

HB 3176 -- DECLARATION AND BYLAWS MODERNIZATION ACT

SPONSOR: Costlow

This bill establishes the "Missouri Declaration and Bylaws Modernization Act", creating uniform rules for homeowners associations.

The declaration and bylaws of an association can be amended. If an amendment is proposed by the board of directors and an insufficient number of votes are obtained to decide the question within 90 days, it can be adopted if the association provides a notice to all members describing the amendment, unless 1/5 of the voters in the association submit a vote to reject the amendment within 60 days of the notice.

Actions to challenge the validity of an amendment are limited to one year after the amendment is recorded for a declaration and six months after adoption of the amendment for bylaws.

If a declaration or bylaws require consent from a person other than a member or declarant, a copy of the amendment will be provided by first-class mail and certified mail to the last known address of the person. If the ballot isn't returned within the time period specified on the ballot, the person will be deemed to have consented to the amendment.

All claims of a member adverse to an association will be deemed derivative unless the claim by the member is considered a tort alleging a breach of duty causing injury or loss to the association.

An association is not required to be represented by an attorney to bring a civil action in small claims court against a member of the association for unpaid assessments. An association isn't subject to the limitation on the number of small claims petitions that can be filed or prosecuted.

An action challenging an election or appointment to fill a vacancy on the board of directors must be brought within 30 days of the election or appointment.

In the absence of a board of directors, 10% of the members can call a special meeting to conduct an election, and any quorum requirement can be suspended. The newly elected board will be deemed to be the board of directors of the association unless a suit is filed within 60 days of the election. If a suit is

filed, the court will appoint a receiver with experience in management of an association during the pendency of the case.

If a conflict arises between provisions relating to an association that is incorporated under Missouri nonprofit corporation law and the provisions of this bill, the provisions of this bill will supersede.

No association or other legal entity under current law can restrict the transfer of a real property interest based on a protected class, provided that the property is capable of being occupied. The Attorney General will have sole authority to commence a civil action to enforce this provision.

An association will have the authority to hire or terminate a managing agent and other employees. No contract with an agent or employee can exceed a term of three years or automatically renew.

An association must have fidelity insurance coverage, unless this requirement is waived by a majority vote at an annual meeting of the board of directors.

If an association uses a managing agent to collect and disburse the association's funds, that agent must also have fidelity insurance, and the records produced by that agent created in performance of the agent's duties will be records of the association and returned to the association if the relationship between the association and the agent terminates within 40 days of such termination.

The bill specifies the types of records that must be maintained and retained by an association, as described in the bill. Certain records must be made available for examination and copying by an owner or an owner's authorized agent, while certain records will not be subject to inspection or disclosure, as provided in the bill. A reasonable fee can be charged for the production of a copy of a record. Information described in this part of the bill cannot be used by the association or managing agent for commercial purposes.