

ENROLLED

Senate Bill No. 376

(BY SENATOR BEACH)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §36B-3-102 of the Code of West Virginia, 1931, as amended, relating to permitting unit owners' associations to institute legal action against a unit owner to collect dues or assessments that are overdue or in arrears to the association.

Be it enacted by the Legislature of West Virginia:

That §36B-3-102 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. MANAGEMENT OF THE COMMON INTEREST COMMUNITY.

§36B-3-102. Powers of unit owners' association.

1 (a) Except as provided in subsection (b), and subject to the
2 provisions of the declaration, the association, even if unin-
3 corporated, may:

4 (1) Adopt and amend bylaws and rules and regulations;

5 (2) Adopt and amend budgets for revenues, expenditures,
6 and reserves and collect assessments for common expenses
7 from unit owners;

8 (3) Hire and discharge managing agents and other employ-
9 ees, agents, and independent contractors;

10 (4) Institute, defend, or intervene in litigation or adminis-
11 trative proceedings in its own name on behalf of itself or two
12 or more unit owners on matters affecting the common
13 interest community;

14 (5) Make contracts and incur liabilities;

15 (6) Regulate the use, maintenance, repair, replacement, and
16 modification of common elements;

17 (7) Cause additional improvements to be made as a part of
18 the common elements;

19 (8) Acquire, hold, encumber, and convey in its own name
20 any right, title, or interest to real estate or personal property,
21 but (i) common elements in a condominium or planned
22 community may be conveyed or subjected to a security
23 interest only pursuant to section one hundred twelve of this
24 article and (ii) part of a cooperative may be conveyed, or all
25 or part of a cooperative may be subjected to a security
26 interest, only pursuant to section one hundred twelve of this
27 article;

28 (9) Grant easements, leases, licenses, and concessions
29 through or over the common elements;

30 (10) Impose and receive any payments, fees, or charges for
31 the use, rental, or operation of the common elements, other
32 than limited common elements described in subsections (1)
33 and (4), section one hundred two, article two of this chapter,
34 and for services provided to unit owners;

35 (11) Impose charges for late payment of assessments and,
36 after notice and an opportunity to be heard, levy reasonable
37 fines for violations of the declaration, bylaws, rules, and
38 regulations of the association;

39 (12) Impose reasonable charges for the preparation and
40 recordation of amendments to the declaration, resale
41 certificates required by section one hundred nine, article
42 four of this chapter, or statements of unpaid assessments;

43 (13) Provide for the indemnification of its officers and
44 executive board and maintain directors' and officers'
45 liability insurance;

46 (14) Assign its right to future income, including the right
47 to receive common expense assessments, but only to the
48 extent the declaration expressly so provides;

49 (15) Exercise any other powers conferred by the declara-
50 tion or bylaws;

51 (16) Exercise all other powers that may be exercised in this
52 state by legal entities of the same type as the association;

53 (17) Institute litigation or administrative proceedings in its
54 own name against a unit owner for the collection of dues or
55 assessments that are overdue or in arrears; and

56 (18) Exercise any other powers necessary and proper for
57 the governance and operation of the association.

58 (b) The declaration may not impose limitations on the
59 power of the association to deal with the declarant which are
60 more restrictive than the limitations imposed on the power
61 of the association to deal with other persons.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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Acting President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2011.

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Governor