

FIRST REGULAR SESSION

HOUSE BILL NO. 1177

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COSTLOW.

2538H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 442, RSMo, by adding thereto six 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 442, RSMo, is amended by adding thereto six new sections, to be known as sections 442.621, 442.626, 442.631, 442.636, 442.641, and 442.646, to read as follows:

442.621. 1. Sections 442.621 to 442.646 shall be known and may be cited as the "Missouri Homeowners' Association Act".

2. As used in sections 442.621 to 442.646, the following terms mean:

(1) "Allocated interest", the common expense liability and votes in the association;

(2) "Assessment", the sum attributable to each lot and due to the association based upon the lot's common expense liability or other moneys owed to the association under sections 442.621 to 442.646 or the governing documents of the association;

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

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

(5) "Common expense", expenditures made by, or the financial liabilities of, the association including, but not limited to, any allocation to reserves;

(6) "Common expense liability", liability for common expenses allocated to each lot;

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 (7) "Common ground", any real property, other than a lot, that is within a
17 planned community and that is owned or leased by the association;

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

19 (a) As part of a common promotional plan, offers to dispose of the interest of the
20 person or group of persons in a lot not previously disposed of; or

21 (b) Reserves or succeeds to any declarant right;

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

24 (10) "Governing documents", the declaration, articles of incorporation, bylaws,
25 and rules and regulations of the association;

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

29 (12) "Lot owner", a declarant or other person who owns a lot, except that the
30 term shall not include a person having an interest in a lot solely as security for an
31 obligation;

32 (13) "Planned community", real property described in a declaration that sets
33 forth the duties and obligations of the association and lot owners. For the purposes of
34 sections 442.621 to 442.646, no cooperative, timeshare, or condominium is a planned
35 community, except that a cooperative, timeshare, or condominium may be part of a
36 planned community, or a declaration may expressly provide that a cooperative,
37 timeshare, or condominium shall be a planned community subject to sections 442.621 to
38 442.646.

 442.626. 1. Sections 442.621 to 442.646 shall apply to all planned communities
2 and all events and circumstances related to such planned communities occurring on and
3 after January 1, 2026.

4 2. Sections 442.621 to 442.646 shall not be construed to invalidate existing
5 provisions of the declaration, bylaws, articles of incorporation, or plats of such planned
6 communities.

7 3. Nothing in sections 442.621 to 442.646 shall impact, hinder, impair, alter, or
8 affect the rights of a declarant to administer, develop, construct, convey any rights
9 related to development rights or declarant rights, or convey real property subject to the
10 declaration, including, but not limited to, the authority to alter the housing product or
11 style, remove or add real property from or to the planned community, or convert a
12 portion of the planned community from a lot to common ground or from common
13 ground to a lot.

14 **4. Nothing in sections 442.621 to 442.646 shall impact, hinder, impair, alter, or**
15 **affect the rights of a holder of a security interest in real property within a planned**
16 **community, provided that the security interest is recorded prior to recording of the**
17 **declaration or any modifications or amendments to the declaration.**

18 **5. Except as expressly provided in sections 442.621 to 442.646, the effect of such**
19 **sections shall not be varied by agreement, and rights conferred by such sections shall not**
20 **be waived.**

21 **6. For all purposes, each lot constitutes a separate parcel of real property and**
22 **shall be separately assessed and taxed consistent with such parcel's restricted use. The**
23 **personal property of an association, if any, shall not be subject to taxation under chapter**
24 **137, and common ground shall not be subject to separate assessment or taxation.**

442.631. 1. Unless a declaration otherwise provides, consent of the declarant is
2 **required for any amendment to any governing document that would impact, hinder,**
3 **impair, alter, or affect the rights of a declarant to administer, develop, construct, convey**
4 **any rights related to development rights or declarant rights, or convey real property**
5 **subject to the declaration, including, but not limited to, the authority to alter the**
6 **housing product or style, remove or add real property from or to the planned**
7 **community, or convert a portion of the planned community from a lot to common**
8 **ground or from common ground to a lot.**

9 **2. The declaration may be amended under the procedures as contained in the**
10 **declaration.**

11 **3. If a declaration is silent, a planned community has multiple declarations with**
12 **differing amendment procedures, or any provision in a declaration specifying a**
13 **percentage larger than sixty-seven percent of the votes in the association to amend the**
14 **declaration is hereby declared void as contrary to public policy, and until amended,**
15 **such provision shall be deemed to specify a percentage of sixty-seven percent of the votes**
16 **in the association or the lower of the conflicting percentages if one or more is below**
17 **sixty-seven percent.**

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

21 **5. No action to challenge the validity of an amendment to the declaration shall be**
22 **brought more than one year after the amendment to the declaration is recorded.**

23 **6. If an amendment to the declaration is proposed by the board of directors and**
24 **an insufficient number of votes are obtained to decide the question within ninety days of**
25 **distributing the amendment to the lot owners, the declaration may be amended if the**
26 **association provides a notice to all lot owners containing a copy of the proposed**

27 amendment and a statement that the proposed amendment will be deemed approved by
28 that lot owner unless one-third of the votes in the association submit a vote to reject the
29 proposed amendment within sixty days of the date of the notice.

