**South Carolina General Assembly**

120th Session, 2013-2014

**S. 786**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Jackson

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Introduced in the Senate on June 6, 2013

Currently residing in the Senate Committee on **Judiciary**

Summary: Homeowners' Association Cooperation Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

6/6/2013 Senate Introduced and read first time ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 6](file:///H:\SJ%20Archive\2013\06-06-13.docx))

3/3/2014 Senate Referred to Subcommittee: Malloy (ch), S.Martin, Thurmond

**VERSIONS OF THIS BILL**

[6/6/2013](file:///p:\pprever\2013-14\786_20130606.docx)

**A** **BILL**

TO AMEND SECTION 27‑50‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT, SO AS TO INCLUDE INFORMATION ABOUT ANY REQUIREMENT THAT BY PURCHASING THE REAL PROPERTY THE PURCHASER MUST BECOME A MEMBER OF ONE OR MORE ASSOCIATIONS AND ANY LIST OF FEES OR ASSESSMENTS THE PURCHASER IS REQUIRED TO PAY BY THE ASSOCIATION OR ASSOCIATIONS; AND TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE SOUTH CAROLINA HOMEOWNERS’ ASSOCIATION COOPERATION ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 27‑50‑40 of the 1976 Code is amended to read:

“Section 27‑50‑40 (A) The owner of the real property shall furnish to a purchaser a written disclosure statement. The disclosure statement must contain the language and be in the form promulgated by the commission and the form may be delivered electronically through the Internet or other similar methods. The commission may charge a reasonable fee for the printed form but shall post the form for free downloading on its public website. The disclosure statement must include, but is not limited to, the following characteristics and conditions of the property:

(1) the water supply and sanitary sewage disposal system;

(2) the roof, chimneys, floors, foundation, basement, and other structural components and modifications of these structural components;

(3) the plumbing, electrical, heating, cooling, and other mechanical systems;

(4) present infestation of wood‑destroying insects or organisms or past infestation, the damage from which has not been repaired;

(5) the zoning laws, restrictive covenants, building codes, and other land‑ use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from a governmental agency affecting this real property;

(6) presence of lead‑based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material, buried or covered, and other environmental contamination; ~~or~~

(7) existence of a rental, rental management, vacation rental, or other lease contract in place on the property at the time of closing, and, if known, any outstanding charges owed by the tenant for gas, electric, water, sewerage, or garbage services provided to the property the tenant leases~~.~~;

(8) existence of a meter conservation charge, as permitted by Section 58‑37‑50, that applies to electricity or natural gas service to the property; or

(9) a requirement that by purchasing the real property: (a) the purchaser must become a member of one or more associations; (b) a list of any fees or assessments the purchaser is required to pay by the association or associations; (c) notice that these fees and assessments are subject to change based upon the association’s governing documents; and (d) notice that if the assessments are not paid the purchaser may be subject to a foreclosure action.

(B) The disclosure statement must give the owner the option to indicate that the owner has actual knowledge of the specified characteristics or conditions, or that the owner is making no representations as to any characteristic or condition.

(C) The rights of the parties to a real estate contract in connection with conditions of the property of which the owner has no actual or constructive knowledge are not affected by this article.

(D) After July 1, 2014, every two years, the South Carolina Real Estate Commission shall review and revise the disclosure statement issued for use in compliance with this section.”

SECTION 2. Title 27 of the 1976 Code is amended by adding:

“Chapter 55

The South Carolina Homeowners’ Association Cooperation Act

Section 27‑55‑10. As used in this section:

(1) ‘association’ means an incorporated entity with:

(a) the responsibility to manage and maintain a planned community or horizontal property regime; and

(b) voting membership of persons owning separate lots or units who are required by the governing documents to pay assessments to the association;

(2) ‘board’ means the body, regardless of name, designated in the governing documents to act on behalf of the association;

(3) ‘governing documents’ means any documents:

(a) establishing the association and governing its management or operation;

(b) providing for the duties and obligations among the board, the association, and the property owners;

(c) creating or imposing assessments, fees, or fines by the board or the association on the property owners; and

(d) including, but not limited to, the master deed or master lease, restrictive covenants, declaration, articles of incorporation, bylaws, rules and regulations, and any amendments thereto; and

(4) ‘property owner’ means a voting member of the association or the voting member’s tenant or designee.

Section 27‑55‑20. (A) The provisions of this chapter shall not apply to an association that is:

(1) voluntary or entered into by individual agreement that does not pass with the sale of the property and is not required by the deed, covenants, or restrictions upon property; or

(2) a vacation time sharing plan organized and subject only to the provisions of Title 27, Chapter 32 of the South Carolina Code of Laws.

(B) Nothing in this chapter shall require that an association be administered by a professional manager or management company or prohibit self management by the members of the association.

Section 27‑55‑30 (A) A property owner must be informed if he is required to be a member of one or more associations when he purchases his property. This notification must be provided in the disclosure statement required by Section 27‑50‑40.

(B) A property owner must receive a list of any fees or assessments that he is required to pay as a member of the association or associations. This notification must be provided in the disclosure statement required by Section 27‑50‑40.

(C) A property owner must be informed that the assessments of subsection (B) may be subject to change based upon the association’s governing documents. This notification must be provided in the disclosure statement required by Section 27‑50‑40.

Section 27‑55‑40 (A) A property owner may inspect, review, and have copies made of any governing documents.

(1) An association may charge a reasonable fee for providing copies of any records under this subsection and for supervising the property owner’s inspection.

(2) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the property owner.

(3) An association is not obligated to synthesize information in the governing documents.

(B) Within thirty days after a change is made in the governing documents, the board must have a copy of the change prepared in writing and hand‑delivered or sent prepaid by United States mail to the mailing address designated in writing by each property owner.

Section 27‑55‑50 A property owner is entitled to:

(1) participate in at least one meeting annually each calendar year;

(2) receive:

(a) notice of a meeting at least ten days prior to the meeting;

(b) notice of the general purpose of any meeting; and

(c) the names, addresses, and contact information for all candidates or members of the board of directors if a meeting is for the election or removal of members of the board of directors.

Section 27‑55‑60. An association must provide a fair, reasonable, and expeditious procedure for resolving a dispute between a property owner and the association that provides for:

(1) the property owner’s right to be heard; and

(2) the board’s final written determination concerning the dispute to be delivered promptly to the property owner.

Section 27‑55‑70 (A) Any right or obligation declared by this chapter is enforceable by a civil action.

(B) An aggrieved party may recover appropriate damages for a violation of this chapter.

(C) An aggrieved party has a duty to mitigate damages in an action for a violation of this chapter.

(D) For any action brought pursuant to this chapter, the court may award costs and attorneys fees to the prevailing party.”

SECTION 3. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect July 1, 2014.

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