

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1883 - SB 1950

February 29, 2016

**SUMMARY OF ORIGINAL BILL:** Increases from 180 to 240 days the time period that a retail launderer or retail dry cleaner is required to retain possession of an unclaimed garment or article of clothing, without notifying the customer prior to disposing of such garment or article without any liability or responsibility upon the business.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (012883):** Deletes all language of the original bill. Establishes the *Tennessee Homeowners' Association Act* (Act). As used in this Act, defines a "declaration" as any instrument, however denominated or titled, including an amendment, modification, restatement, or supplement that is recorded in the register's office in the county in which the development or any part thereof is located and that: imposes on the association maintenance or operational responsibilities for the common areas; creates the authority for the association to levy an assessment on a lot, or the owners or occupants of the lots, for the benefit of some or all of the lots in the development, the owners or occupants of the lots, or the common area; and is a covenant running with the land and the development enforceable by and against any and all successors and assigns.

Upon January 1, 2017, a homeowners' association created pursuant to a declaration is required to be organized as a nonprofit corporation pursuant to the *Tennessee Nonprofit Corporation Act*. Creates requirements regarding the organizational documents of a homeowners' association. Requires any homeowners' association provided for in a declaration to be incorporated prior to the conveyance of a lot in the development. As used in this Act, defines "declarant" as the person, entity, joint venture, corporation, partnership, limited partnership, or limited liability company that submits property to a declaration. Authorizes a declaration to provide the declarant with a period in which such declarant maintains control of the election of directors and officers of the association, and also has the right to alter, amend, or modify the declaration. Specifies which parts of a declaration may be amended by the declarant. Provides for transfer of a

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declarant control from the declarant or declarant's designee to a homeowners' association board of directors. Requires that any declaration or governing documents of a homeowners' association declare a lien be placed on all lots for which there are unpaid homeowners' association fees. Establishes a method by which a homeowners' association may enforce the lien, including, but not limited to bringing a cause of action. Requires any court which presides over an action brought by a homeowners' association for unpaid assessments to, as a part of a judgment, award reasonable attorneys' fees, costs, and interest. Requires a homeowners' association to provide certain information in a reasonable time from the time a request is made by a lot owner.

This Act applies to the following: all developments subject to a declaration providing for a homeowners' association recorded in the registrar's office in the county in which the development or any part thereof is located on or after January 1, 2017; and any association formed prior to January 1, 2017, which by a majority vote of its members elects to be governed by the provisions of this Act and records evidence of such election in the appropriate register's office of the county in which the development such association administers is located. This act shall not apply to the following: a development for commercial, industrial, or other nonresidential use; any association that is subject to regulation pursuant to the *Horizontal Property Act*.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- This Act will affect the contractual relationship between two parties, a lot owner and a homeowners' association.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- This will have no significant fiscal impact on state or local government.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

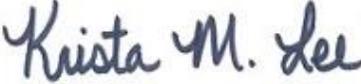
**Unchanged from the original fiscal note.**

Assumption for the bill as amended:

- This Act will have no significant impact on businesses in Tennessee.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jdb