**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑11‑15 SO AS TO ESTABLISH THE COMMISSION FOR COMMON INTEREST COMMUNITY EDUCATION AND MANAGER CERTIFICATION IN THE DEPARTMENT OF ADMINISTRATION, AND BY ADDING CHAPTER 28 TO TITLE 27, SO AS TO ENACT THE SOUTH CAROLINA COMMON INTEREST COMMUNITY ASSOCIATION ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 11 of Title 1 of the 1976 Code is amended by adding:

“Section 1‑11‑15. (A) As used in this section, unless the context clearly indicates otherwise:

(1) ‘common interest community association’ means an organization as defined by Section 27‑28‑20(1);

(2) ‘board members’ means property owners elected to and serving on the governing body of a common interest community association;

(3) ‘property owners’ means persons owning property that requires membership in a common interest community association under the terms of a deed, covenant, condition, or restriction running with title to their property or their tenants or designees.

(B) Effective July 1, 2015, there is created the Commission for Common Interest Community Education and Manager Certification to be composed of nine members:

(1) three management members who each have three or more years of experience working as lawyers or managers for one or more common interest community associations must be appointed by the Governor with the advice and consent of the Senate;

(2) three resident members who each have been board members or property owners in one or more common interest community associations for three or more years must be appointed by the Governor with the advice and consent of the Senate;

(3) the Director of the Department of Labor, Licensing and Regulation, ex officio;

(4) the Administrator for the Department of Consumer Affairs, ex officio; and

(5) the Director of the Department of Administration, ex officio, who shall serve as chairman.

(C) The Commission must be under and a part of the Department of Administration.

(D) Members not serving ex officio shall serve for terms of six years and until their successors are appointed and qualify, except that of the members first appointed: (1) one management and one resident member must each serve for a term of two years and the term must be noted on the appointments; (2) one management and one resident member must each serve for a term of four years and the term must be noted on the appointments; and (3) one management and one resident member must each serve for a term of six years and the term must be noted on the appointments. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation, but are allowed mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions to be paid from the general fund of the State. No appointed member is eligible to serve more than two consecutive terms. A quorum for transacting business at all meetings of the Commission shall consist of a majority of the membership of the Commission.

(E) The Commission shall:

(1) determine the educational and professional requirements and the courses, programs, and experience that satisfy those educational and professional requirements for persons to be certified as managers of common interest community associations;

(2) promulgate regulations for a procedure for persons who meet the educational and professional requirements provided in item (1) to be certified as managers of common interest community associations;

(3) determine the curricula for programs and courses that satisfy the educational requirements for board members as provided in Section 27‑28‑40;

(4) at least once annually review and update, if necessary, the requirements provided in items (1) through (3); and

(5) post the requirements and a list of approved programs and courses to satisfy the requirements on the Department of Administration’s website.

(F) All executive departments and agencies of the State government shall cooperate with the Commission in the performance of its duties.”

SECTION 2. Title 27 of the 1976 Code is amended by adding:

”CHAPTER 28

The South Carolina Common Interest Community Association Act

Section 27‑28‑10. This chapter shall be known and cited as the ‘Common Interest Community Association Act’.

Section 27‑28‑20. As used in this chapter, unless the context clearly indicates otherwise:

(1) ‘association’ means a common interest community organization to which property owners are required to:

(a) belong under the terms of a deed, covenant, condition, or restriction that runs with title to their property,

(b) abide by its governing documents, and

(c) pay assessments, fees, fines, and other costs.

An ‘association’ does not include a vacation time sharing plan organized and subject only to the provisions of Chapter 32 of this title or a voluntary organization entered into by personal agreement and for which membership is not a requirement running with title to the property;

(2) ‘board’ means the representative and elected governing body of the association;

(3) ‘governing documents’ means the master deed, covenants, conditions, restriction, bylaws, rules, resolutions, and regulations that establish and control the operations of an association and provide for assessments, fees, fines, and other costs;

(4) ‘property owners’ means persons owning property that requires membership in an association under the terms of a deed, covenant, condition, or restriction running with title to their property or their tenants or designees.

Section 27‑28‑30. (A) By no later than January 1, 2016, or thirty days after an association has organized and is operating, each association must file the association’s governing documents with the county clerk of court or register of deeds in the county where the association is located.

(B) Any amendment to the governing documents must be submitted to the county clerk of court or register of deeds no later than thirty days after the amendment becomes effective.

(C) An association must provide a realtor, broker, or seller of property that requires association membership with the designation in the clerk of court or register of deeds’ office where the governing documents may be located by a prospective property owner.

