

SECOND REGULAR SESSION

SENATE BILL NO. 988

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time February 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6241S.02I

AN ACT

To amend chapter 324, RSMo, by adding thereto seven new sections relating to the regulation of homeowners associations, with penalty provisions.

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

Section A. Chapter 324, RSMo, is amended by adding thereto seven new sections, to be known as sections 324.1200, 324.1205, 324.1210, 324.1215, 324.1220, 324.1230, and 324.1235, to read as follows:

324.1200. As used in sections 324.1200 to 324.1235 the following terms mean:

(1) "Commission", the Missouri commission of homeowners associations;

(2) "Homeowners association", a nonprofit corporation or unincorporated association of homeowners created pursuant to a declaration to own and operate portions of a planned community or other residential subdivision and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association's obligations under the declaration;

(3) "Homeowners association board" or "board", the body, regardless of name, with primary authority to manage the affairs of a homeowners association.

324.1205. 1. The "Missouri Commission of Homeowners Association" is hereby created and shall consist of seven members. Six of the members shall be members of local homeowners associations for at least two years prior to their appointment, and one member shall be a voting public member who is neither a member of any home owners association at the time of appointment nor while serving as a member

7 of the commission. All members shall be United States citizens and
8 residents of this state. The members of the commission shall be
9 appointed by the governor with the advice and consent of the senate
10 for terms of six years; except those first appointed, of which one shall
11 be appointed for a term of one year, one shall be appointed for a term
12 of two years, one shall be appointed for a term of three years, one shall
13 be appointed for a term of four years, one shall be appointed for a term
14 of five years, and two shall be appointed for a term of six
15 years. Members of the commission shall not receive compensation, but
16 shall be entitled to reimbursement for necessary expenses incurred in
17 the discharge of official duties. The governor may remove any member
18 for cause.

19 2. The commission is authorized to adopt those rules that are
20 reasonable and necessary to accomplish the limited duties specifically
21 delegated within sections 324.1200 to 325.1235. Any rule or portion of
22 a rule, as that term is defined in section 536.010, that is created under
23 the authority delegated in this section shall become effective only if it
24 complies with and is subject to all of the provisions of chapter 536 and,
25 if applicable, section 536.028. This section and chapter 536 are
26 nonseverable and if any of the powers vested with the general assembly
27 pursuant to chapter 536 to review, to delay the effective date or to
28 disapprove and annul a rule are subsequently held unconstitutional,
29 then the grant of rulemaking authority and any rule proposed or
30 adopted after August 28, 2014, shall be invalid and void.

324.1210. 1. No person shall serve on the board of a homeowners
2 association in this state without certification by the commission
3 pursuant to sections 324.1200 to 324.1235. Following an appointment to
4 a board, a person has sixty days to become a state-certified board
5 member by meeting the requirements of subsection 2 of this section.

6 2. The commission shall grant board member certification when
7 the applicant has:

- 8 (1) Paid the required fee as established by the commission;
- 9 (2) Demonstrated successful completion of an ethics training
10 class as established by the commission; and
- 11 (3) Demonstrated successful completion of a basic financial
12 reporting training class as established by the commission.

13 3. The term of an original certificate shall be for two years. All

14 certificates shall be subject to renewal. The expiration date of the
15 certificate shall appear on the certificate and no other notice of its
16 expiration need be given to its holder.

17 4. In order to renew a certificate, the state-certified board
18 member shall make application, submit evidence of successful
19 completion of continuing education hours as established by the
20 commission, and pay the prescribed fee to the commission no earlier
21 than one hundred twenty days prior to the expiration date of the
22 certificate.

23 5. Nothing in this section shall prohibit a homeowners
24 association from paying the necessary costs of certification and
25 education on behalf of a board member.

324.1215. 1. There is hereby created in the state treasury the
2 "Missouri Commission of Homeowners Associations Fund", which shall
3 consist of money collected under this section. The state treasurer shall
4 be custodian of the fund. In accordance with sections 30.170 and 30.180,
5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and money in the fund shall be used solely by the
7 division of professional registration for the purpose of payment of the
8 salaries and all necessary expenses of the commission.

9 (1) Notwithstanding the provisions of section 33.080 to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall or shall not revert to the credit of the general revenue fund.

12 (2) The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys
14 earned on such investments shall be credited to the fund.

15 2. Moneys in this fund shall not be transferred and placed to the
16 credit of general revenue until the amount in the fund at the end of the
17 biennium exceeds two times the amount of the appropriation from the
18 commission's funds for the preceding fiscal year.

324.1220. 1. Any person who serves on a board of a homeowners
2 association without certification is guilty of a misdemeanor, and upon
3 conviction, shall be punished by a fine of not less than twenty and no
4 more than five hundred dollars, and shall be disqualified from serving
5 on a board of a homeowners association for a period of five years
6 following the date of conviction.

7 2. Board members and not homeowners associations shall be

8 personally liable for actions in violation of section 324.1210, or rules
9 promulgated by the commission.

324.1230. 1. Homeowners associations shall complete financial
2 and procedural audits conducted by a qualified independent auditor
3 licensed as a certified public accountant pursuant to chapter 326
4 according to the size of the homeowners association and the following
5 schedule:

6 (1) Under ten units or properties no audit is required;

7 (2) Eleven to twenty units or properties, an audit shall be
8 conducted every four years;

9 (3) Twenty one to fifty units or properties, an audit shall be
10 conducted every two years;

11 (4) Fifty one units or properties and above, an audit shall be
12 conducted yearly.

13 2. The findings of such audits shall be distributed to the
14 members of the homeowners association.

15 3. Expenditures by a homeowners association in an amount
16 greater than three thousand dollars shall be made by the board only
17 after accepting and reviewing at least three bid proposals. If
18 applicable, the homeowners association may use a request for proposal
19 in order to solicit bids.

324.1235. The commission may, upon its own motion, and shall,
2 upon receipt of a written complaint filed by any person, investigate any
3 homeowners association activity of a certificate holder or an individual
4 or entity acting as or representing themselves as a certificate holder or
5 member on a board of a homeowners association.

✓