

SENATE BILL NO. 1324

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

4387S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 448, RSMo, by adding thereto ten new sections relating to binding agreements running with land.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 448, RSMo, is amended by adding thereto
2 ten new sections, to be known as sections 448.300, 448.305,
3 448.310, 448.315, 448.320, 448.325, 448.330, 448.335, 448.340,
4 and 448.345, to read as follows:

**448.300. Sections 448.300 to 448.345 shall be known
2 and may be cited as the "Missouri Uniform Homeowners'
3 Association Act".**

**448.305. Sections 448.300 to 448.345 shall apply to
2 all planned communities; provided, however, sections 448.300
3 to 448.345 only apply with respect to events and
4 circumstances occurring after January 1, 2025, and do not
5 invalidate existing provisions of the declaration, bylaws,
6 articles of incorporation or plats of those planned
7 communities.**

**448.310. As used in sections 448.300 to 448.345, the
2 following terms mean:**

**(1) "Allocated interests", the common expense
3 liability and votes in the association;**

**(2) "Assessment", the sum attributable to each lot and
5 due to the association based upon the lot's common expense
6 liability or other moneys owed to the association pursuant
7**

8 to sections 448.300 to 448.345 or the governing documents of
9 the association;

10 (3) "Association", the lot owners association;

11 (4) "Board of directors", the governing body,
12 regardless of name, that has the power to act on behalf of
13 the association as designated in the governing documents;

14 (5) "Common ground", any real estate within a planned
15 community which is owned or leased by the association other
16 than a lot;

17 (6) "Common expense", expenditures made by, or the
18 financial liabilities of, the association including any
19 allocation to reserves;

20 (7) "Common expense liability", liability for common
21 expenses allocated to each lot;

22 (8) "Declarant", a person or group of persons acting
23 in concert that:

24 (a) as part of a common promotional plan, offers to
25 dispose of the interest of the person or group of persons in
26 a lot not previously disposed of; or

27 (b) reserves or succeeds to any declarant right;

28 (9) "Declaration", the recorded instrument, however
29 denominated, that creates a planned community;

30 (10) "Governing documents", the declaration, articles
31 of incorporation, bylaws, and rules and regulations of the
32 association;

33 (11) "Lot", a physical portion of the planned
34 community designated for separate ownership or occupancy as
35 depicted on the plats of the planned community or as more
36 particularly described in a declaration;

37 (12) "Lot owner", a declarant or other person who owns
38 a lot excluding a person having an interest in a lot solely
39 as security for an obligation;

40 (13) "Planned community", real property described in a
41 declaration that sets forth the duties and obligations of
42 the association and lot owner. For the purposes of sections
43 448.300 to 448.345, neither a cooperative, timeshare, or
44 condominium is a planned community; provided, however, a
45 cooperative, timeshare, or condominium may be part of a
46 planned community.

448.315. 1. No provision in sections 448.300 to
2 448.345 shall impact, hinder, impair, alter, or affect the
3 rights of a declarant to administer, develop, construct, or
4 convey real property subject to the declaration.

5 2. Except as expressly provided in sections 448.300 to
6 448.345, the effect of these sections shall not be varied by
7 agreements, and rights conferred by such sections shall not
8 be waived.

448.320. Each lot constitutes for all purposes a
2 separate parcel of real estate, and shall be separately
3 assessed and taxed consistent with its restricted use. The
4 personal property of an association, if any, shall not be
5 subject to taxation under chapter 137, and common ground
6 shall not be subject to separate assessment or taxation.

448.325. 1. Consent of the declarant is required for
2 any amendment to the governing documents that would impair
3 any rights reserved by the declarant in the declaration.

4 2. The declaration may be amended pursuant to the
5 procedures as contained in the declaration.

