and unit  
26 owners and lienholders are not entitled to receive payment of any  
27 portion of the proceeds unless there is a surplus of proceeds after  
28 the property has been completely repaired or restored or the  
29 condominium is terminated.

30 (5) An insurance policy issued to the association does not  
31 prevent a unit owner from obtaining insurance for the owner's own  
32 benefit.

33 (6) An insurer that has issued an insurance policy under this  
34 section shall issue certificates or memoranda of insurance to the  
35 association and, upon written request, to any unit owner or holder of  
36 a mortgage. The insurer issuing the policy may not modify the amount  
37 or the extent of the coverage of the policy or cancel or refuse to  
38 renew the policy unless the insurer has complied with all applicable  
39 provisions of chapter 48.18 RCW pertaining to the cancellation or  
40 nonrenewal of contracts of insurance. The insurer shall not modify

1 the amount or the extent of the coverage of the policy, or cancel or  
2 refuse to renew the policy without complying with this section.

3 (7) Any portion of the condominium for which insurance is  
4 required under this section which is damaged or destroyed shall be  
5 repaired or replaced promptly by the association unless: (a) The  
6 condominium is terminated; (b) repair or replacement would be illegal  
7 under any state or local health or safety statute or ordinance; or  
8 (c) eighty percent of the unit owners, including every owner of a  
9 unit or assigned limited common element which will not be rebuilt,  
10 vote not to rebuild. The cost of repair or replacement in excess of  
11 insurance proceeds and reserves is a common expense. If all of the  
12 damaged or destroyed portions of the condominium are not repaired or  
13 replaced: (i) The insurance proceeds attributable to the damaged  
14 common elements shall be used to restore the damaged area to a  
15 condition compatible with the remainder of the condominium; (ii) the  
16 insurance proceeds attributable to units and limited common elements  
17 which are not rebuilt shall be distributed to the owners of those  
18 units and the owners of the units to which those limited common  
19 elements were allocated, or to lienholders, as their interests may  
20 appear; and (iii) the remainder of the proceeds shall be distributed  
21 to all the unit owners or lienholders, as their interests may appear,  
22 in proportion to the common element interests of all the units. If  
23 the unit owners vote not to rebuild any unit, that unit's allocated  
24 interests are automatically reallocated upon the vote as if the unit  
25 had been condemned under RCW 64.34.060(1), and the association  
26 promptly shall prepare, execute, and record an amendment to the  
27 declaration reflecting the reallocations. Notwithstanding the  
28 provisions of this subsection, RCW 64.34.268 governs the distribution  
29 of insurance proceeds if the condominium is terminated.

30 (8) The provisions of this section may be varied or waived as  
31 provided in the declaration if all units of a condominium are  
32 restricted to nonresidential use.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.34  
34 RCW to read as follows:

35 (1) Notwithstanding any inconsistent provision in the governing  
36 documents, notice to the association, board of directors, or any  
37 owner or occupant of a unit under this chapter shall be in writing  
38 and shall be provided to the recipient by personal delivery, public  
39 or private mail or delivery service, or by electronic transmission as

1 provided in this section: PROVIDED, That if this chapter requires  
2 different or additional notice requirements for particular  
3 circumstances, those requirements shall apply.

4 (2) Notice in a tangible medium shall be provided as follows:

5 (a) Notice to the association or board of directors shall be  
6 addressed to the association's registered agent at its registered  
7 office, to the association at its principal office shown in its most  
8 recent annual report, or to an address provided by the association to  
9 the unit owners.

10 (b) Notice to a unit owner or occupant shall be addressed to the  
11 unit address unless the unit owner has requested, in a writing  
12 delivered to the association, that notices be sent to an alternate  
13 address.

14 (3) Notice in an electronic transmission shall be provided as  
15 follows:

16 (a) Notice to the association, the board of directors, or unit  
17 owners by electronic transmission is effective only upon those who  
18 have consented, in writing, to receive electronically transmitted  
19 notices under this chapter and have designated the address, location,  
20 or system to which such notices may be electronically transmitted,  
21 provided that such notice otherwise complies with any other  
22 requirements of this chapter and applicable law.

23 (b) Notice under this subsection includes any materials that  
24 accompany the notice.

25 (c) Owners who have consented to receipt of electronically  
26 transmitted notices may revoke this consent by delivering a  
27 revocation to the association in writing.

