

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6683**

**BILL NUMBER:** HB 1071

**NOTE PREPARED:** Feb 23, 2009

**BILL AMENDED:** Feb 19, 2009

**SUBJECT:** Homeowners Associations.

**FIRST AUTHOR:** Rep. Cheatham

**FIRST SPONSOR:**

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**  **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.