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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

SENATE BILL NO. 589

(By Senator Snyder)

PASSED March 8, 2003

In Effect 90 days from Passage

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Senate Bill No. 589

(BY SENATOR SNYDER)

[Passed March 8, 2003; in effect ninety days from passage.]

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 common interest communities; and providing that the provisions of said section relating to common interest communities and condominiums have no application to restrictive covenants which contain provisions allowing amendment when the provisions for amendment are duly followed.

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 bylaws.

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 provisions of this section have
28 no application to restrictive covenants which contain
29 provisions authorizing amendment when those provisions
30 for amendment are duly followed.

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

Carly F. Pines
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Dorell Gledhill
.....
Clerk of the Senate

Gregory M. Bous
.....
Clerk of the House of Delegates

Carl Ray Jernigan
.....
President of the Senate

Arthur Skiss
.....
Speaker House of Delegates

The within is approved this the 27th
Day of March, 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3-20-03

Time 9:50 AM