AMENDED

April 28, 2015

**H. 3248**

Introduced by Reps. Ryhal, Hardwick, Long, M.S. McLeod, Felder and Hardee

S. Printed 4/28/15--H.

Read the first time January 13, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 28 TO TITLE 27 SO AS TO PROVIDE REQUIREMENTS CONCERNING THE GOVERNANCE OF HOMEOWNERS ASSOCIATIONS, TO DEFINE NECESSARY TERMINOLOGY, TO PROVIDE HOMEOWNERS ASSOCIATIONS MUST REGISTER WITH THE REAL ESTATE COMMISSION AND FILE COPIES OF ITS GOVERNING DOCUMENTS WITH THE CLERK OF COURT, REGISTER OF DEEDS, AND THE COMMISSION, TO PROVIDE HOMEOWNERS ASSOCIATIONS OTHERWISE ALSO MUST MAKE ITS GOVERNING DOCUMENTS AVAILABLE TO THE PUBLIC AND PROSPECTIVE BUYERS IN A CERTAIN MANNER, TO PROVIDE MECHANISMS FOR THE AUTOMATIC TRANSFER OF CONTROL OF PROPERTY GOVERNED BY A HOMEOWNERS ASSOCIATION FROM THE DECLARANT TO AN ELECTED BOARD OF THE HOMEOWNERS, TO PROVIDE RELATED NOTICE REQUIREMENTS, TO PROVIDE TRAINING REQUIREMENTS FOR HOMEOWNERS ASSOCIATION BOARD MEMBERS, TO PROVIDE HOMEOWNERS MAY INSPECT CERTAIN ASSOCIATION DOCUMENTS, TO PROVIDE HOMEOWNERS ASSOCIATIONS MUST PROVIDE CERTAIN NOTICE FOR BOARD MEETINGS, TO PROVIDE THAT HOMEOWNERS ASSOCIATIONS MAY NOT PLACE A LIEN AGAINST THE PROPERTY OF A HOMEOWNER OR OTHERWISE FINE OR ASSESS COSTS AGAINST A HOMEOWNER WITHOUT FIRST GIVING THE HOMEOWNER A HEARING BEFORE THE BOARD, AND TO PROVIDE HOMEOWNERS OR HOMEOWNERS ASSOCIATIONS MAY SEEK FROM MAGISTRATES COURT EQUITABLE RELIEF TO ENFORCE THE PROVISIONS OF THIS CHAPTER, AND TO PROVIDE THAT THE PREVAILING PARTY IN SUCH AN ACTION MAY RECOVER REASONABLE ATTORNEY’S FEES AND RELATED COSTS; AND BY ADDING SECTION 40‑57‑63 SO AS TO IMPOSE RELATED POWERS AND DUTIES ON THE REAL ESTATE COMMISSION, AND TO DEFINE NECESSARY TERMINOLOGY.

Amend Title To Conform

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

SECTION 1. (A) There is created the “Study Committee on Homeowners Associations” to review laws, policies, practices, and procedures regarding homeowners associations in this State and other jurisdictions, and to make recommendations to the General Assembly regarding proposals for South Carolina’s statutory law. The Study Committee shall review information, including, but not limited to, case law, statutes, uniform laws, and other information from South Carolina and other jurisdictions concerning homeowners associations. Specifically, the Study Committee is authorized, but not limited to, reporting on the following issues:

(1) disclosure of governing documents to prospective buyers;

(2) education for homeowners and board members;

(3) manager certification or licensing;

(4) time period for developer control of an association; and

(5) need for a comprehensive or uniform planned community act.

(B) The Study Committee must be composed of thirteen members:

(1) two members of the Senate, appointed by the Senate Labor, Commerce and Industry Chairman;

(2) two members of the House of Representatives, appointed by the House Labor, Commerce and Industry Chairman;

(3) the following members jointly selected by the Senate Labor, Commerce and Industry Chairman and House Labor, Commerce and Industry Committee Chairman:

(a) two property owners who are:

(i) required to be members of a homeowners association due to owning property in the homeowners association; and

(ii) governed by a homeowners association board;

(b) two lawyers, one representing homeowners associations and boards and the other representing homeowners, based upon recommendations of the South Carolina Bar;

(c) two managers, one in favor of certification or licensing and one opposed to certification or licensing, based upon the recommendations of the Community Association Institute and the Home Builders Association;

(d) one developer, based upon the recommendations of the Home Builders Association; and

(4) the administrator for the Department of Consumer Affairs and the Director for the Department of Labor, Licensing and Regulations, or their designees, serving ex officio.

(C) Vacancies in the Study Committee’s membership must be filled for the remainder of the unexpired term in the manner of original appointment.

(D) The Chairmen of the Senate and House Labor, Commerce and Industry Committees shall provide appropriate staffing for the Study Committee.

(E) The Study Committee shall make a report of its recommendations to the General Assembly by December 31, 2015, at which time the Study Committee must be dissolved.

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

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