

1 AN ACT relating to residential communities.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 10 of this Act:*

- 6 *(1) "Assessment" means the proportional liability for an expense that is allocated to*  
7 *a lot in a planned community in accordance with governing documents;*
- 8 *(2) "Board of directors" or "board" means the executive body of a homeowners'*  
9 *association, regardless of name, designated in the declaration or bylaws to act on*  
10 *behalf of a homeowners' association;*
- 11 *(3) "Bylaws" means the code or codes of rules properly adopted for the regulation or*  
12 *management of the affairs of a homeowners' association irrespective of the name*  
13 *or names by which such rules are designated;*
- 14 *(4) "Common area" means property within a planned community which is owned,*  
15 *leased, or required by the declaration to be maintained or operated by a*  
16 *homeowners' association for the use of all owners;*
- 17 *(5) "Declaration" means any instrument, however denominated, including but not*  
18 *limited to restrictions, covenants, conditions, or restrictions, and any amendment*  
19 *or supplement thereto, recorded among the land records of the county or counties*  
20 *in which a planned community or any part thereof is located, that either:*
- 21 *(a) Imposes on a homeowners' association restrictions, covenants, conditions,*  
22 *maintenance, or operational responsibilities for any common area; or*
- 23 *(b) Creates the authority in a homeowners' association to impose on lots, or on*  
24 *the owners or occupants of such lots, or on any other entity, an assessment*  
25 *in connection with the provision of maintenance or services for the benefit*  
26 *of some or all of the lots, the owners, or occupants of the lots or the*  
27 *common areas;*

- 1 (6) "Governing documents" means the articles of incorporation, bylaws, plat,  
2 declaration of covenants, conditions, and restrictions, rules, and regulations of a  
3 homeowners' association, or other written instrument by which the homeowners'  
4 association has the authority to exercise any of the powers provided for in  
5 Sections 1 to 10 of this Act;
- 6 (7) "Homeowners' association" means a nonprofit corporation or nonprofit  
7 unincorporated organization that is composed of owners of lots in a planned  
8 community and which is responsible for the administrative governance,  
9 maintenance, and upkeep of the planned community, and to which  
10 responsibilities are imposed and authority is granted in the declaration;
- 11 (8) "Lot" means any plot or lot of land designated for separate ownership or  
12 occupancy shown on a recorded subdivision plat for a planned community or the  
13 boundaries of which are described in the declaration or in a recorded instrument  
14 referred to or expressly contemplated by the declaration, other than a common  
15 area;
- 16 (9) "Owner" means a declarant or other person who owns a lot in a planned  
17 community but does not include any person that has an interest in a lot solely as  
18 security for an obligation;
- 19 (10) "Person" means a natural person, corporation, business trust, estate, trust,  
20 partnership, homeowners' association, joint venture, limited liability company,  
21 government, governmental subdivision or agency, or other legal or commercial  
22 entity;
- 23 (11) "Planned community" means a group of residential dwellings, excluding  
24 condominiums, composed of individual lots for which a deed, common plan, or  
25 declaration requires that:
- 26 (a) All owners become members of a homeowners' association;
- 27 (b) Owners or the homeowners' association hold or lease property or facilities

1                   for the benefit of all owners; or  
 2                   (c) Owners support by membership fees or property or facilities for all owners  
 3                   to use; and

4                   (12) "Residential dwelling" means a building or portion of a building that is designed  
 5                   and intended for use and occupancy by a single household and not for business  
 6                   purposes, and which may share common walls, roofing, or other common  
 7                   structural elements.

8                   ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
 9 READ AS FOLLOWS:

10                   (1) All planned communities created and located in the Commonwealth are subject  
 11                   to the provisions of Sections 1 to 10 of this Act.

12                   (2) No person shall establish a planned community unless that person files and  
 13                   records a declaration for that planned community in the office of the county clerk  
 14                   of the county or counties in which the planned community is located.

15                   ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
 16 READ AS FOLLOWS:

17                   (1) Unless otherwise provided by a declaration, a homeowners' association is  
 18                   responsible for reasonable maintenance and repair of common areas, and each  
 19                   owner is responsible for the maintenance and repair of the owner's lot and  
 20                   improvements to that lot.

21                   (2) Upon reasonable notice, an owner shall permit agents or employees of their  
 22                   homeowners' association access through the owner's lot for the purpose of  
 23                   fulfilling the homeowners' association's duties and obligations. Any damage to  
 24                   the common areas, the lot, or the residential dwelling due to the granted access is  
 25                   the responsibility of either the homeowners' association, if it is responsible for the  
 26                   damage, or the owner, if the owner caused the damage.

27                   ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Unless otherwise provided in the declaration or bylaws, a homeowners'  
3 association, through its board, shall:

4 (a) Annually adopt and amend a budget for revenues and expenditures; and

5 (b) Collect assessments for common expenses from the owners.

6 (2) A homeowners' association shall keep:

7 (a) Records showing the collection of the payment for common expenses and  
8 other charges received from the owners;

9 (b) Records detailing and supporting the payment for common expenses and  
10 other charges paid to contractors, suppliers, and service providers;

11 (c) Minutes of the meetings of the homeowners' association and the board; and

12 (d) Records of the names and mailing addresses of the owners.