28 (d) The consent of any owner is revoked if the association is  
29 unable to electronically transmit two consecutive notices and this  
30 inability becomes known to the secretary of the association or any  
31 other person responsible for giving the notice. The inadvertent  
32 failure by the association to treat this inability as a revocation  
33 does not invalidate any meeting or other action.

34 (e) Notice to unit owners who have consented to receipt of  
35 electronically transmitted notices may be provided by posting the  
36 notice on an electronic network and delivering to the unit owner  
37 separate notice of the posting, together with comprehensible  
38 instructions regarding how to obtain access to the posting on the  
39 electronic network.

40 (4) Notice is effective as follows:

1 (a) Notice provided in a tangible medium is effective as of the  
2 date of hand delivery, deposit with the carrier, or when sent by fax.

3 (b) Notice provided in an electronic transmission is effective as  
4 of the date it:

5 (i) Is electronically transmitted to an address, location, or  
6 system designated by the recipient for that purpose; or

7 (ii) Has been posted on an electronic network and separate notice  
8 of the posting has been sent to the recipient containing instructions  
9 regarding how to obtain access to the posting on the electronic  
10 network.

11 (5) The ineffectiveness of a good faith effort to deliver notice  
12 by an authorized means does not invalidate action taken at or without  
13 a meeting.

14 (6) This chapter modifies, limits, and supersedes the federal  
15 electronic signatures in global and national commerce act, 15 U.S.C.  
16 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.  
17 Sec. 7001(c) or authorize electronic delivery of any of the notices  
18 described in 15 U.S.C. Sec. 7003(b).

19 **Sec. 9.** RCW 64.38.010 and 2011 c 189 s 7 are each reenacted and  
20 amended to read as follows:

21 For purposes of this chapter:

22 (1) "Assessment" means all sums chargeable to an owner by an  
23 association in accordance with RCW 64.38.020.

24 (2) "Baseline funding plan" means establishing a reserve funding  
25 goal of maintaining a reserve account balance above zero dollars  
26 throughout the thirty-year study period described under RCW  
27 64.38.065.

28 (3) "Board of directors" or "board" means the body, regardless of  
29 name, with primary authority to manage the affairs of the  
30 association.

31 (4) "Common areas" means property owned, or otherwise maintained,  
32 repaired or administered by the association.

33 (5) "Common expense" means the costs incurred by the association  
34 to exercise any of the powers provided for in this chapter.

35 (6) "Contribution rate" means, in a reserve study as described in  
36 RCW (~~64.34.380~~) 64.38.065, the amount contributed to the reserve  
37 account so that the association will have cash reserves to pay major  
38 maintenance, repair, or replacement costs without the need of a  
39 special assessment.



1 (7) "Effective age" means the difference between the estimated  
2 useful life and remaining useful life.

3 (8) "Full funding plan" means setting a reserve funding goal of  
4 achieving one hundred percent fully funded reserves by the end of the  
5 thirty-year study period described under RCW 64.38.065, in which the  
6 reserve account balance equals the sum of the deteriorated portion of  
7 all reserve components.

8 (9) "Fully funded balance" means the current value of the  
9 deteriorated portion, not the total replacement value, of all the  
10 reserve components. The fully funded balance for each reserve  
11 component is calculated by multiplying the current replacement cost  
12 of the reserve component by its effective age, then dividing the  
13 result by the reserve component's useful life. The sum total of all  
14 reserve components' fully funded balances is the association's fully  
15 funded balance.

16 (10) "Governing documents" means the articles of incorporation,  
17 bylaws, plat, declaration of covenants, conditions, and restrictions,  
18 rules and regulations of the association, or other written instrument  
19 by which the association has the authority to exercise any of the  
20 powers provided for in this chapter or to manage, maintain, or  
21 otherwise affect the property under its jurisdiction.

22 (11) "Homeowners' association" or "association" means a  
23 corporation, unincorporated association, or other legal entity, each  
24 member of which is an owner of residential real property located  
25 within the association's jurisdiction, as described in the governing  
26 documents, and by virtue of membership or ownership of property is  
27 obligated to pay real property taxes, insurance premiums, maintenance  
28 costs, or for improvement of real property other than that which is  
29 owned by the member. "Homeowners' association" does not mean an  
30 association created under chapter 64.32 or 64.34 RCW.

31 (12) "Lot" means a physical portion of the real property located  
32 within an association's jurisdiction designated for separate  
33 ownership.

