



Daycare-Related State Statutes and Rules

California

[California Code, Health and Safety Code - HSC § 1597.40](#)

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d)(1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser

amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) [Section 1596.890](#) shall not apply to this subdivision.

Colorado

[CO Rev Stat § 38-33.3-106.5\(k\)](#)

(1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not prohibit any of the following:...

(k) (I) THE OPERATION OF A FAMILY CHILD CARE HOME, AS DEFINED IN SECTION 26-6-102 (13), THAT IS LICENSED UNDER PART 1 OF ARTICLE 6 OF TITLE 26.

(II) THIS SUBSECTION (1)(k) DOES NOT SUPERSEDE ANY OF THE ASSOCIATION'S REGULATIONS CONCERNING ARCHITECTURAL CONTROL PARKING, LANDSCAPING, NOISE, OR OTHER MATTERS NOT SPECIFIC TO THE OPERATION OF A BUSINESS PER SE. THE ASSOCIATION SHALL MAKE REASONABLE ACCOMMODATION FOR FENCING REQUIREMENTS APPLICABLE TO LICENSED FAMILY CHILD CARE HOMES.

(III) THIS SUBSECTION (1)(k) DOES NOT APPLY TO A COMMUNITY QUALIFIED AS HOUSING FOR OLDER PERSONS UNDER THE FEDERAL "HOUSING FOR OLDER PERSONS ACT OF 1995", AS AMENDED, PuB.L. 104-76.

(IV) THE ASSOCIATION MAY REQUIRE THE OWNER OR OPERATOR OF A FAMILY CHILD CARE HOME LOCATED IN THE COMMON INTEREST COMMUNITY TO CARRY LIABILITY INSURANCE, AT REASONABLE LEVELS DETERMINED BY THE ASSOCIATION'S EXECUTIVE BOARD, PROVIDING COVERAGE FOR ANY ASPECT OF THE OPERATION OF THE FAMILY CHILD CARE HOME FOR PERSONAL INJURY, DEATH, DAMAGE TO PERSONAL PROPERTY, AND DAMAGE TO REAL PROPERTY THAT OCCURS IN OR ON THE COMMON ELEMENTS, IN THE UNIT WHERE THE FAMILY CHILD CARE HOME IS LOCATED, OR IN ANY OTHER UNIT LOCATED IN THE COMMON INTEREST COMMUNITY. THE ASSOCIATION SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE LIABILITY INSURANCE THE FAMILY CHILD CARE HOME IS REQUIRED TO CARRY, AND SUCH INSURANCE MUST BE PRIMARY TO ANY INSURANCE THE ASSOCIATION IS REQUIRED TO CARRY UNDER THE TERMS OF THE DECLARATION.

Connecticut

Statutes: https://www.ctoec.org/wp-content/uploads/2023/06/2023_Family_StatsRegs.pdf

Regulations: https://www.ctoec.org/wp-content/uploads/2021/03/WATERMARK-Proposed_Regulation_PR2017-046-2.24.21.pdf

Unclear of impact on community associations—no direct references to community associations found.

Hawaii

[HI Rev Stat § 502C-2 \(2016\)](#)

§502C-2 Family child care homes; authorization.

(a) No association of a townhouse project shall prohibit the operation of a family child care home; provided that the family child care home:

- (1) Is operated by the owner-occupant of the townhouse in which the family child care home is located;
- (2) Is operated in a ground floor unit with a ground floor entry; and
- (3) Complies with subsections (b) and (c).

An association of a townhouse project may impose on a family child care home conditions and limitations as set forth in subsection (e).

(b) Every family child care home located in a townhouse project shall give the association written notice of intent to commence operation as a family child care home no later than ninety days prior to commencing operation. Family child care homes that fail to give such written notice shall not commence operation. Any family child care home existing on July 2, 2001, shall notify the association within sixty days of July 2, 2001, if the home has not previously done so. The notification does not need to be notarized. If a family child care home commences or continues operation without providing notice within the prescribed time limit required under this section:

- (1) The association shall be absolved of any and all liability for the operation of the family child care home; and
- (2) The family child care home shall indemnify, save, and hold the association harmless from and against all claims and actions and all costs and expenses arising from the operation of the family child care home.

