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DIGEST

SB 109 Original                                      2022 Regular Session                                      Ward

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

Proposed law retains present law but changes the reference from the Homeowners Association Act to the Planned Community Act.

Present law (R.S. 9:1141.1-1141.9) provides for the Louisiana Homeowners Association Act.

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

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

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

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

Proposed law (R.S. 9:1141.4) provides for the creation, amendment, and termination of a planned community.

Proposed law (R.S. 9:1141.5) requires the declaration and any amendments to contain certain information and to be recorded in the conveyance records.

Proposed law (R.S. 9:1141.6) provides for the allocation of common expense liabilities, common surpluses, and voting interests in the association.

Proposed law (R.S. 9:1141.7) provides procedures for a declarant to exercise or transfer any reserved development rights.

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

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

Proposed 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.

Proposed 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.

Proposed 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. Proposed law authorizes the adoption of more burdensome restrictions when special conditions are met.

Proposed 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.

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

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

Proposed 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 such an association, such as adopting bylaws, preparing a yearly budget, entering into contracts, receiving assessments, imposing fees and fines, and indemnifying officers and the board of directors.

Proposed 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.

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

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

Proposed 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.

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

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

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

Proposed law (R.S. 9:1141.31 and 1141.32) provides for the assessment procedure and the distribution of any surplus funds.

Proposed law (R.S. 9:1141.34) requires the annual adoption of a budget.

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

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

Proposed law (R.S. 9:1141.39) provides for the removal of officers and directors.

Proposed 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.

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

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

(Amends R.S. 9:1141.1-1141.50, 2792.7(B)(3), and 3132(1)(g))