

# Insights

## Homeowners Associations Subject to New Requirements Under House Enrolled Act No. 1286

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On May 4, 2015, Governor Pence signed House Bill 1286 into law under Public Law 141. This law amended parts of Indiana Code § 32-25.5 and Indiana Code § 32-21 related to homeowners associations<sup>1</sup>. The new laws for homeowners associations became effective on July 1, 2015 and include the following provisions.

### **Communications**

Homeowners associations are now required to retain certain communications relating to financial transactions of the association for at least two years and provide copies to members upon request. Further, if an association communicated with a member about any other member's lot, the association must provide a copy of the communication to the member whose lot was the subject of the communication.

### **Governing Documents and Board Meetings**

Additionally, homeowners associations are also subject to new requirements for association governing documents. The homeowner covenants filed in the county recorder's office must contain certain provisions for amending the documents, including a provision for a certain percentage of votes to approve an amendment. With respect to homeowner meetings, the law sets a standard for using a proxy at a meeting and requires the minutes of all association board meetings to be available to members upon request.

### **Grievance Resolution and Disclosures by Sellers**

Homeowners associations are required to follow certain procedures for grievance resolution laid out in Indiana Code § 32-25.5-5 and must additionally include provisions for the grievance resolution procedures in the association governing documents. Finally, the new law also affects sellers of residential real estate by requiring the seller of property subject to a homeowners association to make certain disclosures to the purchaser.<sup>2</sup>

In summary, homeowners associations should become familiar with the updates to the laws in order to maintain compliance with requirements for communications, governing documents, board meetings and grievance

procedures. The full amended laws are printed in Indiana Code § 32-25.5 and Indiana Code § 32-21.

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1. H.E.A. 1286 also created new requirements for condominium associations by amending parts of Indiana Code § 32-25. The new laws include changes to the requirements for condominium declarations and additional requirements for by-law amendments, board meeting minutes, conveyance of common areas and grievance resolution procedures.

2. H.E.A. 1286 also authorizes the attorney general to bring an action against the board of a homeowners association in limited situations and allows a court to impose a civil penalty of no more than \$500 in those situations.