**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 REQUIRE A PROPERTY OWNER SUBJECT TO A HOMEOWNERS ASSOCIATION TO DISCLOSE THE ASSOCIATION’S GOVERNING DOCUMENTS TO A PROSPECTIVE OWNER, TO INSTRUCT THE SOUTH CAROLINA REAL ESTATE COMMISSION TO OFFER AN ONLINE INSTRUCTIONAL COURSE COVERING THE BASICS OF HOMEOWNERS’ ASSOCIATION MANAGEMENT AND THE RIGHTS AND RESPONSIBILITIES OF PROPERTY OWNERS, AND TO GRANT CONCURRENT CIVIL JURISDICTION IN CERTAIN ACTIONS BETWEEN A HOMEOWNERS ASSOCIATION AND A PROPERTY OWNER.

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

The South Carolina Homeowners Association Act

Section 27‑30‑10. This act may be cited as the ‘South Carolina Homeowners Association Act’.

Section 27‑30‑20. As used in this chapter:

(1) ‘Association’ means an incorporated entity:

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

(b) with a voting membership of persons owning separate property within the planned community or horizontal property regime who are 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.

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

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

(4) ‘Governing documents’ means any documents:

(a) establishing the association and governing its management or operation;

(b) providing for the duties and obligations of the board, the association, and the property owners;

(c) creating or imposing assessments, fees, or fines by the board or the association on the property owners; and

(d) including, but not limited to, the master deed or master lease, covenants, conditions, and restrictions, declarations, articles of incorporation, bylaws, rules and regulations, minutes, and any amendments thereto.

(5) ‘Property owner’ means a voting member of the association or the voting member’s tenant or designee.

Section 27‑30‑30. (A) A property owner selling his property that is subject to an association’s governing documents must disclose the governing documents to a 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 property owner is solely responsible for the costs of providing the governing documents to a prospective owner in compliance with this section.

(C) An association may establish and collect reasonable fees for the actual cost of a photocopy of the governing documents, except that an association may not charge for electronic access to the governing documents on a website by the property owner or electronic transmission of the governing documents.

Section 27‑30‑40. (A) Beginning January 1, 2018, the commission shall offer an online instructional course covering the basics of homeowners’ association management, rights, and responsibilities. The online course is open to the public and may be taken by any interested person. The planning and development for the course must begin on or after July 1, 2017.

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

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

(1) federal and state laws concerning governance of homeowners associations;

(2) ethical and fiduciary duties;

(3) rules of parliamentary procedure;

(4) procedure for conducting public hearings;

(5) state and local government structure;

(6) relationships with developers;

(7) insurance;

(8) infrastructure; and

(9) security.

(D) A person who takes and passes the course shall receive a notice of certification from the commission. The commission shall maintain an online list of certified persons and the year they passed the course.

(E) A person is not limited in the number of times he may take the course, however, he may be certified only once each year.

(F) The commission shall review and update the course annually.

Section 27‑30‑50. (A) Magistrates have concurrent civil jurisdiction in the following actions between associations and property owners regarding:

(1) payment of dues, assessments, fines, or fees if the amount being claimed does not exceed the civil jurisdictional amount in magistrates court as provided in Section 22‑3‑10(1);

(2) actions for specific performance arising out of the governing documents provided the cost of the specific performance would not exceed the civil jurisdictional amount in magistrates court as provided in Section 22‑3‑10(1);

(3) actions for injunctive relief, including temporary injunctive relief pending a hearing, arising out of the governing documents; and

(4) access to the governing documents, financial records, and property owner membership list that includes each property owner’s contact addresses; however, under no circumstances may the property owner membership list be released or used for commercial purposes.

(B) The magistrates court, in its discretion, may award to the prevailing party costs associated with bringing or defending an action under this section, including reasonable attorney’s fees, not to exceed the civil jurisdictional amount in magistrates court as provided in Section 22‑3‑10(1).”

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

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