34 (13) "Owner" means the owner of a lot, but does not include a  
35 person who has an interest in a lot solely as security for an  
36 obligation. "Owner" also means the vendee, not the vendor, of a lot  
37 under a real estate contract.

38 (14) "Remaining useful life" means the estimated time, in years,  
39 before a reserve component will require major maintenance, repair, or  
40 replacement to perform its intended function.

1 (15) "Replacement cost" means the current cost of replacing,  
2 repairing, or restoring a reserve component to its original  
3 functional condition.

4 (16) "Reserve component" means a common element whose cost of  
5 maintenance, repair, or replacement is infrequent, significant, and  
6 impractical to include in an annual budget.

7 (17) "Reserve study professional" means an independent person who  
8 is suitably qualified by knowledge, skill, experience, training, or  
9 education to prepare a reserve study in accordance with RCW  
10 (~~64.34.380~~) 64.38.065 and (~~64.34.382~~) 64.38.070.

11 (18) "Residential real property" means any real property, the use  
12 of which is limited by law, covenant or otherwise to primarily  
13 residential or recreational purposes.

14 (19) "Significant assets" means that the current replacement  
15 value of the major reserve components is seventy-five percent or more  
16 of the gross budget of the association, excluding the association's  
17 reserve account funds.

18 (20) "Useful life" means the estimated time, between years, that  
19 major maintenance, repair, or replacement is estimated to occur.

20 (21) "Electronic transmission" or "electronically transmitted"  
21 means any electronic communication not directly involving the  
22 physical transfer of a writing in a tangible medium, but that may be  
23 retained, retrieved, and reviewed by the sender and the recipient of  
24 the communication, and that may be directly reproduced in a tangible  
25 medium by a sender and recipient.

26 (22) "Tangible medium" means a writing, copy of a writing,  
27 facsimile, or a physical reproduction, each on paper or on other  
28 tangible material.

29 **Sec. 10.** RCW 64.38.035 and 2014 c 20 s 1 are each amended to  
30 read as follows:

31 (1) A meeting of the association must be held at least once each  
32 year. Special meetings of the association may be called by the  
33 president, a majority of the board of directors, or by owners having  
34 ten percent of the votes in the association. The association must  
35 make available to each owner of record for examination and copying  
36 minutes from the previous association meeting not more than sixty  
37 days after the meeting. Minutes of the previous association meeting  
38 must be approved at the next association meeting in accordance with  
39 the association's governing documents.

1 (2) Not less than fourteen nor more than ((sixty)) fifty days in  
2 advance of any meeting of the association, the secretary or other  
3 officers specified in the bylaws shall ((provide written)) cause  
4 notice of the meeting to be provided to each owner ((of record by:

5 ~~(a) Hand-delivery to the mailing address of the owner or other~~  
6 ~~address designated in writing by the owner;~~

7 ~~(b) Prepaid first-class United States mail to the mailing address~~  
8 ~~of the owner or to any other mailing address designated in writing by~~  
9 ~~the owner; or~~

10 ~~(c) Electronic transmission to an address, location, or system~~  
11 ~~designated in writing by the owner. Notice to owners by an electronic~~  
12 ~~transmission complies with this section only with respect to those~~  
13 ~~owners who have delivered to the secretary or other officers~~  
14 ~~specified in the bylaws a written record consenting to receive~~  
15 ~~electronically transmitted notices. An owner who has consented to~~  
16 ~~receipt of electronically transmitted notices may revoke the consent~~  
17 ~~at any time by delivering a written record of the revocation to the~~  
18 ~~secretary or other officer specified in the bylaws. Consent is deemed~~  
19 ~~revoked if the secretary or other officer specified in the bylaws is~~  
20 ~~unable to electronically transmit two consecutive notices given in~~  
21 ~~accordance with the consent)) in accordance with this chapter.~~

22 (3) The notice of any meeting shall state the time and place of  
23 the meeting and the business to be placed on the agenda by the board  
24 of directors for a vote by the owners, including the general nature  
25 of any proposed amendment to the articles of incorporation, bylaws,  
26 any budget or changes in the previously approved budget that result  
27 in a change in assessment obligation, and any proposal to remove a  
28 director.

