

RÉSUMÉ DIGEST

ACT 158 (SB 23)

2024 Regular Session

Miller

Existing law (C.C. Art. 783) provides that the La. Homeowners Association Act shall supersede the building restriction articles of the Civil Code in the event of a conflict.

New law retains existing law but changes the reference from the Homeowners Association Act to the Planned Community Act.

Prior law (R.S. 9:1141.1-1141.9) provided for the La. Homeowners Association Act.

New law (R.S. 9:1141.1-1141.50) creates the La. Planned Community Act modeled after the 2008 Uniform Common Interest Ownership Act.

Existing law (R.S. 9:1141.1-1141.3) provides general provisions such as a short title, definitions, and applicability.

New law retains a short title, adds several defined terms, and provides for applicability.

New law provides that new law shall only apply to associations that are organized for planned communities and does not require existing associations prior to the effective date of new law to amend or change its organization or community documents.

Existing law (R.S. 9:1141.4-1141.7) provides for the creation, amendment, and termination of building restrictions and also provides voting procedures.

New law (R.S. 9:1141.4) provides for the creation of a planned community by executing a declaration that is filed for registry.

New law (R.S. 9:1141.5) provides for the contents of the declaration to identify the planned community and describe development rights and other special declarant rights.

New law further provides that the declaration may contain the method to amend and make assessments.

New law (R.S. 9:1141.6) provides for the allocation and reallocation of common expense liabilities, common surpluses, and voting interests in the association. New law further provides that nothing in new law requires an existing planned community to amend its method of allocating assessments.

New law (R.S. 9:1141.7) provides procedures for a declarant to exercise or transfer any reserved development rights. New law provides for a seven year period to add additional immovable property to the planned community.

New law (R.S. 9:1141.8) requires the declaration to provide for the ownership of limited common areas.

New law (R.S. 9:1141.9) sets forth what information is required to be on the plat including such items as the name of the community, any encroachments, and all servitudes.

New law also requires the plat to be made a professional land surveyor.

New law (R.S. 9:1141.10 and 1141.11) authorizes the relocation of lot boundaries and the subdivision of lots upon the request of lot owners and with the proper approval.

New law (R.S. 9:1141.12 and 1141.13) allows the declarant to maintain a sales office and models on lots owned by the declarant and grants the declarant a personal servitude of use on the common areas to discharge obligations or exercise special declarant rights.

New law (R.S. 9:1141.14) requires certain voting procedures to amend the declaration and restricts certain types of actions from being taken by amendment, such as prohibiting an existing use of a lot. New law authorizes the adoption of more burdensome restrictions when special conditions are met.

New law further provides that an association may adopt by two-thirds vote more burdensome restrictions governing construction, design criteria, and aesthetic standards, but existing improvements do not have to comply with new restrictions.

New law (R.S. 9:1141.15) provides that a community may be terminated by a two-thirds vote and that the existence of the association is not affected by termination. New law further provides that all proceeds from transfers of ownership of common areas and other property shall be paid to the association for the benefit of lot owners.

New law (R.S. 9:1141.16) provides for the rights of secured parties to approve certain actions of the lot owners but does not allow creditors to control the association's general affairs, establish or impose assessments, prevent the settlement of litigation, or prevent the distribution of insurance proceeds.

New law (R.S. 9:1141.17 and 1141.18) provides for master associations and combining planned communities.

Existing law (R.S. 9:1141.8-1141.9) provides for the enforcement of the community documents and the establishment of a homeowners association privilege.

New law (R.S. 9:1141.19 and 1141.20) provides for the organization of a lot owners association as a nonprofit corporation and provides for the powers and duties of the association, including adopting bylaws, preparing a yearly budget, entering into contracts, receiving assessments, imposing fees and fines, and indemnifying officers and the board of directors.

New law prohibits the association from denying a lot owner access to his property or withholding services necessary for the owner's health, safety, or property.

New law (R.S. 9:1141.21) provides for the powers and duties of the board of directors and the officers of the association. New law prohibits the board from amending the declaration or the bylaws and from terminating the planned community.

