

SENATE BILL NO. 481

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

1491S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 442, RSMo, by adding thereto six new sections relating to binding agreements running with land.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 442, RSMo, is amended by adding thereto
2 six new sections, to be known as sections 442.621, 442.626,
3 442.631, 442.636, 442.641, and 442.646, to read as follows:

**442.621. 1. Sections 442.621 to 442.646 shall be
2 known and may be cited as the "Missouri Homeowners'
3 Association Act".**

**4 2. As used in sections 442.621 to 442.646, the
5 following terms mean:**

**6 (1) "Allocated interests", the common expense
7 liability and votes in the association;**

**8 (2) "Assessment", the sum attributable to each lot and
9 due to the association based upon the lot's common expense
10 liability or other moneys owed to the association under
11 sections 442.621 to 442.646 or the governing documents of
12 the association;**

13 (3) "Association", the lot owners' association;

**14 (4) "Board of directors", the governing body,
15 regardless of name, that has the power to act on behalf of
16 the association as designated in the governing documents;**

17 (5) "Common expense", expenditures made by, or the
18 financial liabilities of, the association including, but not
19 limited to, any allocation to reserves;

20 (6) "Common expense liability", liability for common
21 expenses allocated to each lot;

22 (7) "Common ground", any real property, other than a
23 lot, that is within a planned community and that is owned or
24 leased by the association;

25 (8) "Declarant", a person or group of persons acting
26 in concert that:

27 (a) As part of a common promotional plan, offers to
28 dispose of the interest of the person or group of persons in
29 a lot not previously disposed of; or

30 (b) Reserves or succeeds to any declarant right;

31 (9) "Declaration", the recorded instrument, however
32 denominated, that creates a planned community;

33 (10) "Governing documents", the declaration, articles
34 of incorporation, bylaws, and rules and regulations of the
35 association;

36 (11) "Lot", a physical portion of the planned
37 community designated for separate ownership or occupancy as
38 depicted on the plats of the planned community or as more
39 particularly described in a declaration;

40 (12) "Lot owner", a declarant or other person who owns
41 a lot, except that the term shall not include a person
42 having an interest in a lot solely as security for an
43 obligation;

44 (13) "Planned community", real property described in a
45 declaration that sets forth the duties and obligations of
46 the association and lot owners. For the purposes of
47 sections 442.621 to 442.646, no cooperative, timeshare, or
48 condominium is a planned community, except that a

49 cooperative, timeshare, or condominium may be part of a
50 planned community, or a declaration may expressly provide
51 that a cooperative, timeshare, or condominium shall be a
52 planned community subject to sections 442.621 to 442.646.

442.626. 1. Sections 442.621 to 442.646 shall apply
2 to all planned communities and all events and circumstances
3 related to such planned communities occurring on and after
4 January 1, 2026.

5 2. Sections 442.621 to 442.646 shall not be construed
6 to invalidate existing provisions of the declaration,
7 bylaws, articles of incorporation, or plats of such planned
8 communities.

9 3. Nothing in sections 442.621 to 442.646 shall
10 impact, hinder, impair, alter, or affect the rights of a
11 declarant to administer, develop, construct, convey any
12 rights related to development rights or declarant rights, or
13 convey real property subject to the declaration, including,
14 but not limited to, the authority to alter the housing
15 product or style, remove or add real property from or to the
16 planned community, or convert a portion of the planned
17 community from a lot to common ground or from common ground
18 to a lot.

19 4. Nothing in sections 442.621 to 442.646 shall
20 impact, hinder, impair, alter, or affect the rights of a
21 holder of a security interest in real property within a
22 planned community, provided that the security interest is
23 recorded prior to recording of the declaration or any
24 modifications or amendments to the declaration.

25 5. Except as expressly provided in sections 442.621 to
26 442.646, the effect of such sections shall not be varied by
27 agreement, and rights conferred by such sections shall not
28 be waived.

29 6. For all purposes, each lot constitutes a separate
30 parcel of real property and shall be separately assessed and
31 taxed consistent with such parcel's restricted use. The
32 personal property of an association, if any, shall not be
33 subject to taxation under chapter 137, and common ground
34 shall not be subject to separate assessment or taxation.

