
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **1122** Session of
2013

INTRODUCED BY GINGRICH, KAUFFMAN, ELLIS, GABLER, SWANGER,
MACKENZIE, REGAN, BARRAR, TOOHL, EVERETT, C. HARRIS, COHEN,
LONGIETTI AND R. BROWN, APRIL 8, 2013

SENATOR ARGALL, URBAN AFFAIRS AND HOUSING, IN SENATE, AS
AMENDED, JUNE 19, 2013

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in creation, alteration
3 and termination of condominiums, further providing for
4 CONTENTS OF DECLARATION FOR ALL CONDOMINIUMS, FOR contents of <--
5 declaration ~~and~~ FOR flexible condominiums and for amendment <--
6 of declaration; IN PROTECTION OF PURCHASERS, FURTHER <--
7 PROVIDING FOR DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE;
8 and, in creation, alteration and termination of planned
9 communities, further providing for CONTENTS OF DECLARATION <--
10 FOR ALL PLANNED COMMUNITIES, FOR contents of declaration for
11 flexible planned communities and for amendment of
12 declaration.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Sections 3206(2), 3219(a), 5206(2) and 5219(a)(3) <--~~
16 ~~of Title 68 of the Pennsylvania Consolidated Statutes are~~
17 ~~amended to read:~~

18 SECTION 1. SECTIONS 3205(12) AND (13), 3206(2), 3219(A), <--
19 3414(C), 5205(13) AND (14), 5206(2) AND 5219(A)(3) OF TITLE 68
20 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:
21 § 3205. CONTENTS OF DECLARATION; ALL CONDOMINIUMS.

1 THE DECLARATION FOR A CONDOMINIUM MUST CONTAIN:

2 * * *

3 (12) IF THE DECLARANT WISHES TO RETAIN THE SPECIAL
4 DECLARANT RIGHT TO CAUSE SECTION 3222 (RELATING TO MASTER
5 ASSOCIATIONS) TO BECOME APPLICABLE TO A CONDOMINIUM, THEN:

6 (I) AN EXPLICIT RESERVATION OF SUCH RIGHT;

7 (II) A STATEMENT OF THE TIME LIMIT, NOT EXCEEDING
8 SEVEN YEARS AFTER THE RECORDATION OF THE DECLARATION,
9 UPON WHICH THE OPTION RESERVED UNDER SUBPARAGRAPH (I)
10 WILL LAPSE, TOGETHER WITH A STATEMENT OF ANY
11 CIRCUMSTANCES THAT WILL TERMINATE THE OPTION BEFORE THE
12 EXPIRATION OF THE TIME LIMIT[; AND], THE TIME LIMIT SHALL
13 NOT EXCEED THE LATER OF:

14 (A) TEN YEARS AFTER THE RECORDING OF THE
15 DECLARATION; OR

16 (B) IN THE CASE OF A PRELIMINARY PLAT CALLING
17 FOR THE INSTALLATION OF IMPROVEMENTS IN SECTIONS, 120
18 DAYS AFTER MUNICIPAL APPROVAL OR DENIAL OF EACH
19 PARTICULAR SECTION'S FINAL PLAT WHICH WAS FILED PRIOR
20 TO THE DEADLINE APPROVED OR MODIFIED BY THE MUNICIPAL
21 GOVERNING BODY PURSUANT TO SECTION 508 (4) (V) OF THE
22 ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN AS THE
23 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, OR, IN THE
24 EVENT OF AN APPEAL FROM THE MUNICIPAL APPROVAL OR
25 DENIAL OF SUCH FINAL PLAT, 120 DAYS AFTER A FINAL
26 JUDGMENT ON APPEAL; AND

27 (III) THE INFORMATION REQUIRED TO BE INCLUDED IN THE
28 DECLARATION BY THE PROVISIONS OF SECTION 3222.

