

SENATE BILL 2098

By Massey

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 4; Title 48, Chapter 66 and Title 66, relative to real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 27, is amended by adding the following new part:

66-27-701.

As used in this part:

(1) "Dedictory instrument":

(A) Means each document governing the establishment, maintenance, or operation of a residential subdivision, planned unit development, condominium, horizontal property regime, or any similar planned development; and

(B) Includes a declaration or similar instrument subjecting real property to:

(i) Restrictive covenants, bylaws, or similar instruments governing the administration or operation of a homeowners' association;

(ii) Properly adopted rules and regulations of a homeowners' association; or

(iii) All lawful amendments to the covenants, bylaws, instruments, rules, or regulations of a homeowners' association;

(2) "Homeowners' association" means an incorporated or unincorporated association owned by or whose members consist primarily of the owners of the property covered by the dedicatory instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the residential subdivision, planned unit development, condominium, horizontal property regime, or any similar planned development; and

(3) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.

66-27-702.

Each homeowner's association in this state shall:

(1) Make available not less than annually to each property owner that is a member of the homeowners' association, by printed or electronic means, a publication containing the following:

(A) Financial statements of the homeowners' association that show the assets and liabilities of the homeowners' association, in accordance with generally accepted accounting principles, including, but not limited to, receipts and disbursements; and

(B) A list naming all property owners who are members of the homeowners' association and an indication to show which members are delinquent in the payment of any dues owed to the homeowners' association;

(2) Permit access to common area property controlled by the homeowners' association to any person in possession of written permission to enter the property from a property owner and member of the homeowners' association; and

(3) Provide at no cost to any prospective buyer who has signed a contract for the purchase of a property subject to the control of the homeowners' association a copy of the homeowners' association's dedicatory instruments within five (5) days of the homeowners' association's receipt of a written request from the buyer or the buyer's agent.

66-27-703.

(a) Notwithstanding any law, each homeowners' association in this state shall enact bylaws in compliance with subsection (b) or, if the homeowners' association has existing bylaws, amend the existing bylaws to comply with subsection (b).

(b) The bylaws of a homeowners' association must:

(1) Require approval by a majority of all property owners who are members of the homeowners' association at the time the vote to approve the bylaws is taken;

(2) Define the roles of each board member;

(3) Limit any increase in homeowners' association dues or fees to a maximum of ten percent (10%) per year unless approved by not less than sixty percent (60%) of all members of the homeowners' association during a vote on the question of a dues or fees increase of more than ten percent (10%) per year;

(4) Describe the purpose of the homeowners' association;

(5) Establish positions and duties of board members, board member elections, terms of office, the number of board members necessary to constitute a quorum, the frequency of meetings, the keeping of minutes, member voting rights, and the process for filling a board vacancy; and

(6) Require that the homeowners' association distribute or post in a manner accessible by all members of the homeowners' association all minutes of all board meetings of the homeowners' association.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

SECTION 3. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to actions taken and dedicatory instruments entered into, amended, or renewed on or after that date.