New law (R.S. 9:1141.22) provides for the period of declarant control of the association and the termination thereof.

New law (R.S. 9:1141.23) provides for the transfer of special declarant rights and the transferor's and transferee's obligations and liabilities.

New law (R.S. 9:1141.24) provides for the termination of contracts entered into by the association while under declarant control.

New law (R.S. 9:1141.25) provides for the bylaws of the association to address the number of members on the board, the method of electing officers and the required qualifications, and their powers.

New law (R.S. 9:1141.26-1141.28) provides requirements for association meetings including proper notice, quorums, opportunities for comments, location, executive sessions, emergency meetings, availability of materials, quorum requirements, voting procedures, and access to association records.

New law (R.S. 9:1141.29) provides for the transfer or encumbrance of common areas and the right to receive assessments or other income.

New law (R.S. 9:1141.30) provides insurance requirements for the planned community.

New law (R.S. 9:1141.31 and 1141.32) provides for the assessment procedure and the distribution of any surplus funds. New law provides for the acceleration of assessments for the failure to timely pay and enforcement of the privilege.

New law (R.S. 9:1141.33) provides for the upkeep of the community and access for maintenance and repairs.

New law (R.S. 9:1141.34) requires the annual adoption of a budget for communities with 25 lots or more, but it does not require a specific format. New law provides for special assessments and emergency special assessments.

New law (R.S. 9:1141.35) provides for privileges in favor of the association for any assessments and fines imposed against lot owners.

New law (R.S. 9:1141.36) requires the association to maintain certain records such as meeting minutes, financial statements, and annual reports, and provide access to records to lot owners, lot owner's agent, or persons with a valid contract of sale.

New law (R.S. 9:1141.37) authorizes the adoption, amendment, or repeal of association rules.

New law (R.S. 9:1141.38) provides that notice to lot owners may be achieved by U.S. mail, electronic mail, hand delivery, or any other method that will provide reasonable notice.

New law (R.S. 9:1141.39) provides for the removal of officers and directors by majority vote.

New law (R.S. 9:1141.40) provides for the retroactivity of the corporate existence of an association.

New law (R.S. 9:1141.41-1141.50) provides consumer protections through the requirement of a public offering statement, granting the purchaser a right to cancel, express and implied warranties, and authorizing the court to award attorney fees for violations.

New law (R.S. 9:1141.49) requires the declarant to complete all improvements depicted on any site plan, other than those labeled "NEED NOT BE BUILT" and makes the declarant liable for the repair and restoration of the community affected by the exercise of special declarant rights.

New law (R.S. 9:1141.50) provides for the substantial completion of lots prior to the transfer of interest.

New law (R.S. 9:1145-1148) provides for privileges on immovables for charges or dues of any associations.

New law (R.S. 9:1145) authorizes associations to enforce the payment of assessments and grants a privilege in favor of associations for any assessments and fines imposed against an owner. New law requires associations to provide owners with a statement of the amount owed.

New law (R.S. 9:1146) reorganizes prior law regarding written demand for past due charges, expenses, or dues owed and adds the proper method to give notice thereof. New law further provides for the privilege against the lot or unit.

New law (R.S. 9:1147) retains existing law regarding a sworn detailed statement of privilege and requires more detailed information to be contained therein.

New law (R.S. 9:1148) provides for the extinguishment of the privilege for violations of community documents unless notice of the pendency of action is filed within one year and the cancellation of the recordation of the statement of privilege.

New law further provides for the extinguishment of the privilege for the payment of dues or fees unless notice of the pendency of action is filed within five years after becoming effective.

New law provides for the rank and priority of privileges.

Existing law (R.S. 9:2792.7(B)(3) and 3132(1)(g)) includes references to the La. Homeowners Association Act and homeowners associations.

New law corrects cross references and terminology for consistency with the Planned Community Act.

New law provides for special effective dates.

(Amends C.C. Art. 783, R.S. 9:1141.1-1141.50, 1145-1148, 2792.7(B)(3), and 3132(1)(g))