

Proposal to reform HOA disclosure to home buyers and homeowners

This proposal will improve upon: 1) HOA disclosure of information, currently defined in the Contract to Buy and Sell Real Estate, during the home closing process; 2) disclosure of HOA governance and financial information to homeowners and 3) develop a State-wide HOA data base of all registered HOAs. This Bill will not impose any measurable costs on businesses, homeowners or HOAs. Most requirements involve information dissemination between HOAs and homeowners, buyers, Realtors and the public that is already available. Funding to implement will not require taxpayer general funds. Funding requirements to be collected through HOA registration fees of no more than a one-time start-up fee of \$40 per HOA (less than fifty-cents per homeowner per year) and no more than \$25 per year per HOA (less than forty cents per homeowner per year). Compliance and would be completed through DORA. These requirements to be **standard among all registered HOAs**. **This Bill would materially save both homeowners and HOAs in legal costs and reduce costly homeowner complaints and infractions of covenants by ensuring all home buyers (prior to purchase) and homeowners understand all governance and financial policies and obligations.**

- 1) Improve upon disclosure and transparency during the home closing process including but not limited to maintenance responsibilities, insurance coverage issues of the HOA and guidance on insurance needs of the homeowner, Metro District debt, condominium specific issues focused on HOA and homeowner responsibilities, last value estimation study of community property used for insurance needs, reserve fund status and studies, justification of HOA Home Sale Transfer Fees and what is allow or not, unresolved or unsatisfied judgement against the HOA, disclosure on approved and planned capital improvement projects and financial implications, active and pending special assessments, HOA involvement in litigation and other issues. Home closing documentation requirements listed on the Contract to Buy and Sell Real Estate can be completed by DORA without legislation. All other items in this Bill proposal will require legislation.
- 2) Require both the home buyer and their buyer's agent (if any) to confirm the receipt of information mentioned in item "1" no later than 7 days prior to home closing. The HOA can be non-monetarily penalized by DORA/HOA Office.
- 3) Verbiage on the Contract to Buy and Sell Real Estate that states the permissible home closing charges to the seller by the HOA and/or its property management company (PMC). In particular, that only extraordinary and unique expenses incurred as a result of the home sale and authorized by the HOA Board are valid; that all charges from a PMC to a home seller for documentation related to fulfilling Home Sale Transfer Fees requirements or in producing a Status Letter will be of no charge to the home seller as defined in CCIOA. Any charges from the PMC to the home seller will be approved by the HOA Board and be accompanied by an invoice indicating what special services were completed, when completed and line-item cost with a statement that such charges have been approved by the HOA Board and are unique and extraordinary to the sale of the home for which the PMC has not been reimbursed. The line item on any home closing document will not satisfy the requirement to provide the payee/seller with an invoice.

- 4) Regardless of what is stated in the HOA's contract with a PMC including authorizing a Transfer Fee or Status Letter charges, an invoice will be provided to the payee as stated in this Bill and all charges justified as unique and extraordinary. The existence of any verbiage in an HOA's contract with a PMC concerning transfer fees or status letters doesn't legally authorize such charges. Any service provided to a homeowner throughout a year on any day that comes at no direct charge to the homeowner such as documentation and account access will not be part of the Transfer fee or Status Letter charge. Any charge to the home seller for documentation or account information will be considered a duplicate billing charge and void. There is no CCIOA requirement that Transfer Fee and Status Letter documents be certified to be correct and such a fee will be billed to the homeowner and approved by the HOA Board.
- 5) Requires the HOA registration process to include confirmation by the HOA that this Bill's requirements have been completed.
- 6) Require HOAs through homeowner meetings, on their website and through email to apprise homeowners at least once a year concerning governance and financial issues in this Bill. The HOA Office will communicate these requirements to all registered HOAs at least semiannually.
- 7) Enforcement of this Bill will be completed by DORA in conjunction with the State HOA Office. Non-monetary penalties for non-compliance such as suspending an HOAs authority to issue fines, place liens on property, foreclose on homes, removal of a Board member(s) for repeated violations or other penalty defined by DORA.
- 8) Requires HOAs to review and update HOA documentation, insurance policies, CCR's, maintenance responsibilities, disaster plan, rules and other HOA documentation defined by DORA at least once a year and ensure any State HOA data base has been updated as applicable and when such documents are updated in the HOA database. Notify homeowners of any changes via email, announcing such changes at a homeowner meeting and by posting such notification on the HOA website.
- 9) DORA will develop forms and curriculums for use by HOAs in their disseminating information to home buyers and homeowners. The forms will be used to summarize HOA governance and financial policies/obligations allowing home buyers and homeowners to easily understand their responsibilities and the HOAs responsibilities. A form/cover sheet for each topic/line entry on the Contract to Buy and Sell Real Estate will be developed by DORA and provided to the home seller. This process will preclude having homebuyer and homeowners to read through voluminous and legal documents that many home buyers and homeowners find difficult to understanding resulting in governance violations, fines and legal costs and fully understanding prior to home closing HOA governance policies.
- 10) The mission statement of the State HOA Office to be updated concerning new responsibilities defined in this proposal. This includes indicating the expansion of requirements for HOA registration, involvement in creating a State HOA database and issuing penalties to HOAs for non-compliance of these requirements (the Office currently has the authority to assign non-monetary penalties related to registration requirements, this would be expanded to enforce new registration requirements). The HOA Office can receive, investigate and render decisions on issues of non-compliance with home closing procedures, timeliness of delivering home closing documents and contesting any HOA documentation fees.