 442.631. 1. Unless a declaration otherwise provides,
2 consent of the declarant is required for any amendment to
3 any governing document that would impact, hinder, impair,
4 alter, or affect the rights of a declarant to administer,
5 develop, construct, convey any rights related to development
6 rights or declarant rights, or convey real property subject
7 to the declaration, including, but not limited to, the
8 authority to alter the housing product or style, remove or
9 add real property from or to the planned community, or
10 convert a portion of the planned community from a lot to
11 common ground or from common ground to a lot.

12 2. The declaration may be amended under the procedures
13 as contained in the declaration.

14 3. If a declaration is silent, a planned community has
15 multiple declarations with differing amendment procedures,
16 or any provision in a declaration specifying a percentage
17 larger than sixty-seven percent of the votes in the
18 association to amend the declaration is hereby declared void
19 as contrary to public policy, and until amended, such
20 provision shall be deemed to specify a percentage of sixty-
21 seven percent of the votes in the association.

22 4. A unanimous vote of the lot owners is required to
23 amend any declaration to change the allocated interest of a
24 lot. A unanimous vote of the lot owners is not required to
25 change or add a restriction that may be more burdensome.

26 5. No action to challenge the validity of an amendment
27 to the declaration shall be brought more than one year after
28 the amendment to the declaration is recorded.

29 6. If an amendment to the declaration is proposed by
30 the board of directors and an insufficient number of votes
31 are obtained to decide the question within ninety days of
32 distributing the amendment to the lot owners, the
33 declaration may be amended if the association provides a
34 notice to all lot owners containing a copy of the proposed
35 amendment and a statement that the proposed amendment will
36 be deemed approved by that lot owner unless one-third of the
37 votes in the association submit a vote to reject the
38 proposed amendment within sixty days of the date of the
39 notice.

40 7. The board of directors is authorized to amend
41 governing documents to correct drafting or technical errors.

442.636. 1. An owners' association shall be organized
2 prior to conveyance of the first lot in the planned
3 community. The association shall be organized as a mutual
4 benefit nonprofit corporation under chapter 355 no later
5 than one year from the date of transfer of control from the
6 declarant. For an association not incorporated under
7 chapter 355 before January 1, 2026, the board of directors
8 shall be authorized to form such corporation, and the
9 nonprofit corporation shall be deemed to be the successor to
10 the unincorporated association. No assignment agreement or
11 other legal instrument shall be required to effectuate the
12 assignment of duties and obligations. If a declaration
13 contains the same provisions as required under chapter 355
14 for bylaws of the association, the association need not
15 adopt bylaws, except that the amendment procedure of the
16 declaration shall govern all provisions of such declaration.

17 2. After transition of control of the association from
18 the declarant under the provisions of the declaration, if an
19 election of the board of directors is not held because of a
20 lack of quorum of the members, the board of directors shall
21 call a special meeting of the association to conduct the
22 election. Such special meeting shall have a quorum
23 requirement of ten percent of the votes in the association.
24 If such special meeting is not held because of a lack of
25 quorum, the board of directors shall call a second special
26 meeting to conduct the election with no quorum requirement.
27 No action to challenge an election shall be brought more
28 than thirty days from the date of the election.

29 3. To ensure that the board of directors is not
30 vacated in whole or part, the term of a director expires
31 upon the election of a replacement. Any provision in a
32 governing document that purports to specify a date when a
33 term of a member of the board expires is hereby declared
34 void as contrary to public policy and is null and void.

35 4. In the absence of a board of directors, ten percent
36 of the lot owners may call a special meeting to conduct an
37 election and any quorum requirement shall be suspended. The
38 newly elected board shall be deemed to be the board of
39 directors of the association unless suit is filed within
40 sixty days of the election. In such event, a court of
41 competent supervision shall appoint a receiver with
42 experience in management of an association during the
43 pendency of the case.

442.641. 1. (1) After transition of control of the
2 association from the declarant under the provisions of the
3 declaration, the board of directors, at least annually,
4 shall adopt a proposed budget for the planned community for
5 consideration by the lot owners. No later than thirty days

6 after adoption of a proposed budget, the board of directors
7 shall provide to all lot owners a copy of the proposed
8 budget including, but not limited to, any reserves and a
9 statement of the basis upon which any reserves are
10 calculated and funded.

