**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 30 TO TITLE 27 SO AS TO ENACT THE “SOUTH CAROLINA HOMEOWNERS ASSOCIATION ACT”, TO DEFINE NECESSARY TERMS, TO INSTRUCT THE SOUTH CAROLINA REAL ESTATE COMMISSION TO OFFER AN ONLINE INSTRUCTION COURSE COVERING THE BASICS OF ASSOCIATION GOVERNANCE AND THE RIGHTS AND RESPONSIBILITIES OF HOMEOWNERS, TO ENUMERATE WHAT SUBJECTS MUST BE INCLUDED IN THE COURSE, TO REQUIRE A HOMEOWNER SUBJECT TO AN ASSOCIATION THAT IS SELLING HIS PROPERTY TO DISCLOSE THE GOVERNING DOCUMENTS TO A PROSPECTIVE BUYER AND TO REQUIRE AN ASSOCIATION TO MAKE GOVERNING DOCUMENTS AVAILABLE TO OWNERS; AND TO AMEND SECTION 22‑3‑10, RELATING TO A MAGISTRATES’ CIVIL JURISDICTION, SO AS TO PROVIDE THAT A MAGISTRATE HAS JURISDICTION OVER ACTIONS BETWEEN A HOMEOWNERS’ ASSOCIATION AND A HOMEOWNER REGARDING SPECIFIC PERFORMANCE AND ACCESS TO THE ASSOCIATION’S RECORDS.

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

SECTION 1. Title 27 of the 1976 Code is amended by adding:

“CHAPTER 30

South Carolina Homeowners Association Act

Section 27‑30‑10. As used in this chapter:

(1) ‘Association’ or ‘homeowners’ association’ means an incorporated entity with:

(a) the responsibility to manage and maintain a planned community or horizontal property regime; and

(b) a voting membership of owners required by the governing documents to pay assessments to the association.

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 individual agreement that does not pass with the sale of the property and is not required by the deed, covenants, conditions, or restrictions upon property.

(2) ‘Board’ means the representative body designated in the governing documents to govern and act on behalf of the association.

(3) ‘Commission’ means the South Carolina Real Estate Commission, created by Section 40‑57‑10.

(4) ‘Governing documents’ means any declarations, covenants, conditions, restrictions, articles of incorporation, bylaws, architectural guidelines, rules, regulations, resolutions, and any amendments to those documents, which restrict the owner’s property use or create an obligation on the part of the association or an owner.

(5) ‘Owner’ means the declarant, developer, record owner, or owners of property subject to the governing documents of an association and includes their heirs, successors, and assigns.

Section 27‑30‑20. (A) Beginning January 1, 2018, the commission shall offer an online instructional course covering the basics of association governance and the rights and responsibilities of owners. The online course is open to the public and may be taken by any interested person. The completion of such course may not be a requirement to serve on a board.

(B) The course must be offered at no charge.

(C) The course must include, but is not limited to, the following subjects:

(1) the South Carolina Nonprofit Corporation Act, Chapter 31, Title 33, and other state and federal laws concerning governance of associations;

(2) ethical and fiduciary duties;

(3) owner responsibilities to an association and other owners;

(4) board responsibilities to an association and owners, including, but not limited to, disclosure of association records;

(5) procedure for conducting meetings;

(6) insurance;

(7) budgeting and reserves;

(8) governing documents; and

(9) rights of owners as members of an association.

Section 27‑30‑30. (A) An owner selling his property that is subject to an association’s governing documents or his agent must disclose the governing documents to any prospective owner by electronic or other means either during the due diligence period set forth in the sales contract or, in the event such contract does not set forth a due diligence period, prior to the execution of a sales contract.

(B) A selling owner is solely responsible for the costs of providing the governing documents to a prospective owner in compliance with this section.

(C) An association must make governing documents available to owners and may establish and collect reasonable fees for the actual cost of a photocopy of the governing documents. An association may not charge for electronic access to the governing documents on a website or electronic transmission of the governing documents.”

SECTION 2. Section 22‑3‑10 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) in actions between a homeowner’s association and an owner, as defined in Section 27‑30‑10, for specific performance of the recorded covenants or restrictions of the association and access to the official records of the association. Either party may remove the matter to the circuit court. The costs that may arise in bringing or defending the action, including reasonable attorney’s fees, may be recovered by the prevailing party at the court’s discretion.”

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

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