
Wisconsin Legislative Council

AMENDMENT MEMO



Memo published: February 14, 2022

Contact: Scott Grosz, Principal Attorney

2021 Senate Bill 865

**Senate
Amendment 1**

2021 SENATE BILL 865

2021 Senate Bill 865 creates a statutory framework for the regulation of homeowners' associations of certain residential planned communities. Among the regulations, a homeowners' association subject to this framework must:

- Record its covenants and restrictions with the register of deeds.
- Post its covenants and restrictions on its internet site, if the association maintains an internet site on which information related to the residential planned community is available to the public.
- File notice with the Department of Financial Institutions (DFI), including the name and contact information of an individual who is authorized to provide information on behalf of the homeowners' association, and update this notice on an annual basis. The bill directs DFI to maintain a statewide searchable filing system for such notices. Additionally, under the bill, failure to file a required notice precludes an association from charging late fees for unpaid assessments as well as any fees in connection with transfer of ownership during the period of noncompliance.
- Provide notice of meetings of the homeowners' association to the residential lot owners within the association at least 48 hours before each meeting.
- If providing copies of documents, charge the lesser of actual costs or \$50, unless higher amounts are authorized by the community's covenants and restrictions.
- Provide written notice to a residential lot owner prior to suspension of any of the owner's rights for failure to timely pay assessments, unless suspension without notice is authorized by the community's covenants and restrictions.
- Provide a payoff statement to a residential lot owner within 10 business days of a request by the owner. The bill also specifies the fees the association may charge for the payoff statement and damages owed to the owner by the association for failure to provide a timely payoff statement.

SENATE AMENDMENT 1

Senate Amendment 1 modifies the bill with respect to its creation of a homeowners' association filing system by DFI; its definition of an "association" subject to the regulatory framework of the bill; its requirements for disclosures of internet sites maintained by an association; its requirements for posting notice of an association meeting; and its limits on fees that may be charged for copies of documents.

Homeowners' Association Filing System

As described above, the bill requires a homeowners' association to file annual notice with DFI, and requires DFI to maintain a statewide searchable filing system for such notices. Senate Amendment 1

directs DFI to establish a process to allow corporate filings to be accomplished simultaneously or in conjunction with the notice filings required by the bill.

Definition of “Association”

For purposes of regulation under the bill, a homeowners’ 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.” The bill also specifies that an “association” includes a management company acting on behalf of the entity, but that the term does not include a condominium association.

Senate Amendment 1 removes the reference to a management company from the bill’s definition of “association.”

Contents of DFI Notice

Under the bill, if a homeowners’ association maintains an internet site on which information related to the residential planned community is available to the public, the address of the internet site must be included on the notices filed with DFI by the homeowners’ association.

Senate Amendment 1 removes the reference to public availability of the internet site. Accordingly, under the amendment, the address of an internet site maintained by an association must be included on notices filed with DFI without regard to whether the site is available to the public.

Contents of Association Meeting Notice

Under the bill, when notice of an association meeting is required, and unless the covenants and restrictions provide otherwise, such notice must be provided via several specified methods. If an association posts information related to a residential planned community on an internet site that is available to the public, those methods include posting notice of the meeting on that internet site.

With regard to this meeting notice requirement, Senate Amendment 1 removes the reference to public availability of the internet site and substitutes reference to a mobile device application. Thus, under the amendment, if an association posts information related to a residential planned community on an internet site or a mobile device application, notice of an association meeting must be posted on the internet site.

Limits on Document Fees

Under the bill, if a homeowners’ association furnishes copies of the covenants and restrictions, or other information and documentation related to a residential planned community, it may charge a residential lot owner the lesser of actual costs or \$50 for those copies, unless higher amounts are authorized by the community’s covenants and restrictions.

Senate Amendment 1 removes references to “other information and documentation” with respect to the fee limit. Accordingly, under the amendment, only the furnishing of copies of the covenants and restrictions are subject to the fee limits of the bill.

BILL HISTORY

Senator Ballweg offered Senate Amendment 1 on February 4, 2022. On February 9, 2022, the Senate Committee on Housing, Commerce and Trade recommended adoption of the amendment, and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

SG:jal