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**SUBSTITUTE SENATE BILL 5031**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Jacobsen, Murray and Kline)

READ FIRST TIME 02/23/07.

1            AN ACT Relating to conversion condominiums; amending RCW 64.34.440;  
2 and providing an effective date.

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

4            **Sec. 1.** RCW 64.34.440 and 1992 c 220 s 25 are each amended to read  
5 as follows:

6            (1)(a) A declarant of a conversion condominium, and any dealer who  
7 intends to offer units in such a condominium, shall give each of the  
8 residential tenants and any residential subtenant in possession of a  
9 portion of a conversion condominium notice of the conversion and  
10 provide those persons with the public offering statement no later than  
11 ~~((ninety))~~ one hundred twenty days before the tenants and any subtenant  
12 in possession are required to vacate. The notice must:

13            (i) Set forth generally the rights of tenants and subtenants under  
14 this section ~~((and shall))~~;

15            (ii) Be delivered pursuant to notice requirements set forth in RCW  
16 59.12.040; and

17            (iii) Expressly state whether there is a county or city relocation  
18 assistance requirement for tenants or subtenants of conversion

1 condominiums in the jurisdiction in which the property is located. If  
2 the county or city does have a relocation assistance requirement, the  
3 following must also be included in the notice:

4 (A) The terms and conditions under which relocation assistance is  
5 paid; and

6 (B) Any information or forms prescribed by the county or city by  
7 ordinance or rule related to the relocation assistance requirement.

8 (b) No tenant or subtenant may be required to vacate upon less than  
9 ((ninety)) one hundred twenty days' notice, except by reason of  
10 nonpayment of rent, waste, conduct that disturbs other tenants'  
11 peaceful enjoyment of the premises, or act of unlawful detainer as  
12 defined in RCW 59.12.030, and the terms of the tenancy may not be  
13 altered during that period except as provided in (c) of this  
14 subsection.

15 (c) At the declarant's option, the declarant may provide all  
16 tenants in a single building with an option to terminate their lease or  
17 rental agreements without cause or consequence after providing the  
18 declarant with thirty days' notice. In such case, tenants shall  
19 continue to have access to relocation assistance as provided in  
20 subsection (6)(e) of this section.

21 (d) Nothing in this subsection shall be deemed to waive or repeal  
22 RCW 59.18.200(2). Failure to give notice as required by this section,  
23 or failure to pay any required relocation assistance, is a defense to  
24 an action for possession.

25 (2) For sixty days after delivery or mailing of the notice  
26 described in subsection (1) of this section, the person required to  
27 give the notice shall offer to convey each unit or proposed unit  
28 occupied for residential use to the tenant who leases that unit. If a  
29 tenant fails to purchase the unit during that sixty-day period, the  
30 offeror may offer to dispose of an interest in that unit during the  
31 following one hundred eighty days at a price or on terms more favorable  
32 to the offeree than the price or terms offered to the tenant only if:

33 (a) Such offeror, by written notice mailed to the tenant's last known  
34 address, offers to sell an interest in that unit at the more favorable  
35 price and terms, and (b) such tenant fails to accept such offer in  
36 writing within ten days following the mailing of the offer to the  
37 tenant. This subsection does not apply to any unit in a conversion  
38 condominium if that unit will be restricted exclusively to

1 nonresidential use or the boundaries of the converted unit do not  
2 substantially conform to the dimensions of the residential unit before  
3 conversion.

4 (3) If a seller, in violation of subsection (2) of this section,  
5 conveys a unit to a purchaser for value who has no knowledge of the  
6 violation, recording of the deed conveying the unit extinguishes any  
7 right a tenant may have to purchase that unit but does not affect the  
8 right of a tenant to recover damages from the seller for a violation of  
9 subsection (2) of this section.

10 (4) If a notice of conversion specifies a date by which a unit or  
11 proposed unit must be vacated and otherwise complies with the  
12 provisions of this chapter and chapter 59.18 RCW, the notice also  
13 constitutes a notice to vacate specified by that statute.

14 (5) Nothing in this section permits termination of a lease by a  
15 declarant in violation of its terms.

16 (6) Notwithstanding RCW 64.34.050(1), a city or county may by  
17 appropriate ordinance require with respect to any conversion  
18 condominium within the jurisdiction of such city or county that:

19 (a) In addition to the statement required by RCW 64.34.415(1)(a),  
20 the public offering statement shall contain a copy of the written  
21 inspection report prepared by the appropriate department of such city  
22 or county, which report shall list any violations of the housing code  
23 or other governmental regulation, which code or regulation is  
24 applicable regardless of whether the real property is owned as a  
25 condominium or in some other form of ownership; said inspection shall  
26 be made within forty-five days of the declarant's written request  
27 therefor and said report shall be issued within fourteen days of said  
28 inspection being made. Such inspection may not be required with  
29 respect to any building for which a final certificate of occupancy has  
30 been issued by the city or county within the preceding twenty-four  
31 months; and any fee imposed for the making of such inspection may not  
32 exceed the fee that would be imposed for the making of such an  
33 inspection for a purpose other than complying with this subsection  
34 (6)(a);

35 (b) Prior to the conveyance of any residential unit within a  
36 conversion condominium, other than a conveyance to a declarant or  
37 affiliate of a declarant: (i) All violations disclosed in the  
38 inspection report provided for in (a) of this subsection, and not

