



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0576 Introduced on March 22, 2017
Author: Jackson
Subject: Homeowner’s Associations
Requestor: Senate Judiciary
RFA Analyst(s): Gable and Heineman
Impact Date: April 7, 2017

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$162,640	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	2.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill would have a non-recurring \$4,000 General Fund expenditure in FY 2017-18 to purchase the initial supplies of the Office of the Ombudsman and a recurring \$158,640 General Fund expenditure beginning in FY 2017-18 to fund the salaries of the ombudsman and supporting staff. This bill is not expected to impact local governments.

Explanation of Fiscal Impact

Introduced on March 22, 2017

State Expenditure

This bill requires a homeowner who is selling his property that is subject to homeowner’s association (HOA) governance to disclose to a prospective buyer, upon request, HOA governing documents. Additionally, an HOA must provide a homeowner with copies of all governing documents and financial information of the association within three business days of the homeowner’s request. The HOA may charge for the actual cost of printed documents, but cannot charge for documents provided electronically. Further, an HOA must notify homeowners at least forty eight hours before a meeting that may take any action to add or increase any financial obligation of property owners and property owners must be allowed to attend the meeting.

This bill also creates the Office of HOA Ombudsman under the Department of Consumer Affairs and provides for its powers and duties and qualifications of the ombudsman. Among other responsibilities, this office is required to offer an online instructional course covering the basics of HOA management, responsibilities, and rights. This course is to be offered to the public, free

of charge and a person who takes and passes the course will receive a one year certification. The office will review and update the course annually.

Furthermore, this bill requires disclosure statements developed by the South Carolina Real Estate Commission, under the Department of Labor, Licensing, and Regulation, to include whether a property is subject to an HOA or similar organizations subject to covenants, conditions, and restrictions must be provided by owner to owner to any purchaser, including the first sale of a dwelling never inhabited. Additionally, if a property is subject to an HOA, the disclosure statement must include that a buyer has the right to receive copies of all HOA governing documents from the selling homeowner free of charge. Disclosure statement forms are available for downloading from the Real Estate Commission's website.

Additionally, this bill expands magistrates court jurisdiction so the court may hear cases between HOAs and property owners for payment of dues, assessments, fines, and fees, actions for specific performance or injunctive relief arising out of the governing document, and access to governing documents, financial records, and property owner membership lists, so long as the amount in controversy is within the civil jurisdiction of the magistrates court. The magistrates court may award to the prevailing party cost associated with bringing or defending an action.

Department of Labor, Licensing, and Regulation (LLR). This bill requires the disclosure statement form, developed by the South Carolina Real Estate Commission under LLR, be updated to include pertinent information related to whether a property is under an HOA's governance and the rights of a buyer to receive the HOA's governing documents. LLR anticipates no expenditure impact as the forms can be updated by existing staff and within the existing budget.

Department of Consumer Affairs. The bill creates the Office of the HOA Ombudsman under the Department of Consumer Affairs and specifies the powers and duties of the office as well as the qualifications for the ombudsman. The department indicates there will be a recurring expenditure impact on the General Fund of \$158,640, which consists of the salaries and employer contributions for the ombudsman and a paralegal of \$134,640 and annual operating expenses of \$24,000. Additionally, a non-recurring cost of \$4,000 is estimated for office equipment and information technology. While the department does not expect the ombudsman and one support staff to be able to manage all of the responsibilities required by the bill, the office would have access to staff in other department divisions, including investigators, public information, and education staff. Therefore, any additional workload can be managed by existing department staff and within existing budget.

Judicial Department. This bill grants magistrates courts concurrent civil jurisdiction with circuit courts over cases between HOAs and property owners for payment of dues, assessments, fines, and fees; actions for specific performance or injunctive relief arising out of the governing document; and access to governing documents, financial records, and property owner membership lists, so long as the amount in controversy is within the civil jurisdiction of the magistrates court. This may shift some HOA cases from the circuit court to magistrates court. As there is no information available to indicate the number of HOA actions that are filed in the circuit court presently, the department cannot estimate how many actions may be filed in

magistrates court rather than the circuit court. However, a reduction in the number of HOA related cases heard by the circuit court is not expected to result in a reduction in expenditures. At most, the circuit court would reallocate any saved time to focus on other matters.

State Revenue

N/A

Local Expenditure

This bill grants magistrates courts concurrent civil jurisdiction with circuit courts over certain actions between HOAs and property owners. The Revenue and Fiscal Affairs Office (RFA) contacted twenty-three county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill on local magistrates courts. Lancaster County indicates magistrates courts could be impacted depending on the number of cases related to HOAs and homeowners, but costs are expected to be minimal. Clarendon and Florence counties, as well as the MASC, indicate there will be no expenditure impact. Based on the responses received, this bill is not expected to have an expenditure impact on local government.

Local Revenue

N/A



Frank A. Rainwater, Executive Director