

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1286

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AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 32-21-5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 8.5. (a) This section applies to all transfers of title to property after June 30, 2015.**

**(b) The definitions in IC 32-25.5-2 apply in this section.**

**(c) As used in this section, "property" refers to real property covered by the governing documents of a homeowners association.**

**(d) As used in this section, "purchaser" refers to a person who purchases property.**

**(e) The following must be provided by the seller to a purchaser not later than ten (10) days before the sale of the property closes:**

**(1) A disclosure that the property is in a community governed by a homeowners association.**

**(2) A copy of the recorded governing documents.**

**(3) A statement indicating whether there are assessments and the amount of any assessments.**

**(4) The following information about a board member, homeowners association agent, or other person who has a contract with the homeowners association to provide any management services for the homeowners association:**

**(A) The name.**

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**(B) The business or home address.**

**(f) A homeowners association or agent of a homeowners association providing a statement of unpaid assessments or other charges of the homeowners association relating to the property may charge not more than two hundred fifty dollars (\$250) for the statement.**

**(g) The failure to provide any of the documents listed in subsection (e) does not limit or prevent enforcement of the governing documents by the homeowners association.**

SECTION 2. IC 32-25-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7. The declaration must contain a provision allowing the co-owners to amend the declaration at any time, from time to time, subject to the following:**

**(1) The declarant's consent to an amendment may be required if:**

**(A) the declarant owns one (1) or more units within the condominium; and**

**(B) not more than seven (7) years have passed since the original governing documents were first recorded.**

**(2) The consent of the co-owners to the amendment has been obtained as evidenced by either of the following:**

**(A) The vote of the co-owners at a meeting called for the purpose of considering the amendment.**

**(B) A written instrument signed by the co-owners.**

The declaration may not require that the consent of more than seventy-five percent (75%) of the co-owners is required for consent under this subdivision.

**(3) The consent of the eligible mortgage holders, as defined in the governing documents. The consent of an eligible mortgage holder must be indicated in a written instrument signed by the mortgage holder. However, a mortgage holder is considered to have consented to a proposed amendment if the mortgage holder does not respond to a written request for consent within thirty (30) days after the mortgage holder receives the request. The governing documents may not require that the consent of more than seventy-five percent (75%) of the eligible mortgage holders is required for consent under this subdivision.**

**(4) Notwithstanding subdivisions (1) through (3), the declaration may require the approval of at least ninety-five percent (95%) of the co-owners to convey common areas or**



**to dissolve the condominium.**

SECTION 3. IC 32-25-8-2, AS AMENDED BY P.L.119-2012, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The bylaws must provide for the following:

- (1) With respect to the board of directors:
  - (A) the election of the board from among the co-owners;
  - (B) the number of persons constituting the board;
  - (C) the expiration of the terms of at least one-third (1/3) of the directors annually;
  - (D) the powers and duties of the board, including whether the board may engage the services of a manager or managing agent;
  - (E) the compensation, if any, of the directors; and
  - (F) the method of removal from office of directors.
- (2) The method of calling meetings of the co-owners and the percentage, if other than a majority of co-owners, that constitutes a quorum.
- (3) The election from among the board of directors of a president, who shall preside over the meetings of:
  - (A) the board of directors; and
  - (B) the association of co-owners.
- (4) The election of a secretary, who shall keep the minute book in which resolutions shall be recorded.
- (5) The election of a treasurer, who shall keep the financial records and books of account.
- (6) The maintenance, repair, and replacement of the common areas and facilities and payments for that maintenance, repair, and replacement, including the method of approving payment vouchers.
- (7) The manner of collecting from each condominium owner the owner's share of the common expenses.
- (8) The designation and removal of personnel necessary for the maintenance, repair, and replacement of the common areas and facilities.
- (9) The method of adopting and of amending administrative rules governing the details of the operation and use of the common areas and facilities.
- (10) The restrictions on and requirements respecting the use and maintenance of the condominium units and the use of the common areas and facilities that are:
  - (A) not set forth in the declaration; and



(B) designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several co-owners.

