WEST VIRGINIA CODE: §36b-2-103

§36B-2-103. Construction and validity of declaration and bylaws.

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities does not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to section 3-102(a)(1).

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

(e) A declaration or the bylaws may not change or alter a restrictive covenant in a deed to any real estate that is or that becomes subject to the provisions of this chapter. The restrictive covenants that are in effect at the time real estate is purchased that is or that becomes subject to the provisions of this chapter may not be changed or altered as to the purchaser of that real estate or as to any assign, heir or beneficiary of the original purchaser unless that original purchaser, assign, heir or beneficiary agrees in writing to a change of a restrictive covenant. This subdivision does not apply to the change of restrictive covenants of homeowner fees if the fees do not exceed the sum of $100 a year. The provisions of this section have no application to restrictive covenants which contain provisions authorizing amendment when those provisions for amendment are duly followed.

WV Legislature