29 (13) IF THE DECLARANT WISHES TO RETAIN THE SPECIAL
30 DECLARANT RIGHT TO MERGE OR CONSOLIDATE THE CONDOMINIUM

1 PURSUANT TO SECTION 3223 (RELATING TO MERGER OR CONSOLIDATION
2 OF CONDOMINIUMS), THEN:

3 (I) AN EXPLICIT RESERVATION OF SUCH RIGHT;

4 (II) A STATEMENT OF THE TIME LIMIT, [NOT EXCEEDING
5 SEVEN YEARS AFTER THE RECORDING OF THE DECLARATION,] UPON
6 WHICH ANY OPTION RESERVED UNDER SUBPARAGRAPH (I) WILL
7 LAPSE, TOGETHER WITH A STATEMENT OF ANY CIRCUMSTANCES
8 THAT WILL TERMINATE THE OPTION BEFORE THE EXPIRATION OF
9 THE TIME LIMIT[;], THE TIME LIMIT SHALL NOT EXCEED THE
10 LATER OF:

11 (A) TEN YEARS AFTER THE RECORDING OF THE
12 DECLARATION; OR

13 (B) THE CASE OF A PRELIMINARY PLAT CALLING FOR
14 THE INSTALLATION OF IMPROVEMENTS IN SECTIONS, 120
15 DAYS AFTER MUNICIPAL APPROVAL OR DENIAL OF EACH
16 PARTICULAR SECTION'S FINAL PLAT WHICH WAS FILED PRIOR
17 TO THE DEADLINE APPROVED OR MODIFIED BY THE MUNICIPAL
18 GOVERNING BODY PURSUANT TO SECTION 508(4)(V) OF THE
19 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, OR, IN THE
20 EVENT OF AN APPEAL FROM THE MUNICIPAL APPROVAL OR
21 DENIAL OF SUCH FINAL PLAT, 120 DAYS AFTER A FINAL
22 JUDGMENT ON APPEAL;

23 * * *

24 § 3206. Contents of declaration; flexible condominiums.

25 The declaration for a flexible condominium shall include, in
26 addition to the matters specified in section 3205 (relating to
27 contents of declaration; all condominiums):

28 * * *

29 (2) A statement of the time limit, [not exceeding seven
30 years after the recording of the declaration,] upon which any

1 option reserved under paragraph (1) will lapse together with
2 a statement of any circumstances that will terminate the
3 option before the expiration of the time limit. The time
4 limit shall not exceed the later of:

5 (i) ten years after the recording of the
6 declaration; or

7 (ii) in the case of a preliminary plat calling for
8 the installation of improvements in sections, 120 days
9 after municipal approval or denial of each particular
10 section's final plat which was filed prior to the
11 deadline approved or modified by the municipal governing
12 body pursuant to section 508(4)(v) of the act of July 31,
13 1968 (P.L.805, No.247), known as the Pennsylvania
14 Municipalities Planning Code, or in the event of an
15 appeal from the municipal approval or denial of such
16 final plat, 120 days after a final judgment on appeal.

17 * * *

18 § 3219. Amendment of declaration.

19 (a) Number of votes required.--[Except in cases of
20 amendments that may be executed by a declarant under section
21 3210(e) and (f) (relating to plats and plans), 3211(a) (relating
22 to conversion and expansion of flexible condominiums) or 3212(a)
23 (relating to withdrawal of withdrawable real estate); the
24 association under subsection (f) or section 3107 (relating to
25 eminent domain), 3207(d) (relating to leasehold condominiums),
26 3209(c) (relating to limited common elements) or 3215(a)
27 (relating to subdivision or conversion of units); or certain
28 unit owners under section 3209(b) (relating to limited common
29 elements), 3214(a) (relating to relocation of boundaries between
30 adjoining units), 3215(b) (relating to subdivision or conversion

1 of units) or 3220(b) (relating to termination of condominium),
2 and except as limited by subsection (d) and section 3221
3 (relating to rights of secured lenders), the]

4 (1) The declaration, including the plats and plans, may
5 be amended only by vote or agreement of unit owners of units
6 to which at least [67%]:

7 (i) Sixty-seven percent of the votes in the
8 association are allocated[, or];

9 (ii) any larger majority the declaration specifies[.
10 The declaration may specify]; or

11 (iii) a smaller number [only] as specified in the
12 declaration if all of the units are restricted
13 exclusively to nonresidential use.

