

From: Miller, Sally
Sent: Wednesday, March 23, 2011 2:32 PM
To: thomashpike@cs.com; Beller, Jennie; glenn@hartcountyrealty.com;
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peak12r@excite.com; dfinne4735@aol.com
Subject: RE: HB 1058

[No message or deleted.]

From: thomashpike@cs.com [mailto:thomashpike@cs.com]
Sent: Monday, March 21, 2011 10:45 AM
To: Miller, Sally; "8799:jennie.beller"@atg.in.gov;
glenn@hartcountyrealty.com; kathybuppl@yahoo.com; paulkiger@remax.net;
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v.hack@insightbb.com; bettycan@insightbb.com; peak12r@excite.com;
dfinne4735@aol.com
Subject: Fwd: HB 1058

-----Original Message-----

From: thomashpike <thomashpike@cs.com>
To: CAIIndiana <CAIIndiana@aol.com>
Sent: Mon, Mar 21, 2011 10:37 am
Subject: HB 1058

I am writing in response to the CAI remarks related to HB 1058.

As with any legislation, it can be picked apart and amended to the point it is no longer the bill it was intended or is lost in the blizzard of other new legislation. My opinion and that of many harmed HOA members is "WE NEED HELP TODAY". The antiquated laws (or more so, the lack of laws) governing HOA's have created safe havens for the corrupt who use their board membership to promote their personal and/or financial agendas.

The Bill in summary "Authorizes the attorney general to bring an action against the board of directors of a homeowners association or individual members of a homeowners association if the attorney general makes certain findings. Provides for judicial remedies for violations of the statute governing homeowners associations" (emphasis added).

The article below from the Indiana Madison Courier reflects the need for this legislation. Representative Cheatham and the Attorney General are hero's (sic) to many of us for taking this stand against board bullies hiding behind Corporate Shields with deep pockets and built in Association resources including the free use of a retained attorney. That is the reality. I can make that statement as I witnessed such behavior as a board member of my HOA. As a Realtor, I can testify to the growing popularity of community living with the aging Baby Boomers. With more associations and the millions of dollars running through them I

can testify as a Certified Public Accountant, the impending train wreck is eminent with current corporate laws governing HOA's. The AG has a history and reputation of making no nonsense minimally invasive investigations. Time and time again it is documented that when they feel there is a case to be made, they will pursue an investigation. At that level of investigation, I would bet the AG has an excellent win/loss record. My experience in dealing with the AG office is they don't waste taxpayers nor HOA's time and money pursuing pure personal beefs of members. Why would they start with this legislation?

The terms you have objected to "misappropriated or diverted" and the possible repercussions of those interpretations creating measurable harm to an association does not nearly outweigh the disasters looming at associations across the state. The reality is this bill could be ready for the signature by the Governor after the next hearing if it is not amended. Given the turmoil of this current Legislative Session, I ask the CAI to support this bill without amendment. There is so much more work to do. Let get it started with this House Bill #1058 as is and move to the next subject haunting associations, Proxy Voting. WE ARE NOT CORPORATIONS.

Best regards,

Thomas H. Pike, CPA

Former Board Member, The Harbours Condominium Association-Jeffersonville IN.

House passes Cheatham plan to help homeowners

Peggy Vlerebome<mailto:pvlerebome@madisoncourier.com>
Courier Staff Writer

Indiana House members overwhelmingly approved a bill authored by State Rep. David Cheatham, D-North Vernon, that would protect families against homeowners associations that fail to live up to contract responsibilities involving such areas as public safety, capital improvements and recreation.

By a 90-8 vote, representatives approved House Bill 1058, which puts the weight of the Indiana attorney general's office behind complaints about alleged criminal activity committed by a homeowners association or a member of the group's board of directors.

"If the attorney general finds that there has been a misappropriation of funds, some type of fraud or other criminal activity, the office has the right to bring legal action against the homeowners association itself or a specific board member," Cheatham said.

"If guilt is determined after an investigation, the court then will have the ability to issue an injunction, order restitution and even the removal of a board member," he said.

Cheatham said the legislation was inspired by recent incidents brought to his attention by constituents.

"The chief concern expressed by these residents is that some associations are not living up to the requirement of the contracts that were signed by homeowners," Cheatham said.

"Residents are paying dues for streets to be paved, snow to be plowed in the winter and security staffs to patrol the neighborhoods, only to find that no such work has been done, possibly because of the illegal diversion of funds," he said.

While such disputes normally are expected to be handled at the local level, Cheatham said it often is difficult for prosecutors to have the time and resources to pursue legal action. He said this leaves the cost of legal action to the individual homeowner who files suit. This costs the individual, plus it costs the homeowners association money to defend against the suit, which again costs the individual homeowner more money since the cost is partly covered by their dues to the association, he said.

"However, these are clear instances where some measure of fraud or other illegal activity has taken place, and it is entirely correct for homeowners to pursue whatever legal means are available to make things right," he said. "This legislation provides them with the means from an impartial government agency to get relief as part of consumer protection."

House Bill 1058 now moves to the Senate for consideration, where it will be sponsored by State Sens. Richard Bray, R-Martinsville, and Carlin Yoder, R-Middlebury.