

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2001*

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**ENROLLED**

**SENATE BILL NO.** 466

**(By Senator** Inyler **)**

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**PASSED** April 13, 2001

**In Effect** 90 days from **Passage**

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**ENROLLED**

**Senate Bill No. 466**

(BY SENATOR SNYDER)

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[Passed April 13, 2001; in effect ninety days from passage.]

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AN ACT to amend and reenact section one hundred three, article two, chapter thirty-six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the construction and validity of declaration and bylaws of common interest communities; and limitations on changes in restrictive covenants.

*Be it enacted by the Legislature of West Virginia:*

That section one hundred three, article two, chapter thirty-six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. CREATION, ALTERATION AND TERMINATION OF COMMON INTEREST COMMUNITIES.**

**§36B-2-103. Construction and validity of declaration and by-laws.**

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

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

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

10 (d) Title to a unit and common elements is not rendered  
11 unmarketable or otherwise affected by reason of an  
12 insubstantial failure of the declaration to comply with this  
13 chapter. Whether a substantial failure impairs market-  
14 ability is not affected by this chapter.

15 (e) A declaration or the bylaws may not change or alter  
16 a restrictive covenant in a deed to any real estate that is or  
17 that becomes subject to the provisions of this chapter. The  
18 restrictive covenants that are in effect at the time real  
19 estate is purchased that is or that becomes subject to the  
20 provisions of this chapter may not be changed or altered as  
21 to the purchaser of that real estate or as to any assign, heir  
22 or beneficiary of the original purchaser unless that origi-  
23 nal purchaser, assign, heir or beneficiary agrees in writing  
24 to a change of a restrictive covenant. This subdivision  
25 does not apply to the change of restrictive covenants of  
26 homeowner fees if the fees do not exceed the sum of one  
27 hundred dollars a year.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Larry J. ...*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *30<sup>th</sup>*  
Day of *April* ....., 2001.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/01

Time 2:35 pm