1 otherwise waived by such city or county, shall be repaired, and (ii) a  
2 certification shall be obtained from such city or county that such  
3 repairs have been made, which certification shall be based on a  
4 reinspection to be made within seven days of the declarant's written  
5 request therefor and which certification shall be issued within seven  
6 days of said reinspection being made;

7 (c) The repairs required to be made under (b) of this subsection  
8 shall be warranted by the declarant against defects due to workmanship  
9 or materials for a period of one year following the completion of such  
10 repairs;

11 (d) Prior to the conveyance of any residential unit within a  
12 conversion condominium, other than a conveyance to a declarant or  
13 affiliate of a declarant: (i) The declarant shall establish and  
14 maintain, during the one-year warranty period provided under (c) of  
15 this subsection, an account containing a sum equal to ten percent of  
16 the actual cost of making the repairs required under (b) of this  
17 subsection; (ii) during the one-year warranty period, the funds in such  
18 account shall be used exclusively for paying the actual cost of making  
19 repairs required, or for otherwise satisfying claims made, under such  
20 warranty; (iii) following the expiration of the one-year warranty  
21 period, any funds remaining in such account shall be immediately  
22 disbursed to the declarant; and (iv) the declarant shall notify in  
23 writing the association and such city or county as to the location of  
24 such account and any disbursements therefrom; ~~((and))~~

25 (e) A declarant shall pay relocation assistance ~~((not to exceed~~  
26 ~~five hundred dollars per unit shall be paid))~~, in an amount determined  
27 by the city or county, which in no event may exceed a total of the sum  
28 for three months' rent of the tenant's unit as specified in the  
29 applicable lease or rental agreement, to tenants and subtenants:

30 (i) Who elect not to purchase a unit ~~((and))~~;

31 (ii) Who are in lawful occupancy for residential purposes of a  
32 unit; and

33 (iii) Whose ~~((monthly))~~ annual household income from all sources,  
34 on the date of the notice described in subsection (1) of this section,  
35 was less than an amount equal to eighty percent of ~~((+i))~~;

36 (A) The ~~((monthly))~~ annual median family income ~~((for comparably~~  
37 ~~sized households))~~ in the ~~((standard))~~ metropolitan statistical area,  
38 as defined and established by the United States department of housing

1 and urban development, in which the condominium is located, as adjusted  
2 for household size according to the method used for income limits by  
3 the department; or ((+ii))

4 (B) If the condominium is not within a ((standard)) metropolitan  
5 statistical area, the ((monthly)) annual median family income ((for  
6 comparably sized households)) in the state of Washington, as defined  
7 and determined by ((said)) the United States department of housing and  
8 urban development, and as adjusted for household size according to the  
9 method used for income limits by the department.

10 The household size of a unit shall be based on the number of  
11 persons actually in lawful occupancy of the unit. The tenant or  
12 subtenant actually in lawful occupancy of the unit shall be entitled to  
13 the relocation assistance. A requirement for relocation assistance  
14 under this subsection (6)(e) is authorized whether or not it may be  
15 considered a tax. The declarant shall provide to the city or county a  
16 copy of the notice required under subsection (1)(a) of this section at  
17 the same time the notice is provided to the tenants or subtenants. The  
18 declarant shall also provide other notices and documentation that the  
19 city or county may require by ordinance or rule to administer the  
20 relocation assistance requirement and verify compliance under this  
21 section. Relocation assistance shall be paid on or before the date the  
22 tenant or subtenant vacates and shall be in addition to any damage  
23 deposit or other compensation or refund to which the tenant is  
24 otherwise entitled. Unpaid rent or other amounts owed by the tenant or  
25 subtenant to the landlord may be offset against the relocation  
26 assistance; and

27 (f) Except as authorized under (g) of this subsection (6), a  
28 declarant and any dealer shall not begin any construction, remodeling,  
29 or repairs to any interior portion of an occupied building that is to  
30 be converted to a condominium or the lot on which the conversion  
31 condominium is located during the one hundred twenty-day notice period  
32 provided for in RCW 64.34.440(1) unless all residential tenants and  
33 residential subtenants who have elected not to purchase a unit and who  
34 are in lawful occupancy in the building have vacated.

35 (g)(i) A declarant and any dealer is authorized to begin  
36 construction, remodeling, or repairs to interior portions of an  
37 occupied building under the following circumstances:

1       (A) To repair or remodel vacant units to be used as model units,  
2 provided that the repair and remodel is limited to one model for each  
3 unit type in the building;

4       (B) To repair or remodel a vacant unit or common area for use as a  
5 sales office; and

6       (C) The declarant or dealer has offered existing tenants an option  
7 to terminate an existing lease or rental agreement without cause or  
8 consequence pursuant to subsection (1)(c) of this section and at least  
9 one hundred twenty days have passed since tenants were notified of such  
10 option.

11       (ii) All work performed under this subsection shall not violate the  
12 tenant's or subtenant's rights of quiet enjoyment during the one  
13 hundred twenty-day notice period.

14       (7) Violations of any city or county ordinance adopted as  
15 authorized by subsection (6) of this section shall give rise to such  
16 remedies, penalties, and causes of action which may be lawfully imposed  
17 by such city or county. Such violations shall not invalidate the  
18 creation of the condominium or the conveyance of any interest therein.

19       NEW SECTION. Sec. 2. This act takes effect August 1, 2007. This  
20 act shall not apply to any conversion condominiums for which a notice  
21 required by RCW 64.34.440(1) has been delivered prior to the effective  
22 date of this act.

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