- 11) The name of the State HOA Information and Resource Center to State HOA Office
- 12) Requires the State to develop an HOA central data base for use by the home seller, buyer, Realtors and others. This to be funded through HOA registration fees and would involve the Office purchasing and managing all technology to complete this task. There will no fee to users of the data base and such data base would not include any HOA proprietary or personal information. The data base would store each HOA's governing documents and other information as determined by the Office and required in this proposal and confirmation of this task being completed will be through the HOA registration process.
- 13) Requires HOAs to maintain only one official data base with HOA governing documents, financial records, personal information and other information required under CCIOA. This information can and will be the same information used in providing home buyers with HOA home closing documents/information. Access to HOA documents/information available to all homeowners and their approved agents upon request and posted on the HOA website. All user interfaces used to gain access to this information and fulfillment of individual requests for HOA information will be identified by: date prepared, today's date, a statement indicating the information last update date, contact information for questions concerning the information and a clause stating the information can be considered official and can be used to meeting home closing documentation and information requirements. The denial of access to HOA documents can result in non-monetary penalties against the HOA as determined by DORA/HOA Office. All individual requests for HOA documentation and information will be provided to the requestor no later than three days after the HOA or its property management company receives the request. "Rush Charges" assessed the requestor of information for short notice of services are not allowed but any related mailing, shipping and handling costs are allowed but not to exceed \$35.
- 14) Access to HOA governing and financial documents by third and all other parties must be approved by the HOA Board. This includes any documentation services used by the HOA or its property management company to fulfill home closing requirements.
- 15) Upon approval by an HOA Board, the homeowner can be assessed fees related to the home closing process to reimburse the HOA or its property management company for services that are not completed under the HOAs contract with the management company and not considered routine, ordinary and baseline in the operations of the HOA. The only billing to a customer in the home closing process by the HOA or its management company will concern requirements imposed on the home seller to fulfill the Contract to Buy and Sell Real Estate. Special services requested by the home seller or their agent are required to be in writing and approved by the HOA Board.
- 16) Providing HOA home closing documentation/information to a Title Company will be at no cost to the home seller or Title Company either directly or indirectly. "Rush charges" will not be imposed upon Title Companies except for non-routine, extraordinary and unique costs incurred by the HOA or its property management company and must be approved by the HOA Board in conjunction with the home seller. Any charge from a Title company to a home seller relating to home closing documentation will be supported by a detailed invoice indicating a description of charges, line item detail, when expenses were incurred and authority to charge such a fee.
- 17) All funding to implement this proposal to be raised through HOA registration fees estimated to be a one time start up charge of \$40 per HOA in the first year and no more than

- 18) Disclose latest **pass/fail on the fire safety examination**
- 19) Disclose if the HOA is listed on any "Black List" maintained by Fannie Mae (involved in the home financing industry: Fannie Mae, which is under the conservatorship of the Federal Housing Finance Agency (FHFA) has developed a secret Blacklist of condominiums, HOA's and Co-Op's which are ineligible for "conventional financing", i.e. loans that can be sold on the secondary market. It will be difficult for owners in these Blacklisted condominiums to either sell or refinance their units.
- 20) Homeowners and home sellers will be informed by the HOA of available options to meet documentation requirement for sellers/buyers/Title companies such as downloading information from a State HOA database, obtaining from the HOA website, submitting a request to the HOA Board or management company or from third parties and any related costs.
- 21) Home buyers and owners will be notified through the home closing process of discloser on latest pass/fail on the fire safety examination, latest "envelope study" for condominiums and disaster planning efforts.
- 22) Homeowners would have to appraised of all inherited debt and related amounts.
- 23) Any HOA or its' management company that knowingly provides a home seller with inaccurate, incomplete or misleading information will be subject to a \$10,000 and/or nonmonetary damages
- 24) The seller will inform the buyer of the fees to the HOA Master Association and if they belong to one or more sub-associations this will be noted along with applicable fees structure and other financial obligations related to the sub-association
- 25) The HOAs firearms rules and restriction will be disclosed
- 26) Indicate if the HOA has any restrictions on home ownership such as "must be 55 years old or older", "no dogs" etc.
- 27) Indicate if a gated community
- 28) Indicate trash pickup services such as garbage, recyclables and other related information.
- 29) Indicate if mail is delivered to the individual house, a locked box, or other and any if any issues exist with FedEx, USPS, UPS or other mail delivery trucks.