

SECOND REGULAR SESSION

HOUSE BILL NO. 2653

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

5546H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to the subdivision property owners' protection act.

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

Section A. Chapter 442, RSMo, is amended by adding thereto one new section, to be known as section 442.406, to read as follows:

442.406. 1. This section shall be known and may be cited as "The Subdivision Property Owners' Protection Act".

2. As used in this section, the following terms mean:

(1) "Homeowners' association", an association of:

(a) All the owners of real property within a geographic area defined by physical boundaries that:

a. Is formally governed by a declaration of covenants, bylaws, or both;

b. May be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and

c. May enact or enforce rules concerning the operation of the community or subdivision; or

(b) All persons owning a unit in fee simple absolute individually; owning a unit as a co-owner in any real estate tenancy relationship; or, for purposes stated in the lease, a lessee of a unit;

(2) "Member", a person who belongs to a homeowners' association and whose real property is subject to the jurisdiction of the homeowners' association;

(3) "Person", one or more individuals or a legal or commercial entity;

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.

- 18 (4) "Real property", land governed by a homeowners' association and that is:
19 (a) Affixed to the land, including a manufactured home declared an improvement
20 to real property;
21 (b) Incidental or appurtenant to the land; and
22 (c) Immovable by law;
23 (5) "Types of use", the following lawful uses of real property:
24 (a) Use for residential, agricultural, or commercial purposes, unless the use is
25 impermissible according to the written or recorded restrictions;
26 (b) The ability to rent the real property including, but not limited to, the land and
27 structures on the real property, for any amount of time; and
28 (c) The ability to otherwise develop the real property in accordance with applicable
29 federal, state, and local laws, ordinances, and regulations, unless the ability is
30 impermissible according to the written or recorded restrictions.
- 31 3. (1) A homeowners' association shall not enter into, amend, or enforce a
32 covenant, condition, or restriction in a way that imposes more onerous restrictions on the
33 types of use of a member's real property than those restrictions that:
34 (a) Existed when the member acquired the member's interest in the real property,
35 unless the member acquired the property through inheritance, in which case the transfer
36 of ownership shall not be considered a new acquisition by the member and only the
37 restrictions that applied to the member's predecessor shall apply to the member; or
38 (b) The member who owns the affected real property expressly agrees in writing
39 at the time of the adoption or amendment of the covenant, condition, or restriction. If a
40 member acquired the property through inheritance, the member shall be subject to all
41 restrictions agreed to by the member's predecessor.
- 42 (2) If a member claims the benefit under subdivision (1) of this subsection, the
43 member shall request that the homeowners' association record, or allow recording of, the
44 exception applicable to the member. Upon request by the member, the homeowners'
45 association, the member, or a designee shall record the member's exception with the office
46 of the county clerk and recorder of the county where the real property is located. The
47 member shall provide the homeowners' association with the date the real property was
48 conveyed to the member and shall pay the recording fees for the document setting forth the
49 exception.
- 50 4. A successor-in-interest to a member's real property may not claim the benefit
51 under subdivision (1) of subsection 3 of this section to the extent that the homeowners'
52 association entered into, amended, or enforced a covenant, condition, or restriction before
53 the successor-in-interest purchased the real property, even if the covenant, condition, or

54 restriction was not enforceable against the previous owner, unless the successor-in-interest
55 is owned by or shares ownership with the previous member or unless the
56 successor-in-interest is a lender that acquired the real property through foreclosure.

57 5. This section shall not apply to a covenant, condition, or restriction that is:

58 (1) Not subject to enforcement by a homeowners' association; or

59 (2) Required in order to comply with applicable federal, state, and local laws,
60 ordinances, and regulations.

61 6. Nothing in this section shall be construed to prevent the enforcement of a
62 covenant, condition, or restriction limiting the types of use of a member's real property as
63 long as the covenant, condition, or restriction applied to the real property at the time the
64 member acquired the member's interest in the real property or, if the member acquired
65 her or her interest through inheritance, at the time the member's predecessor acquired his
66 or her interest in the real property.

67 7. Nothing in this section shall invalidate existing covenants of a homeowners'
68 association or create a private right of action for actions or omissions occurring before
69 August 28, 2020. However, on and after August 28, 2020, unless the member has consented
70 under subdivision (1) of subsection 3 of this section, a homeowners' association shall not
71 enforce a covenant, condition, or restriction in such a way that limits the types of use of a
72 member's real property that were allowed when the member acquired the affected real
73 property.

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