14 (2) Paragraph (1) is limited to BY subsection (d) and <--
15 section 3221 (relating to rights of secured lenders).

16 (3) Paragraph (1) shall not apply to any of the
17 following:

18 (i) Amendments executed by a declarant under:

19 (A) section 3210(e) and (f) (relating to plats
20 and plans);

21 (B) section 3211(a) (relating to conversion and
22 expansion of flexible condominiums); or

23 (C) section 3212(a) (relating to withdrawal of
24 withdrawable real estate).

25 (ii) Amendments executed by the association under:

26 (A) subsection (f);

27 (B) section 3107 (relating to eminent domain);

28 (C) section 3207(d) (relating to leasehold
29 condominiums);

30 (D) section 3209(c) (relating to limited common

1 elements); or
2 (E) 3215(a) (relating to subdivision or
3 conversion of units).
4 (iii) Amendments executed by certain unit owners
5 under:
6 (A) section 3209(b);
7 (B) section 3214(a) (relating to relocation of
8 boundaries between adjoining units);
9 (C) section 3215(b) (relating to subdivision or
10 conversion of units); or
11 (D) section 3220(b) (relating to termination of
12 condominium).
13 (iv) Amendments executed by a declarant which
14 conform the maximum time limit for exercising declarant
15 options to the time limit authorized by ~~section~~ SECTIONS <--
16 3205(12) AND (13) (RELATING TO CONTENTS OF DECLARATION;
17 ALL CONDOMINIUMS) AND 3206(2) (relating to contents of
18 declaration; flexible condominiums).

19 * * *

20 § 3414. DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE. <--

21 * * *

22 (C) SUBSTANTIAL COMPLETION PREREQUISITE TO CONVEYANCE.--A
23 UNIT WHICH IS PART OF OR CONSTITUTES A STRUCTURE SHALL NOT BE
24 CONVEYED TO A PERSON OTHER THAN A SUCCESSOR TO ANY SPECIAL
25 DECLARANT RIGHTS UNLESS ALL STRUCTURAL COMPONENTS AND COMMON
26 ELEMENT MECHANICAL SYSTEMS OF THE STRUCTURE CONTAINING OR
27 CONSTITUTING SUCH UNIT OR UNITS ARE SUBSTANTIALLY COMPLETED TO
28 THE EXTENT REQUIRED OF DECLARANT SO AS TO PERMIT THE USE OF SUCH
29 UNIT OR UNITS AND ANY LIMITED COMMON ELEMENTS APPURTENANT
30 THERETO FOR THEIR INTENDED USE. SUCH SUBSTANTIAL COMPLETION

1 SHALL BE EVIDENCED BY A RECORDED CERTIFICATION OF COMPLETION
2 EXECUTED BY AN INDEPENDENT REGISTERED SURVEYOR, ARCHITECT OR
3 PROFESSIONAL ENGINEER WITH REGARD TO ANY SUCH STRUCTURE.

4 * * *

5 § 5205. CONTENTS OF DECLARATION; ALL PLANNED COMMUNITIES.

