



Reprinted
February 1, 2013

SENATE BILL No. 126

DIGEST OF SB 126 (Updated January 31, 2013 2:01 pm - DI 106)

Citations Affected: IC 32-21.

Synopsis: Homeowners association covenants. Provides that if all the lots included as part of certain homeowners associations are not all subject to the same homeowners association covenants, all the lots may be made subject to new replacement covenants if the homeowners association: (1) distributes to the owner of each lot a proposed set of covenants that would apply to all lots included as part of the homeowners association and a petition to be signed by each lot owner on which the owner indicates whether the owner approves or disapproves of applying the proposed covenants to all lots included as part of the homeowners association; and (2) submits the petitions and covenants to the county recorder if the lesser of: (A) a percentage of lot owners specified in the covenants; or (B) two-thirds of all lot owners; approve of applying the covenants to all lots included as part of the homeowners association. Specifies that homeowners association covenants submitted to a county recorder in accordance with these procedures are considered to be in effect on the date they are recorded. Provides that a replacement covenant does not apply to and is not binding on certain properties in the homeowner's association that: (1) have lots that are 25% larger or smaller than the average of all lots in the association; (2) have homes that are 25% larger or smaller than the average of all homes in the association; or (3) have an average assessed value that is 25% larger or smaller than the average assessed value of all homes in the association. Specifies that a replacement covenant does not apply retroactively.

Effective: July 1, 2013.

Holdman, Tallian, Arnold J

January 7, 2013, read first time and referred to Committee on Civil Law.
January 17, 2013, reported favorably — Do Pass.
January 31, 2013, read second time, amended, ordered engrossed.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 126

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-21-2-1.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 1.2. As used in this chapter, "homeowners
4 association" means a corporation or another entity that:**
5 **(1) is organized and operated exclusively for the benefit of two**
6 **(2) or more persons who each own a dwelling in fee simple;**
7 **(2) acts, in accordance with bylaws governing the corporation
8 or entity, to:**
9 **(A) acquire, transfer, manage, repair, maintain, or engage**
10 **in construction on or in the land and improvements on the**
11 **land related to the use of the dwellings owned by the**
12 **members of the corporation or entity;**
13 **(B) purchase insurance to cover a casualty or an activity**
14 **on or in the land and improvements on the land;**
15 **(C) engage in an activity incidental to an activity described**
16 **in clause (A) or (B); or**
17 **(D) engage in more than one (1) of the activities described**

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1 in clauses (A) through (C); and
2 (3) may be governed by a board that serves the purpose of
3 setting policy and controlling or otherwise overseeing the
4 activities or functional responsibilities of the corporation or
5 entity.

6 SECTION 2. IC 32-21-2-3.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2013]: **Sec. 3.5. (a) This section applies only to land developments
9 that include:**

- 10 (1) at least two hundred fifty (250) single family homes; and
- 11 (2) at least twelve (12) different sections of lots:
 - 12 (A) whose titles have all been conveyed from the land
 - 13 developer;
 - 14 (B) whose first plat and covenants have been recorded in
 - 15 the office of the county recorder for at least fifteen (15)
 - 16 years;
 - 17 (C) that are all governed by one (1) homeowners
 - 18 association; and
 - 19 (D) that are not all subject to the same homeowners
 - 20 association covenants.

21 (b) Except as provided in subsection (c), if the lots included as
22 part of one (1) homeowners association are not all subject to the
23 same homeowners association covenants, new replacement
24 covenants may be recorded by the homeowners association using
25 one (1) of the following methods:

- 26 (1) The homeowners association covenants may be recorded
- 27 in accordance with section 3 of this chapter.
- 28 (2) Notwithstanding any covenant provisions or bylaws of the
- 29 homeowners association concerning amendments or revisions
- 30 to homeowners association covenants, the homeowners
- 31 association may:
 - 32 (A) distribute to the owner of each lot included as part of
 - 33 the homeowners association:
 - 34 (i) a proposed set of homeowners association covenants
 - 35 that would apply to all lots included as part of the
 - 36 homeowners association; and
 - 37 (ii) a petition to be signed by each lot owner on which the
 - 38 owner indicates whether the owner approves or
 - 39 disapproves of applying the proposed covenants to all
 - 40 lots included as part of the homeowners association; and
 - 41 (B) submit the petitions and covenants to the county
 - 42 recorder if:

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(i) the lesser of a percentage of lot owners specified in the covenants or two-thirds (2/3) of all lot owners approve of applying the covenants to all lots included as part of the homeowners association, as indicated by the petitions signed by the lot owners; and
(ii) notwithstanding section 3 of this chapter, the signature of each lot owner has been affirmed before a notary public or an officer of the homeowners association submits an affidavit with the covenants and the petitions that verifies and certifies the signatures on the petitions.

Homeowners association covenants submitted to a county recorder in accordance with this subdivision are considered to be in effect on the date the covenants are recorded.

(c) A new replacement covenant described in subsection (b) does not apply to and is not binding on property in one (1) section of lots if one (1) or more of the following apply:

- (1) The average lot size of all lots in the section is at least twenty-five percent (25%) larger or smaller than the average lot size of all lots in a development described in subsection (a).
- (2) The average home size of all homes in the section is at least twenty-five percent (25%) larger or smaller than the average home size of all homes in a development described in subsection (a).
- (3) The average assessed value of all property in the section is at least twenty-five percent (25%) larger or smaller than the average assessed value of all property in a development described in subsection (a).

(d) A new replacement covenant described in subsection (b) applies only prospectively, beginning on the date the covenant is recorded. The adoption of a new replacement covenant does not require a person to alter the person's home or lot to comply with the new replacement covenant if the condition of the person's home or lot was permissible or authorized under the previous covenant.

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COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 126, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 126 as introduced.)

ZAKAS, Chairperson

Committee Vote: Yeas 8, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 126 be amended to read as follows:

Page 2, line 21, delete "If" and insert "**Except as provided in subsection (c), if**".

Page 3, after line 13, begin a new paragraph and insert:

"(c) A new replacement covenant described in subsection (b) does not apply to and is not binding on property in one (1) section of lots if one (1) or more of the following apply:

(1) The average lot size of all lots in the section is at least twenty-five percent (25%) larger or smaller than the average lot size of all lots in a development described in subsection (a).

(2) The average home size of all homes in the section is at least twenty-five percent (25%) larger or smaller than the average home size of all homes in a development described in subsection (a).

(3) The average assessed value of all property in the section is at least twenty-five percent (25%) larger or smaller than the average assessed value of all property in a development described in subsection (a).

(d) A new replacement covenant described in subsection (b) applies only prospectively, beginning on the date the covenant is recorded. The adoption of a new replacement covenant does not require a person to alter the person's home or lot to comply with the new replacement covenant if the condition of the person's home or lot was permissible or authorized under the previous covenant."

(Reference is to SB 126 as printed January 18, 2013.)

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