

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6683

BILL NUMBER: HB 1071

NOTE PREPARED: Feb 21, 2009

BILL AMENDED: Feb 19, 2009

SUBJECT: Homeowners Associations.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill applies the following provisions to a homeowners association (association) established after June 30, 2009, and allows an association established before July 1, 2009, to elect to be governed by the provisions:

- (1) The bill requires an association to maintain a current roster of all members of the association (members).
- (2) The bill requires an association to prepare an annual budget that must be approved by the members.
- (3) The bill requires the board of directors of an association (board) to address an item of business if more than 50% of the members petition the board to address the item.
- (4) The bill prohibits a board from entering into certain contracts without the approval of the affected members.
- (5) The bill prohibits a homeowners association from incurring certain amounts of indebtedness or liability on behalf of the homeowners association unless incurring the indebtedness or liability is approved by the affirmative vote of a majority of members of the homeowners association.
- (6) The bill provides that the governing documents of an association must include grievance resolution procedures that provide for the final and binding resolution of disputes.
- (7) The bill provides that the governing documents of an association must allow for the termination of the association.
- (8) The bill specifies procedures concerning enforcement of homeowners association liens involving unpaid regular annual assessments and collection of other unpaid assessments that are not enforceable through the use of a lien.
- (9) The bill prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than one year.
- (10) The bill provides certain defenses to a member if the association brings a civil action against the member

involving an act in furtherance of the member's right of petition or free speech.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: (Revised) Local small claims courts' workloads would increase if more homeowners associations file civil suits. If, however, a homeowners association fails to collect the unpaid common expenses from bringing a civil action above, they would have to wait a year before filing a complaint to enforce a homeowners association lien for the expenses.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Trial courts (small claims).

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851.