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FISCAL IMPACT STATEMENT

LS 6683

BILL NUMBER: HB 1071

NOTE PREPARED: Apr 14, 2009

BILL AMENDED: Apr 14, 2009

SUBJECT: Homeowners Associations.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR: Sen. Boots

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: 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) Requires an association to maintain a current roster of all members of the association (members).
- (2) Requires an association to prepare an annual budget that must be approved by the members.
- (3) Requires the board of directors of an association (board) to hold a special meeting of the members if at least 10% of the members submit a written demand to the board to hold the meeting.
- (4) Prohibits a board from entering into certain contracts without the approval of the affected members.
- (5) Prohibits a homeowners association from borrowing certain amounts of money on behalf of the homeowners association unless borrowing the money is approved by the affirmative vote of a majority of members of the homeowners association.
- (6) Provides that the governing documents of an association must include grievance resolution procedures.
- (7) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than six months.

The bill provides that an association may enforce an association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located if the complaint is not filed: (1) earlier than one year; and (2) later than five years; after the date the statement and notice of intention to hold a lien were recorded.

The bill provides that an association lien is void if: (1) the owner of the real estate subject to the lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides

written notice to the owner or holder of the lien to file an action to foreclose the lien; and (2) the owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within one year after the date the owner or holder of the lien received notice of the lien.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* If additional complaints are filed 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: Local small claims courts' workloads would increase if more homeowners associations file complaints. 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 complaints are filed, 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:

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