(11) The percentage of votes required to amend the bylaws. **The percentage may not exceed seventy-five percent (75%).**

(12) ~~This subdivision applies only to a condominium located on the shore of a lake located in a township with a population of more than three thousand (3,000) but less than three thousand one hundred (3,100) located in a county having a population of more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500).~~ A statement of the percentage of votes by the condominium unit owners required to convey or encumber part or all of the common areas and facilities. A statement under this subdivision may not allow less than ninety-five percent (95%) of the condominium unit owners, or less than ninety-five percent (95%) of the owners of condominium units not owned by the declarant, to convey or encumber part or all of the common areas and facilities. If the bylaws do not include a statement under this subdivision, IC 32-25-4-3.5 applies.

(13) Other provisions consistent with this article considered necessary for the administration of the property.

SECTION 4. IC 32-25-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 2.5. The minutes of meetings of the board of directors of a condominium, including the annual meeting, must be made available to a co-owner of the condominium for inspection upon request. The requesting co-owner may make a request to inspect the minutes:**

- (1) in person;
- (2) in writing; or
- (3) by electronic mail.

**The association of co-owners may charge the requesting co-owner a reasonable copying fee if the co-owner requests a written copy of the minutes.**

SECTION 5. IC 32-25-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]:

**Chapter 8.5. Grievance Resolution**

**Sec. 1. This chapter does not apply to an exempt claim unless the parties agree that this chapter is applicable to the exempt claim.**

**Sec. 2. As used in this chapter, "board" refers to the board of**



directors of an association of co-owners of a condominium.

**Sec. 3. (a)** As used in this chapter, "claim" refers to any of the following:

- (1) A claim arising out of, or relating to, the interpretation, application, or enforcement of the condominium instruments.
- (2) A claim relating to the rights or duties of the association of co-owners or the board under the condominium instruments.
- (3) A claim relating to the maintenance of the condominium.
- (4) Any other claim, grievance, or dispute among the parties involving the condominium.

**(b)** The term does not include an exempt claim.

**Sec. 4.** As used in this chapter, "claimant" refers to a party who has a claim against another party.

**Sec. 5.** As used in this chapter, "exempt claim" refers to any of the following claims or actions:

- (1) A claim by the association of co-owners for assessments or dues and any action by the association to collect assessments or dues.
- (2) An action by a party to obtain a temporary restraining order or equivalent emergency equitable relief:
  - (A) to maintain the status quo and preserve the party's ability to enforce the condominium instruments; or
  - (B) when an emergency condition exists that jeopardizes the health or safety of any of the residents within the condominium community.
- (3) A suit to which an applicable statute of limitations would expire within the notice period. This subdivision does not apply if a party against which the claim is made agrees to toll the statute of limitations as to the claim for the period reasonably necessary to comply with this chapter.
- (4) A dispute that is subject to mediation, arbitration, or other alternate dispute resolution under applicable law, contract, warranty agreement, or other instrument.
- (5) A claim that is substantively identical to a claim:
  - (A) that was previously addressed by the parties; or
  - (B) which was resolved by a judicial determination in favor of one (1) of the parties.

**Sec. 6.** As used in this chapter, "legal proceedings" refers to either of the following:

- (1) An action maintained in a court.
- (2) An administrative proceeding initiated under an applicable law.



**Sec. 7.** As used in this chapter, "party" refers to any of the following:

- (1) The association of co-owners.
- (2) A co-owner.
- (3) The board.

**Sec. 8.** As used in this chapter, "respondent" refers to the party against whom a claimant has a claim.

**Sec. 9.** The condominium instruments must include grievance resolution procedures that apply to all members of the association of co-owners and the board.

**Sec. 10.** A claimant may not begin legal proceedings seeking redress or resolution of a claim until the claimant has complied with the procedures described in this chapter.

**Sec. 11.** A claimant shall provide notice of the claim to the respondent, stating plainly and concisely the following information:

- (1) The nature of the claim, including the date, time, location, persons involved, and the respondent's role in the claim.
- (2) The basis of the claim, including the provision of the condominium instruments or other authority out of which the claim arises.
- (3) What the claimant wants the respondent to do or not to do to resolve the claim.
- (4) That the respondent has a right to meet with the claimant, if the respondent makes a written request for a meeting.
- (5) The name and address of the person from whom the respondent must request a meeting under subdivision (4).

**Sec. 12. (a)** This section applies if a respondent has requested a meeting under section 11 of this chapter not later than ten (10) business days after the date of the notice of the claim given under section 11 of this chapter.

