

HOUSE BILL No. 2837

By Representatives Huntington, Brown, Gordon, Pottorff, Watkins
and K. Wolf

2-12

10 AN ACT concerning certain homeowners' associations.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this act:

14 (1) "Homeowners' association" means a nonprofit homeowners' or-
15 ganization as defined in K.S.A. 60-3611, and amendments thereto, with
16 an annual operating budget of \$100,000 or more.

17 (2) "Mediation" shall mean mediation as the term is defined in K.S.A.
18 5-502(f), and amendments thereto.

19 (3) "Dispute" shall mean a disagreement regarding the rights or ob-
20 ligations of the homeowners' association or the residents.

21 (4) "Resident" means a real property owner or lessee whose property
22 is subject to the jurisdiction of a homeowners' association.

23 (b) This act shall be known as the homeowners' association dispute
24 resolution act.

25 Sec. 2. (a) Upon written request of any resident, an association shall
26 participate in mediation of a dispute. An association may make a written
27 request for mediation with a resident. The resident's participation in me-
28 diation shall be optional.

29 (b) If the parties agree to mediation, a mediator shall be appointed
30 by mutual agreement of the association and the resident within 60 days
31 of the written request.

32 (c) Prospective mediators shall be required to disclose to the parties
33 the mediator's education, training, relevant experience and professional
34 and community affiliations the names of any participants in mediation
35 conducted by the mediator who are willing to act as references and any
36 possible conflicts of interest.

37 (d) If the parties cannot agree upon the selection of a mediator, a
38 mediator shall be designated by the attorney general.

39 (e) Mediation shall not exceed two hours in duration unless the par-
40 ties agree in advance to a longer period. Costs of the mediation shall be
41 paid $\frac{2}{3}$ by the association and $\frac{1}{3}$ by the resident.

42 (f) Parties at their own expense may be assisted by legal counsel at
43 the mediation.

1 (g) The term of any settlement agreement shall be open to disclosure
2 to any resident.

3 (h) The attorney general shall maintain a list of qualified mediators
4 for purposes of this act.

5 Sec. 3. (a) The attorney general shall develop written educational
6 materials and a website with an interactive question-and-answer feature
7 for the purpose of providing guidance to homeowners' associations and
8 their residents regarding best practices of corporate governance including
9 the following:

10 (1) Election procedures including secret ballots, absentee ballots,
11 proxies and election monitoring procedures;

12 (2) appropriateness of executive sessions during board meetings;

13 (3) necessity for providing advance notice to residents prior to board
14 consideration of certain matters;

15 (4) prompt disclosure of board minutes to residents;

16 (5) necessity for providing access to residents to association records;

17 (6) appropriate procedures for the approval of amendments to by-
18 laws;

19 (7) conflict of interest rules covering directors, officers, employees
20 and committee members in connection with association business and res-
21 idents' concerns;

22 (8) appropriate rules regarding the possible shifting of legal costs to
23 and among residents, directors personally and associations;

24 (9) appropriate utilization of mediation procedures; and

25 (10) other matters deemed to be important in the overall governance
26 and operation of a homeowners' association.

27 (b) Homeowners' associations shall notify their residents of the avail-
28 ability of this information and the website no later than the next annual
29 meeting following the effective date of this act.

30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the Kansas register.