



## 2024 South Dakota Legislature

# Senate Bill 217

Introduced by: **Senator Rohl**

1 **An Act to require disclosure of certain information prior to the sale of property**  
 2 **bound by a homeowners' association.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 43-4-42 be AMENDED:**

5 **43-4-42.** A transfer that is subject to §§ 43-4-37 to 43-4-44, inclusive, and section  
 6 2 of this Act is not invalidated solely because a person fails to comply with §§ 43-4-37 to  
 7 43-4-44, inclusive, and section 2 of this Act. However, a person who intentionally or who  
 8 negligently violates §§ 43-4-37 to 43-4-44, inclusive, and section 2 of this Act is liable to  
 9 the buyer for the amount of the actual damages and repairs suffered by the buyer as a  
 10 result of the violation or failure. In any court action pursuant to this section, the court  
 11 may award costs and attorney fees to the prevailing party. Nothing in this section  
 12 precludes or restricts any other rights or remedies of the buyer or seller.

13 **Section 2. That chapter 43-4 be amended with a NEW SECTION:**

14 In attempting to sell a residential real property governed by a homeowners'  
 15 association, the seller must furnish to a buyer before the buyer makes a written offer:

- 16 (1) A disclosure that the property is governed by a homeowners' association;  
 17 (2) A copy of the governing documents of the homeowners' association; and  
 18 (3) A statement indicating whether there is an assessment and the amount, frequency,  
 19 and purpose of any assessment.

20 If, after delivering the homeowners' association information to the buyer or the  
 21 buyer's agent and prior to the date of closing for the property or the date of possession of  
 22 the property, whichever comes first, the seller becomes aware of any change of material  
 23 fact that would affect the information, the seller must furnish a written amendment  
 24 disclosing the change of material fact.

1           This section applies to all transfers of residential real property occurring after July  
2           1, 2024.

3           For the purposes of this section, the term "governing documents" means a written  
4           instrument by which the homeowners' association may exercise powers to manage,  
5           maintain, or otherwise affect the property under the jurisdiction of the homeowners'  
6           association.

7           For the purposes of this section, the term "homeowners' association" means any  
8           incorporated or unincorporated association in which membership is based upon owning or  
9           possessing an interest in real property and that has the authority, pursuant to recorded  
10          covenants, bylaws, or other governing documents, to assess and record liens against the  
11          real property of its members.