

**HOUSE BILL No. 2629**

By Committee on Local Government

2-6

1 AN ACT concerning consumer protection and common interest  
2 communities; amending K.S.A. 2017 Supp. 58-4609 and repealing the  
3 existing section.  
4

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

6 New Section 1. (a) As used in this section:

7 (1) "Consumer" means:

8 (A) An actual or prospective purchaser, lessee, assignee or recipient  
9 of a unit in a common interest community as defined in K.S.A. 2017 Supp.  
10 58-4602(n), and amendments thereto; and

11 (B) a co-obligor or surety for a unit owner, as defined in K.S.A. 58-  
12 4602(o), and amendments thereto.

13 (2) "Division" means the division of consumer protection of the  
14 Kansas attorney general's office.

15 (b) Any consumer who believes that the board of directors or the  
16 property manager of a common interest community has violated the rights  
17 of the consumer as established by the Kansas uniform common interest  
18 owners bill of rights act, K.S.A. 2017 Supp. 58-4601 et seq., and  
19 amendments thereto, may file a complaint with the division. The division  
20 shall investigate each complaint. If the division determines the complaint  
21 is valid, it may utilize any remedy available under the Kansas consumer  
22 protection act, K.S.A. 50-623 et seq., and amendments thereto.

23 (c) This section shall be a part of and supplemental to the Kansas  
24 consumer protection act.

25 New Sec. 2. (a) Every common interest community subject to the  
26 Kansas uniform common interest owners bill of rights act, K.S.A. 58-4601  
27 et seq., and amendments thereto, shall file a registration statement with the  
28 attorney general on or before July 1 of each year containing the name and  
29 address of the common interest community, the names of the board of  
30 directors and the property manager and such other information as required  
31 by the attorney general. The registration statement shall be accompanied  
32 by an annual registration fee in an amount based on the number of units in  
33 the common interest community as determined by the attorney general, but  
34 in no case greater than \$500.

35 (b) There is hereby established in the state treasury the common  
36 interest community fund which shall be administered by the attorney

1 general. All expenditures from the common interest community fund shall  
 2 be for enforcement of the Kansas uniform common interest owners bill of  
 3 rights act as provided in section 1, and amendments thereto. All  
 4 expenditures from the common interest community fund shall be made in  
 5 accordance with appropriation acts upon warrants of the director of  
 6 accounts and reports issued pursuant to vouchers approved by the attorney  
 7 general.

8 (c) All moneys received by the attorney general for the registration of  
 9 common interest communities shall be deposited in the state treasury in  
 10 accordance with the provisions of K.S.A. 75-4215, and amendments  
 11 thereto, and shall be credited to the common interest community fund.

12 Sec. 3. K.S.A. 2017 Supp. 58-4609 is hereby amended to read as  
 13 follows: 58-4609. (a) In the performance of their duties, officers and  
 14 members of the board of directors appointed by the declarant shall exercise  
 15 the degree of care and loyalty to the association required of a trustee.  
 16 Officers and members of the board of directors not appointed by the  
 17 declarant *and the property manager appointed by the board* shall exercise  
 18 the degree of care and loyalty to the association required of an officer or  
 19 director of a corporation organized, and are subject to the conflict of  
 20 interest rules governing directors and officers, under existing law. The  
 21 standards of care and loyalty described in this section apply regardless of  
 22 the form in which the association is organized.

23 (b) An association shall have a board of directors created in  
 24 accordance with its declaration or bylaws. Except as otherwise provided in  
 25 the declaration, the bylaws, subsection (c), or other provisions of this act,  
 26 the board of directors acts on behalf of the association.

27 (c) The board of directors may not:

28 (1) Amend the declaration except as provided by law other than this  
 29 act;

30 (2) amend the bylaws;

31 (3) terminate the common interest community;

32 (4) elect members of the board of directors, but may fill vacancies in  
 33 its membership for the unexpired portion of any term or, if earlier, until the  
 34 next regularly scheduled election of board of directors' members; or

35 (5) determine the qualifications, powers, duties, or terms of office of  
 36 board of directors' members.

37 ~~(d) This section shall take effect on and after January 1, 2011.~~

38 Sec. 4. K.S.A. 2017 Supp. 58-4609 is hereby repealed.

39 Sec. 5. This act shall take effect and be in force from and after its  
 40 publication in the statute book.