(c) A family child care home located in a townhouse project shall comply with the Equal Opportunity for Individuals with Disabilities Act (Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., as amended). The family child care operator shall be responsible for all physical modifications to the premises, both within the unit and in the common areas, that are readily achievable, and that would allow for the full participation of a child or parent with a physical disability, unless other site arrangements were made and were equally effective. If modifications or improvements are required to the common elements, the operator of the family child care home shall obtain approval of the modifications or improvements from the association before undertaking any construction and the operator of the family child care home shall pay for any such modification.

For the purposes of this subsection, "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense.

(d) An association may authorize the use of an apartment or unit as a family child care home by obtaining the approval of a majority of the owners of the condominium project or planned community, where majority is defined in the association bylaws or other association documents, or by any other method specified in the association bylaws or other association documents. The family child care home authorized shall be subject to the declaration, bylaws, house rules, and any amendments pertaining to the condominium project or planned community; provided that any

declaration, bylaw, or house rule provision prohibiting or limiting the use of the apartment unit for family child care purposes shall be invalid.

(e) An association may:

(1) Impose conditions on the establishment or operation of a family child care home that are necessary for association immunity from liability under section 663-1.53, including:

(A) Requiring the family child care home to comply with the Americans with Disabilities Act;

(B) Limiting the number of apartments or units used as a family child care home to no less than one per cent, and no more than three per cent, of the total number of apartments or units in any townhouse project;

(C) Limiting family child care homes that may be established to those operated by an owner-occupant; and

(D) Restricting family child care homes to the fourth or lower floor; and

(2) Require the operator of the family child care home, as a condition precedent to the establishment of the family child care home, to:

(A) Indemnify, hold harmless, and defend the association against all claims, including costs and attorneys' fees, whether brought by judicial or administrative action, relating to the operation of a family child care home as well as to common elements that are traversed by persons going to and from the family child care home;

(B) Reimburse the association for the amount of any increase in the association's liability insurance premiums attributable by the insurer to the operation of the family child care home;

(C) Require the parent, guardian, and caretaker of the child being cared for in the family child care home to sign a waiver of claims for liability against the association; provided that this waiver need not be notarized; and

(D) Obtain liability insurance to cover the family child care home and the common elements that meets the approval of the association and that names the association as an additional named insured, for liability claims arising solely from the operation of the child care business; provided that:

(i) The policy limit requirement shall not exceed \$1,000,000 in coverage per provider; and

(ii) The liability policy of the family child care home shall be the sole remedy for any injury occurring to the child subject to the care of the family child care home, and the parent, guardian, or caretaker of a child subject to the care of the family child care home.

In the event that coverage for the family child care home is excluded from the association policy and an alternative source of liability coverage

for the same risk or risks is unavailable, the association may prohibit the establishment of the family child care home.

(f) Associations shall be immune from liability for the operation of the family child care home as provided under section 663-1.53. [L 1999, c 242, pt of §1, §8(2); am L 2001, c 225, §§2, 3; am L 2005, c 20, §1]

Maryland

[MD. Real Property Code Ann. § 11B-111.1 \(2021\)](#)

(a) (1) In this section the following words have the meanings indicated.

(2) “Child care provider” means the adult who has primary responsibility for the operation of a family child care home.

(3) “Family child care home” means a unit registered under Title 9.5, Subtitle 3 of the Education Article.

(4) “No–impact home–based business” means a business that:

(i) Is consistent with the residential character of the dwelling unit;

(ii) Is subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit;

(iii) Uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors or that causes an increase of common expenses that can be solely and directly attributable to a no–impact home–based business; and

(iv) Does not involve use, storage, or disposal of any grouping or classification of materials that the United States Secretary of Transportation or the State or any local governing body designates as a hazardous material.

(b) (1) The provisions of this section relating to family child care homes do not apply to a homeowners association that is limited to housing for older persons, as defined under the federal Fair Housing Act.

(2) The provisions of this section relating to no–impact home–based businesses do not apply to a homeowners association that has adopted, prior to July 1, 1999, procedures in accordance with its covenants, declaration, or bylaws for the prohibition or regulation of no–impact home–based businesses.

