

1.1 **Senator Frenz from the Committee on Energy, Utilities, Environment, and Climate,**
1.2 **to which was referred**

1.3 **S.F. No. 1003:** A bill for an act relating to energy; modifying certain utility requirements;
1.4 prohibiting certain restrictions on the use of residential solar energy systems; amending
1.5 Minnesota Statutes 2022, section 216B.164, by adding a subdivision; proposing coding for
1.6 new law in Minnesota Statutes, chapter 500.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Page 2, line 9, delete everything after "to" and insert a colon

1.9 Page 2, delete line 10 and insert:

1.10 "(1) single family detached dwellings for which the dwelling owner or owners each
1.11 wholly owns the entire building in which the dwelling is located and is wholly responsible
1.12 for the maintenance, repair, replacement, and insurance of the entire building; and

1.13 (2) multi-family attached dwellings for which the dwelling owner or owners each wholly
1.14 owns the entire building in which the dwelling is located and is wholly responsible for the
1.15 maintenance, repair, replacement, and insurance of the entire building."

1.16 Page 2, line 16, delete everything after "(a)" and insert "A private entity may require
1.17 that:"

1.18 Page 2, delete line 17

1.19 Page 3, line 18, after the period, insert "In no event will a private entity have less than
1.20 60 days to approve or disapprove an application for a solar energy system."

1.21 Page 3, line 26, delete everything after the period and insert "If a private entity determines
1.22 that it needs additional information from the applicant in order to approve or disapprove
1.23 the application, the private entity must request the additional information in writing within
1.24 60 days from the date of receipt of the application. If the private entity makes a request for
1.25 additional information within 15 days from the date the private entity initially received the
1.26 application, the private entity shall have 60 days from the date of receipt of the additional
1.27 information in which to approve or deny the application. If the private entity makes a written
1.28 request to the applicant for additional information more than 15 days after the private entity
1.29 initially received the application, the private entity shall have 15 days after the private entity
1.30 receives the additional information it requested from the applicant in which to approve or
1.31 disapprove the application, but in no event shall the private entity have less than 60 days
1.32 from the date the private entity initially received the application in which to approve or
1.33 disapprove the application."

1.34 Page 3, delete lines 27 to 30 and insert:

2.1 "Sec. 3. Minnesota Statutes 2022, section 515B.2-103, is amended to read:

2.2 **515B.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND**
2.3 **BYLAWS.**

2.4 (a) All provisions of the declaration and bylaws are severable.

2.5 (b) The rule against perpetuities may not be applied to defeat any provision of the
2.6 declaration or this chapter, or any instrument executed pursuant to the declaration or this
2.7 chapter.

2.8 (c) In the event of a conflict between the provisions of the declaration and the bylaws,
2.9 the declaration prevails except to the extent that the declaration is inconsistent with this
2.10 chapter.

2.11 (d) The declaration and bylaws must comply with ~~section~~ sections 500.215 and 500.216.

2.12 Sec. 4. Minnesota Statutes 2022, section 515B.3-102, is amended to read:

2.13 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

2.14 (a) Except as provided in subsections (b), (c), (d), and (e), and subject to the provisions
2.15 of the declaration or bylaws, the association shall have the power to:

2.16 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles of
2.17 incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
2.18 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
2.19 jeopardize the health, safety or welfare of other occupants, which involves noise or other
2.20 disturbing activity, or which may damage the common elements or other units; (iii) regulating
2.21 or prohibiting animals; (iv) regulating changes in the appearance of the common elements
2.22 and conduct which may damage the common interest community; (v) regulating the exterior
2.23 appearance of the common interest community, including, for example, balconies and patios,
2.24 window treatments, and signs and other displays, regardless of whether inside a unit; (vi)
2.25 implementing the articles of incorporation, declaration and bylaws, and exercising the
2.26 powers granted by this section; and (vii) otherwise facilitating the operation of the common
2.27 interest community;

2.28 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and
2.29 collect assessments for common expenses from unit owners;

2.30 (3) hire and discharge managing agents and other employees, agents, and independent
2.31 contractors;

3.1 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in its
3.2 own name on behalf of itself or two or more unit owners on matters affecting the common
3.3 elements or other matters affecting the common interest community or, (ii) with the consent
3.4 of the owners of the affected units on matters affecting only those units;

3.5 (5) make contracts and incur liabilities;

3.6 (6) regulate the use, maintenance, repair, replacement, and modification of the common
3.7 elements and the units;