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

442.636. 1. An owners' association shall be organized prior to conveyance of the
2 first lot in the planned community. The association shall be organized as a mutual
3 benefit nonprofit corporation under chapter 355 no later than one year from the date of
4 transfer of control from the declarant. For an association not incorporated under
5 chapter 355 before January 1, 2026, the board of directors shall be authorized to form
6 such corporation, and the nonprofit corporation shall be deemed to be the successor to
7 the unincorporated association. No assignment agreement or other legal instrument
8 shall be required to effectuate the assignment of duties and obligations. If a declaration
9 contains the same provisions as required under chapter 355 for bylaws of the
10 association, the association need not adopt bylaws, except that the amendment
11 procedure of the declaration shall govern all provisions of such declaration.

12 2. After transition of control of the association from the declarant under the
13 provisions of the declaration, if an election of the board of directors is not held because
14 of a lack of quorum of the members, the board of directors shall call a special meeting of
15 the association to conduct the election. Such special meeting shall have a quorum
16 requirement of ten percent of the votes in the association. If such special meeting is not
17 held because of a lack of quorum, the board of directors shall call a second special
18 meeting to conduct the election with no quorum requirement. No action to challenge an
19 election shall be brought more than thirty days from the date of the election.

20 3. To ensure that the board of directors is not vacated in whole or part, the term
21 of a director expires upon the election of a replacement. Any provision in a governing
22 document that purports to specify a date when a term of a member of the board expires
23 is hereby declared void as contrary to public policy and is null and void.

24 4. In the absence of a board of directors, ten percent of the lot owners may call a
25 special meeting to conduct an election and any quorum requirement shall be suspended.
26 The newly elected board shall be deemed to be the board of directors of the association
27 unless suit is filed within sixty days of the election. In such event, a court of competent
28 supervision shall appoint a receiver with experience in management of an association
29 during the pendency of the case.

442.641. 1. (1) After transition of control of the association from the declarant
2 under the provisions of the declaration, the board of directors, at least annually, shall
3 adopt a proposed budget for the planned community for consideration by the lot

4 owners. No later than thirty days after adoption of a proposed budget, the board of
5 directors shall provide to all lot owners a copy of the proposed budget including, but not
6 limited to, any reserves and a statement of the basis upon which any reserves are
7 calculated and funded.

8 (2) At the same time as the copy of the proposed budget is provided under
9 subdivision (1) of this subsection, the board of directors shall set a date at least fourteen
10 days after but no later than thirty days after providing the summary for a meeting of the
11 lot owners to consider ratification of the budget. Unless at such meeting a majority of
12 all lot owners or any larger number specified in the declaration reject the budget, the
13 budget shall be deemed ratified regardless of whether a quorum is present. If a
14 proposed budget is rejected, the current budget shall continue until lot owners ratify a
15 subsequent budget.

16 2. Any provision in a governing document that purports to specify a maximum
17 rate of assessments, or a limitation on the amount an assessment may be increased, is
18 hereby declared void as contrary to public policy. Assessment increases under this
19 section shall not have a limitation on the amount an assessment may be increased.

20 3. The association shall be entitled to recover from the lot owner any costs and
21 reasonable attorney's fees incurred in connection with the collection of delinquent
22 assessments. A judgment or decree in any action brought under this section shall
23 include costs and reasonable attorney's fees for the prevailing party with the amount of
24 the unpaid assessments not to be considered by the court in determining the
25 reasonableness of such attorney's fees and costs. Upon request of any party, the
26 court shall provide its basis for its determination of the award of attorney's fees and
27 costs. Any application for execution upon a judgment shall include any postjudgment
28 attorney's fees and costs incurred, which shall be recoverable unless otherwise
29 determined by the court by motion submitted by the owner within thirty days of the
30 date of service of such application.

31 4. An association is not subject to the limitation on the number of small claims
32 petitions that may be filed as provided in subdivision (2) of subsection 1 of section
33 482.330, and any judgment thereafter entered, so long as the lot owner was personally
34 served, shall be enforceable as a judgment entered by an associate circuit court under
35 chapter 517.

36 5. If a lot is occupied by a tenant and the lot owner is delinquent in payment of
37 assessments in excess of sixty days, the association may demand payment of subsequent
38 rental payments until the lot owner is no longer delinquent, the association releases the
39 tenant, or the tenant is no longer in possession of the lot. The demand to the tenant shall
40 be in writing, with a copy to the lot owner, sent via first-class United States mail, postage

41 prepaid, or hand delivery. A tenant is immune from any claim by the lot owner related
42 to the rent timely paid to the association after the association has made written demand.
43 If the tenant fails to make payment to the association, the association may issue notice
44 and evict under chapter 534. The tenant does not, by virtue of payment, have any rights
45 of a lot owner to vote in an election or examine the books and records of the association.

46 6. After transition of control of the association under the provisions of the
47 declaration, the board of directors may propose a special assessment or an amended
48 budget so long as the board of directors follows the procedures in subsection 1 of this
49 section and the lot owners do not reject such special assessment.

50 7. No action to challenge an assessment levied under the procedures provided for
51 in this section shall be brought more than sixty days from the first date the assessment is
52 due.

53 8. After transition of control of the association under the provisions of the
54 declaration, if the board of directors determines that a special assessment is necessary to
55 respond to an emergency to the health or safety of lot owners or occupants:

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

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

60 (3) The board of directors may spend the moneys paid on account of the
61 emergency assessment only for the purposes described in the vote.

442.646. 1. If a declaration compels binding arbitration as provided in sections
2 435.350 to 435.470, the disclosure requirement of section 435.460 shall be an exhibit to
3 the declaration.

4 2. Subject to the declaration and any additional requirements or conditions,
5 disputes between lot owners or between two or more lot owners regarding a matter
6 related to the planned community may be required to be submitted to nonbinding
7 dispute resolution as a prerequisite to commencement of a judicial proceeding.

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