

## WHAT YOU NEED TO KNOW

## SSB 6175 FALLOUT

SSB 6175, OR THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT, AND WHAT IT MEANS TO YOU

The Washington Uniform Common Interest Ownership Act (WUCIOA) or SSB 6175 was adopted in the 2018 legislative session and takes effect on July 1, 2018. Based on the Uniform Common Interest Ownership Act (UCIOA), the WUCIOA will govern all Common Interest Communities (CIC), including condominiums and plat communities, created after July 1, 2018.



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The WUCIOA is quite long and complex and covers the following broad topics:

- Applicability and General

#### Provisions

- CIC Creation and Amendments
- HOA Management, HOA Meetings and Notices, HOA Voting, HOA Accounts, Assessments, Liens, and Records, HOA Budgets, HOA Reserve Studies
- CIC Unit Alteration
- Flags, Political Signs, Solar Panels
- Purchaser Disclosures
- Tenant Conversion Rights
- Express Warranties (condominiums only)
- Implied Warranties (condominiums only)
- Statute of Limitations for Warranties
- Termination and Miscellaneous

A more detailed overview of WUCIOA provisions is available at [BIAW.com](http://BIAW.com) as well as a complete copy of WUCIOA (SSB 6175).

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#### BUILDERS' CHALLENGES AHEAD

The challenge facing residential home builders is having only a few months to revise and re-write virtually all of the traditional documents involved with the creation, management, sales, marketing and financing of homes in new condominiums and plat communities. These traditional documents include:

- Declaration (CC&R)
- Survey/Plat Maps
- HOA Articles of Incorporation, HOA Bylaws, HOA Rules/Regulations, HOA Annual Budgets, HOA Reserve Studies
- Inspection Reports
- Public Offering Statement (POS)
- Resale Certificate
- Construction Warranties
- Purchase/Sale Agreement (NWMLS Forms 21 & 28)
- PSA Builder Addendum

For condominiums, WUCIOA requirements may in many instances appear to be similar to current legal requirements under the Washington Condominium Act (WCA, RCW 64.38), but WUCIOA requirements are nevertheless different in many important respects. Examples of provisions that are new or different include:

- Many definitions
- Applicability of local ordinances
- Adjustment of dollars amounts
- Electronic signatures
- Declaration provisions
- Survey map provisions
- Development rights provisions
- Unit boundary relocation provision
- Unit subdivide/combine provisions
- HOA powers provisions
- POS provisions
- Resale Certificate provisions

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For plat communities, the home builder may face a greater document challenge. The Homeowner Association Act (HOAA, RCW 64.38) currently does not include detailed WUCIOA-like requirements for many of the project documents, including:

- Declaration
- Plat Map
- HOA Articles, HOA Bylaws, HOA Rules
- POS and Resale Certificate

Consequently, many subdivision home builders are going to be starting from scratch in creating WUCIOA compliant project documents.

Finally, the current NWMLS Form 21 (for plat communities), Form 28 (for condominiums) and Form 27 (Resale Certificate) will all have to be revised.

Home builders will have to retain experienced and competent legal counsel to make a line-for-line review of all of the project documents to assure compliance with WUCIOA. Non-compliance with WUCIOA may result in litigation and home builder liabilities.

Home builders that want to avoid the WUCIOA requirements will have to have the condominium or plat community created prior to July 1, 2018.

If you have questions concerning WUCIOA and need assistance in preparing your project documents, please contact me at 423-252-2693 or email [pete@jcmiddlebrooks.com](mailto:pete@jcmiddlebrooks.com) or [www.MiddlebrooksRealEstateLaw.com](http://www.MiddlebrooksRealEstateLaw.com).

*Editor's Note: Attorney James C. (Pete) Middlebrooks provides legal advice for real estate development (including subdivisions and condominiums), land use, acquisition, investment and financing. In 2017, Pete was inducted into BIAW's Hall of Fame.*