

State of Wisconsin



2021 Senate Bill 865

Date of enactment: **March 18, 2022**

Date of publication*: **March 19, 2022**

2021 WISCONSIN ACT 199

AN ACT *to create* 182.01 (7) and 710.18 of the statutes; **relating to:** regulating homeowners' associations and requiring the Department of Financial Institutions to create a filing system for notices filed by homeowners' associations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 182.01 (7) of the statutes is created to read:

182.01 (7) HOMEOWNERS' ASSOCIATION FILING SYSTEM. (a) The department shall establish and maintain a statewide searchable filing system for notices filed under s. 710.18 (3) (e). The department shall design the system to function in a manner similar to the department's corporate record filing system, including display of search result information in a manner similar to the way search results are displayed in the department's corporate record filing system. The department shall establish a process to allow corporate filings to be accomplished simultaneously or in conjunction with filings under s. 710.18 (3).

(b) The department may establish a fee not exceeding \$25 for filing a notice under s. 710.18 (3) (e). The department's system shall allow public users to search the system's database of filings without charge.

(c) The department shall prescribe a form for filing notices under s. 710.18 (3) (e) that includes all information specified in s. 710.18 (3) (e) 1. to 4.

SECTION 2. 710.18 of the statutes is created to read:
710.18 Homeowners' associations; regulation. (1)
DEFINITIONS. In this section:

(a) "Assessment" means a regular or special charge or fee for common expenses, or a charge, fee, or fine against a specific residential lot or residential lot owner, that an association is authorized to levy or impose under the covenants and restrictions for a residential planned community.

(b) "Association" means an entity that is created to manage or regulate, or to enforce covenants and restrictions for, a residential planned community and that consists of members, stockholders, or other owners substantially all of whom are owners of residential lots that are part of the residential planned community. "Association" does not include a condominium association, as defined in s. 703.02 (1m).

(c) 1. "Covenants and restrictions" means a declaration, covenant, or other instrument, including any amendments to the declaration, covenant, or instrument, that describes a residential planned community and that does all of the following:

a. Provides for restrictions on or requirements for residential lots that are part of the residential planned community, such as restrictions or requirements regarding allowable structures; building setbacks; architectural standards; fence restrictions; or the use, occupancy, appearance, or maintenance of property.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

b. Provides that the residential planned community is managed or regulated by an association or that an association enforces the instrument on behalf of the residential planned community.

c. Provides that the restrictions or requirements described under subd. 1. a. run with the land.

2. "Covenants and restrictions" does not include a condominium declaration, as defined in s. 703.02 (8).

(d) "Residential lot" means a parcel of residential real estate that is part of a residential planned community. "Residential lot" does not include an outlot.

(e) "Residential lot owner" means a person, or combination of persons, that holds legal title to a residential lot in a residential planned community or that has equitable ownership as a land contract vendee.

(f) "Residential planned community" means real estate that includes one or more residential lots and that is described in covenants and restrictions.

(2) COVENANTS AND RESTRICTIONS. (a) *Recording required.* If an association is created to manage or regulate, or to enforce covenants and restrictions for, a residential planned community, the covenants and restrictions shall be recorded with the register of deeds in every county in which the residential planned community is located.

(b) *Posting on Internet site.* Beginning on January 1, 2023, if the association for a residential planned community maintains an Internet site on which information related to the residential planned community is available to the public, the association shall post the covenants and restrictions for the residential planned community on the Internet site.

(3) PUBLIC NOTICES REGARDING ASSOCIATIONS. (a) *New associations.* An association created on or after the effective date of this paragraph [LRB inserts date], shall file a notice under par. (e) no later than 30 days after the association is created.

(b) *Existing associations.* An association existing on the effective date of this paragraph [LRB inserts date], shall file a notice under par. (e) no later than 30 days after the effective date of this paragraph [LRB inserts date].

(c) *Annual renewals.* Each association that files a notice required under par. (a) or (b) annually shall file a renewal notice under par. (e) no later than the deadline established by the department of financial institutions.

(d) *Requirement to update public information.* If any information contained in a notice filed under this subsection changes, the association shall file an amended notice under par. (e) to update the information no later than 30 days after the date on which the change occurs.

(e) *Form and contents of public notices.* An association shall file a notice under par. (a) or (b), a renewal notice under par. (c), or an amended notice under par. (d) with the department of financial institutions on a form prescribed by the department under s. 182.01 (7) (c). The notice shall contain all of the following information:

1. The name and mailing address of the association and, if applicable, the name and mailing address of any management company for the association.

2. The name of the county and the city, village, or town in which the residential planned community is located.

3. The name, mailing address, and electronic mail address or daytime telephone number for an individual who is authorized to respond on behalf of the association to requests for copies of the covenants and restrictions and other information and documentation related to the residential planned community.

4. If the association posts information related to the residential planned community on an Internet site, the address of the Internet site.

(f) *Penalty for noncompliance.* 1. If an association fails to file a notice required under this subsection, the association may not do any of the following until the association files the required notice:

a. Charge a late fee or other fine for any unpaid assessments owed by any residential lot owner.

b. Charge a fee in connection with any transfer of ownership of a residential lot that the association would otherwise be authorized to charge under the covenants and restrictions for the residential planned community.