29 (4) Except as provided in this subsection, all meetings of the  
30 board of directors shall be open for observation by all owners of  
31 record and their authorized agents. The board of directors shall keep  
32 minutes of all actions taken by the board, which shall be available  
33 to all owners. Upon the affirmative vote in open meeting to assemble  
34 in closed session, the board of directors may convene in closed  
35 executive session to consider personnel matters; consult with legal  
36 counsel or consider communications with legal counsel; and discuss  
37 likely or pending litigation, matters involving possible violations  
38 of the governing documents of the association, and matters involving  
39 the possible liability of an owner to the association. The motion  
40 shall state specifically the purpose for the closed session.

1 Reference to the motion and the stated purpose for the closed session  
2 shall be included in the minutes. The board of directors shall  
3 restrict the consideration of matters during the closed portions of  
4 meetings only to those purposes specifically exempted and stated in  
5 the motion. No motion, or other action adopted, passed, or agreed to  
6 in closed session may become effective unless the board of directors,  
7 following the closed session, reconvenes in open meeting and votes in  
8 the open meeting on such motion, or other action which is reasonably  
9 identified. The requirements of this subsection shall not require the  
10 disclosure of information in violation of law or which is otherwise  
11 exempt from disclosure.

12 (5) Except as otherwise restricted by the governing documents,  
13 meetings of the association may be conducted by telephonic, video, or  
14 other conferencing process, if: (a) The meeting notice states the  
15 conferencing process to be used and provides information explaining  
16 how owners may participate in the conference directly or by meeting  
17 at a central location or conference connection; and (b) the process  
18 provides all owners the opportunity to hear or perceive the  
19 discussion and to comment.

20 NEW SECTION. Sec. 11. A new section is added to chapter 64.38  
21 RCW to read as follows:

22 (1) Notwithstanding any inconsistent provision in the governing  
23 documents, notice to the association of apartment owners, board, or  
24 any apartment owner or occupant of an apartment under this chapter  
25 shall be in writing and shall be provided to the recipient by  
26 personal delivery, public or private mail or delivery service, or by  
27 electronic transmission as provided in this section: PROVIDED, That  
28 if this chapter requires different or additional notice requirements  
29 for particular circumstances, those requirements shall apply.

30 (2) Notice in a tangible medium shall be provided as follows:

31 (a) Notice to the association or board shall be addressed to the  
32 association's registered agent at its registered office, to the  
33 association at its principal office shown in its most recent annual  
34 report, or to an address provided by the association to the apartment  
35 owners.

36 (b) Notice to a lot owner or occupant shall be addressed to the  
37 lot address unless the owner has requested, in a writing delivered to  
38 the association, that notices be sent to an alternate address.

1 (3) Notice in an electronic transmission shall be provided as  
2 follows:

3 (a) Notice to the association, the board, or lot owners by  
4 electronic transmission is effective only upon those who have  
5 consented, in writing, to receive electronically transmitted notices  
6 under this chapter and have designated the address, location, or  
7 system to which such notices may be electronically transmitted,  
8 provided that such notice otherwise complies with any other  
9 requirements of this chapter and applicable law.

10 (b) Notice under this subsection includes any materials that  
11 accompany the notice.

12 (c) Owners who have consented to receipt of electronically  
13 transmitted notices may revoke this consent by delivering a  
14 revocation to the association in writing.

15 (d) The consent of any lot owner is revoked if the association is  
16 unable to electronically transmit two consecutive notices and this  
17 inability becomes known to the secretary of the association of  
18 apartment owners or any other person responsible for giving the  
19 notice. The inadvertent failure by the association of apartment  
20 owners to treat this inability as a revocation does not invalidate  
21 any meeting or other action.

22 (e) Notice to lot owners who have consented to receipt of  
23 electronically transmitted notices may be provided by posting the  
24 notice on an electronic network and delivering to the owner separate  
25 notice of the posting, together with comprehensible instructions  
26 regarding how to obtain access to the posting on the electronic  
27 network.

28 (4) Notice is effective as follows:

29 (a) Notice provided in a tangible medium is effective as of the  
30 date of hand delivery, deposit with the carrier, or when sent by fax.

31 (b) Notice provided in an electronic transmission is effective as  
32 of the date it:

33 (i) Is electronically transmitted to an address, location, or  
34 system designated by the recipient for that purpose; or

35 (ii) Has been posted on an electronic network and separate notice  
36 of the posting has been sent to the recipient containing instructions  
37 regarding how to obtain access to the posting on the electronic  
38 network.

1 (5) The ineffectiveness of a good faith effort to deliver notice  
2 by an authorized means does not invalidate action taken at or without  
3 a meeting.