6 3. If a declaration is silent regarding amendment
7 procedures, or if a planned community has multiple differing
8 amendment procedures, or if any provision in a declaration
9 requires a percentage larger than sixty-seven percent of the
10 votes in the association to amend the declaration, the
11 provision regarding amendment procedures is hereby declared

12 void as contrary to public policy and shall be deemed to
13 specify a percentage of sixty-seven percent of the votes in
14 the association until the declaration is otherwise amended.

15 4. A unanimous vote of the lot owners is required to
16 amend any declaration to change the allocated interest of a
17 lot. A unanimous vote of the lot owners is not required to
18 change or add a restriction that may be more burdensome.

19 5. No action to challenge the validity of an amendment
20 to the declaration may be brought more than one year after
21 the amendment to the declaration is recorded.

22 6. If an amendment is proposed to the declaration by
23 the board of directors and an insufficient number of votes
24 are obtained to decide the question within ninety days of
25 distributing the amendment to the lot owners, the amendment
26 may be made if the association provides a second notice to
27 all lot owners containing a statement that the proposed
28 amendment will be deemed approved by the lot owners unless
29 one-third of the votes in the association submit a vote to
30 reject the proposed amendment within sixty days of the date
31 of the second notice with a copy of the proposed amendment.

32 7. The board of directors is authorized to amend
33 governing documents to correct drafting or technical errors.

448.330. An owners association shall be organized
2 prior to the conveyance of the first lot in the planned
3 community. The association shall be incorporated as a
4 mutual benefit nonprofit corporation under chapter 355 no
5 later than one year from the date of transfer of the control
6 from the declarant. For an association not incorporated
7 under chapter 355 as of January 1, 2025, the board of
8 directors shall be authorized to form such corporation and
9 the nonprofit corporation shall be deemed to be the
10 successor to the unincorporated association. No assignment

11 agreement or other legal instrument shall be required to
12 effectuate the assignment of duties and obligations from the
13 unincorporated association to its successor. If a
14 declaration contains the same provisions as required under
15 chapter 355 for bylaws of the association, the association
16 need not adopt bylaws; provided, however, the amendment
17 procedure of the declaration shall govern all provisions of
18 said declaration.

448.335. 1. After transition of control of the
2 association from the declarant pursuant to the provisions of
3 the declaration, if an election of the board of directors is
4 not held because of a lack of quorum of the members, the
5 board of directors shall call a special meeting of the
6 association to conduct the election. Said special meeting
7 shall have a quorum requirement of ten percent of the votes
8 in the association. If said special meeting is not held
9 because of a lack of quorum, the board of directors shall
10 call a second special meeting to conduct the election with
11 no quorum requirement. No action to challenge an election
12 held in accordance with this subsection shall be brought
13 more than thirty days after the date of the election.

14 2. To ensure that the board of directors is not
15 vacated in whole or part, the term of a director shall
16 expire only upon the election of a replacement. Any
17 provision in a governing document that purports to specify a
18 date when the term of a member of the board expires is
19 hereby declared void as contrary to public policy and null
20 and void.

21 3. In the absence of a board of directors, ten percent
22 of the lot owners may call a special meeting to conduct an
23 election and any quorum requirement for that special meeting
24 shall be suspended. The newly elected board shall be deemed

25 to be the board of directors of the association unless suit
26 is filed within sixty days of the election held in
27 accordance with this subsection. In the event of such suit,
28 a court of competent jurisdiction shall appoint a receiver
29 with experience in management of an association during the
30 pendency of the case.

448.340. 1. After transition of control of the
2 association from the declarant pursuant to the provisions of
3 the declaration, the board of directors, at least annually,
4 shall adopt a proposed budget for the planned community for
5 consideration by the lot owners. Not later than thirty days
6 after adoption of a proposed budget, the board of directors
7 shall provide to all lot owners a copy of the proposed
8 budget, including any reserves and a statement of the basis
9 on which any reserves are calculated and funded.
10 Simultaneously, the board of directors shall set a date, not
11 less than fourteen days or more than thirty days after
12 providing the summary, for a meeting of the lot owners to
13 consider ratification of the budget. Unless at that meeting
14 a majority of all lot owners, or a larger number if
15 specified in the declaration, reject the budget, the budget
16 shall be deemed ratified whether or not a quorum is
17 present. If a proposed budget is rejected, the current
18 budget shall remain in effect until lot owners ratify a
19 subsequent budget.