2. Any prohibited action taken by an association during a period of noncompliance under this paragraph is void and unenforceable.

(4) NOTICE OF ASSOCIATION MEETINGS REQUIRED. The association of a residential planned community shall provide notice of any meeting of the association at least 48 hours before the meeting. Unless the covenants and restrictions for the residential planned community provide otherwise, the association shall provide notice by doing all of the following:

(a) Providing written notice of the meeting to all residential lot owners.

(b) Sending notice of the meeting to the last-known electronic mail address for each residential lot owner.

(c) Sending notice of the meeting by 1st class mail to the last-known post-office address for each residential lot owner.

(d) If the association posts information related to the residential planned community on an Internet site or a mobile device application, posting notice of the meeting on the Internet site.

(e) If the residential planned community has an improved area that is accessible to all residential lot owners, posting notice of the meeting in at least one such area.

(5) LIMITATION ON FEES FOR PROVIDING DOCUMENTATION. If the association for a residential planned community furnishes copies of the covenants and restrictions related to the residential planned community upon request by a residential lot owner, the association may not, unless the covenants and restrictions provide otherwise, charge the residential lot owner an amount that

exceeds the actual costs of furnishing the information or \$50, whichever is less.

(6) **FAILURE TO PAY ASSESSMENTS; NOTICE OF SUSPENSION OF RIGHTS.** If the covenants and restrictions for a residential planned community authorize the association to suspend certain rights of a residential lot owner for failure to timely pay assessments or other amounts owed to the association, the association may, unless the covenants and restrictions provide otherwise, suspend those rights only after the association provides the residential lot owner a written notice identifying the rights the association intends to suspend and the actions the residential lot owner may take to avoid that suspension.

(7) **PAYOFF STATEMENTS; LIMITATION ON FEES.** (a) *Definition.* In this subsection, “payoff statement” means a document that sets forth the total amount necessary, as of a date specified in the document, to satisfy all monetary obligations, including unpaid assessments, owed by a residential lot owner to the association in connection with a particular residential lot.

(b) *Request for payoff statement; deadline.* A residential lot owner may submit to the association a written request for a payoff statement for a specified date not more than 30 days after the request is submitted. The association shall provide a payoff statement to the residential lot owner within 10 business days after the request is submitted.

(c) *Fees.* 1. Except as provided under subds. 2. and 3., an association shall provide one payoff statement requested under par. (b) with respect to a residential lot without charge during any 2–month period. The association may charge a fee not to exceed \$25 for each additional payoff statement requested for the residential lot during that 2–month period.

2. An association may charge a fee for providing the first payoff statement within a 2–month period described under subd. 1. if the association does all of the following:

a. Holds a meeting at which the association will consider whether to establish the fee and set the amount of the fee.

b. Provides written notice of the meeting held under subd. 2. a. as provided under sub. (4).

c. Adopts a written resolution at the meeting held under subd. 2. a. to establish the fee or set the amount of the fee, or both.

d. No later than 48 hours after adopting the resolution under subd. 2. c., provides written notice to residential lot

owners that the association established the fee or set the amount of the fee, or both.

3. If an association establishes a fee under subd. 2., the association may increase the amount of the fee only by following the procedure under subd. 2. a. to d.

4. An association’s failure to provide a notice required under subd. 2. b. or d. does not affect the right of the association to charge the fee established or increased under subd. 2. or 3.

(d) *Damages.* If an association to which a request is submitted under par. (b) does not provide a payoff statement within the deadline described under par. (b), the association is liable to the residential lot owner for any actual damages caused by the association’s failure or \$350, whichever is less.

SECTION 3. Nonstatutory provisions.

(1) STATEWIDE FILING SYSTEM.

(a) The department of financial institutions shall establish the statewide searchable filing system under s. 182.01 (7) (a) no later than January 1, 2023.

(b) If the department of financial institutions establishes the statewide searchable filing system under s. 182.01 (7) (a) before January 1, 2023, the department shall notify the legislative reference bureau of that establishment. The legislative reference bureau shall publish a notice in the Wisconsin Administrative Register that specifies that date.

SECTION 4. Initial applicability.

(1) PUBLIC NOTICES REGARDING ASSOCIATIONS; PENALTY FOR NONCOMPLIANCE.

(a) Except as provided under par. (b), the treatment of s. 710.18 (3) (f) first applies to a fee, late fee, or other fine charged on the effective date of this paragraph.

(b) If the fee, late fee, or other fine described under s. 710.18 (3) (f) is authorized under covenants and restrictions, as defined in s. 710.18 (1) (c), that contain provisions inconsistent with the treatment of s. 710.18 (3) (f), that treatment first applies on the day on which the covenants and restrictions are extended, modified, or renewed, whichever occurs first.

SECTION 5. Effective dates. This act takes effect on the day after publication, except as follows:

(1) **STATEWIDE FILING SYSTEM; PUBLIC NOTICES REGARDING ASSOCIATIONS.** The treatment of s. 710.18 (3) and SECTION 4 (1) of this act take effect on the date specified in the notice published in the Wisconsin Administrative Register under SECTION 3 (1) (b) of this act or on January 1, 2023, whichever is earlier.