
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 736 Session of
1989

INTRODUCED BY HARPER, THOMAS, ROBINSON, BILLOW, PISTELLA, BISHOP
AND LASHINGER, MARCH 13, 1989

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 13, 1989

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, adding provisions
3 relating to real estate cooperatives.

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

16 Section 1. Part II of Title 68 of the Pennsylvania
17 Consolidated Statutes is amended by adding a subpart to read:

18 PART II
19 REAL PROPERTY
20 * * *
21 SUBPART C
22 COOPERATIVES

23 Chapter

24 41. General Provisions
25 42. Creation, Alteration and Termination of Cooperatives
26 43. Management of Cooperatives
27 44. Protection of Cooperative Interest Purchasers

28 CHAPTER 41
29 GENERAL PROVISIONS

30 Sec.

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15 § 4101. Short title of subpart.

16 This subpart shall be known and may be cited as the Real
17 Estate Cooperative Act.

18 § 4102. Applicability of subpart.

19 (a) General rule.--This subpart applies to all cooperatives
20 created within this Commonwealth after the effective date of
21 this subpart; but, if such a cooperative contains only units
22 restricted to nonresidential use, it is subject only to sections
23 4106 (relating to applicability of local ordinances, regulations
24 and building codes) and 4107 (relating to eminent domain) unless
25 the declaration provides that the entire subpart is applicable.

26 (b) Existing cooperatives.--Except as provided in subsection
27 (c), sections 4106, 4107, 4203 (relating to construction and
28 validity of declaration and bylaws), 4219 (relating to master
29 associations), 4220 (relating to merger or consolidation of
30 cooperatives), 4302(a)(1) through (6) and (11) through (17)

1 (relating to powers of association), 4311 (relating to tort and
2 contract liability), 4315 (relating to remedies for nonpayment
3 of assessments), 4317 (relating to association records), 4319
4 (relating to termination of cooperative interest), 4409
5 (relating to resales of cooperative interests) and 4415
6 (relating to effect of violations on rights of action; attorney
7 fees), and section 4103 (relating to definitions) to the extent
8 necessary in construing any of those sections, apply to all
9 cooperatives created in this Commonwealth before the effective
10 date of this subpart; but those sections apply only with respect
11 to events and circumstances occurring after the effective date
12 of this subpart and do not invalidate existing provisions of the
13 cooperative documents of those cooperatives.

14 (c) Units restricted to nonresidential use.--If a
15 cooperative created within this Commonwealth before the
16 effective date of this subpart contains only units restricted to
17 nonresidential use, it is subject only to sections 4106 and 4107
18 unless the declaration is amended in conformity with applicable
19 law and with the procedures and requirements of the declaration
20 to take advantage of the provisions of subsection (d), in which
21 case all the sections enumerated in subsection (b) apply to that
22 cooperative from the date such amended declaration is recorded
23 as required for a declaration under section 4201 (relating to
24 creation of cooperative ownership).

25 (d) Amendments to declaration and bylaws.--In the case of
26 amendments to the declaration and bylaws of any cooperative
27 created before the effective date of this subpart:

28 (1) If the result accomplished by the amendment was
29 permitted by law prior to this subpart, the amendment may be
30 made either in accordance with that law, in which case that

1 law applies to that amendment, or may be made pursuant to
2 this subpart.

3 (2) If the result accomplished by the amendment is
4 permitted by this subpart and was not permitted by law prior
5 to this subpart, the amendment may be made pursuant to this
6 subpart.

7 An amendment to the declaration or bylaws authorized by this
8 subsection to be made under this subpart must be adopted in
9 conformity with applicable law and with the procedures and
10 requirements specified by the declaration and bylaws being
11 amended. If any such amendment grants to any person any rights,
12 powers or privileges permitted by this subpart, all correlative
13 obligations, liabilities and restrictions in this subpart also
14 apply to that person.

