

FIRST REGULAR SESSION

HOUSE BILL NO. 1063

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIER.

1863H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 448, RSMo, by adding thereto fourteen new sections relating to home owner associations.

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

Section A. Chapter 448, RSMo, is amended by adding thereto fourteen new sections, to
2 be known as sections 448.350, 448.351, 448.352, 448.353, 448.354, 448.355, 448.356, 448.357,
3 448.358, 448.359, 448.360, 448.361, 448.362, and 448.363, to read as follows:

448.350. As used in sections 448.350 to 448.363, the following terms mean:

- 2 **(1) "Association", real estate described in a declaration with respect to which a**
3 **person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real**
4 **estate taxes, insurance premiums, maintenance, or improvement of, or services or other**
5 **expenses related to, common elements, other units, or other real estate described in that**
6 **declaration. For purposes of this subdivision, ownership of a unit shall not include holding**
7 **a leasehold interest of less than twenty years in a unit, including renewal options;**
8 **(2) "Declarant", a person, persons, or entity who:**
9 **(a) As part of a common promotional plan, offers to dispose of the interest of the**
10 **person or group of persons in a unit not previously disposed; or**
11 **(b) Reserves or succeeds to any declarant right;**
12 **(3) "Declaration", the instrument, however denominated, that creates a common**
13 **interest community, including any amendments to that instrument;**
14 **(4) "Executive board", the body, regardless of name, designated in the declaration**
15 **or bylaws that has power to act on behalf of the association;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **(5) "Governing document", the instruments, however denominated, that contain**
17 **the procedures for conduct of the affairs of the association, regardless of the form in which**
18 **the association is organized, including any amendments to the instruments;**

19 **(6) "Unit", a physical portion of the association designated for separate ownership**
20 **or occupancy;**

448.351. Sections 448.350 to 448.363 shall apply to all associations.

448.352. Notwithstanding any provision of a governing document of an association,
2 **following the expiration or sooner termination of any period of declarant control, any**
3 **association shall be able to amend its governing documents by a vote of nine-thirteenths**
4 **majority of all unit owners of the association.**

448.353. 1. Following the expiration or sooner termination of any period of
2 **declarant control, the board of an association formed after the effective date of this act for**
3 **the purpose of managing, enforcing, or governing a residential subdivision, project,**
4 **development, or community shall incorporate the association under the provisions of**
5 **chapter 355.**

6 **2. Following the expiration or sooner termination of any period of declarant**
7 **control, the board of an association formed for the purpose of managing, enforcing, or**
8 **governing a residential subdivision, project, development, or community created prior to**
9 **the effective date of this section may, notwithstanding that the declaration of such**
10 **subdivision, project, development, or community requires or provides for an**
11 **unincorporated association or a board of trustees, incorporate such association under the**
12 **provisions of chapter 355 if a majority of the owners of units in such residential**
13 **subdivision, project, development, or community give written approval for such conversion**
14 **of the association to a corporation formed under chapter 355.**

448.354. 1. The executive board, at least annually, shall adopt a proposed budget
2 **for the association for consideration by the unit owners. No later than thirty days after**
3 **adoption of a proposed budget, the executive board shall provide to all the unit owners a**
4 **copy of the budget, including any reserves, and a statement of the basis on which any**
5 **reserves are calculated and funded and a listing of all of the association's expenditures for**
6 **the last three years. Simultaneously, the executive board shall set a date no earlier than**
7 **ten days or later than sixty days after providing the copy for a meeting of the unit owners**
8 **to consider ratification of the budget. Unless at that meeting a majority of all unit owners,**
9 **or any larger percentage specified in the declaration, reject the budget, the budget shall be**
10 **deemed ratified, regardless of whether a quorum is present. If a proposed budget is**
11 **rejected, the budget last ratified by the unit owners shall continue until unit owners ratify**
12 **a subsequent budget.**

13 **2. The executive board may, at any time, propose a special assessment. Except as**
14 **otherwise provided in subsection 3 of this section, the assessment is effective only if the**
15 **executive board follows the procedures for ratification of a budget described in subsection**
16 **1 of this section and the unit owners do not reject the proposed assessment.**

17 **3. If the executive board determines by a two-thirds vote that a special assessment**
18 **is necessary to respond to an emergency:**

19 **(1) The special assessment shall become effective immediately in accordance with**
20 **the terms of the vote;**

21 **(2) Notice of the emergency assessment shall be provided promptly to all unit**
22 **owners; and**

23 **(3) The executive board may spend the funds paid on account of the emergency**
24 **assessment only for the purposes described in the vote.**

448.355. All records retained by an association shall be available for examination
2 **and copying by a unit owner or a owner's authorized agent during reasonable business**
3 **hours or at a mutually convenient time and location or upon five days' notice in a request**
4 **that reasonably identifies the specific records requested. Records may be withheld from**
5 **inspection and copying to the extent that the records concern:**

6 **(1) Personnel, salary, and medical records relating to specific individuals;**

7 **(2) Contracts, leases, and other commercial transactions to purchase or provide**
8 **goods or services currently being negotiated;**

