



H.B. 407

126th General Assembly
(As Introduced)

Rep. Raga

BILL SUMMARY

- Establishes requirements for residential community association developments.

CONTENT AND OPERATION

Residential community association developments

The bill establishes requirements for residential community association developments (RCADs). An RCAD is a grouping of two or more homes developed under a common plan that provides for common areas and facilities for which the homeowners are responsible due to a covenant in the deed or other condition of ownership. Common areas and facilities are all property, facilities, and improvements (1) that homeowners in an RCAD own or lease in common or that are held in trust or otherwise for the common benefit or use of RCAD residents and (2) for which the homeowners have responsibility to repair, replace, and maintain. (R.C. 5312.01(A)(1) and (4).)

Developer warranty and bond

Warranty

The bill prohibits any developer who develops real estate as an RCAD, agent (presumably of a developer), or person associated with a developer to convey any home or real property in an RCAD unless the developer has furnished at least a two-year warranty covering the full cost of labor and materials for the completion, repair, or replacement of any aspect of the common areas and facilities that the developer represents is included in the development or that the developer otherwise is responsible for providing. The warranty must be effective *for at least two years* following the time at which the developer no longer has a controlling interest in the RCAD's homeowners association and relinquishes the management responsibilities for the common areas and facilities to the

homeowners association.¹ But, the time period *must be sufficient* to cover any facility or improvement for which a warranty is required, for at least two years following the completion of the facility or improvement. (R.C. 5312.01(A)(2) and (B)(1) and (2).)

The warranty must cover any completion, repair, or replacement necessitated by a defect in material or workmanship, the failure to complete an improvement or facility, or the failure to complete an improvement or facility in a "workerlike" manner (R.C. 5312.01(B)(1)).

Bond

The developer must accompany the warranty with a bond that has a good and sufficient surety, and is conditioned on the developer completing construction of the RCAD common areas and facilities and making any of the required repairs or replacements mentioned above. The sole beneficiary or obligee of any default payment must be the RCAD's homeowners association, which must use the payment to make necessary completions, repairs, or replacements, or to reimburse the homeowners in proportion to the amount each paid toward the completion, repair, or replacement (R.C. 5312.01(B)(3)).

Lot owners' fees and charges

The owner of each platted lot in an RCAD must be assessed fees and charges for the development's common areas and facilities in an amount equivalent to the fees and charges assessed to the owner of a lot that contains an occupied residential structure. If the developer is the owner of a platted lot, the developer must be assessed those fees and charges. (R.C. 5312.01(C).)

COMMENT

Condominium developments are not residential community association developments by definition under the bill. While both RCADs and condominium owners have commonly owned spaces that must be managed and paid for by the homeowners, condominium owners do not have *individual* ownership of the land upon which their units are situated. (R.C. 5311.01(M)--not in the bill, and R.C. 5312.01(A)(4).)

¹ A homeowners association is defined as an association of homeowners or other designated persons with the authority to assess fees to replace, maintain, and repair the common areas and facilities in an RCAD (R.C. 5312.01(A)(3)).

HISTORY

ACTION	DATE
Introduced	11-03-05

H0407-I-126.doc/jc

