

HB 1199 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32
4 RCW to read as follows:

5 (1) An association of apartment owners may not adopt or enforce a
6 restriction, covenant, condition, bylaw, rule, regulation, provision
7 of a governing document, or master deed provision that effectively
8 prohibits, unreasonably restricts, or limits, directly or indirectly,
9 the use of an apartment as a licensed family home child care operated
10 by a family day care provider or as a licensed child day care center,
11 except as provided in subsection (2) of this section.

12 (2)(a) Nothing in this section prohibits an association of
13 apartment owners from imposing reasonable regulations on a family
14 home child care or a child day care center including, but not limited
15 to, architectural standards, as long as those regulations are
16 identical to those applied to all other apartments within the same
17 association as the family home child care or the child day care
18 center.

19 (b) An association may require that only an apartment with direct
20 access may be used as a family home child care or child day care
21 center. Direct access must be either from the outside of the building
22 or through publicly accessible common areas and facilities.

23 (c) An association may adopt or enforce a restriction, covenant,
24 condition, bylaw, rule, regulation, provision of a governing
25 document, or master deed provision that requires a family home child
26 care or a child day care center operating out of an apartment within
27 the association to:

28 (i) Be licensed under chapter 43.216 RCW;

29 (ii) Indemnify and hold harmless the association against all
30 claims, whether brought by judicial or administrative action,
31 relating to the operation of the family home child care or the child

1 day care center, excluding claims arising in common areas and
2 facilities that the association is solely responsible for maintaining
3 under the governing documents;

4 (iii) Obtain a signed waiver of liability releasing the
5 association from legal claims directly related to the operation of
6 the family home child care or the child day care center from the
7 parent, guardian, or caretaker of each child being cared for by the
8 family home child care or the child day care center. However, an
9 association may not require that a waiver of liability under this
10 subsection be notarized; and

11 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
12 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
13 the requirements in RCW 43.216.700.

14 (3) An association of apartment owners that willfully violates
15 this section is liable to the family day care provider or the child
16 day care center for actual damages, and shall pay a civil penalty to
17 the family day care provider or the child day care center in an
18 amount not to exceed \$1,000.

19 (4) For the purposes of this section, the terms "family day care
20 provider" and "child day care center" have the same meanings as in
21 RCW 43.216.010.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34
23 RCW to read as follows:

24 (1) A unit owners' association may not adopt or enforce a
25 restriction, covenant, condition, bylaw, rule, regulation, provision
26 of a governing document, or master deed provision that effectively
27 prohibits, unreasonably restricts, or limits, directly or indirectly,
28 the use of a unit as a licensed family home child care operated by a
29 family day care provider or as a licensed child day care center,
30 except as provided in subsection (2) of this section.

31 (2)(a) Nothing in this section prohibits a unit owners'
32 association from imposing reasonable regulations on a family home
33 child care or a child day care center including, but not limited to,
34 architectural standards, as long as those regulations are identical
35 to those applied to all other units within the same association as
36 the family home child care or the child day care center.

37 (b) An association may require that only a unit with direct
38 access may be used as a family home child care or child day care

1 center. Direct access must be either from the outside of the building
2 or through publicly accessible common elements.

3 (c) An association may adopt or enforce a restriction, covenant,
4 condition, bylaw, rule, regulation, provision of a governing
5 document, or master deed provision that requires a family home child
6 care or a child day care center operating out of a unit within the
7 association to:

8 (i) Be licensed under chapter 43.216 RCW;

9 (ii) Indemnify and hold harmless the association against all
10 claims, whether brought by judicial or administrative action,
11 relating to the operation of the family home child care or the child
12 day care center, excluding claims arising in common elements that the
13 association is solely responsible for maintaining under the governing
14 documents;

15 (iii) Obtain a signed waiver of liability releasing the
16 association from legal claims directly related to the operation of
17 the family home child care or the child day care center from the
18 parent, guardian, or caretaker of each child being cared for by the
19 family home child care or the child day care center. However, an
20 association may not require that a waiver of liability under this
21 subsection be notarized; and

22 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
23 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
24 the requirements in RCW 43.216.700.

25 (3) A unit owners' association that willfully violates this
26 section is liable to the family day care provider or the child day
27 care center for actual damages, and shall pay a civil penalty to the
28 family day care provider or the child day care center in an amount
29 not to exceed \$1,000.

30 (4) For the purposes of this section, the terms "family day care
31 provider" and "child day care center" have the same meanings as in
32 RCW 43.216.010.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38
34 RCW to read as follows:

35 (1) A homeowners' association may not adopt or enforce a
36 restriction, covenant, condition, bylaw, rule, regulation, provision
37 of a governing document, or master deed provision that effectively
38 prohibits, unreasonably restricts, or limits, directly or indirectly,
39 the use of a lot as a licensed family home child care operated by a

1 family day care provider or as a licensed child day care center,
2 except as provided in subsection (2) of this section.

3 (2)(a) Nothing in this section prohibits a homeowners'
4 association from imposing reasonable regulations on a family home
5 child care or a child day care center including, but not limited to,
6 architectural standards, as long as those regulations are identical
7 to those applied to all other lots within the same association as the
8 family home child care or the child day care center.

