

Local Government Mandate Statement
Kentucky Legislative Research Commission
2022 Regular Session

Part I: Measure Information

Bill Request #: 30

Bill #: SB 191

Document ID #: 4539

Bill Subject/Title: AN ACT relating to residential communities.

Sponsor: Senator Ralph Alvarado

Unit of Government: City County Urban-County
 Charter County Consolidated Local Unified Local
Government

Office(s) Impacted: Jails, Law Enforcement

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

SB 191 creates 10 new sections in KRS Chapter 381, establishing new requirements and guidelines for homeowners' associations and planned communities as defined in **Section 1**. The fiscal impact to local governments is contained in Sections 2, 7, and 8.

Section 2 prohibits the establishment of a planned community without the filing and recording of a declaration in the office of the county clerk of the county or counties where the community is geographically located.

Section 7 provides a process with limitations and restrictions on the revival of a planned community's declaration provided the community has ceased to govern and not more than six months have lapsed. The organizing community shall record with the clerk of the county or counties of the community; the full text of the approved declaration of covenants, the articles of incorporation, if applicable; bylaws of the homeowners' association, and the legal description of each affected lot.

Section 8 allows any municipal authority with jurisdiction of a planned community to petition the planned community's Circuit Court for the appointment of a receiver to manage the affairs of a homeowner's association in the event an active or inactive planned community fails to maintain legally obligated property under the declaration or other recorded document of the planned community. A municipality seeking the appointment of a receiver will be entitled to reimbursement of all costs, fees, and legal fees. The municipality may seek reimbursement from the receiver if required to expend funds to repair, renovate, maintain, or correct code violation.

The fiscal impact of SB 30 is expected to be minimal. The recording fees received by county clerks will compensate for the required filings and recordings of the bill. If a fiscal court elects to conduct maintenance in a common area and litigate for the recovery of the costs through the association or a receiver, some legal expenses may be incurred. In addition, a lengthy litigation process could provide for cash management concerns prior to the completion of litigation if substantial maintenance costs were incurred.

The Kentucky County Clerks Association and the Kentucky Association of Circuit Court Clerks were contacted for input. As of the submission of this Local Mandate Statement, a response has not been received from either organization. Then a response is received, the statement may be updated accordingly.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II, above, pertains to the bill as introduced.

Data Source(s): LRC Staff

Preparer: K. Sallee (mjo) **Reviewer:** KHC **Date:** 3/2/22