(c) (1) Subject to the provisions of subsections (d) and (e)(1) of this section, a recorded covenant or restriction, a provision in a declaration, or a provision of the bylaws or rules of a homeowners association that prohibits or restricts commercial or business activity in general, but

does not expressly apply to family child care homes or no-impact home-based businesses, may not be construed to prohibit or restrict:

(i) The establishment and operation of family child care homes or no-impact home-based businesses; or

(ii) Use of the roads, sidewalks, and other common areas of the homeowners association by users of the family child care home.

(2) Subject to the provisions of subsections (d) and (e)(1) of this section, the operation of a family child care home or no-impact home-based business shall be:

(i) Considered a residential activity; and

(ii) A permitted activity.

(d) (1) (i) Except as provided in subparagraph (ii) of this paragraph and subject to the provisions of paragraphs (2) and (3) of this subsection, a homeowners association may include in its declaration, bylaws, or recorded covenants and restrictions a provision expressly prohibiting the use of a residence as a family child care home or no-impact home-based business.

(ii) A homeowners association may not include a provision described under subparagraph (i) of this paragraph expressly prohibiting the use of a residence as a family child care home in its declaration, bylaws, or recorded covenants and restrictions until the lot owners, other than the developer, have 90% of the votes in the homeowners association.

(iii) A provision described under subparagraph (i) of this paragraph expressly prohibiting the use of a residence as a family child care home or no-impact home-based business shall apply to an existing family child care home or no-impact home-based business in the homeowners association.

(2) A provision described under paragraph (1)(i) of this subsection expressly prohibiting the use of a residence as a family child care home or no-impact home-based business may not be enforced unless it is approved by a simple majority of the total eligible voters of the homeowners association, not including the developer, under the voting procedures contained in the declaration or bylaws of the homeowners association.

(3) If a homeowners association includes in its declaration, bylaws, or recorded covenants and restrictions a provision prohibiting the use of a residence as a family child care home or no-impact home-based business, it shall also include a provision stating that the prohibition may be eliminated and family child care homes or no-impact home-based businesses may be approved by a simple majority of the total eligible voters of the homeowners association under the voting procedures contained in the declaration or bylaws of the homeowners association.

(4) If a homeowners association includes in its declaration, bylaws, or recorded covenants and restrictions a provision expressly prohibiting the use of a residence as a family child care

home or no-impact home-based business, the prohibition may be eliminated and family child care or no-impact home-based business activities may be permitted by the approval of a simple majority of the total eligible voters of the homeowners association under the voting procedures contained in the declaration or bylaws of the homeowners association.

(e) A homeowners association may include in its declaration, bylaws, rules, or recorded covenants and restrictions a provision that:

(1) Requires child care providers to pay on a pro rata basis based on the total number of family child care homes operating in the homeowners association any increase in insurance costs of the homeowners association that are solely and directly attributable to the operation of family child care homes in the homeowners association; and

(2) Imposes a fee for use of common areas in a reasonable amount not to exceed \$50 per year on each family child care home or no-impact home-based business which is registered and operating in the homeowners association.

(f) (1) If the homeowners association regulates the number or percentage of family child care homes under subsection (e)(1) of this section, in order to assure compliance with this regulation, the homeowners association may require residents to notify the homeowners association before opening a family child care home.

(2) The homeowners association may require residents to notify the homeowners association before opening a no-impact home-based business.

(g) (1) A child care provider in a homeowners association:

(i) Shall obtain the liability insurance described under §§ 19-106 and 19-203 of the Insurance Article in at least the minimum amount described under that statute; and

(ii) May not operate without the liability insurance described under item (i) of this paragraph.

(2) A homeowners association may not require a child care provider to obtain insurance in an amount greater than the minimum amount required under paragraph (1) of this subsection.

(h) A homeowners association may restrict or prohibit a no-impact home-based business in any common areas.