3.8 (7) cause improvements to be made as a part of the common elements, and, in the case
3.9 of a cooperative, the units;

3.10 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to
3.11 real estate or personal property, but (i) common elements in a condominium or planned
3.12 community may be conveyed or subjected to a security interest only pursuant to section
3.13 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
3.14 may be subjected to a security interest, only pursuant to section 515B.3-112;

3.15 (9) grant or amend easements for public utilities, public rights-of-way or other public
3.16 purposes, and cable television or other communications, through, over or under the common
3.17 elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized
3.18 by the declaration; and, subject to approval by a vote of unit owners other than declarant
3.19 or its affiliates, grant or amend other easements, leases, and licenses through, over or under
3.20 the common elements;

3.21 (10) impose and receive any payments, fees, or charges for the use, rental, or operation
3.22 of the common elements, other than limited common elements, and for services provided
3.23 to unit owners;

3.24 (11) impose interest and late charges for late payment of assessments and, after notice
3.25 and an opportunity to be heard before the board or a committee appointed by it, levy
3.26 reasonable fines for violations of the declaration, bylaws, and rules and regulations of the
3.27 association;

3.28 (12) impose reasonable charges for the review, preparation and recordation of
3.29 amendments to the declaration, resale certificates required by section 515B.4-107, statements
3.30 of unpaid assessments, or furnishing copies of association records;

3.31 (13) provide for the indemnification of its officers and directors, and maintain directors'
3.32 and officers' liability insurance;

4.1 (14) provide for reasonable procedures governing the conduct of meetings and election
4.2 of directors;

4.3 (15) exercise any other powers conferred by law, or by the declaration, articles of
4.4 incorporation or bylaws; and

4.5 (16) exercise any other powers necessary and proper for the governance and operation
4.6 of the association.

4.7 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations
4.8 on the power of the association to deal with the declarant which are more restrictive than
4.9 the limitations imposed on the power of the association to deal with other persons.

4.10 (c) Notwithstanding subsection (a), powers exercised under this section must comply
4.11 with ~~section~~ sections 500.215 and 500.216.

4.12 (d) Notwithstanding subsection (a)(4) or any other provision of this chapter, the
4.13 association, before instituting litigation or arbitration involving construction defect claims
4.14 against a development party, shall:

4.15 (1) mail or deliver written notice of the anticipated commencement of the action to each
4.16 unit owner at the addresses, if any, established for notices to owners in the declaration and,
4.17 if the declaration does not state how notices are to be given to owners, to the owner's last
4.18 known address. The notice shall specify the nature of the construction defect claims to be
4.19 alleged, the relief sought, and the manner in which the association proposes to fund the cost
4.20 of pursuing the construction defect claims; and

4.21 (2) obtain the approval of owners of units to which a majority of the total votes in the
4.22 association are allocated. Votes allocated to units owned by the declarant, an affiliate of the
4.23 declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale
4.24 are excluded. The association may obtain the required approval by a vote at an annual or
4.25 special meeting of the members or, if authorized by the statute under which the association
4.26 is created and taken in compliance with that statute, by a vote of the members taken by
4.27 electronic means or mailed ballots. If the association holds a meeting and voting by electronic
4.28 means or mailed ballots is authorized by that statute, the association shall also provide for
4.29 voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means
4.30 or mailed ballots, except that the votes must be used in combination with the vote taken at
4.31 a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered
4.32 for purposes of determining whether a quorum was present. Proxies may not be used for a
4.33 vote taken under this paragraph unless the unit owner executes the proxy after receipt of
4.34 the notice required under subsection (d)(1) and the proxy expressly references this notice.

5.1 (e) The association may intervene in a litigation or arbitration involving a construction
 5.2 defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party
 5.3 claim before complying with subsections (d)(1) and (d)(2) but the association's complaint
 5.4 in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed without
 5.5 prejudice unless the association has complied with the requirements of subsection (d) within
 5.6 90 days of the association's commencement of the complaint in an intervention or the
 5.7 assertion of the counterclaim, crossclaim, or third-party claim."

5.8 Amend the title numbers accordingly

5.9 And when so amended the bill do pass and be re-referred to the Committee on Judiciary
 5.10 and Public Safety. Amendments adopted. Report adopted.

Nich A. Funtz

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 (Committee Chair)

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February 27, 2023.....
 (Date of Committee recommendation)