13 (3) No later than one hundred eighty (180) days after the end of the fiscal year, or  
14 annually on a date as provided for in the declaration or bylaws, a homeowners'  
15 association with total annual revenues of greater than one hundred thousand  
16 dollars (\$100,000) shall have prepared a financial statement of cash receipts and  
17 disbursements that discloses all sources of income and expenses by account and  
18 classification.

19 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO

20 READ AS FOLLOWS:

21 (1) Except as provided in subsection (2) of this section, an owner may examine and  
22 copy the books, records, and minutes of the homeowners' association upon  
23 reasonable notice. This right to examination and copy maybe limited in the  
24 declaration, bylaws, or other rules and regulations promulgated by the board to  
25 regular business hours and to the location where the documents are regularly  
26 stored.

27 (2) An owner may not examine or copy from books, records, or minutes of the

1 homeowners' association:

2 (a) Information that pertains to property-related personnel matters of the  
3 homeowners' association;

4 (b) Communications with legal counsel or attorney work product pertaining to  
5 potential, threatened, or pending litigation or other property-related  
6 matters;

7 (c) Information that pertains to contracts or transactions currently under  
8 negotiation or information that is contained in a contract or other  
9 agreement containing confidentiality requirements and that is subject to  
10 those requirements;

11 (d) Information that relates to the collection of assessments or listing of past-  
12 due owner names, lot numbers, plat numbers, lot addresses, or street  
13 addresses; or

14 (e) Information the disclosure of which is prohibited by state or federal law.

15 (3) A prospective purchaser or prospective purchaser's agent, prior to execution of  
16 any contract for sale of a lot or otherwise before conveyance, may request from a  
17 homeowners' association:

18 (a) The planned community's name as stated in the declaration and as  
19 recorded;

20 (b) A statement setting forth the amount and frequency of the current common  
21 expense assessment for the lot; and

22 (c) The declaration, bylaws, rules and regulations, and the latest financial  
23 statements.

24 (4) Relating to the inspection of and copies of homeowners' associations' documents:

25 (a) Inspection of documents shall be allowed at no charge;

26 (b) A homeowners' association shall provide documents requested online or via  
27 email at no charge;

1        (c) An owner may request paper copies of documents and shall be entitled to a  
2        certified or noncertified paper copy of each document requested, at no cost,  
3        once during each twelve (12) month period. For additional certified or  
4        noncertified copies of the same documents during the same twelve (12)  
5        month period, the homeowners' association may charge five cents (\$.05) per  
6        page up to a maximum of twenty-five dollars (\$25); and

7        (d) A prospective purchaser or a prospective purchaser's agent may request  
8        paper copies of documents and shall be charged five cents (\$.05) per page.

9        ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
10       READ AS FOLLOWS:

11       The assessment of each lot shall be equal unless otherwise allocated in the declaration  
12       or otherwise established by the governing documents of the homeowners' association  
13       and shall be assessed at least annually.

14       ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
15       READ AS FOLLOWS:

16       (1) In order to preserve a planned community and the associated infrastructure and  
17       common areas for the purpose described in this section, the owners in a planned  
18       community that was previously subject to a declaration that has ceased to govern  
19       one (1) or more lots in the planned community may, within six (6) months of  
20       cessation of the previous homeowners' association, propose to revive the  
21       declaration and create a reformed homeowners' association for the community  
22       upon approval by the lot owners to be governed.

23       (2) The proposal to revive a declaration and a homeowners' association shall be  
24       initiated by an organizing committee consisting of not less than three (3) owners  
25       located in the planned community that is proposed to be governed by the revived  
26       declaration.

27       (3) Under a revived declaration and subsequent bylaws:

1 (a) All lots to be governed by a revived declaration shall have been once  
2 governed by a previous declaration that has ceased to govern some or all of  
3 the parcels in the community.

4 (b) The revived declaration and bylaws shall not contain provisions that are  
5 more restrictive on the owners than the provisions contained in the previous  
6 declaration or bylaws.

7 (c) The revived declaration and bylaws may:

8 1. Have an effective term of longer duration than the term of the  
9 previous declaration;

10 2. Omit restrictions contained in the previous declaration;

11 3. Govern fewer than all of the lots governed by the previous declaration;

12 4. Provide for amendments to the revived declaration and bylaws; and

13 5. Contain provisions required by Sections 1 to 10 of this Act for new  
14 declarations that were not contained in the previous declaration.

15 (4) The organizing committee shall propose the revival as follows:

16 (a) The name, address, and telephone number of each member of the  
17 organizing committee must be included in any notice and in all other  
18 documentation provided by the committee to owners to be affected by the  
19 proposed revived declaration.

20 (b) The organizing committee shall prepare, or cause to be prepared, the  
21 complete text of all governing documents of the proposed homeowners'  
22 association, including but not limited to the proposed revived declaration  
23 and the proposed or existing bylaws to be submitted to the owners for  
24 approval by mail or hand delivery not less than fourteen (14) days before  
25 the time that the consent of the owners to the proposed governing  
26 documents is sought by the organizing committee.

