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Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2394

Introduced by

Senators Wanzek, Sickler, Dwyer

A BILL for an Act to create and enact a new chapter to title 47 of the North Dakota Century Code, relating to association community bylaws and board of directors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 47 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Association" means a nonprofit corporation, nonprofit limited liability company, or other entity of owners created to own or operate portions of an association community, in which membership is based upon owning or possessing an interest in real property.
2. "Board" means the board of directors with the duty of managing and governing the association.
3. "Financial disclosure" means the accounting records of the association which are kept, disclosed, and made available in accordance with this chapter.
4. "Member" means an individual owning or possessing an interest in real property governed by an association.

Bylaws - Requirements.

1. The operation of an association must be governed by the articles of incorporation and the bylaws.
2. The association shall adopt bylaws upon formation to govern the management and regulation of the association. The bylaws of an association shall:
   a. Adopt and describe the form of the board, including the powers, duties, and manner of selection and removal.
   b. Provide for member meetings.

c. Provide for a written inquiry process for members, under which the board shall issue a response to any inquiry within thirty days.

d. Require the adoption of an annual budget.

e. Require the adoption of a formal reserve fund.

f. Require financial disclosures and compiled financial statements under generally accepted accounting principles.

g. Require a member to carry adequate insurance to cover the replacement cost of all exterior and interior structures under member ownership.

h. Provide for a method of amending the bylaws.

3. An association shall consult legal counsel at least once every seven years to ensure the association's compliance with this chapter and the bylaws and to review the bylaws.

4. Financial disclosures and statements must be made available to a member upon request.

Board - Duties.

1. The board must consist of at least three members and shall meet at least quarterly. Notice of a meeting must be given in the manner provided under section 10-33-68.

2. The board shall adopt the annual budget at least fourteen days before the start of the association's fiscal year. The annual budget must include:

a. Estimated revenues;

b. Detailed and classified expenses, including expenses for:

(1) Maintenance;

(2) Insurance; and

(3) Taxes; and

c. Reserve accounts for capital expenditures and deferred maintenance.

3. The board shall manage a formal reserve fund to provide for necessary capital expenditures and deferred maintenance costs for all real property elements under association ownership. The amount to be reserved must be calculated using a formula based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of a deferred item. The association shall adjust replacement reserve assessments annually to reflect adjustments needed for inflation,

changes in estimates, or extension of the useful life of a reserve item caused by deferred maintenance. Capital expenditure and deferred maintenance accounts must include funds for purposes of:

a. Roof replacement;

b. Exterior and interior building painting and maintenance;

c. Pavement resurfacing; and

d. Any other item that has a deferred maintenance expense or replacement cost that exceeds ten thousand dollars.

4. The board shall obtain the signature of at least two board members for any expenditure of the board over ten thousand dollars.

5. The board shall maintain adequate insurance to cover the replacement cost for all real property elements held by the association. Insurance must be updated annually to adjust for inflation.