

PART II-B. LOUISIANA HOMEOWNERS ASSOCIATION ACT
SUBPART A. GENERAL PROVISIONS

§1141.1. Short title

This Part shall be known as the "Louisiana Homeowners Association Act".
Acts 1999, No. 309, §2, eff. June 16, 1999.

1141.2. Definitions

As used in this Part, unless the context clearly indicates otherwise:

(1) "Association property" means all the property either held by the association or commonly held by the members of the association, or both, and lots privately held by members of the association.

(2) "Common area" means property owned or otherwise maintained, repaired, or administered by the association for the benefit, use, and enjoyment of its members.

(3) "Community documents" means the articles of incorporation, bylaws, plat, declarations, covenants, conditions, restrictions, rules and regulations, or other written instruments, including any amendment thereto, by which the association has the authority to exercise any of its powers to manage, maintain, or otherwise affect the association property or which otherwise govern the use of association property.

(4) "Declaration" means any instrument, however denominated, that establishes or regulates, or both, a residential planned community, and any amendment thereto.

(5) "Homeowners association" or "association" means a nonprofit corporation, unincorporated association, or other legal entity, which is created pursuant to a declaration, whose members consist primarily of lot owners, and which is created to manage or regulate, or both, the residential planned community.

(6) "Lot" means any plot or parcel of land designated for separate ownership shown on a recorded subdivision plat for a residential development or the boundaries of which are otherwise described in a recorded instrument, other than common area, within the jurisdiction of the residential community as such area is described in the community documents.

(7) "Residential planned community" or "planned community" means a real estate development, used primarily for residential purposes, in which the owners of separately owned lots are mandatory members of an association by virtue of such ownership.
Acts 1999, No. 309, §2, eff. June 16, 1999.

§1141.3. Applicability

A. The provisions of this Part shall be applicable to existing and future residential planned communities whose declarations have been duly executed and filed for registry. However, this Part shall not be construed to affect the validity or superiority of any

provision of a community document. Only to the extent the community documents are silent shall the provisions of this Part apply.

B.(1) This Part shall not apply to condominium property governed by the provisions of Part II of this Chapter.

(2) The provisions of Part II-A of this Chapter shall be applicable to an ownership timeshare interest created in a lot within a planned community to the extent that those provisions do not conflict with the provisions of this Part.

C. This Part shall not impair any right that is guaranteed or protected by the constitution of this state or the United States, nor shall this Part be construed to affect any act done, offense or violation committed, or right accrued.

D. This Part shall not be construed to impair or cast a cloud upon the titles of common areas or lots within a residential planned community.
Acts 1999, No. 309, §2, eff. June 16, 1999.

SUBPART B. BUILDING RESTRICTIONS

§1141.4. Building restrictions; matters of interpretation

The existence, validity, or extent of a building restriction affecting any association property shall be liberally construed to give effect to its purpose and intent.
Acts 1999, No. 309, §2, eff. June 16, 1999.

§1141.5. Building restrictions; generally, affirmative duty, and common areas

A. Building restrictions affecting the building standards, specified uses, or improvements of association property may be established, amended, or terminated in accordance with the provisions of this Part.

B. Such building restrictions may include the imposition of an affirmative duty, including the affirmative duty to pay monthly or periodic dues or fees, or assessments for a particular expense or capital improvement, that are reasonable for the maintenance, improvement, or safety, or any combination thereof, of the planned community.

C. Such building restrictions may also regulate the building standards, specified uses, and improvements of common areas of a homeowners association, including but not limited to the regulation of passage, ingress, and egress upon common areas, streets, and street rights-of-way.
Acts 1999, No. 309, §2, eff. June 16, 1999.

1141.6. Establishment, amendment, or termination of building restrictions

A. Building restrictions affecting association property, including lots or common areas, or those imposing an affirmative duty may be established, amended, or terminated in accordance with the terms of the applicable community document.

B. In the absence of a provision for the establishment, amendment, or termination of such building restrictions in the community documents:

(1) Building restrictions may be established by agreement of three-fourths of the lot owners.

(2) Existing building restrictions may be made more onerous or increased by agreement of two-thirds of the lot owners.

(3) Existing building restrictions may be made less onerous, reduced, or terminated by agreement of more than one-half of the lot owners.

C.(1) Once established, or amended to be more onerous, building restrictions become a charge on the property and affect all current owners and, once recorded in the public records, affect all subsequent owners. Except for building restrictions relating to assessments or common areas, no new or more onerous building restriction shall impose a duty on the current owner to act affirmatively or remove or renovate any existing structure. All new or replacement structures, however, shall be subject to the new or more onerous building restriction.

(2) Once amended to be less onerous, the building restriction constitutes a reduction of the charge on the property, and once terminated, the property is released of its former charge, affecting all current and subsequent owners.

D.(1) When building restrictions are established under the provisions of Subsection B of this Section, rather than by the community documents, an owner may file with the association and the clerk of court a statement declining to be covered by the building restrictions. Such document must be filed within thirty days of the establishment of such building restrictions.

(2) When building restrictions relative to set-backs or minimum square footage requirements are established or made more onerous under the provisions of Subsection B of this Section, rather than the community documents, the owner of an unimproved lot is exempt from complying with such new or more onerous restrictions.

(3) An "owner" under the provisions of this Subsection means the owner or owners at the time the restriction was established or made more onerous and the waivers of compliance provided in this Subsection are personal to that owner.

Acts 1999, No. 309, §2, eff. June 16, 1999.

§1141.7. Agreement of owners; voting

A. Each lot represents a single vote which can be exercised by the signature or other indication of the registered lot owner or of a single co-owner, the latter of which is presumed to be acting on behalf of the other co-owners. A plot or parcel of unimproved land which is substantially larger than a majority of other lots in the association, however, shall be treated as separate lots, the number of which to be roughly determined by the

size of the land in relation to other lots. The ownership interest in common areas, streets, or street rights-of-way does not constitute a voting interest.

