

SENATE BILL REPORT

SB 5536

As of February 22, 1995

Title: An act relating to homeowners' associations.

Brief Description: Regulating homeowners' associations.

Sponsors: Senators Smith and Long.

Brief History:

Committee Activity: Law & Justice: 2/23/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Dick Armstrong (786-7460)

Background: A homeowners' association is an organization formed in a planned unit community or given homeowners' area to provide management and maintenance for common areas in the community, such as parks, lakes, roads, and community centers. Often these associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations typically impose and collect assessments on each owner of property in the community for the maintenance and repair of the common areas. In addition, homeowners' associations may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Currently, there is no statutory law that specifically addresses the organization, management, and powers of homeowners' associations. Homeowners' associations may organize as nonprofit associations governed by their own rules and procedures. In addition, homeowners' associations may organize as nonprofit corporations.

Summary of Bill: A new chapter is created governing the formation and administration of homeowners' associations. A "homeowners' association" is a corporation, each member of which is an owner of real property located within the association boundaries and who is obligated to pay real property taxes, insurance premiums, maintenance costs, or improvement costs for real property other than that which is owned by the member. The membership of an association consists exclusively of the owners of all real property over which the association has jurisdiction.

The powers of an association include the power to: (1) adopt bylaws; (2) adopt budgets and impose assessments for common expenses; (3) make contracts and incur liabilities; (4) regulate the use and maintenance of common areas; (5) acquire, and convey interests in real property; and (6) impose charges for late payments of assessments and levy reasonable fines for violation of the bylaws of the association.

Officers and directors of an association must act in all instances on behalf of the association and must exercise the degree of care and loyalty required of an officer or director of a nonprofit corporation. The board of directors cannot act on behalf of the association to amend the articles of incorporation; take any action that requires the vote or approval of the owners; terminate the association; elect members of the board of directors; or determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

Any budget adopted by the board of directors must be ratified by the owners of the association. The budget is ratified unless a majority of the owners reject the budget.

The bylaws provide for: (1) the number, qualifications, powers and duties, terms of office, and manner of election of the board of directors; (2) the manner of election of the officers by the board of directors; (3) which powers the officers or directors may delegate to a managing agent; and (4) the method of amending the bylaws.

The association must hold at least one meeting per year, and special meetings may be called by the president, a majority of the board of directors, or by owners having 10 percent of the votes in the association. Notice of the special meetings must be mailed at least ten days, and no more than 60 days, in advance of the meeting and must contain the time, place and purpose of the meeting.

All meetings of the board of directors must be open for observation by all owners of record and their authorized agents. The board may meet in closed executive session to consider certain matters upon an affirmative vote in open session. All actions passed or agreed to in closed session become effective only after the board reconvenes and votes on the action in open meeting.

The association is required to keep financial records and prepare an annual financial statement. All records of the association are available for examination by all owners.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.