Massachusetts

[Case Law: Mass has an Appeals Court case](#) on the issue-condominium restrictions may be stricter than zoning. Woodvale. Scheff. 1989

New Jersey

[NJ Rev Stat § 40:55D-66.5b \(2014\)](#)

40:55D-66.5b. Family day care homes permitted use in residential districts; definitions

2. a. Family day care homes shall be a permitted use in all residential districts of a municipality. The requirements for family day care homes shall be the same as for single family dwelling units located within such residential districts. Any deed restriction that would prohibit the use of a single family dwelling unit as a family day care home shall not be enforceable unless that restriction is necessary for the preservation of the health, safety, and welfare of the other residents in the neighborhood. The burden of proof shall be on the party seeking to enforce the deed restriction to demonstrate, on a case-by-case basis, that the restriction is necessary for the preservation of the health, safety and welfare of the residents in the neighborhood who were meant to benefit from the restriction.

b. In condominiums, cooperatives and horizontal property regimes that represent themselves as being primarily for retirees or elderly persons, or which impose a minimum age limit tending to attract persons who are nearing retirement age, deed restrictions or bylaws may prohibit family day care homes from being a permitted use.

c. In condominiums, cooperatives and horizontal property regimes other than those permitted to prohibit family day care homes from being a permitted use under subsection b. of this section, deed restrictions or bylaws may prohibit family day care homes from being a permitted use; however, if such condominiums, cooperatives, or horizontal property regimes prohibit such use, the burden of proof shall be on the condominium association, cooperative association, or council of co-owners to demonstrate, on a case-by-case basis, that the prohibition is reasonably related to the health, safety, and welfare of the residents. The burden of proof also shall be on the condominium association, cooperative association, or council of co-owners to demonstrate, on a case-by-case basis, that any other restrictions imposed upon a family day care home, including but not limited to noise restrictions and restrictions on the use of interior common areas, are reasonably related to the health, safety and welfare of the residents.

d. For the purposes of this act:

"Family day care home" means the private residence of a family day care provider which is registered as a family day care home pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.);

"Applicant" means a person who applies for a certificate of registration pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.);

"Commissioner" means the Commissioner of Human Services;

"Condominium" means a condominium formed under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.);

"Cooperative" means a cooperative as defined under "The Cooperative Recording Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.); and

"Horizontal property regime" means a horizontal property regime formed under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

L. 1991, c. 278, s. 2; amended 1992, c. 13, s.1.

[New Jersey Statutes 40:55D-66.5a. Findings, declarations](#)

CAI Member Note: *While not limited to common interest communities, our state land use law contains the attached, which does override common interest restrictions and makes the use a “residential use.” This has been around for quite a while. In our state there are regulatory licenses that have to be obtained and certain physical attributes that have to be met in order to operate a day care facility in a home. As a result, not many units have taken advantage of this provision, but there are a few.*

Texas

HOA requirements are listed as local requirements which must be adhered to before a license can be issued by the Department of Health and Human Services:

<https://www.hhs.texas.gov/providers/protective-services-providers/child-care-regulation/become-a-child-care-home-provider>.

Virginia

[§ 55.1-1821. Home-based businesses permitted; compliance with local ordinances.](#)

A. Except to the extent that the declaration provides otherwise, no association shall prohibit any lot owner from operating a home-based business within his personal residence. The association may, however, establish (i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business. Any home-based business shall comply with all applicable local ordinances.

B. If a development is located in a locality that classifies home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless expressly (i) prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules as provided in subsection A.

2013, c. [310](#), § 55-513.2; 2019, cc. [2](#), [30](#), [712](#).

Washington State

[HB 1199 \(will replace once RCW is updated\)](#)

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

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

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

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

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

(i) Be licensed under chapter 43.216 RCW;12

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

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

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.28

(3) An association of apartment owners that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed \$1,000.33

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.36

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

(1) A unit owners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively

prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a unit as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

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

(b) An association may require that only a unit with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building or through publicly accessible common elements.¹⁷

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

(i) Be licensed under chapter 43.216 RCW;

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

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

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.39

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

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.8

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

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

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

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

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

(i) Be licensed under chapter 43.216 RCW;

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

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

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

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

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.18

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

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

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

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

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

(i) Be licensed under chapter 43.216 RCW;

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

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

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

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

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

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