B. For purposes of this Subpart, an agreement of lot owners may be obtained by any of the following methods, or a combination thereof:

(1) By a written ballot that states the substance of the issue before the owners and specifies the date by which the return ballot must be received to be counted. The ballot shall be accompanied by the full text of the building restriction being established, amended, or terminated and shall be mailed to the owner by certified mail not less than thirty days prior to the date by which the return ballot must be received.

(2) At a meeting of the owners if written notice of the meeting stating the purpose of the meeting is delivered to each lot owner. The notice shall be accompanied by an agenda of the meeting and the full text of the building restriction being established, amended, or terminated. Such notice shall be mailed to the owner, by certified mail, not less than thirty days prior to the date of the meeting.

Acts 1999, No. 309, §2, eff. June 16, 1999.

SUBPART C. ENFORCEMENT

§1141.8. Community documents; force of law

The community documents of residential planned communities shall have the force of law between the homeowners association and the individual lot owners and as between individual lot owners. The remedies for breach of any obligation imposed on lot owners or the association shall include damages, injunctions, or such other remedies as are provided by law.

Acts 1999, No. 309, §2, eff. June 16, 1999.

§1141.9. Homeowners association privilege

In addition to any other remedies provided by law or by the community documents for nonpayment of assessments, a homeowners association as defined in this Part may utilize the provisions of Part III of this Chapter establishing a privilege on lots of delinquent owners for nonpayment of assessments.

Acts 1999, No. 309, §2, eff. June 16, 1999.

PART III. PRIVILEGES ON IMMOVABLES FOR CHARGES OR DUES OF ASSOCIATION OF OWNERS

§1145. Association of owners; privilege; definition

Upon the filing of a sworn detailed statement in accordance with this Part, an association of owners of lots in a residential or commercial subdivision shall have a privilege upon the lot and improvements thereon of an owner in the subdivision who fails to pay charges, expenses or dues imposed upon such lot and improvements thereon in accordance with recorded restrictions, servitudes, or obligations affecting such subdivision. An association of owners refers to a nonprofit corporation, partnership, association, or other legal entity whose members are owners of lots in the subdivision,

and which maintains certain portions of the land or improvements in such subdivision for the use and benefit of the owners of lots in such subdivision. The privilege shall secure unpaid charges, expenses or dues imposed by the association of owners, together with legal interest from the date due and reasonable attorney's fees.

Added by Acts 1979, No. 583, §1.

§1146. Privilege; sworn detailed statement; filing

The sworn detailed statement shall contain the nature and amount of the unpaid charges, expenses, or dues, a description of the lot or lots on which behalf the charges, expenses, or dues have been assessed, shall be signed and verified by an officer or agent of the association, and shall be filed for registry in the mortgage records in the parish in which the residential subdivision is located. The association shall, commensurate with the filing for registry of the privilege, serve upon the delinquent owner a sworn detailed statement of the claim by certified mail, registered mail or personal delivery.

Added by Acts 1979, No. 583, §1.

§1147. Privilege; five year period

A recorded sworn statement shall preserve the privilege against the lot or lots and improvements thereon for a period of five years after the date of recordation. The effect of recordation shall cease and the privilege preserved by this recordation shall preempt unless a suit to enforce the privilege is filed within five years after the date of its recordation and a notice of the filing of such suit is filed in the mortgage records of the parish in which the subdivision is located.

Added by Acts 1979, No. 583, §1.

§1148. Privilege; ranking

The privilege provided in this Part shall be ranked according to its time of recordation.

Added by Acts 1979, No. 583, §1.

Art. 783. Matters of interpretation and application

Doubt as to the existence, validity, or extent of building restrictions is resolved in favor of the unrestricted use of the immovable. The provisions of the Louisiana Condominium Act, the Louisiana Timesharing Act, and the Louisiana Homeowners Association Act shall supersede any and all provisions of this Title in the event of a conflict.

Acts 1977, No. 170, §1; Acts 1999, No. 309, §1, eff. June 16, 1999.

§2792.7. Limitation of liability of director, officer, or trustee of certain homeowners associations

A. A person who serves as a director, officer, or trustee of a homeowners association and who is not compensated for such services on a salary basis shall not be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a director, officer, or trustee of that association, or arising out of the management of the affairs of that association, provided he was acting in good faith and within the scope of his official

functions and duties, unless such damage or injury was caused by his willful or wanton misconduct.

B. For purposes of this Section, "homeowners association" means any of the following:

(1) A condominium association as defined in the Louisiana Condominium Act, R.S. 9:1121.101 et seq.

(2) A timeshare association as defined in the Louisiana Timesharing Act, R.S. 9:1131.1 et seq.

(3) A homeowners association as defined in the Louisiana Homeowners Association Act, R.S. 9:1141.1 et seq.

An association defined by Section 528(c) of the Internal Revenue Code of 1986, as amended.

§287.528. Homeowners' associations

A. A homeowner's association as defined under federal law shall be subject to taxation under this Part as provided in this Section.

B. A homeowner's association shall be taxed under this Part on its Louisiana taxable income.

C. For purposes of this Section:

(1) "Net income" means a homeowner's association taxable income determined in accordance with federal law applicable to homeowners' associations.

(2) "Gross income" and "deductions from gross income" have the same meaning herein as in federal law pertaining to homeowners' associations.

Acts 1986, 1st Ex. Sess., No. 16, §1, eff. Dec. 24, 1986.

Acts 1990, No. 91, §1; Acts 1999, No. 88, §1.