(D) The realtor, broker, or seller of property that requires association membership must provide the information concerning where governing documents may be located in the clerk of court or register of deeds’ office to a prospective property owner no less than five business days prior to the prospective property owner’s closing on the property.

Section 27‑28‑40. (A) To serve on the board of a homeowners association, within thirty days of his election to the board, a person must complete a minimum of a four hour orientation program.

(B) During each year of service, a board member must complete a minimum of one hour of continuing education.

(C) The orientation and continuing education programs must include, but are not limited to, the following subjects:

(1) fiduciary obligations,

(2) parliamentary procedure and conduct of public meetings,

(3) requirements of the association’s governing documents,

(4) financial duties, budgeting, and reserves, and

(5) state and federal laws concerning common interest communities.

(D) The programs may be prepared and presented by the management for the homeowners association or may be selected from recommended programs compiled by the Commission for Common Interest Community Education and Manager Certification as provided in Section 1‑11‑15(E).

(E) The association must maintain a record of board members’ orientation and continuing education attendance for inspection by property owners.

Section 27‑28‑50. (A) A property owner has the right to inspect or copy any association record, except as provided by Section 27‑28‑60, in accordance with reasonable rules concerning time and place of access.

(B) The association may establish and collect fees not to exceed the actual cost of searching for or making copies of records. The records must be furnished at the lowest possible cost to the property owner requesting the records.

Section 27‑28‑60. An association may but is not required to exempt from disclosure the following information:

(1) matters concerning competitive bidding, or proposed contractual arrangements, except that such matters must be disclosed after a contractual arrangement has been entered;

(2) information of a personal nature where disclosure would constitute an unreasonable invasion of personal privacy of a property owner or employee. This provision must not be interpreted to restrict access by property owners to a list of property owners and their addresses, except that such a list must not be requested or distributed for commercial solicitation;

(3) records concerning law enforcement, public safety, and security matters;

(4) matters specifically exempted from disclosure by statute or law;

(5) employment matters, except that any final decision concerning the following must be disclosed:

(a) the creation of a position,

(b) the hiring, firing, or discipline of an employee, and

(c) the salary and benefits for an employee paid for by association funds;

(6) correspondence or work products that would violate an attorney‑client relationship;

Section 27‑28‑70. (A) Every association meeting must be open to the property owners unless closed pursuant to Section 27‑28‑80.

(B) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon an association matter.

(C) This chapter does not prohibit the removal of any person who wilfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

(D) Except when a meeting is closed pursuant to Section 27‑28‑80. all or any part of an association meeting may be recorded by a property owner in attendance by any means of audio or video reproduction, provided that: (1) the recording does not actively interfere with the conduct of the meeting, and (2) the association is not required to furnish recording facilities or equipment.

Section 27‑28‑80. (A) An association may hold an executive session closed to the property owners for one or more of the following reasons:

(1) discussion of employment, compensation, promotion, demotion, discipline, or release of an employee; however, if an adversary hearing involving the employee is held, the employee has the right to demand that the hearing be conducted publicly;

(2) discussion of a property owner’s personal information where disclosure would constitute an unreasonable invasion of the property owner’s personal privacy; however, if an adversary hearing involving the property owner is held, the property owner has the right to demand that the hearing be conducted publicly;

(3) discussion of negotiations incident to proposed contractual arrangements;

(4) the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney‑client privilege;

(5) discussion regarding security personnel or devices; or

(6) investigative proceedings regarding allegations of criminal misconduct.

(B) Before going into executive session the association must vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session.

(C) No action may be taken in executive session except to (1) adjourn or (2) return to public session.

(D) The association board may not commit the association to a course of action by polling board members in executive session.

Section 27‑28‑90. (A) An association must give written public notice of its regular meetings at the beginning of each calendar year. The notice must include the dates, times, and places of such meetings.

(B) Written public notice of the agenda, if any, must be available at least twenty‑four hours prior to a meeting.

(C) If a meeting is called, special, or rescheduled, written public notice must be provided as soon as practicable and include the agenda, date, time, and place of the meeting. This requirement does not apply to emergency meetings.

(D) Written public notice must be provided electronically or by mail to each property owner in the manner requested in writing by each property owner. In addition, written public notice must be posted in a conspicuous, common area in the community designated for public notices.

Section 27‑28‑100. (A) Any property owner or association may apply to the magistrates court or circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter. The court may order equitable relief as it considers appropriate.

(B) A prevailing property owner or association seeking relief under this chapter may be awarded reasonable attorneys fees and other costs of litigation in the discretion of the court.

Section 27‑28‑110. Any property owner, board member, or employee of an association who willfully violates the provisions of this chapter is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense; fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense; and fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.”

SECTION 3. This act takes effect upon approval by the Governor.

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