6 THE DECLARATION FOR A PLANNED COMMUNITY MUST CONTAIN:

7 * * *

8 (13) IF THE DECLARANT WISHES TO RETAIN THE SPECIAL
9 DECLARANT RIGHT TO CAUSE SECTION 5222 (RELATING TO MASTER
10 ASSOCIATIONS) TO BECOME APPLICABLE TO A PLANNED COMMUNITY,
11 THEN:

12 (I) AN EXPLICIT RESERVATION OF SUCH RIGHT;

13 (II) A STATEMENT OF THE TIME LIMIT, [NOT EXCEEDING
14 SEVEN YEARS AFTER THE RECORDING OF THE DECLARATION,] UPON
15 WHICH THE OPTION RESERVED UNDER SUBPARAGRAPH (I) WILL
16 LAPSE, TOGETHER WITH AND A STATEMENT OF ANY CIRCUMSTANCES
17 THAT WILL TERMINATE THE OPTION BEFORE THE EXPIRATION OF
18 THE TIME LIMIT[; AND], THE TIME LIMIT SHALL NOT EXCEED
19 THE LATER OF:

20 (A) TEN YEARS AFTER THE RECORDING OF THE
21 DECLARATION; OR

22 (B) IN THE CASE OF A PRELIMINARY PLAT CALLING
23 FOR THE INSTALLATION OF IMPROVEMENTS IN SECTIONS, 120
24 DAYS AFTER MUNICIPAL APPROVAL OR DENIAL OF EACH
25 PARTICULAR SECTION'S FINAL PLAT WHICH WAS FILED PRIOR
26 TO THE DEADLINE APPROVED OR MODIFIED BY THE MUNICIPAL
27 GOVERNING BODY PURSUANT TO SECTION 508(4)(V) OF THE
28 ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN AS THE
29 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, OR, IN THE
30 EVENT OF AN APPEAL FROM THE MUNICIPAL APPROVAL OR

1 DENIAL OF SUCH FINAL PLAT, 120 DAYS AFTER A FINAL
2 JUDGMENT ON APPEAL; AND

3 (III) THE INFORMATION REQUIRED TO BE INCLUDED IN THE
4 DECLARATION BY THE PROVISIONS OF SECTION 5222.

5 (14) IF THE DECLARANT WISHES TO RETAIN THE SPECIAL
6 DECLARANT RIGHT TO MERGE OR CONSOLIDATE THE PLANNED COMMUNITY
7 PURSUANT TO SECTION 5223 (RELATING TO MERGER OR CONSOLIDATION
8 OF PLANNED COMMUNITY), THEN ALL OF THE FOLLOWING:

9 (I) AN EXPLICIT RESERVATION OF SUCH RIGHT.

10 (II) A STATEMENT OF THE TIME LIMIT, [NOT EXCEEDING
11 SEVEN YEARS AFTER THE RECORDING OF THE DECLARATION,] UPON
12 WHICH ANY OPTION RESERVED UNDER SUBPARAGRAPH (I) WILL
13 LAPSE, TOGETHER WITH A STATEMENT OF ANY CIRCUMSTANCES
14 THAT WILL TERMINATE THE OPTION BEFORE THE EXPIRATION OF
15 THE TIME LIMIT[.], THE TIME LIMIT SHALL NOT EXCEED THE
16 LATER OF:

17 (A) TEN YEARS AFTER THE RECORDING OF THE
18 DECLARATION; OR

19 (B) IN THE CASE OF A PRELIMINARY PLAT CALLING
20 FOR THE INSTALLATION OF IMPROVEMENTS IN SECTIONS, 120
21 DAYS AFTER MUNICIPAL APPROVAL OR DENIAL OF EACH
22 PARTICULAR SECTION'S FINAL PLAT WHICH WAS FILED PRIOR
23 TO THE DEADLINE APPROVED OR MODIFIED BY THE MUNICIPAL
24 GOVERNING BODY PURSUANT TO SECTION 508(4)(V) OF THE
25 PENNSYLVANIA MUNICIPALITIES PLANNING CODE, OR, IN THE
26 EVENT OF AN APPEAL FROM THE MUNICIPAL APPROVAL OR
27 DENIAL OF SUCH FINAL PLAT, 120 DAYS AFTER A FINAL
28 JUDGMENT ON APPEAL.