11 (2) At the same time as the copy of the proposed
12 budget is provided under subdivision (1) of this subsection,
13 the board of directors shall set a date at least fourteen
14 days after but no later than thirty days after providing the
15 summary for a meeting of the lot owners to consider
16 ratification of the budget. Unless at such meeting a
17 majority of all lot owners or any larger number specified in
18 the declaration reject the budget, the budget shall be
19 deemed ratified regardless of whether a quorum is present.
20 If a proposed budget is rejected, the current budget shall
21 continue until lot owners ratify a subsequent budget.

22 2. Any provision in a governing document that purports
23 to specify a maximum rate of assessments, or a limitation on
24 the amount an assessment may be increased, is hereby
25 declared void as contrary to public policy.

26 3. The association shall be entitled to recover from
27 the lot owner any costs and reasonable attorney's fees
28 incurred in connection with the collection of delinquent
29 assessments. A judgment or decree in any action brought
30 under this section shall include costs and reasonable
31 attorney's fees for the prevailing party with the amount of
32 the unpaid assessments not to be considered by the court in
33 determining the reasonableness of such attorney's fees and
34 costs. Upon request of any party, the court shall provide
35 its basis for its determination of the award of attorney's
36 fees and costs. Any application for execution upon a
37 judgment shall include any postjudgment attorney's fees and

38 costs incurred, which shall be recoverable unless otherwise
39 determined by the court by motion submitted by the owner
40 within thirty days of the date of service of such
41 application.

42 4. An association is not subject to the limitation on
43 the number of small claims petitions that may be filed as
44 provided in subdivision (2) of subsection 1 of section
45 482.330, and any judgment thereafter entered, so long as the
46 lot owner was personally served, shall be enforceable as a
47 judgment entered by an associate circuit court under chapter
48 517.

49 5. If a lot is occupied by a tenant and the lot owner
50 is delinquent in payment of assessments in excess of sixty
51 days, the association may demand payment of subsequent
52 rental payments until the lot owner is no longer delinquent,
53 the association releases the tenant, or the tenant is no
54 longer in possession of the lot. The demand to the tenant
55 shall be in writing, with a copy to the lot owner, sent via
56 first-class United States mail, postage prepaid, or hand
57 delivery. A tenant is immune from any claim by the lot
58 owner related to the rent timely paid to the association
59 after the association has made written demand. If the
60 tenant fails to make payment to the association, the
61 association may issue notice and evict under chapter 534.
62 The tenant does not, by virtue of payment, have any rights
63 of a lot owner to vote in an election or examine the books
64 and records of the association.

65 6. After transition of control of the association
66 under the provisions of the declaration, the board of
67 directors may propose a special assessment or an amended
68 budget so long as the board of directors follows the

69 procedures in subsection 1 of this section and the lot
70 owners do not reject such special assessment.

71 7. No action to challenge an assessment levied under
72 the procedures provided for in this section shall be brought
73 more than sixty days from the first date the assessment is
74 due.

75 8. After transition of control of the association
76 under the provisions of the declaration, if the board of
77 directors determines that a special assessment is necessary
78 to respond to an emergency to the health or safety of lot
79 owners or occupants:

80 (1) The special assessment shall become effective
81 immediately in accordance with the terms of the vote;

82 (2) The notice of the emergency assessment shall be
83 provided promptly to all lot owners; and

84 (3) The board of directors may spend the moneys paid
85 on account of the emergency assessment only for the purposes
86 described in the vote.

442.646. 1. If a declaration compels binding
2 arbitration as provided in sections 435.350 to 435.470, the
3 disclosure requirement of section 435.460 shall be an
4 exhibit to the declaration.

5 2. Subject to the declaration and any additional
6 requirements or conditions, disputes between lot owners or
7 between two or more lot owners regarding a matter related to
8 the planned community may be required to be submitted to
9 nonbinding dispute resolution as a prerequisite to
10 commencement of a judicial proceeding.

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