
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 595 Session of
2017

INTRODUCED BY R. BROWN, BARRAR, DONATUCCI, GILLEN, KORTZ, MURT,
O'NEILL, PEIFER, RADER, ROZZI, STAATS, TOPPER AND WARD,
FEBRUARY 23, 2017

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 23, 2017

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, as follows:
3 in general provisions, further providing for definitions;
4 in management of the condominium, providing for
5 alternative dispute resolution in condominiums and for
6 complaints filed with Bureau of Consumer Protection;
7 in protection of purchasers, further providing for effect
8 of violations on rights of action;
9 in general provisions, further providing for definitions;
10 in management of cooperatives, providing for alternative
11 dispute resolution in cooperatives and for complaints filed
12 with Bureau of Consumer Protection;
13 in general provisions, further providing for definitions;
14 in management of planned community, providing for
15 alternative dispute resolution in planned communities and for
16 complaints filed with Bureau of Consumer Protection; and,
17 in protection of purchasers, further providing for effect
18 of violations on rights of action.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 3103 of Title 68 of the Pennsylvania
22 Consolidated Statutes is amended by adding definitions to read:
23 § 3103. Definitions.

24 The following words and phrases when used in this subpart and

1 in the declaration and bylaws shall have the meanings given to
2 them in this section unless specifically provided otherwise or
3 unless the context clearly indicates otherwise:

4 * * *

5 "Alternative dispute resolution." A procedure for settling a
6 dispute by means other than litigation, such as arbitration or
7 mediation.

8 * * *

9 "Unit owner in good standing." A unit owner who is current
10 in payment of assessments and fines, unless the assessments or
11 fines are directly related to a complaint filed with the Bureau
12 of Consumer Protection in the Office of Attorney General
13 regarding section 3308 (relating to meetings), 3309 (relating to
14 quorums), 3310 (relating to voting; proxies) or 3316 (relating
15 to association records).

16 * * *

17 Section 2. Title 68 is amended by adding sections to read:
18 § 3321. Alternative dispute resolution in condominiums.

19 (a) Applicability.--

20 (1) A condominium established after the effective date
21 of this section shall adopt bylaws in compliance with this
22 section.

23 (2) A condominium established on or before the effective
24 date of this section may adopt bylaws in compliance with the
25 provisions of this section.

26 (b) Procedures.--

27 (1) The bylaws shall establish procedures for an
28 alternative dispute resolution procedure for disputes
29 between:

30 (i) two or more unit owners; or

1 (ii) a unit owner and the association.

2 (2) Alternative dispute resolution shall be limited to
3 disputes where all parties agree to alternative dispute
4 resolution.

5 (3) Costs and fees associated with alternative dispute
6 resolution, excluding attorney fees, shall be assessed
7 equally against all parties to a dispute.

8 (c) Construction.--Nothing in this section shall be
9 construed to affect or impair the right of a unit owner,
10 declarant or association to pursue a private cause of action or
11 seek other relief.

12 § 3322. Complaints filed with Bureau of Consumer Protection.

13 (a) General rule.--A unit owner in good standing may file a
14 complaint with the Bureau of Consumer Protection in the Office
15 of Attorney General in the event of a violation by the declarant
16 or the association of sections 3308 (relating to meetings), 3309
17 (relating to quorums), 3310 (relating to voting; proxies) and
18 3316 (relating to association records).

19 (b) Condition.--If an alternative dispute resolution
20 procedure is available to the unit owner under the association's
21 declaration, bylaws, rules or regulations, a complaint may not
22 be filed by a unit owner with the Bureau of Consumer Protection
23 until the earlier of:

24 (1) the unit owner exhausting the alternative dispute
25 resolution procedure without a resolution between the unit
26 owner and the association; or

27 (2) at least 100 days have passed since the unit owner
28 commenced the alternative dispute resolution procedure and
29 the unit owner and association having not reached a
30 resolution.

1 (c) Immediate filing.--A complaint may be filed by a unit
2 owner with the Bureau of Consumer Protection immediately, if:

3 (1) an alternative dispute resolution procedure is not
4 available to the unit owner under the association's
5 declaration, bylaws, rules or regulations; or

6 (2) the association refuses alternative dispute
7 resolution under section 3321(b)(2) (relating to alternative
8 dispute resolution in condominiums).