29 * * *

30 § 5206. Contents of declaration for flexible planned

1 communities.

2 The declaration for a flexible planned community shall
3 include, in addition to the matters specified in section 5205
4 (relating to contents of declaration; all planned communities),
5 all of the following:

6 * * *

7 (2) A statement of the time limit, [not exceeding seven
8 years after the recording of the declaration,] upon which any
9 option reserved under paragraph (1) will lapse, together with
10 a statement of circumstances that will terminate the option
11 before the expiration of the time limit. The time limit shall
12 not exceed the later of:

13 (i) ten years after the recording of the
14 declaration; or

15 (ii) in the case of a preliminary plat calling for
16 the installation of improvements in sections, 120 days
17 after municipal approval or denial of each particular
18 section's final plat which was filed prior to the
19 deadline approved or modified by the municipal governing
20 body pursuant to section 508(4)(v) of the act of July 31,
21 1968 (P.L.805, No.247), known as the Pennsylvania
22 Municipalities Planning Code, or in the event of an
23 appeal from the municipal approval or denial of such
24 final plat, 120 days after a final judgment on appeal.

25 * * *

26 § 5219. Amendment of declaration.

27 (a) Number of votes required.--

28 * * *

29 (3) Paragraph (1) shall not apply to any of the
30 following:

1 (i) Amendments executed by a declarant under:
2 (A) section 5210(e) or (f) (relating to plats
3 and plans);
4 (B) section 5211(a) (relating to conversion and
5 expansion of flexible planned communities); or
6 (C) section 5212(a) (relating to withdrawal of
7 withdrawable real estate).

8 (ii) Amendments executed by the association under:
9 (A) subsection (f);
10 (B) section 5107 (relating to eminent domain);
11 (C) section 5207(d) (relating to leasehold
12 planned communities);
13 (D) section 5209 (relating to limited common
14 elements); or
15 (E) section 5215 (relating to subdivision or
16 conversion of units).

17 (iii) Amendments executed by certain unit owners
18 under:

19 (A) section 5209(b);
20 (B) section 5214(a) (relating to relocation of
21 boundaries between units);
22 (C) section 5215; or
23 (D) section 5220(b) (relating to termination of
24 planned community).

25 (iv) Amendments executed by a declarant which
26 conform the maximum time limit for exercising declarant
27 options to the time limit authorized by ~~section~~ SECTIONS <--
28 5205(13) AND (14) (RELATING TO CONTENTS OF DECLARATION;
29 ALL PLANNED COMMUNITIES) AND 5206(2) (relating to
30 contents of declaration for flexible planned

1 communities).

2 Section 2. This act shall apply as follows:

3 (1) The amendment of 68 PA.C.S. §§ 3205(12) AND (13), <--
4 3206(2), 5205(13) AND (14) and 5206(2) shall apply to all <--
5 condominiums and planned communities, respectively, created
6 by declarations recorded less than seven years prior to the
7 effective date of this act.

8 (2) The amendment of the following provisions shall not
9 affect any other provision of Title 68:

10 ~~(i) 68 Pa.C.S. § 3206(2).~~ <--

11 ~~(ii) 68 Pa.C.S. § 3219(a).~~

12 ~~(iii) 68 Pa.C.S. § 5206(2).~~

13 ~~(iv) 68 Pa.C.S. § 5219(a)(3).~~

14 (I) 68 PA.C.S. § 3205(12) AND (13). <--

15 (II) 68 PA.C.S. § 3206(2).

16 (III) 68 PA.C.S. § 3219(A).

17 (IV) 68 PA.C.S. § 5205(13) AND (14).

18 (V) 68 PA.C.S. § 5206(2).

19 (VI) 68 PA.C.S. § 5219(A)(3).

20 Section 3. This act shall take effect immediately.