

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 694

By Senators Barrett and Caputo

[Introduced February 7, 2024; referred
to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter,
 2 designated §31J-1-1, §31J-1-2, §31J-1-3, §31J-2-1, §31J-3-1, and §31J-3-2, all relating to
 3 land use associations; providing title; defining terms; establishing construction of chapter;
 4 providing statement of purpose; mandating registration of land use associations with
 5 Secretary of State; setting fee for registration; and describing content of registration form.

Be it enacted by the Legislature of West Virginia:

CHAPTER 31J. LAND USE ASSOCIATIONS.

ARTICLE 1. GENERAL PROVISIONS.

§31J-1-1. Short title.

1 This chapter is and may be cited as the West Virginia Land Use Association Registration
 2 Act.

§31J-1-2. Definitions.

1 As used in this chapter:
 2 "Community" or "Common interest community" means real estate described in a
 3 declaration with respect to which a person, by virtue of a person's ownership of a unit, is obligated
 4 to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or
 5 services or other expenses related to, common elements, other units, or other real estate
 6 described in the declaration.

7 "Declaration" or "declaration of covenants" means a recorded instrument in the nature of
 8 covenants running with the land that subjects the land composing the community to the jurisdiction
 9 and control of an association in which the owners of the parcels, or their association members,
 10 must be members.

11 "Land use association" or "LUA" means a West Virginia legal entity responsible for the
 12 operation of a community in which the voting membership is made up of parcel owners or their
 13 agents, or a combination thereof, and in which membership is a mandatory condition of parcel

14 ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on
 15 the parcel. The term "land use association" includes homeowners' associations, unit owners'
 16 associations as defined chapter 36B of this code, and condominium and unit property councils as
 17 defined in chapter 36A of this code.

18 "Parcel" means a platted or unplatted lot, tract, unit, or other subdivision of real property
 19 within a community, as described in the declaration and to which the following apply:

20 (1) Is capable of separate conveyance; and

21 (2) The parcel owner is obligated:

22 (A) By the governing documents to be a member of an association that serves the
 23 community; and

24 (B) To pay to the association assessments that, if not paid, may result in a lien on the
 25 parcel.

26 "Preceding year" means the period from and including January 1 through December 31 of
 27 the year prior to the date of registration by an LUA.

§31J-1-3. Construction of chapter.

1 (a) The existence of a provision of this chapter does not of itself create an implication that a
 2 contrary or different rule of law applies to an entity organized pursuant to the provisions of this
 3 code that is not a land use association. This chapter does not affect a statute or rule of law that
 4 applies to an entity that is not a land use association.

5 (b) The specific provisions of this chapter control over the general provisions of other
 6 chapters of this code.

ARTICLE 2. LEGISLATIVE PURPOSE.

§31J-2-1. Legislative statement of purpose.

1 The Legislature finds that land use associations significantly affect the rights and values of
 2 the real property of a significant number of West Virginians and concludes that requiring
 3 registration of those associations in an electronic format and maintaining that information on an

4 accessible database and website will better allow property owners to ascertain relevant
5 information about their associations.

ARTICLE 3. REGISTRATION.

§31J-3-1. Registration with Secretary of State; fee.

1 (a) Each land use association shall register on or before July 1 of each year with the office
2 of the Secretary of State regarding the LUA's operations for the preceding year.

3 (b) Registration shall be accomplished by completing and submitting a form provided
4 online by the Secretary of State.

5 (c) A land use association may, if it chooses, register by printing a paper copy of the form,
6 completing it, and filing it with the Secretary of State.

7 (d) The secretary may charge a fee for processing registration forms submitted or filed by
8 land use associations and maintaining a database of the forms not to exceed \$20 for each
9 registration.

10 (e) The secretary's office shall maintain the forms on its website for at least two years and
11 shall maintain the forms and information in a searchable database for not less than 10 years.

§31J-3-2. Content of registration form.

1 (a) The LUA registration form shall require, at a minimum, that an LUA provide the
2 following information:

3 (1) The legal name of the LUA;

4 (2) The principal mailing address of the LUA;

5 (3) The address for service of process on the LUA;

6 (4) The names of the officers of the LUA; and

7 (5) The number of parcels that are included within the LUA.

8 (b) The registration form shall be signed by an officer of the LUA who affirms, subject to the
9 laws of perjury, that the information provided is accurate and complete. An electronic signature
10 may be used.

NOTE: The purpose of this bill is to mandate registration of land use associations with the Secretary of State's office. The bill provides definitions, a statement of legislative purpose, and the required content of the registration form.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.