4 (6) This chapter modifies, limits, and supersedes the federal  
5 electronic signatures in global and national commerce act, 15 U.S.C.  
6 Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.  
7 Sec. 7001(c) or authorize electronic delivery of any of the notices  
8 described in 15 U.S.C. Sec. 7003(b).

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38  
10 RCW to read as follows:

11 (1) Owners may vote at a meeting in person, by absentee ballot  
12 pursuant to subsection (3)(d) of this section, or by a proxy pursuant  
13 to subsection (5) of this section.

14 (2) When a vote is conducted without a meeting, owners may vote  
15 by ballot pursuant to subsection (6) of this section.

16 (3) At a meeting of owners the following requirements apply:

17 (a) Owners or their proxies who are present in person may vote by  
18 voice vote, show of hands, standing, written ballot, or any other  
19 method for determining the votes of owners, as designated by the  
20 person presiding at the meeting.

21 (b) If only one of several owners of a lot is present, that lot  
22 owner is entitled to cast all the votes allocated to that lot. If  
23 more than one of the lot owners are present, the votes allocated to  
24 that lot may be cast only in accordance with the agreement of a  
25 majority in interest of the lot owners, unless the declaration  
26 expressly provides otherwise. There is a majority agreement if any  
27 one of the lot owners casts the votes allocated to the lot without  
28 protest being made promptly to the person presiding over the meeting  
29 by any of the other lot owners of the lot.

30 (c) Unless a greater number or fraction of the votes in the  
31 association is required under this chapter or the declaration or  
32 organizational documents, a majority of the votes cast determines the  
33 outcome of any action of the association.

34 (d) Whenever proposals or board members are to be voted upon at a  
35 meeting, an owner may vote by duly executed absentee ballot if:

36 (i) The name of each candidate and the text of each proposal to  
37 be voted upon are set forth in a writing accompanying or contained in  
38 the notice of meeting; and

39 (ii) A ballot is provided by the association for such purpose.

1 (4) When an owner votes by absentee ballot, the association must  
2 be able to verify that the ballot is cast by the owner having the  
3 right to do so.

4 (5) Except as provided otherwise in the declaration or  
5 organizational documents, the following requirements apply with  
6 respect to proxy voting:

7 (a) Votes allocated to a lot may be cast pursuant to a directed  
8 or undirected proxy duly executed by a lot owner in the same manner  
9 as provided in RCW 24.06.110.

10 (b) If a lot is owned by more than one person, each lot owner of  
11 the lot may vote or register protest to the casting of votes by the  
12 other lot owners of the lot through a duly executed proxy.

13 (c) An owner may revoke a proxy given pursuant to this section  
14 only by actual notice of revocation to the secretary or the person  
15 presiding over a meeting of the association or by delivery of a  
16 subsequent proxy. The death or disability of an owner does not revoke  
17 a proxy given by the owner unless the person presiding over the  
18 meeting has actual notice of the death or disability.

19 (d) A proxy is void if it is not dated or purports to be  
20 revocable without notice.

21 (e) Unless stated otherwise in the proxy, a proxy terminates  
22 eleven months after its date of issuance.

23 (6) Unless prohibited or limited by the declaration or  
24 organizational documents, an association may conduct a vote without a  
25 meeting. In that event, the following requirements apply:

26 (a) The association must notify the owners that the vote will be  
27 taken by ballot.

28 (b) The notice must state:

29 (i) The time and date by which a ballot must be delivered to the  
30 association to be counted, which may not be fewer than fourteen days  
31 after the date of the notice, and which deadline may be extended in  
32 accordance with (g) of this subsection;

33 (ii) The percent of votes necessary to meet the quorum  
34 requirements;

35 (iii) The percent of votes necessary to approve each matter other  
36 than election of board members; and

37 (iv) The time, date, and manner by which owners wishing to  
38 deliver information to all owners regarding the subject of the vote  
39 may do so.

1 (c) The association must deliver a ballot to every owner with the  
2 notice.

3 (d) The ballot must set forth each proposed action and provide an  
4 opportunity to vote for or against the action.

5 (e) A ballot cast pursuant to this section may be revoked only by  
6 actual notice to the association of revocation. The death or  
7 disability of an owner does not revoke a ballot unless the  
8 association has actual notice of the death or disability prior to the  
9 date set forth in (b) (i) of this subsection.