9 (d) Construction.--Nothing in this section shall be
10 construed to affect or impair the right of a unit owner,
11 declarant or association to pursue a private cause of action or
12 seek other relief.

13 Section 3. Section 3412 of Title 68 is amended to read:

14 § 3412. Effect of violations on rights of action.

15 If a declarant or any other person subject to this subpart
16 violates any provision thereof or any provision of the
17 declaration or bylaws, any person or class of persons adversely
18 affected by the violation has a claim for appropriate relief.

19 Punitive damages may be awarded in the case of a willful
20 violation of the subpart and, if appropriate, the prevailing
21 party may be entitled to an award of costs and reasonable
22 attorney fees.

23 Section 4. Section 4103 of Title 68 is amended by adding
24 definitions to read:

25 § 4103. Definitions.

26 Subject to additional definitions contained in subsequent
27 provisions of this subpart which are applicable to specific
28 provisions of this subpart, the following words and phrases when
29 used in this subpart and in the declaration and bylaws shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 "Alternative dispute resolution." A procedure for settling a
4 dispute by means other than litigation, such as arbitration or
5 mediation.

6 * * *

7 "Proprietary lessee in good standing." A proprietary lessee
8 who is current in payment of assessments and fines, unless the
9 assessments or fines are directly related to a complaint filed
10 with the Bureau of Consumer Protection in the Office of Attorney
11 General regarding section 4308 (relating to meetings), 4309
12 (relating to quorums), 4310 (relating to voting; proxies) or
13 4317 (relating to association records).

14 * * *

15 Section 5. Title 68 is amended by adding sections to read:
16 § 4322. Alternative dispute resolution in cooperatives.

17 (a) Applicability.--

18 (1) A cooperative established after the effective date
19 of this section shall adopt bylaws in compliance with this
20 section.

21 (2) A cooperative established on or before the effective
22 date of this section may adopt bylaws in compliance with the
23 provisions of this section.

24 (b) Procedures.--

25 (1) The bylaws shall establish procedures for
26 alternative dispute resolution of disputes between:

27 (i) two or more proprietary lessees; or

28 (ii) a proprietary lessee and the association.

29 (2) Alternative dispute resolution shall be limited to
30 disputes where all parties agree to alternative dispute

1 resolution.

2 (3) Costs and fees associated with alternative dispute
3 resolution, excluding attorney fees, shall be assessed
4 equally against all parties to a dispute.

5 (c) Construction.--Nothing in this section shall be
6 construed to affect or impair the right of a proprietary lessee,
7 declarant or association to pursue a private cause of action or
8 seek other relief.

9 § 4323. Complaints filed with Bureau of Consumer Protection.

10 (a) General rule.--A proprietary lessee in good standing may
11 file a complaint with the Bureau of Consumer Protection in the
12 Office of Attorney General in the event of a violation by the
13 declarant or the association of sections 4308 (relating to
14 meetings), 4309 (relating to quorums), 4310 (relating to voting;
15 proxies) and 4317 (relating to association records).

16 (b) Condition.--If an alternative dispute resolution
17 procedure is available to the proprietary lessee under the
18 association's declaration, bylaws, rules or regulations, a
19 complaint may not be filed by a proprietary lessee with the
20 Bureau of Consumer Protection until the earlier of:

21 (1) the proprietary lessee exhausting the alternative
22 dispute resolution procedure without a resolution between the
23 proprietary lessee and the association; or

24 (2) at least 100 days have passed since the proprietary
25 lessee commenced the alternative dispute resolution procedure
26 and the proprietary lessee and association having not reached
27 a resolution.

28 (c) Immediate filing.--A complaint may be filed by a
29 proprietary lessee with the Bureau of Consumer Protection
30 immediately, if:

1 (1) an alternative dispute procedure is not available to
2 the proprietary lessee under the association's declaration,
3 bylaws, rules or regulations; or

4 (2) the association refuses alternative dispute
5 resolution under section 4322(b)(2) (relating to alternative
6 dispute resolution in cooperatives).

