



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3886 Signed by Governor on May 17, 2018
Author: Crawford
Subject: Homeowner’s Associations
Requestor: House of Representatives
RFA Analyst(s): Heineman, Gardner, and A. Martin
Impact Date: July 5, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	Undetermined	\$0

Fiscal Impact Summary

This bill will have no expenditure impact to the General Fund, Federal Funds, or Other Funds of the Department of Consumer Affairs and the Department of Labor, Licensing, and Regulation since the job duties created for each agency can be managed within existing resources.

In addition, this bill will have no expenditure impact to the General Fund, Federal Funds, or Other Funds of the Judicial Department since this bill will not change the costs incurred by the department and the department expects to handle the administration of the HOA actions within existing resources.

This bill is not expected to have an expenditure impact on local government since any increase in magistrates court cases can be managed within existing resources. This bill will have an undetermined impact on local revenue since it is unknown how many HOAs are in existence within South Carolina and how many governing documents will be filed in the future.

Explanation of Fiscal Impact

Signed by Governor on May 17, 2018

State Expenditure

This bill establishes the South Carolina Homeowners Association Act, which provides definitions and requirements pertaining to the governance of homeowners associations. This bill requires that the governing documents of a homeowners association (HOA) be recorded in the clerk of courts, the Register of Mesne Conveyance (RMC), or the register of deeds office in the county where the property is located. Governing documents in existence as of the effective date

of this bill must be recorded by January 10, 2019. In addition, amendments to an HOA's governing documents must be filed by January 10th of the year following their adoption. Magistrates court will have jurisdiction to adjudicate monetary disputes from this bill, provided the dispute meets the jurisdictional requirements.

This bill also creates the Department of Consumer Affairs (DCA) Services for Homeowners and Homeowners Association Act. This bill outlines DCA's powers and duties. Some of the key duties include that DCA include on its website information for homeowners and homeowners associations concerning how they may contact the DCA using the toll free number or to submit complaint forms. In addition, DCA must receive and record data from any calls or written complaints from homeowners or homeowners associations. This bill requires DCA to provide the complaint to the homeowners association or the homeowner in a manner that verifies receipt of the complaint. DCA must create a report of all data collected by January 31st of each year and send it to the Governor and the General Assembly. DCA must provide public access to the report via the agency's website. DCA is prohibited from promulgating regulations or issuing guidelines concerning homeowners' association administration, governance, or governing documents. This bill also requires a disclosure document, the document that the owner of real property must provide to a purchaser, to include whether the property is subject to an HOA's governance.

Department of Labor, Licensing, and Regulation. This bill requires that the disclosure document be updated to include information about whether a property is governed by an HOA and where the HOA's governing documents may be located. The South Carolina Real Estate Commission, under the Department of Labor, Licensing, and Regulation (LLR), is responsible for promulgating the disclosure document form. Updating the form will not have an expenditure impact on the department as redrafting the form can be managed by existing staff within the existing budget for LLR.

Department of Consumer Affairs. The department indicates this bill requires the department to perform activities that will be conducted in the normal course of agency business. As such, they will create a questionnaire for consumers to complete when filing a homeowners association complaint and a database to capture data elements to publish the required report. The department indicates there will be no expenditure impact to conduct these activities and they can be managed within existing resources. Therefore, there will be no impact to the General Fund, Federal Funds, or Other Funds of the agency.

Judicial Department. This bill affirms that groups or individuals may file complaints about monetary disputes against Homeowners Associations (HOA) that arise under the Homeowner's Association Act in magistrates courts or the court of common pleas. There is no information available to indicate the number of HOA related actions heard in the court of common pleas or magistrate courts presently, therefore, the department cannot estimate how many actions may be heard in either court system. A change in the number of HOA related cases heard by the court of common pleas is not expected to result from this bill. Therefore, there will be no impact to the General Fund, Federal Funds, or Other Funds of the agency.

State Revenue

N/A

Local Expenditure

This bill affirms that the magistrates court has concurrent civil jurisdiction with the court of common pleas over monetary disputes that arise under the HOA Act. The Revenue and Fiscal Affairs Office (RFA) contacted twenty-three county governments regarding the expenditure impact to local magistrates courts.

Magistrates Court. Lancaster County indicates magistrates courts could be impacted depending on the number of cases related to HOAs and homeowners, but costs can be managed by the courts unless the number of cases increases dramatically. Clarendon and Florence counties indicate there would be no expenditure impact since any increase in cases can be managed within existing resources. Based on the responses received, RFA anticipates this bill is not expected to have an expenditure impact on magistrates courts.

Local Revenue

This bill will increase the number documents recorded by local clerks of court, RMC, or register of deeds offices, which will increase local revenue. Section 8-21-310 sets the fee to record HOA governing documents at ten dollars for the first four pages and one dollar for each additional page after four pages. However, since it's unknown how many HOAs are in existence in South Carolina and how many pages of governing documents will be filed in the future, the local revenue impact is undetermined.



Frank A. Rainwater, Executive Director