(b) The claimant and the respondent shall meet in person to resolve the claim by good faith negotiation, at the time and place agreed to by the claimant and the respondent.

(c) During the meeting, the parties must have full access to the property that is the subject of the claim to inspect the property, if appropriate or necessary. If the respondent agrees to take corrective action, the claimant must provide the respondent and the respondent's agents with full access to the property to take and complete corrective action.

**Sec. 13. (a)** The parties are considered to be at an impasse if:

- (1) the respondent does not request a meeting under section 11



of this chapter;

(2) either party fails to attend a meeting agreed upon under section 12 of this chapter; or

(3) the parties are unable to settle the claim at a meeting held under section 12 of this chapter.

(b) Either party may, not later than ten (10) days after an impasse is reached, request in writing that the other party submit the claim to mediation or binding arbitration.

(c) The party making the request under subsection (b) is responsible for the costs of the mediator or arbitrator.

**Sec. 14. If an impasse is reached and:**

(1) neither party requests mediation or arbitration; or

(2) mediation or arbitration does not result in a settlement of the claim;

the claimant may begin legal proceedings.

**Sec. 15. (a) This section applies if a claim is settled through negotiation, mediation, or arbitration.**

(b) The settlement of the claim must be documented in a written agreement signed by each of the parties.

(c) If a party fails to abide by the settlement agreement signed under subsection (b), the other party may begin legal proceedings without again complying with this chapter.

(d) If a party who begins legal proceedings under subsection (c) prevails in those legal proceedings, the party is entitled to recover from the other party:

(1) court costs;

(2) attorney's fees; and

(3) all other reasonable costs incurred in enforcing the settlement agreement.

**Sec. 16. A release or discharge of a respondent from liability to the claimant with respect to the claim does not release or discharge the respondent with respect to any other person who is not a party to the claim.**

**Sec. 17. The board, on behalf of the association of co-owners, and without the consent of the co-owners, may do any of the following:**

(1) Negotiate settlements of claims or legal proceedings under this chapter.

(2) Execute settlement agreements, waivers, releases of claims, or any other document resulting from application of this chapter.

**Sec. 18. Except as otherwise provided in this chapter, each party**



**shall bear its own costs for application of this chapter, including attorney's fees.**

SECTION 6. IC 32-25.5-1-1, AS AMENDED BY P.L.231-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies to the following:

- (1) A homeowners association established after June 30, 2009.
- (2) A homeowners association established before July 1, 2009:
  - (A) if a majority of the members of the homeowners association elect to be governed by this article; or
  - (B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

(b) ~~IC 32-25.5-3-8 applies~~ **The following apply** to all homeowners associations:

- ~~(c) (1) IC 32-25.5-3-3(g) through IC 32-25.5-3-3(m). apply to all homeowners associations.~~
- (2) IC 32-25.5-3-9.**
- (3) IC 32-25.5-3-10.**
- (4) IC 32-25.5-4.**
- (5) IC 32-25.5-5.**

SECTION 7. IC 32-25.5-2-3, AS ADDED BY P.L.167-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. "Governing documents" includes **the following:**

- (1) The articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws. ~~and~~
- (2) Any applicable **covenants filed with the office of the county recorder of the applicable county recorder, whether contained in a declaration of covenants, contained in conditions and restrictions (or similarly titled document), or contained within a plat.**

SECTION 8. IC 32-25.5-3-3, AS AMENDED BY P.L.231-2013, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A homeowners association shall prepare an annual budget.

- (b) The annual budget must reflect:
  - (1) the estimated revenues and expenses for the budget year; and
  - (2) the estimated surplus or deficit as of the end of the current budget year.





(c) The homeowners association shall provide each member of the homeowners association with:

(1) a:

(A) copy of the proposed annual budget; or

(B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

(1) in person;

(2) by proxy; or

(3) by any other means allowed under:

(A) state law; or

(B) the governing documents of the homeowners association.