7 (d) Construction.--Nothing in this section shall be
8 construed to affect or impair the right of a proprietary lessee,
9 declarant or association to pursue a private cause of action or
10 seek other relief, as authorized by law.

11 Section 6. Section 5103 of Title 68 is amended by adding
12 definitions to read:

13 § 5103. Definitions.

14 The following words and phrases when used in this subpart and
15 in the declaration and bylaws shall have the meanings given to
16 them in this section unless specifically provided otherwise or
17 unless the context clearly indicates otherwise:

18 * * *

19 "Alternative dispute resolution." A procedure for settling a
20 dispute by means other than litigation, such as arbitration or
21 mediation.

22 * * *

23 "Unit owner in good standing." A unit owner who is current
24 in payment of assessments and fines, unless the assessments or
25 fines are directly related to a complaint filed with the Bureau
26 of Consumer Protection in the Office of Attorney General
27 regarding section 5308 (relating to meetings), 5309 (relating to
28 quorums), 5310 (relating to voting; proxies) or 5316 (relating
29 to association records).

30 * * *

1 Section 7. Title 68 is amended by adding sections to read:
2 § 5321. Alternative dispute resolution in planned communities.

3 (a) Applicability.--

4 (1) A planned community established after the effective
5 date of this section shall adopt bylaws in compliance with
6 this section.

7 (2) A planned community established on or before the
8 effective date of this section may adopt bylaws in compliance
9 with the provisions of this section.

10 (b) Procedures.--

11 (1) The bylaws shall establish procedures for
12 alternative dispute resolution of disputes between:

13 (i) two or more unit owners; or

14 (ii) a unit owner and the association.

15 (2) Alternative dispute resolution shall be limited to
16 disputes where all parties agree to alternative dispute
17 resolution.

18 (3) Costs and fees associated with alternative dispute
19 resolution, excluding attorney fees, shall be assessed
20 equally against all parties to a dispute.

21 (c) Construction.--Nothing in this section shall be
22 construed to affect or impair the right of a unit owner,
23 declarant or association to pursue a private cause of action or
24 seek other relief.

25 § 5322. Complaints filed with Bureau of Consumer Protection.

26 (a) General rule.--A unit owner in good standing may file a
27 complaint with the Bureau of Consumer Protection in the Office
28 of the Attorney General in the event of a violation by the
29 declarant or the association of sections 5308 (relating to
30 meetings), 5309 (relating to quorums) and 5310 (relating to

1 voting; proxies).

2 (b) Condition.--If an alternative dispute resolution
3 procedure is available to the unit owner under the association's
4 declaration, bylaws, rules or regulations, a complaint may not
5 be filed by a unit owner with the Bureau of Consumer Protection
6 until the earlier of:

7 (1) the unit owner exhausting the alternative dispute
8 resolution procedure without a resolution between the unit
9 owner and the association; or

10 (2) at least 100 days have passed since the unit owner
11 commenced the alternative dispute resolution procedure and
12 the unit owner and association having not reached a
13 resolution.

14 (c) Immediate filing.--A complaint may be filed by a unit
15 owner with the Bureau of Consumer Protection immediately, if:

16 (1) an alternative dispute resolution procedure is not
17 available to the unit owner under the association's
18 declaration, bylaws, rules or regulations; or

19 (2) the association refuses alternative dispute
20 resolution under section 5321(b)(2) (relating to alternative
21 dispute resolution in planned communities).

22 (d) Construction.--Nothing in this section shall be
23 construed to affect or impair the right of a unit owner,
24 declarant or association to pursue a private cause of action or
25 seek other relief, as authorized by law.

26 Section 8. Section 5412 of Title 68 is amended to read:

27 § 5412. Effect of violations on rights of action.

28 If a declarant or any other person subject to this subpart
29 violates any provision of this subpart or any provisions of the
30 declaration or bylaws, any person or class of persons adversely

1 affected by the violation has a claim for appropriate relief.
2 Punitive damages may be awarded in the case of a willful
3 violation of the subpart and, if appropriate, the prevailing
4 party may be entitled to an award of costs and reasonable
5 attorney fees.

6 Section 9. This act shall take effect in 60 days.