

HOUSE BILL 1116

By Russell

AN ACT to amend Tennessee Code Annotated, Title 8 and
Title 66, relative to the transfer of real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 27, Part 7, is amended by
adding the following as a new section:

66-27-706.

(a) As used in this section:

(1) "Nonprofit association" means a nonprofit property owners' association that has received a determination of exemption from the Internal Revenue Service under § 501(c)(4) of the federal Internal Revenue Code (26 U.S.C. § 501); and

(2) "Reserve fund" means a segregated account held by a nonprofit association for maintaining operating reserves, capital reserves, and emergency funds for the use and benefit of the nonprofit association.

(b) This section applies to a nonprofit association that:

(1) Is responsible for the governance and maintenance of a residential community that contains at least five thousand (5,000) lots or units;

(2) Maintains private roads in its community or provides direct funding for certain maintenance of public roads in its community; and

(3) Provides direct funding for certain emergency services for the safety and protection of its property owner members.

(c)

(1) For any transfer of real property located within a community governed by a nonprofit association, the transferee shall pay a fee of two thousand five hundred dollars (\$2,500) to the nonprofit association.

(2) The nonprofit association shall deposit the fee prescribed in subdivision (c)(1) into a reserve fund and use the moneys from the fee for the maintenance, repair, or improvement of the nonprofit association's roads, utility infrastructure, or common area facilities.

(3) The nonprofit association shall increase the fee prescribed in subdivision (c)(1) on January 1 of each subsequent year by an amount up to the percentage increase, if any, in the annual assessment paid by each member of the nonprofit association.

(4) The nonprofit association shall not apply the moneys from the fees collected pursuant to subdivision (c)(1) as an advance payment of an annual assessment owed by a member to the nonprofit association.

(d) A business entity that conducts the closing for a transfer of real property located within a community governed by a nonprofit association shall collect the fee prescribed in subdivision (c)(1) and remit it to the nonprofit association.

(e)

(1) If the fee prescribed in subdivision (c)(1) is not collected by a nonprofit association, a lien in favor of the nonprofit association attaches to the transferred real property on the date of the transfer and remains until the fee is remitted to the nonprofit association.

(2) If the fee is not remitted to the nonprofit association within ninety (90) days following the transfer, then the nonprofit association may suspend the

membership rights of the owner of the real property and seek enforcement of its lien by judicial foreclosure.

(f) A nonprofit association shall record notice of the fee prescribed by subdivision (c)(1) in the office of the register of deeds of each county in which the real property in a community governed by a nonprofit association is located. The notice of fee must state:

(1) The name, address, and phone number of the nonprofit association to which the infrastructure fee is required to be remitted;

(2) The fee obligation is intended to run with the land and to apply to all future transfers of real property located within the community governed by the nonprofit association;

(3) The nonprofit association shall use the fee to benefit its roads, utility infrastructure, or common area facilities;

(4) The owner of the real property to be transferred shall provide notice to the nonprofit association of the pending transfer at least seven (7) days before the transfer occurs; and

(5) The business entity that conducts the closing for a transfer of the real property shall collect and remit the fee to the nonprofit association.

(g) This section only applies to a transfer of real property located within a community governed by a nonprofit association that has voted each year by a majority vote of its board of directors to impose the fee prescribed by subdivision (c)(1) on or after January 1, 2024.

SECTION 2. This act takes effect January 1, 2024, the public welfare requiring it, and applies to transfers occurring, and fees due and owing, on or after that date.