10 (f) Approval by ballot pursuant to this subsection is valid only  
11 if the number of votes cast by ballot equals or exceeds the quorum  
12 required to be present at a meeting authorizing the action.

13 (g) If the association does not receive a sufficient number of  
14 votes to constitute a quorum or to approve the proposal by the date  
15 and time established for return of ballots, the board may extend the  
16 deadline for a reasonable period not to exceed eleven months upon  
17 further notice to all members in accordance with (b) of this  
18 subsection. In that event, all votes previously cast on the proposal  
19 must be counted unless subsequently revoked as provided in this  
20 section.

21 (h) A ballot or revocation is not effective until received by the  
22 association.

23 (i) The association must give notice to owners of any action  
24 taken pursuant to this subsection within a reasonable time after the  
25 action is taken.

26 (j) When an action is taken pursuant to this subsection, a record  
27 of the action, including the ballots or a report of the persons  
28 appointed to tabulate such ballots, must be kept with the minutes of  
29 meetings of the association.

30 (7) If the governing documents require that votes on specified  
31 matters affecting the common interest community be cast by lessees  
32 rather than owners of leased lots:

33 (a) This section applies to lessees as if they were owners;

34 (b) Owners that have leased their lots to other persons may not  
35 cast votes on those specified matters; and

36 (c) Lessees are entitled to notice of meetings, access to  
37 records, and other rights respecting those matters as if they were  
38 owners.



1 (8) Owners must also be given notice, in the manner provided in  
2 section 11 of this act, of all meetings at which lessees may be  
3 entitled to vote.

4 (9) In any vote of the lot owners, votes allocated to a lot owned  
5 by the association must be cast in the same proportion as the votes  
6 cast on the matter by lot owners other than the association.

7 **Sec. 13.** RCW 64.90.445 and 2019 c 238 s 210 are each amended to  
8 read as follows:

9 (1) The following requirements apply to unit owner meetings:

10 (a) A meeting of the association must be held at least once each  
11 year. Failure to hold an annual meeting does not cause a forfeiture  
12 or give cause for dissolution of the association and does not affect  
13 otherwise valid association acts.

14 (b) (i) An association must hold a special meeting of unit owners  
15 to address any matter affecting the common interest community or the  
16 association if its president, a majority of the board, or unit owners  
17 having at least twenty percent, or any lower percentage specified in  
18 the organizational documents, of the votes in the association request  
19 that the secretary call the meeting.

20 (ii) If the association does not provide notice to unit owners of  
21 a special meeting within thirty days after the requisite number or  
22 percentage of unit owners request the secretary to do so, the  
23 requesting members may directly provide notice to all the unit owners  
24 of the meeting. Only matters described in the meeting notice required  
25 in (c) of this subsection may be considered at a special meeting.

26 (c) An association must provide notice to unit owners of the  
27 time, date, and place of each annual and special unit owners meeting  
28 not less than fourteen days and not more than fifty days before the  
29 meeting date. Notice may be by any means described in RCW 64.90.515.  
30 The notice of any meeting must state the time, date, and place of the  
31 meeting and the items on the agenda, including:

32 (i) The text of any proposed amendment to the declaration or  
33 organizational documents;

34 (ii) Any changes in the previously approved budget that result in  
35 a change in the assessment obligations; and

36 (iii) Any proposal to remove a board member or officer.

37 (d) The minimum time to provide notice required in (c) of this  
38 subsection may be reduced or waived for a meeting called to deal with  
39 an emergency.

1 (e) Unit owners must be given a reasonable opportunity at any  
2 meeting to comment regarding any matter affecting the common interest  
3 community or the association.

4 (f) ~~((The))~~ Except as otherwise restricted by the declaration or  
5 organizational documents ~~((may allow for))~~, meetings of unit owners  
6 ~~((to))~~ may be conducted by telephonic, video, or other conferencing  
7 process, if the process is consistent with subsection (2)(i) of this  
8 section.

9 (2) The following requirements apply to meetings of the board and  
10 committees authorized to act for the board:

11 (a) Meetings must be open to the unit owners except during  
12 executive sessions, but the board may expel or prohibit attendance by  
13 any person who, after warning by the chair of the meeting, disrupts  
14 the meeting. The board and those committees may hold an executive  
15 session only during a regular or special meeting of the board or a  
16 committee. A final vote or action may not be taken during an  
17 executive session.