(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

(g) Subject to subsection (k):

(1) the financial records, including all contracts, invoices, bills, receipts, and bank records, of a homeowners association must be available for inspection by each member of the homeowners



association upon written request; **and**  
**(2) the minutes of meetings of the homeowners association board, including the annual meeting, must be available to a member of the homeowners association for inspection upon the homeowners association member's request, which may be submitted:**

- (A) in person;**
- (B) in writing; or**
- (C) by electronic mail.**

A written request for inspection must identify with reasonable particularity the information being requested. A member's ability to inspect records under this section shall not be unreasonably denied or conditioned upon provision of an appropriate purpose for the request. **The homeowners association may charge a reasonable fee for the copying of a record requested under this subsection if the homeowners association member requests a written copy of the record.**

(h) **Subject to subsections (j) and (k)**, if there is a dispute between a homeowner and a homeowners association, the officers of the homeowners association must make all communications concerning the dispute available to the homeowner.

(i) **Subject to subsections (j) and (k), the following apply:**

**(1)** A homeowners association shall make all communications and information concerning a lot available to the owner of the lot or a home on the lot.

**(2) If a homeowners association initiates communication with any member about another member's lot, the homeowners association must give a copy of that communication to the other member whose lot is the subject of the communication.**

(j) **Notwithstanding subsections (h) and (i)**; A homeowners association is not required to make:

- (1) communications between the homeowners association and the legal counsel of the homeowners association; and
- (2) other communications or attorney work product prepared in anticipation of litigation;

available to the owner of a lot or home.

(k) A homeowners association is not required to make available to a member for inspection **any of the following:**

- (1) Unexecuted contracts.
- (2) Records regarding contract negotiations.
- (3) Information regarding an individual member's association account to a person who is not a named party on the account.



(4) Any ~~other~~ information that is prohibited from release under state or federal law. ~~or~~

(5) Any records that were created more than two (2) years before the request.

**Except as otherwise provided in this article (including subsection (j) and this subsection), other applicable law, or the governing documents of the homeowners association, a homeowners association is not required to retain a record of a written or electronic communication for any specific period of time. However, a homeowners association or a member of the board of a homeowners association shall retain for at least two (2) years after receipt, and during that period shall make available to a member of the homeowners association at the member's request, any written or electronic communication received by the homeowners association or board member that relates to a financial transaction of the homeowners association and that is not otherwise excepted from disclosure under this article or other applicable law.**

(l) Nothing in this chapter:

(1) abrogates or eliminates provisions in homeowners association agreements that permit or require additional disclosure or inspection rights not required by this chapter; or

(2) prevents a homeowners association from agreeing to make disclosures or to provide inspection rights not required by this chapter.

(m) A homeowners association may not charge a fee for the first hour required to search for a record in response to a written request submitted under this chapter. A homeowners association may charge a search fee for any time that exceeds one (1) hour. The following provisions apply if a homeowners association charges a search fee:

(1) The homeowners association shall charge an hourly fee that does not exceed thirty-five dollars (\$35) per hour.

(2) The homeowners association may charge the fee only for time that the person making the search actually spends in searching for the record.

(3) The homeowners association shall prorate the fee to reflect any search time of less than one (1) hour.

(4) The total amount of the fee charged by the homeowners association for a search may not exceed two hundred dollars (\$200).

SECTION 9. IC 32-25.5-3-6 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 6: ~~The governing documents must include grievance resolution procedures that apply to all members of the homeowners~~

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association and the board.

SECTION 10. IC 32-25.5-3-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8: (a) The attorney general may bring an action against a board or an individual member of a board of a homeowners association if the attorney general finds that:

- (1) the association's funds have been knowingly or intentionally misappropriated or diverted by a board member; or
- (2) a board member has knowingly or intentionally used the board member's position on the board to commit fraud or a criminal act against the association or the association's members.

(b) A court in which an action is brought under this section may do the following:

- (1) Issue an injunction.
- (2) Order the board member to make restitution to the homeowners association or to a member.
- (3) Order a board member to be removed from the board.
- (4) Order a board member to reimburse the state for the reasonable costs of the attorney general's investigation and prosecution of the violation.

SECTION 11. IC 32-25.5-3-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 9. The governing documents must contain a provision allowing the owners to amend the governing documents at any time, from time to time, subject to the following:**

(1) The declarant's consent to an amendment may be required if:

- (A) the declarant owns one (1) or more units within the subdivision; and
- (B) not more than seven (7) years have passed since the original governing documents were first recorded.

(2) The consent of the owners to the amendment has been obtained as evidenced by either of the following:

- (A) The vote of the owners at a meeting duly called for the purpose of considering the amendment.
- (B) A written instrument signed by the owners.

The governing documents may not require that the consent of more than seventy-five percent (75%) of the owners is required for consent under this subdivision.

