

## 26--Does WUCIOA Affect My Community's Budget Approval Process?

WUCIOA affects the budget approval process of all preexisting communities. The budget and assessment provisions replace any conflicting provisions which exist in the prior statutes covering common interest communities already on the books. For HOAs governed by RCW 64.38, WUCIOA also replaces all existing budget and assessment terms in the community's Governing Documents. So now, Old Act condominiums must ratify budgets, and the WUCIOA budget process replaces an HOA's budget process, removing any restrictions on assessment increases in the CC&Rs.

WUCIOA outlines the budget and approval process at RCW 64.90.525.<sup>1</sup> RCW 64.90.080 provides that RCW 64.90.525 will apply to all preexisting communities.<sup>2</sup> As a result, even if your community has not adopted WUCIOA, WUCIOA will replace the portions of the statute governing your community that deal with approving budgets or assessments. Communities need to be aware of several changes. For instance, the Board must now provide a copy of the budget, not just a summary, and the budget must include specific topics.<sup>3</sup> Additionally, the Owners meeting to consider the budget must be held within 50 days, rather than 60 days, of the budget being sent to the Owners.

Perhaps most importantly, WUCIOA makes it easier for the Board to pass assessments. First, unless the Owners reject the budget, both the budget and **any assessments included in the budget** are ratified.<sup>4</sup> Second, WUCIOA explicitly authorizes the Board to propose special assessments.<sup>5</sup> These assessments are ratified in the same manner as the annual budget.

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For HOAs governed by the *Homeowners Association Act* RCW 64.38, RCW 64.90.525 will also **replace** provisions of the community's Declaration related to budgets and assessments.<sup>6</sup> Once again, this occurs even if the community does not adopt WUCIOA. We believe the legislative intent was to remove any restrictions on increasing dues contained in the CC&Rs of existing single-family communities.

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<sup>1</sup> RCW 64.90.525 Budgets—Assessments—Special assessments.

- (1) (a) Within thirty days after adoption of any proposed budget for the common interest community, the board must provide a copy of the budget to all the unit owners and set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than fifty days after providing the budget. Unless at that meeting the unit owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget and the assessments against the units included in the budget are ratified, whether or not a quorum is present.
  - (b) If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners continues until the unit owners ratify a subsequent budget proposed by the board.
- (2) The budget must include:
  - (a) The projected income to the association by category;
  - (b) The projected common expenses and those specially allocated expenses that are subject to being budgeted, both by category;
  - (c) The amount of the assessments per unit and the date the assessments are due;
  - (d) The current amount of regular assessments budgeted for contribution to the reserve account;
  - (e) A statement of whether the association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and
  - (f) The current deficiency or surplus in reserve funding expressed on a per unit basis.
- (3) The board, at any time, may propose a special assessment. The assessment is effective only if the board follows the procedures for ratification of a budget described in subsection (1) of this section and the unit owners do not reject the proposed assessment. The board may provide that the special assessment may be due and payable in

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installments over any period it determines and may provide a discount for early payment.

<sup>2</sup> RCW 64.90.080(1) (“Except for a nonresidential common interest community described in RCW 64.90.100, RCW 64.90.095 and **64.90.525 apply, and any inconsistent provisions of chapter 59.18, 64.32, 64.34, or 64.38 RCW do not apply**, to a common interest community created in this state before July 1, 2018.”)

<sup>3</sup> RCW 64.90.525(2) (“The budget must include:(a) The projected income to the association by category; (b) The projected common expenses and those specially allocated expenses that are subject to being budgeted, both by category; (c) The amount of the assessments per unit and the date the assessments are due; (d) The current amount of regular assessments budgeted for contribution to the reserve account; (e) A statement of whether the association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and (f) The current deficiency or surplus in reserve funding expressed on a per unit basis.

<sup>4</sup> RCW 64.90.525(1) (“...Unless...the unit owners...reject the budget, **the budget and the assessments** against the units included in the budget are ratified...”)

<sup>5</sup> RCW 64.90.525(3) (“The board, at any time, may propose a special assessment. The assessment is effective only if the board follows the procedures for ratification of a budget described in subsection (1) of this section and the unit owners do not reject the proposed assessment. The board may provide that the special assessment may be due and payable in installments over any period it determines and may provide a discount for early payment.”)

<sup>6</sup> RCW 64.90.080(2) (“Except to the extent provided in this subsection, the sections listed in subsection (1) of this section apply only to events and circumstances occurring after July 1, 2018, and do not invalidate existing provisions of the governing documents of those common interest communities. **To protect the public interest, RCW 64.90.095 and 64.90.525 supersede existing provisions of the governing documents of all plat communities and miscellaneous communities previously subject to chapter 64.38 RCW.**”)