

AMENDING RESTRICTIVE COVENANTS

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House Bill 5591 as enacted
Public Act 355 of 2016
Sponsor: Rep. Triston Cole
House Committee: Local Government
Senate Committee: Local Government
Complete to 1-24-17

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 5591 amends the Uniform Electronic Transactions Act so that the owner of a lot or parcel subject to a restrictive covenant may consent to amend, reaffirm, or repeal the restrictive covenant, in whole or in part, by an electronic signature. This provision would apply to restrictive covenants with more than 250 lots or parcels of real property in a single development, and as long as the laws of the state allow the covenant to be amended, reaffirmed, or repealed. The bill takes effect March 21, 2017.

Proposed MCL 450.835a

FISCAL IMPACT: House Bill 5591 would reduce administrative costs for local governments by an unknown, but likely negligible, amount.

THE APPARENT PROBLEM:

As enacted, the bill will apply to restrictive covenants covering more than 250 lots or parcels of property in a single development.

This bill was initially introduced to address the needs of Lakes of the North Association, a development in northern Michigan between Gaylord and Mancelona. According to testimony, the Association and the restrictive covenants which run with the land contained in the development, are nearly 50 years old. The restrictive covenants are structured so that they are nearly impossible to change, requiring physical signatures from two-thirds of the currently 4,700 members. Changes may only be considered every ten years, and would take effect three years later.

According to testimony submitted to the committee, the following deed restrictions are currently in place:

- 600 sq. ft. homes are allowed adjacent to 2,000 sq. ft. homes on the golf course;
- Asbestos siding is allowed on homes, but not vinyl;
- The maximum late fee on assessment is \$2, regardless of the amount owed.

Furthermore, there are no enforcement provisions for infractions on issues such as blight, storage, or running businesses in a residential community, among other concerns.

As introduced, the bill applied only to restrictive covenants *with more than 7,500 lots or parcels of real property in a single development*. (Lakes of the North, with 8,028 lots, was the only qualifying development in Michigan.)

BACKGROUND INFORMATION:

Restrictive covenants, also called deed restrictions, are contractual agreements that restrict the use or occupancy of real property. These limitations may include anything from limits on the size, height, or architectural style of a structure on the land to the uses for which the property may be used.

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