9 **(3) Existing or potential litigation or mediation, arbitration, or administrative**
10 **proceedings;**

11 **(4) Existing or potential matters involving federal, state, or local administrative or**
12 **other formal proceedings before a governmental tribunal for enforcement of the**
13 **declaration, governing document, bylaws, or rules;**

14 **(5) Communications with the association's attorney that are otherwise protected**
15 **by the attorney-client privilege or the attorney work-product doctrine;**

16 **(6) Information whose disclosure would violate law other than this act;**

17 **(7) Records of an executive session of the executive board; or**

18 **(8) Individual unit files other than those of the requesting owner.**

448.356. 1. An association that receives at least fifty thousand dollars in dues, fees,
2 **and assessments annually shall have an audit conducted by an independent firm at least**
3 **once every five years. The association shall pay for the costs of the audit.**

4 **2. An association that receive less than fifty thousand dollars in dues, fees, and**
5 **assessments annually shall have an audit conducted by an independent firm upon**

6 submission to the executive board of a petition with signatures of two-thirds of the unit
7 owners.

8 3. At a minimum, an audit of an association shall evaluate whether the association's
9 financial statements are accurate, complete, and presented fairly.

448.357. The contact information of the executive board members or the managing
2 agent shall be provided to unit owners and updated annually.

448.358. 1. Any unit owner who sells a unit shall provide all indentures associated
2 with the unit to the buyer at least forty-eight hours before closing of the sale.

3 2. The association shall maintain a list of the indentures and provide the list to unit
4 owners within a reasonable time upon request.

448.359. 1. An association shall hold a meeting of unit owners annually at a time,
2 date, and place stated in or fixed in accordance with the governing documents. Such
3 meeting shall be no more than thirty miles from the location of the association.

4 2. An association shall notify unit owners of the time, date, and place of each annual
5 unit owners meeting no less than ten days or more than sixty days before the meeting date.
6 Notice may be by any method reasonably calculated to provide notice to the person. The
7 notice for any meeting shall state the time, date, and place of the meeting and the items on
8 the agenda.

9 3. The minimum time to give notice required by subsection 2 of this section may be
10 reduced or waived for a meeting called in response to an emergency.

11 4. Unit owners shall be given a reasonable opportunity at any meeting to comment
12 regarding any matter affecting the association.

448.360. A quorum of the executive board shall be present for any decision by the
2 executive board to increase fees by more than six percent of the current annual fee. If a
3 quorum is present when a vote is taken, the affirmative vote of the majority of the
4 executive board members present is the act of the executive board unless a greater vote is
5 required by the governing documents.

448.361. Any declaration may provide for a period of declarant control of the
2 association, during which the declarant may appoint and remove the officers, directors,
3 and members of the executive board. Transition of control of the executive board shall,
4 unless otherwise provided in the declaration or by law, occur in phases as follows:

5 (1) One member of the executive board shall be elected by unit owners other than
6 the declarant no later than sixty days after conveyance of fifty percent of the lots that may
7 be created in the planned community to purchasers at retail for residential use and
8 occupancy as opposed to successor lenders, investors, developers, and builders of declarant
9 that may acquire units from a declarant;

10 **(2) A majority of members of the executive board shall be elected by unit owners**
11 **other than the declarant no later than one hundred eighty days after conveyance of**
12 **ninety-five percent of the units that may be created in the planned community to**
13 **purchasers at retail for residential use and occupancy as opposed to successor lenders,**
14 **investors, developers, and builders of declarant that may acquire units from a declarant;**
15 **and**

16 **(3) All members of the executive board shall be elected by unit owners other than**
17 **the declarant no later than sixty days after conveyance of one hundred percent of the units**
18 **that may be created in the planned community to purchasers at retail for residential use**
19 **and occupancy as opposed to successor lenders, investors, developers, and builders of**
20 **declarant that may acquire units from a declarant.**

448.362. If an executive board imposes a fine or makes a decision that adversely
2 **affects a unit owner or owners, the affected unit owner or owners shall have the right to**
3 **appeal such fine or decision and have the fine retracted or decision reversed. To appeal,**
4 **a unit owner shall submit a petition to the executive board signed by one third of the unit**
5 **owners that states the challenged fine imposition or decision. The executive board shall**
6 **submit a question to all unit owners of the association of whether to retract the fine or**
7 **reverse the decision. If fifty percent and one unit owner of the association vote to retract**
8 **the fine or reverse the decision, the fine shall be retracted or the decision shall be reversed.**
9 **If less than fifty percent and one unit owner vote to reverse the decision, the decision shall**
10 **stand and shall not be challenged by any unit owner who previously challenged the**
11 **decision.**

448.363. 1. If at least ninety percent of the tracts in an association are developed,
2 **then no developer shall allow the remaining undeveloped tracts to remain undeveloped for**
3 **more than three years. Any activity by a developer that is significant progress towards**
4 **developing one tract shall be deemed development on all undeveloped tracts owned by such**
5 **developer.**

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