(3) The consent of the eligible mortgage holders, as defined in the governing documents. The consent of an eligible mortgage holder must be indicated in a written instrument signed by the mortgage holder. However, a mortgage holder is considered



to have consented to a proposed amendment if the mortgage holder does not respond to a written request for consent within thirty (30) days after the mortgage holder receives the request. The governing documents may not require that the consent of more than seventy-five percent (75%) of the eligible mortgage holders is required for consent under this subdivision.

(4) Notwithstanding subdivisions (1) through (3), the governing documents may require the approval of at least ninety-five percent (95%) of the owners to convey common areas or to dissolve the plan of governance for the homeowners association.

SECTION 12. IC 32-25.5-3-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 10. (a) This section applies to a proxy given by a member of a homeowners association.**

**(b) A proxy that does not comply with this subsection is void. A proxy must include all the following:**

- (1) The name and address of the member giving the proxy.**
- (2) The name of the individual empowered to exercise the member's proxy.**
- (3) The date on which the proxy is given.**
- (4) The date of the meeting for which the proxy is given.**
- (5) The member's signature.**
- (6) An affirmation under the penalties for perjury that the individual signing the proxy has the authority to grant the proxy to the individual named in the proxy to exercise the member's proxy.**

**(c) A member may state in a proxy that the proxy is limited in its use to specific matters described in the proxy.**

**(d) A member may give a proxy for the meeting referred to in subsection (b)(4) and any continuation of that meeting, if the proxy states that it expires on a stated date that may not be more than one hundred eighty (180) days after the date on which the proxy is given.**

**(e) A member may create and use a proxy form designed by the member if the form complies with the requirements of subsection (b).**

**(f) A proxy, or a copy of the proxy, that is exercised for any purpose at a meeting must be kept with the records of the meeting.**

SECTION 13. IC 32-25.5-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]:

**Chapter 4. Attorney General Actions**

**Sec. 1. The attorney general may bring an action against a board of a homeowners association or an individual member of a board of a homeowners association if the attorney general finds that any of the following apply:**

- (1) The association's funds have been knowingly or intentionally misappropriated or diverted by a board member.**
- (2) A board member has knowingly or intentionally used the board member's position on the board to commit fraud or a criminal act against the association or the association's members.**
- (3) A proxy was exercised in violation of IC 32-25.5-3-10.**
- (4) A violation of IC 32-25.5-3-3 has occurred.**

**Sec. 2. (a) A court in which an action is brought under this chapter may do the following:**

- (1) Issue an injunction.**
- (2) Order the board member to make restitution to the homeowners association or to a member of the homeowners association.**
- (3) Order a board member to be removed from the board.**
- (4) Order a board member to reimburse the state for the reasonable costs of the attorney general's investigation and prosecution of the violation.**
- (5) Impose a civil penalty on a member of the board of a homeowners association determined by the court to have taken an action described in section 1(1) or 1(2) of this chapter.**

**(b) A civil penalty imposed under subsection (a)(5) may not exceed five hundred dollars (\$500) for each action described in section 1(1) or 1(2) of this chapter that the board member is determined by the court to have taken. The proceeds of a civil penalty imposed under subsection (a)(5) shall be deposited in the state general fund.**

SECTION 14. IC 32-25.5-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 5. Grievance Resolution**

**Sec. 1. This chapter does not apply to an exempt claim unless the parties agree that this chapter is applicable to the exempt claim.**

**Sec. 2. (a) As used in this chapter, "claim" refers to any of the**



following:

- (1) A claim arising out of or relating to the interpretation, application, or enforcement of the governing documents.
- (2) A claim relating to the rights or duties of the association of co-owners or the board under the governing documents.
- (3) A claim relating to the maintenance of the subdivision.
- (4) Any other claim, grievance, or dispute among the parties involving the subdivision or the homeowners association.

(b) The term does not include an exempt claim.

Sec. 3. As used in this chapter, "claimant" refers to a party who has a claim against another party.

