



2024 South Dakota Legislature
Senate Bill 217
ENROLLED

AN ACT

ENTITLED An Act to require disclosure of certain information prior to the sale of property bound by a homeowners' association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 43-4-42 be AMENDED:

43-4-42. A transfer that is subject to §§ 43-4-37 to 43-4-44, inclusive, and section 2 of this Act is not invalidated solely because a person fails to comply with §§ 43-4-37 to 43-4-44, inclusive, and section 2 of this Act. However, a person who intentionally or who negligently violates §§ 43-4-37 to 43-4-44, inclusive, and section 2 of this Act is liable to the buyer for the amount of the actual damages and repairs suffered by the buyer as a result of the violation or failure. In any court action pursuant to this section, the court may award costs and attorney fees to the prevailing party. Nothing in this section precludes or restricts any other rights or remedies of the buyer or seller.

Section 2. That chapter 43-4 be amended with a NEW SECTION:

In attempting to sell a residential real property governed by a homeowners' association, the seller must furnish to a buyer before the buyer makes a written offer:

- (1) A disclosure that the property is governed by a homeowners' association;
- (2) A copy of the governing documents of the homeowners' association;
- (3) A statement indicating whether there is an assessment and the amount, frequency, and purpose of any assessment; and
- (4) A list of any special onetime assessments from the most recent three years.

If, after delivering the homeowners' association information to the buyer or the buyer's agent and prior to the date of closing for the property or the date of possession of the property, whichever comes first, the seller becomes aware of any change of material fact that would affect the information, the seller must furnish a written amendment disclosing the change of material fact.

This section applies to all transfers of residential real property occurring after July 1, 2024.

For the purposes of this section, the term "governing documents" means a written instrument by which the homeowners' association may exercise powers to manage, maintain, or otherwise affect the property under the jurisdiction of the homeowners' association.

For the purposes of this section, the term "homeowners' association" means any incorporated or unincorporated association in which membership is based upon owning or possessing an interest in real property and that has the authority, pursuant to recorded covenants, bylaws, or other governing documents, to assess and record liens against the real property of its members.

An Act to require disclosure of certain information prior to the sale of property bound by a homeowners' association.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 217

2024 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2024

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2024
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 217
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State