20 2. Any provision in a governing document that purports
21 to specify a maximum rate of assessments, or a limitation on
22 the amount an assessment may be increased, is hereby
23 declared void as contrary to public policy.

24 3. The association shall be entitled to recover from
25 the lot owner any costs and reasonable attorneys' fees
26 incurred in connection with the collection of delinquent

27 assessments. A judgment or decree in any action brought
28 pursuant to this section shall include costs and reasonable
29 attorney's fees for the prevailing party with the amount of
30 the unpaid assessments not to be considered by the court in
31 determining the reasonableness of such attorney's fees and
32 costs. Upon request of any party to the action, the court
33 shall provide the basis for its determination of the award
34 of attorney's fees and costs. Any application for execution
35 upon a judgment shall include any post-judgment attorney's
36 fees and costs incurred, which, unless otherwise determined
37 by the court by motion submitted by the owner within thirty
38 days of the date of service of such application, shall be
39 recoverable.

40 4. An association is not subject to the limitation on
41 the number of small claims petitions that may be filed as
42 provided in subdivision (2) of subsection 1 of section
43 482.330, and any judgment thereafter entered, so long as the
44 lot owner was personally served, shall be enforceable as a
45 judgment entered by an associate circuit court under chapter
46 517.

47 5. If a lot is occupied by a tenant and the lot owner
48 is delinquent in payment of assessments in excess of sixty
49 days, the association may demand payment of subsequent
50 rental payments until the lot owner is no longer delinquent,
51 the association releases the tenant from liability, or the
52 tenant is no longer in possession of the lot. The demand to
53 the tenant shall be in writing, with a copy to the lot
54 owner, sent via first-class United States mail, postage pre-
55 paid, or hand delivery. A tenant is immune from any claim
56 by the lot owner related to rent timely paid to the
57 association after the association has made written demand.
58 If the tenant fails to make payment to the association, the

59 association may issue notice and evict the tenant under
60 chapters 534 or 535. The tenant shall not, by virtue of
61 payment, have any rights of a lot owner to vote in an
62 election or examine the books and records of the association.

63 6. After transition of control of the association
64 pursuant to the provisions of the declaration, the board of
65 directors may propose a special assessment or an amended
66 budget so long as the board of directors follows the
67 procedures in subsection 1 of this section and the lot
68 owners do not reject it.

69 7. No action to challenge an assessment levied
70 pursuant to the procedures specified in this section shall
71 be brought more than sixty days from the first date the
72 assessment is due.

73 8. After transition of control of the association
74 pursuant to the provisions of the declaration, if the board
75 of directors determines that a special assessment is
76 necessary to respond to an emergency to the health or safety
77 of lot owners or occupants:

78 (1) The special assessment shall become effective
79 immediately in accordance with the terms of the vote;

80 (2) The notice of the emergency assessment shall be
81 provided promptly to all lot owners; and

82 (3) The board of directors may spend the funds paid on
83 account of the emergency assessment only for the purposes
84 described in the vote.

448.345. 1. Should a declaration compel binding
2 arbitration as provided for in sections 435.350 to 435.470,
3 the disclosure requirement of section 435.460 shall be
4 included in the declaration.

5 2. If specified in the declaration or any other
6 governing documents, disputes between lot owners, or between

7 two or more lot owners regarding a matter related to the
8 planned community, may be required to be submitted to
9 nonbinding dispute resolution as a prerequisite to
10 commencement of a judicial proceeding.

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