18 (b) An executive session may be held only to:

19 (i) Consult with the association's attorney concerning legal  
20 matters;

21 (ii) Discuss existing or potential litigation or mediation,  
22 arbitration, or administrative proceedings;

23 (iii) Discuss labor or personnel matters;

24 (iv) Discuss contracts, leases, and other commercial transactions  
25 to purchase or provide goods or services currently being negotiated,  
26 including the review of bids or proposals, if premature general  
27 knowledge of those matters would place the association at a  
28 disadvantage; or

29 (v) Prevent public knowledge of the matter to be discussed if the  
30 board or committee determines that public knowledge would violate the  
31 privacy of any person.

32 (c) For purposes of this subsection, a gathering of members of  
33 the board or committees at which the board or committee members do  
34 not conduct association business is not a meeting of the board or  
35 committee. Board members and committee members may not use incidental  
36 or social gatherings to evade the open meeting requirements of this  
37 subsection.

38 (d) During the period of declarant control, the board must meet  
39 at least four times a year. At least one of those meetings must be  
40 held at the common interest community or at a place convenient to the

1 community. After the transition meeting, all board meetings must be  
2 at the common interest community or at a place convenient to the  
3 common interest community unless the unit owners amend the bylaws to  
4 vary the location of those meetings.

5 (e) At each board meeting, the board must provide a reasonable  
6 opportunity for unit owners to comment regarding matters affecting  
7 the common interest community and the association.

8 (f) Unless the meeting is included in a schedule given to the  
9 unit owners or the meeting is called to deal with an emergency, the  
10 secretary or other officer specified in the organizational documents  
11 must provide notice of each board meeting to each board member and to  
12 the unit owners. The notice must be given at least fourteen days  
13 before the meeting and must state the time, date, place, and agenda  
14 of the meeting.

15 (g) If any materials are distributed to the board before the  
16 meeting, the board must make copies of those materials reasonably  
17 available to the unit owners, except that the board need not make  
18 available copies of unapproved minutes or materials that are to be  
19 considered in executive session.

20 (h) Unless the organizational documents provide otherwise, fewer  
21 than all board members may participate in a regular or special  
22 meeting by or conduct a meeting through the use of any means of  
23 communication by which all board members participating can hear each  
24 other during the meeting. A board member participating in a meeting  
25 by these means is deemed to be present in person at the meeting.

26 (i) Unless the organizational documents provide otherwise, the  
27 board may meet by participation of all board members by telephonic,  
28 video, or other conferencing process if:

29 (i) The meeting notice states the conferencing process to be used  
30 and provides information explaining how unit owners may participate  
31 in the conference directly or by meeting at a central location or  
32 conference connection; and

33 (ii) The process provides all unit owners the opportunity to hear  
34 or perceive the discussion and to comment as provided in (e) of this  
35 subsection.

36 (j) After the transition meeting, unit owners may amend the  
37 organizational documents to vary the procedures for meetings  
38 described in (i) of this subsection.

39 (k) Instead of meeting, the board may act by unanimous consent as  
40 documented in a record by all its members. Actions taken by unanimous

1 consent must be kept as a record of the association with the meeting  
2 minutes. After the transition meeting, the board may act by unanimous  
3 consent only to undertake ministerial actions, actions subject to  
4 ratification by the unit owners, or to implement actions previously  
5 taken at a meeting of the board.

6 (l) A board member who is present at a board meeting at which any  
7 action is taken is presumed to have assented to the action taken  
8 unless the board member's dissent or abstention to such action is  
9 lodged with the person acting as the secretary of the meeting before  
10 adjournment of the meeting or provided in a record to the secretary  
11 of the association immediately after adjournment of the meeting. The  
12 right to dissent or abstain does not apply to a board member who  
13 voted in favor of such action at the meeting.

14 (m) A board member may not vote by proxy or absentee ballot.

15 (n) Even if an action by the board is not in compliance with this  
16 section, it is valid unless set aside by a court. A challenge to the  
17 validity of an action of the board for failure to comply with this  
18 section may not be brought more than ninety days after the minutes of  
19 the board of the meeting at which the action was taken are approved  
20 or the record of that action is distributed to unit owners, whichever  
21 is later.

22 (3) Minutes of all unit owner meetings and board meetings,  
23 excluding executive sessions, must be maintained in a record. The  
24 decision on each matter voted upon at a board meeting or unit owner  
25 meeting must be recorded in the minutes.

--- END ---