
Judiciary Committee

ESB 6744

Title: An act relating to homeowners' associations.

Brief Description: Concerning homeowners' associations.

Sponsors: Senators Fraser and Fairley.

Brief Summary of Engrossed Bill

- Directs the Department of Community Trade & Economic Development (CTED) to conduct a study of improved dispute resolution processes for issues related to homeowners' associations, and appoint an advisory committee to assist with the study.
- Directs CTED to create a task force to: (1) provide recommendations, (2) draft model homeowners' association declarations, and (3) draft proposed legislation to establish an effective method for the distribution of information about homeowners' associations to prospective buyers.

Hearing Date: 2/26/08

Staff: Lara Zarowsky (786-7123).

Background:

Homeowners' Associations

A homeowners' association (association) is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An association typically arises from restrictive covenants recorded by a developer against property in a subdivision, and is managed by a board of directors, elected by the members, once the developer relinquishes control. In general, the purpose of an association is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

The Homeowners' Association Act (HOAA) was enacted by the Legislature in 1995 to "provide consistent laws regarding the formation and legal administration of homeowners' associations."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Associations are governed by: (1) the HOAA, which identifies the duties and powers of an association, (2) restrictive covenants pursuant to which an association is established, and (3) bylaws, rules and regulations adopted by a particular association. In addition, depending on how a particular association is legally organized, its activities and management may be governed by the state Business Corporation Act or Nonprofit Corporation Act. However, the HOAA does not require an association to be incorporated.

Homeowners' Association Act Committee (HOAAC)

The Homeowners' Association Act Committee (HOAAC) was established by the Legislature in 2006 to study current issues related to homeowners' associations, and to review the HOAA and the federal Uniform Common Interest Ownership Act. In addition to other relevant issues, the HOAAC was directed to consider: the method and manner of amending restrictive covenants; voting provisions; alternative dispute resolution mechanisms; communication between an association's board and its members; the budget ratification process; and provisions of other laws governing associations that conflict with the HOAAC.

The HOAAC submitted a final report to the Legislature in December 2007. The report recommended, among other things, a study to determine whether an ombudsman program should be established to address issues not readily resolved by legislation, litigation, or mediation.

Summary of Bill:

The Department of Community, Trade & Economic Development (CTED) is directed to (1) conduct a study of improved processes for dispute resolution between members of a homeowners' association (association) and its board of directors, and (2) create a task force to provide recommendations on model declarations and a method for distributing information about associations to potential buyers.

The **study** must evaluate the feasibility of creating either: (1) a state or local appeals board, or (2) a state or local ombudsman office to provide dispute resolution services and information related to associations. CTED is directed to appoint an advisory committee of up to 12 members to assist with the study, two of whom may be legislators appointed by the Speaker of the House and the President of the Senate.

The study must include:

- an explanation of trends related to the number of people living in communities or cooperatives subject to the HOAA;
- the estimated number of association members and boards of directors likely to utilize the services of an appeals board or ombudsman;
- the estimated expense of providing such services and potential sources of funding; and
- a recommendation as to whether an appeals board or ombudsman services should be provided, and if so, how such services should be funded.

The **task force** must recommend model declarations, and propose a method to distribute to potential buyers information on associations. The task force may be comprised of up to 13 members and shall include: two board members from two different associations; three homeowners whose primary residences are in a communities or cooperatives governed by the HOAA; two attorneys with expertise in association formation; a representative from CTED; and a representative of city governments.

The task force must:

- draft one or more model declarations for the formation of associations, based on declarations currently in use in this and other states; and
- draft proposed legislation establishing an effective method for information about the association governing a particular parcel to be distributed to a potential buyer.

The advisory committee and task force must report recommendations to the Legislature and to the governor by December 10, 2008.

The provisions of the bill expire on December 31, 2008.

Appropriation: None.

Fiscal Note: Fiscal note for SB 6744 is available. Fiscal note for ESB 6744 requested on 2/21/08.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.