**South Carolina General Assembly**

125th Session, 2023-2024

**S. 421**

**STATUS INFORMATION**

General Bill

Sponsors: Senator M. Johnson

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Introduced in the Senate on January 19, 2023

Currently residing in the Senate

Summary: HOA--Free Speech

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/19/2023 Senate Introduced and read first time (Senate Journal‑page 4)

 1/19/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 4)

 2/10/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[01/19/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/421_20230119.docx)

[02/10/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/421_20230210.docx)

A bill

to amend the South Carolina Code of Laws by adding Section 27‑1‑55, so as to require that THE governing documents, rules, and regulations of a homeowners’ association must not prohibit a homeowner or a homeowner’s tenant from peacefully assembling during reasonable hours, organizing and participating in events with speakers, canvassing and petitioning homeowners, their tenants, and their guests, and distributing and circulating materials, and to provide for a civil penalty if a summary court finds such a prohibition exiSts.

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

SECTION 1. Chapter 1, Title 27 of the S.C. Code is amended by adding:

 Section 27‑1‑55. (A) As used in this section:

 (1) “Board” means the representative body, regardless of name, designated in the governing documents to act on behalf of a homeowners’ association and govern the association.

 (2) “Governing documents” mean a declaration, master deeds, or bylaws, or any amendments to the declaration, master deeds, or bylaws.

 (3) “Homeowner” means a declarant or other person who owns a unit in a homeowners’ association, but does not include a person having an interest in such a unit solely as security for an obligation.

 (4) “Homeowners’ association” or “association” means an entity developed to manage and maintain a planned community or horizontal property regime for which there is a declaration requiring a person, by virtue of his ownership of a separate property within the planned community or horizontal property regime, to pay assessments for a share of real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements and other real estate described in that declaration. A “homeowners’ association” or “association” does not include a vacation time sharing plan organized and subject to the provisions of Chapter 32.

 (5) “Tenant” means any tenant under a rental agreement executed pursuant to Chapter 40, Title 27, any tenant under a rental agreement executed pursuant to Chapter 47, Title 27, any tenant under a vacation time sharing plan, any tenant under a horizontal property regime, or any person who leases commercial or residential real property under a contractual agreement.

 (B) By enacting this legislation, the General Assembly of South Carolina intends to ensure that homeowners, their tenants, and the guests or invitees of homeowners or their tenants have the right to peacefully assemble and freely communicate among themselves and others concerning business and information relating to their homeowners’ association or for social, political, election, and educational purposes.

 (C) The governing documents, rules, and regulations must not prohibit a homeowner or homeowner’s tenant from:

 (1) engaging in any particular type of speech or wearing any particular type of clothing on the homeowner’s property or in a common area;

 (2) peacefully assembling during reasonable hours;

 (3) organizing and participating in events where speakers address matters of national, state, local, or specialized interests;

 (4) using a common area to hold an assembly or event as described in items (2) and (3) of this subsection if the common area is not being used for other purposes;

 (5) canvassing and petitioning homeowners, their tenants, and the guests or invitees of homeowners or their tenants at reasonable hours and in a reasonable manner; and

 (6) distributing and circulating, without receiving prior permission, information described in subsection (B) and in item (3) of this subsection at reasonable times and in a reasonable manner.

 (D) In order to use a common area for the purposes described in this section, a homeowner or a homeowner’s tenant must not be required to pay a fee, make a deposit, or obtain insurance.

 (E) If a homeowner or homeowner’s tenant is prohibited from engaging in the activities described in this section, the homeowner or homeowner’s tenant may bring an action in summary court against the board to enjoin the enforcement of any governing document, rule, or regulation containing this prohibition. For each violation of this subsection, the court may assess a civil penalty of five hundred dollars.

SECTION 2. This act takes effect upon approval by the Governor.

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