Sec. 4. As used in this chapter, "exempt claim" refers to any of the following claims or actions:

- (1) A claim by the homeowners association for assessments or dues and any action by the association to collect assessments or dues.
- (2) An action by a party to obtain a temporary restraining order or equivalent emergency equitable relief:
  - (A) to maintain the status quo and preserve the party's ability to enforce the governing documents; or
  - (B) when an emergency condition exists that jeopardizes the health or safety of any of the residents within the community governed by the homeowners association.
- (3) A suit to which an applicable statute of limitations would expire within the notice period. This subdivision does not apply if a party against which the claim is made agrees to toll the statute of limitations as to the claim for the period reasonably necessary to comply with this chapter.
- (4) A dispute that is subject to mediation, arbitration, or other alternate dispute resolution under applicable law, contract, warranty agreement, or other instrument.
- (5) A claim that is substantively identical to a claim:
  - (A) that was previously addressed by the parties; or
  - (B) that was resolved by a judicial determination in favor of one (1) of the parties.

Sec. 5. As used in this chapter, "legal proceedings" refers to either of the following:

- (1) An action maintained in a court.
- (2) An administrative proceeding initiated under an applicable law.

Sec. 6. As used in this chapter, "party" refers to any of the following:



- (1) The homeowners association.
- (2) A member of the homeowners association.
- (3) The board.

**Sec. 7.** As used in this chapter, "respondent" refers to the party against whom a claimant has a claim.

**Sec. 8.** The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.

**Sec. 9.** A claimant may not initiate a legal proceeding seeking redress or resolution of a claim until the claimant has complied with the procedures described in this chapter.

**Sec. 10.** A claimant must provide notice of the claim to the respondent, stating plainly and concisely the following information:

- (1) The nature of the claim, including the date, time, location, persons involved, and the respondent's role in the claim.
- (2) The basis of the claim, including the provision of the governing documents or other authority out of which the claim arises.
- (3) What the claimant wants the respondent to do or not to do to resolve the claim.
- (4) That the respondent has a right to meet with the claimant, if the respondent makes a written request for a meeting.
- (5) The name and address of the person from whom the respondent must request a meeting under subdivision (4).

**Sec. 11. (a)** This section applies if a respondent has requested a meeting under section 10 of this chapter not later than ten (10) business days after the date of the notice of the claim given under section 10 of this chapter.

**(b)** The claimant and the respondent shall meet in person to resolve the claim by good faith negotiation, at the time and place agreed to by the claimant and the respondent.

**(c)** During the meeting, the parties must have full access to the property that is the subject of the claim to inspect the property, if appropriate or necessary. If the respondent agrees to take corrective action, the claimant must provide the respondent and the respondent's agents with full access to the property to take and complete corrective action.

**Sec. 12. (a)** The parties are considered to be at an impasse if:

- (1) the respondent does not request a meeting under section 10 of this chapter;
- (2) either party fails to attend a meeting agreed upon under





section 11 of this chapter; or

(3) the parties are unable to settle the claim at a meeting held under section 11 of this chapter.

(b) Either party may, not later than ten (10) days after an impasse is reached, request in writing to the other party that the other party submit the claim to mediation or binding arbitration.

(c) The party making the request under subsection (b) is responsible for the costs of the mediator or arbitrator.

**Sec. 13. If an impasse is reached and:**

(1) neither party requests mediation or arbitration; or

(2) mediation or arbitration does not result in a settlement of the claim;

the claimant may begin legal proceedings.

**Sec. 14. (a) This section applies if a claim is settled through negotiation, mediation, or arbitration.**

(b) The settlement of the claim must be documented in a written agreement signed by each of the parties.

(c) If a party fails to abide by the settlement agreement signed under subsection (b), the other party may begin legal proceedings without again complying with this chapter.

(d) If a party who begins legal proceedings under subsection (c) prevails in those legal proceedings, the party is entitled to recover from the other party:

(1) court costs;

(2) attorney's fees; and

(3) all other reasonable costs incurred in enforcing the settlement agreement.

**Sec. 15. A release or discharge of a respondent from liability to the claimant with respect to the claim does not release or discharge the respondent with respect to any other person who is not a party to the claim.**

**Sec. 16. The board, on behalf of the homeowners association, and without the consent of the members of the homeowners association, may do any of the following:**

(1) Negotiate settlements of claims or legal proceedings under this chapter.

(2) Execute settlement agreements, waivers, releases of claims, or any other documents resulting from application of this chapter.

**Sec. 17. Except as otherwise provided in this chapter, each party shall bear its own costs for application of this chapter, including attorney's fees.**



\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1286 — Concur**

