

State of New Mexico
Senate

FIFTY-SEVENTH LEGISLATURE
SECOND SESSION

February 11, 2026

SENATE FLOOR AMENDMENT number 1 to SENATE HEALTH AND PUBLIC
AFFAIRS COMMITTEE
SUBSTITUTE FOR SENATE BILL
96

Amendment sponsored by Senator Heather Berghmans

1. On page 9, strike lines 14 through 25, strike page 10 and on page 11, strike lines 1 through 24 and insert in lieu thereof:

"SECTION 4. Section 47-16-18 NMSA 1978 (being Laws 2019, Chapter 30, Section 10) is amended to read:

"47-16-18. ENFORCEMENT OF COVENANTS--DISPUTE RESOLUTION--
REGISTERED CHILD CARE HOMES--LICENSED FAMILY CHILD CARE HOMES--
LICENSED GROUP CHILD CARE HOMES--CONFLICTS.--

A. Each association and each lot owner and the owner's tenants, guests and invitees shall comply with the ~~[Homeowners]~~ Homeowner Association Act and the association's community documents.

B. Notwithstanding the provisions of Subsection A of this section:

(1) an association shall not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document or master deed provision or take any other action that effectively prohibits, unreasonably restricts or limits, directly or indirectly, the use of a lot as a child care home. Any such adoption or enforcement shall not be deemed a de facto prohibition solely because it imposes reasonable requirements that are uniformly applied to and imposed on all lot owners in the association and is not directed at prohibiting, restricting or limiting child care homes;

(2) an association shall not require, assess or

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collect a fee, tax or assessment on a child care home or for the operation of a child care home that is not also required, assessed or collected on all other lots within the same association, except for generally applicable fees or assessments reasonably related to actual, documented costs or impacts and imposed uniformly on all lot owners in the association; and

(3) in the event of a conflict between an association's restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document or master deed provision and the early childhood education and care department's registration or licensing requirements for a child care home, that department's requirements shall take precedent to the extent necessary to allow compliance with state licensing requirements, and the association shall provide reasonable accommodations for requirements applicable to child care homes; provided that such accommodations do not materially impair the association's ability to protect the health, safety or property of the association's lot owners.

C. Nothing in this section prohibits an association from adopting or enforcing on all lot owners uniformly applied restrictions, covenants, conditions, bylaws, rules or regulations that apply equally to all lot owners in the association and do not restrict child care homes to any greater degree than any other lot owner, including restrictions, covenants, conditions, bylaws, rules or regulations regarding:

- (1) parking and traffic;
- (2) noise or nuisance impacts;
- (3) safety and security measures;
- (4) architectural or exterior appearance standards;

or

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(5) use, scheduling or access to common elements.

D. Compliance with state child care licensing or registration requirements shall not exempt a licensed child care home from compliance with association rules that do not conflict with those requirements.

~~[B.]~~ E. Unless otherwise provided for in the community documents, the association may, after providing written notice and an opportunity to dispute an alleged violation other than failure to pay assessments:

(1) levy reasonable fines for violations of or failure to comply with any provision of the community documents; and

(2) suspend, for a reasonable period of time, the right of a lot owner or the lot owner's tenant, guest or invitee to use common areas and facilities of the association.

~~[G.]~~ F. Prior to imposition of a fine or suspension, the board shall provide an opportunity to submit a written statement or for a hearing before the board or a committee appointed by the board by providing written notice to the person sought to be fined or suspended fourteen days prior to the hearing. Following the hearing or review of the written statement, if the board or committee, by a majority vote, does not approve a proposed fine or suspension, neither the fine nor the suspension may be imposed. Notice and a hearing are not required for violations that pose an imminent threat to public health or safety.

~~[D.]~~ G. If a person against whom a violation has been alleged fails to request a hearing or submit a written statement as provided for in Subsection ~~[E]~~ F of this section, the fine or suspension may be imposed, calculated from the date of violation.

~~[E.]~~ H. A lot owner or the association may use a process other than litigation used to prevent or resolve disputes, including

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mediation, facilitation, regulatory negotiation, settlement conferences, binding and nonbinding arbitration, fact-finding, conciliation, early neutral evaluation and policy dialogues, for complaints between the lot owner and the association or if such services are required by the community documents.

I. As used in this section, "child care home" means a registered child care home, licensed family child care home or licensed group child care home as defined in Section 9-29-2 NMSA 1978."



Heather Berghmans

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____