

FIFTY-THIRD LEGISLATURE  
FIRST SESSION

March 16, 2017

SENATE FLOOR AMENDMENT number   1   to HOUSE JUDICIARY COMMITTEE  
SUBSTITUTE FOR HOUSE LOCAL  
GOVERNMENT, ELECTIONS, LAND  
GRANTS AND CULTURAL AFFAIRS  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 374, as amended

Amendment sponsored by Senator Mimi Stewart

1. Strike Item 1 of House Floor Amendment number 1.
2. On page 1, line 13, after the semicolon, insert "BROADENING THE APPLICABILITY OF THE HOMEOWNER ASSOCIATION ACT;".
3. On page 9, between lines 7 and 8, insert:
  - "B. Within ninety days after being elected or appointed to the board, each board member shall certify in writing to the secretary of the association that the member:
    - (1) has read the community documents;
    - (2) will work to uphold the community documents and policies to the best of the member's ability; and
    - (3) will faithfully discharge the member's duties to the association.
  - C. A board member who does not file the written certification pursuant to Subsection B of this section shall be suspended from the board until the member complies with Subsection B of this section.
  - D. The association shall retain each board member's

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written certification for inspection by lot owners for five years after the board member's election or appointment. The failure of an association to have a board member's written certification on file does not affect the validity of any action taken by the board or any protections provided to board members under the:

(1) Homeowner Association Act; or

(2) Nonprofit Corporation Act, if the association is organized under the Nonprofit Corporation Act.".

4. Reletter the succeeding subsections accordingly.

5. On page 9, between lines 12 and 13, insert:

"F. The board shall provide to all lot owners a statement included with a copy of the annual budget listing all fees and fines that may be charged to a lot owner by the association or any management company retained by the association to act on behalf of the association, including charges for a disclosure certificate pursuant to Subsection H of Section 47-16-12 NMSA 1978.".

6. Reletter the succeeding subsection accordingly.

7. On page 14, between lines 22 and 23, insert the following new section:

"SECTION 7. Section 47-16-15 NMSA 1978 (being Laws 2013, Chapter 122, Section 15, as amended) is amended to read:

"47-16-15. APPLICABILITY.--

A. Except as provided in [~~Subsections B and C~~] Subsection B of this section, the Homeowner Association Act shall apply to all homeowner associations created and existing within this state.

B. Sections 47-16-9, 47-16-10 and 47-16-14 NMSA 1978 do

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not apply to homeowner associations created before July 1, 2013 and that have fewer than thirty lots; provided that any amendment to the community documents of an association created before July 1, 2013 shall comply with the Homeowner Association Act.

~~[G. Except as provided in Sections 47-16-4 and 47-16-8 NMSA 1978 and Section 2 of this 2015 act the Homeowner Association Act does not invalidate existing provisions of the articles of incorporation, declaration, bylaws or rules of a homeowner association created before July 1, 2013.~~

~~D.] C.~~ The Homeowner Association Act does not apply to a condominium governed by the Condominium Act.""

8. Renumber the succeeding sections accordingly.

9. On page 18, between lines 9 and 10, insert the following new section:

"SECTION 11. TEMPORARY PROVISION.--All homeowner associations created prior to July 1, 2013 shall comply with the provisions of the Homeowner Association Act no later than January 1, 2018."

10. Renumber the succeeding section accordingly.

\_\_\_\_\_  
Mimi Stewart

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