27 (c) The proposed revived declaration must identify each lot that is to be subject

1 to the governing documents by its legal description and by the name of the  
2 owner or the person in whose name the lot is assessed on the last completed  
3 tax assessment roll of the county at the time when the proposed revived  
4 declaration is submitted for approval by the owners.

5 (d) The proposed revived declaration and other governing documents for the  
6 planned community shall:

7 1. Provide that the voting interest of each owner shall be the same as the  
8 voting interest of the owner under the previous governing documents;

9 2. Provide that the assessment obligations of each owner shall be  
10 proportionately the same as assessment obligations of the owner under  
11 the previous governing documents;

12 3. Contain the same respective amendment provisions as the previous  
13 governing documents; and

14 4. Contain no covenants that are more restrictive on the affected lot  
15 owners than the covenants contained in the previous governing  
16 documents.

17 (e) Two-thirds (2/3) of the owners must agree, in writing or by a vote at a  
18 meeting of the affected owners, to the revived declaration, proposed or  
19 existing articles of incorporation, if applicable, and proposed or existing  
20 bylaws of the homeowners' association.

21 (f) Proof of notice of the meeting to all affected owners and the minutes of the  
22 meeting recording the votes, whether received in writing or by in-person  
23 votes, of the property owners shall be certified by a court reporter or an  
24 attorney licensed to practice in the Commonwealth.

25 (5) (a) No later than sixty (60) days after the proposed revived declaration has met  
26 the requirements of subsection (4) of this section, the organizing committee  
27 shall file the articles of incorporation, if applicable, of the homeowners'



1           association with the Secretary of State if the articles have not been  
2           previously filed and have the documents recorded with county clerk of the  
3           county or counties where the affected lots are located.

4           (b) The recorded documents shall include the full text of the approved  
5           declaration of covenants, the articles of incorporation, if applicable, and  
6           bylaws of the homeowners' association, and the legal description of each  
7           affected lot.

8           (c) Within ten (10) days after recording, a complete copy of all of the approved,  
9           recorded governing documents shall be mailed or hand delivered to the  
10           owner of each affected lot.

11           (d) The recorded documents shall be effective upon the recording of the public  
12           records with respect to each affected lot, regardless of whether the  
13           particular lot owner approved the documents.

14           (e) Upon recording, the revived declaration shall replace and supersede the  
15           previous declaration with respect to all affected lots then governed by the  
16           previous declaration.

17           (f) With respect to any affected lot that has ceased to be governed by a previous  
18           declaration as of the recording date, the revived declaration may not have  
19           retroactive effect on the lot.

20           ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
21 READ AS FOLLOWS:

22           (1) In the event a planned community, whether active or inactive, fails to maintain  
23           any infrastructure, common area, watershed, storm water detention or retention  
24           area, or other facilities that it is legally obligated to maintain under the  
25           declaration or other document of record of the planned community, any  
26           municipal authority with jurisdiction of the planned community may petition the  
27           Circuit Court within which the planned community is located for the

1 appointment of a receiver to manage the affairs of the homeowners' association.  
 2 Any municipality seeking the appointment of a receiver shall be entitled to  
 3 reimbursement of all costs, fees, and reasonable attorney's fees.

4 (2) The receiver shall have all the authority granted to the board of directors under  
 5 the declaration, including the ability to establish, levy, and collect fees and to  
 6 contract for the ongoing renovation, maintenance, and upkeep of the legally  
 7 obligated infrastructure, common area, watershed, storm water detention or  
 8 retention areas, or other facilities. The receiver shall be entitled to recover  
 9 reasonable costs and fees for services as approved by the court.

10 (3) In the event any municipality with jurisdiction of the planned community is  
 11 required to expend funds to repair, renovate, maintain, or correct code violations,  
 12 the municipality may seek reimbursement for those costs from the receiver.

13 (4) In the event the homeowners' association is no longer active, the receiver shall  
 14 have the obligation and authority to begin the process of reviving the  
 15 homeowners' association in accordance with Section 7 of this Act by acting as the  
 16 organizing committee.

17 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
 18 READ AS FOLLOWS:

19 When any portion of the common area is taken or damaged under the power of  
 20 eminent domain, any award or payment therefor shall be paid to the homeowners'  
 21 association, which shall be a party in interest in the condemnation proceeding. The  
 22 board may execute and record the deed of conveyance to the condemning authority.

23 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO  
 24 READ AS FOLLOWS:

25 A homeowners' association through action, whether sanctioned by the declaration,  
 26 bylaws, or action voted upon by the homeowners' association or lot owners governed,  
 27 shall not prohibit the outdoor display of political yard signs by an owner or resident on

1 *the owner's or resident's property from thirty (30) days before any primary, regular, or*  
2 *special election until seven (7) days after that election. The governing documents may*  
3 *include reasonable rules and regulations regarding the placement, size, and manner of*  
4 *display of political yard signs.*