9 (b) An association may require that only a lot with direct access
10 may be used as a family home child care or child day care center.
11 Direct access must be through publicly accessible common areas.

12 (c) An association may adopt or enforce a restriction, covenant,
13 condition, bylaw, rule, regulation, provision of a governing
14 document, or master deed provision that requires a family home child
15 care or a child day care center operating out of a lot within the
16 association to:

17 (i) Be licensed under chapter 43.216 RCW;

18 (ii) Indemnify and hold harmless the association against all
19 claims, whether brought by judicial or administrative action,
20 relating to the operation of the family home child care or the child
21 day care center, excluding claims arising in common areas that the
22 association is solely responsible for maintaining under the governing
23 documents;

24 (iii) Obtain a signed waiver of liability releasing the
25 association from legal claims directly related to the operation of
26 the family home child care or the child day care center from the
27 parent, guardian, or caretaker of each child being cared for by the
28 family home child care or the child day care center. However, an
29 association may not require that a waiver of liability under this
30 subsection be notarized; and

31 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
32 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
33 the requirements in RCW 43.216.700.

34 (3) A homeowners' association that willfully violates this
35 section is liable to the family day care provider or the child day
36 care center for actual damages, and shall pay a civil penalty to the
37 family day care provider or the child day care center in an amount
38 not to exceed \$1,000.

1 (4) For the purposes of this section, the terms "family day care
2 provider" and "child day care center" have the same meanings as in
3 RCW 43.216.010.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90
5 RCW to read as follows:

6 (1) A unit owners association may not adopt or enforce a
7 restriction, covenant, condition, bylaw, rule, regulation, provision
8 of a governing document, or master deed provision that effectively
9 prohibits, unreasonably restricts, or limits, directly or indirectly,
10 the use of a unit as a licensed family home child care operated by a
11 family day care provider or as a licensed child day care center,
12 except as provided in subsection (2) of this section.

13 (2)(a) Nothing in this section prohibits a unit owners'
14 association from imposing reasonable regulations on a family home
15 child care or a child day care center including, but not limited to,
16 architectural standards, as long as those regulations are identical
17 to those applied to all other units within the same association as
18 the family home child care or the child day care center.

19 (b) An association may require that only a unit with direct
20 access may be used as a family home child care or child day care
21 center. Direct access must be either from the outside of the building
22 if the common interest community is in a building, or through
23 publicly accessible common elements.

24 (c) An association may adopt or enforce a restriction, covenant,
25 condition, bylaw, rule, regulation, provision of a governing
26 document, or master deed provision that requires a family home child
27 care or a child day care center operating out of a unit within the
28 association to:

29 (i) Be licensed under chapter 43.216 RCW;

30 (ii) Indemnify and hold harmless the association against all
31 claims, whether brought by judicial or administrative action,
32 relating to the operation of the family home child care or the child
33 day care center, excluding claims arising in common elements that the
34 association is solely responsible for maintaining under the governing
35 documents;

36 (iii) Obtain a signed waiver of liability releasing the
37 association from legal claims directly related to the operation of
38 the family home child care or the child day care center from the
39 parent, guardian, or caretaker of each child being cared for by the

1 family home child care or the child day care center. However, an
2 association may not require that a waiver of liability under this
3 subsection be notarized; and

4 (iv) Obtain day care insurance as defined in RCW 48.88.020 or
5 provide self-insurance pursuant to chapter 48.90 RCW, consistent with
6 the requirements in RCW 43.216.700.

7 (3) A unit owners association that willfully violates this
8 section is liable to the family day care provider or the child day
9 care center for actual damages, and shall pay a civil penalty to the
10 family day care provider or the child day care center in an amount
11 not to exceed \$1,000.

12 (4) For the purposes of this section, the terms "family day care
13 provider" and "child day care center" have the same meanings as in
14 RCW 43.216.010.

15 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of
17 the state government and its existing public institutions, and takes
18 effect immediately."

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19 On page 1, line 2 of the title, after "communities;" strike the
20 remainder of the title and insert "adding a new section to chapter
21 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new
22 section to chapter 64.38 RCW; adding a new section to chapter 64.90
23 RCW; prescribing penalties; and declaring an emergency."

EFFECT: (1) Permits a common interest community association to
require direct access to a unit in order for the unit to be used as a
family home child care or child day care center.

(2) Establishes that direct access must be either from the
outside of a building if a common interest community is in a
building, or through publicly accessible common elements.

(3) Permits an association to require that a family home child
care or a child day care center operating out of a unit be licensed
by the Department of Children, Youth, and Families; indemnify the
association against all claims related to the family home child care
or child day care center except for claims that arise in common
elements that the association is solely responsible for maintaining
under the governing documents; obtain signed waivers from parents,
guardians, or caretakers of each child being cared for that releases

the association from legal claims related to the operation of the family home child care or child day care center; and obtain day care insurance or provide self-insurance.

(4) Changes the effective date of the act to take effect immediately.

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