WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 589

(By Senator )

PASSED March 8, 2003

In Effect 90 days from Passage
ENROLLED

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.

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

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

[Signature]

The within................................. this the............

Day of ....................................... 2003.

Governor

[Signature]