15 (e) Cooperative interests outside Commonwealth.--This
16 subpart does not apply to cooperative interests located outside
17 this Commonwealth, but the public offering statement provisions
18 (sections 4401 through 4408) apply to all cooperative interests
19 offered within this Commonwealth for which either the contract
20 for disposition is executed by any party within this
21 Commonwealth or the disposition is effectuated within this
22 Commonwealth unless exempt under section 4401(b) (relating to
23 applicability; waiver).

24 (f) Liens and security interests.--The enactment of this
25 subpart shall not affect any lien upon a cooperative or any lien
26 upon or security interest in any property of the association or
27 in any cooperative interest if such lien or security interest
28 shall have been perfected prior to the effective date of this
29 subpart.

30 § 4103. Definitions.

1 Subject to additional definitions contained in subsequent
2 provisions of this subpart which are applicable to specific
3 provisions of this subpart, the following words and phrases when
4 used in this subpart and in the declaration and bylaws shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Affiliate of a declarant." Any person who controls, is
8 controlled by or is under common control with a declarant.

9 (1) A person "controls" a declarant if the person:

10 (i) is a general partner, officer, director or
11 employer of the declarant;

12 (ii) directly or indirectly or acting in concert
13 with one or more other persons, or through one or more
14 subsidiaries, owns, controls, holds with power to vote or
15 holds proxies representing more than 20% of the voting
16 interest in the declarant;

17 (iii) controls in any manner the election of a
18 majority of the directors of the declarant; or

19 (iv) has contributed more than 20% of the capital of
20 the declarant.

21 (2) A person "is controlled by" a declarant if the
22 declarant:

23 (i) is a general partner, officer, director or
24 employer of the person;

25 (ii) directly or indirectly or acting in concert
26 with one or more other persons, or through one or more
27 subsidiaries, owns, controls, holds with power to vote or
28 holds proxies representing more than 20% of the voting
29 interest in the person;

30 (iii) controls in any manner the election of a

1 majority of the directors of the person; or
2 (iv) has contributed more than 20% of the capital of
3 the person.

4 (3) Control does not exist if the powers described in
5 paragraph (1) or (2) are held solely as security for an
6 obligation and are not exercised.

7 "Allocated interests." The common expense liability and the
8 ownership interest and votes in the association allocated to
9 each cooperative interest.

10 "Association" or "proprietary lessees' association." The
11 proprietary lessees' association organized under section 4301
12 (relating to organization of association).

13 "Common elements." All portions of a cooperative other than
14 the units.

15 "Common expense liability." The liability for common
16 expenses allocated to each cooperative interest pursuant to
17 section 4207 (relating to allocation of ownership interests,
18 votes and common expense liabilities).

19 "Common expenses." Expenditures made by or financial
20 liabilities of the association, together with any allocations to
21 reserves.

22 "Conversion building." A building that, at any time before
23 the conversion notice date with respect to a cooperative in
24 which that building is located, was occupied wholly or partially
25 by persons other than purchasers and persons who occupy with the
26 consent of purchasers.

27 "Conversion notice." The notice to be given to certain
28 tenants or subtenants by the terms of section 4412(a) (relating
29 to subdivision of units).

30 "Conversion notice date." The date on which the notice is

1 placed in the United States mail or is delivered to the unit
2 leased by the recipient, depending upon whether the conversion
3 notice is mailed or hand delivered.

4 "Cooperative." Real estate owned by an association, each of
5 whose members is entitled, by virtue of his ownership interest
6 in the association, to exclusive possession of a unit.

7 "Cooperative interest." An ownership interest in the
8 association coupled with a possessory interest in a unit under a
9 proprietary lease. For the purposes of this subpart, a declarant
10 is treated as the owner of any cooperative interests or
11 potential cooperative interests to which allocated interests
12 have been allocated pursuant to section 4207 (relating to
13 allocation of ownership interests, votes and common expense
14 liabilities) until that cooperative interest has been created
15 and conveyed to another person.

16 "Declarant." Any person or group of persons acting in
17 concert who:

18 (1) as part of a common promotional plan, offers to
19 dispose of his or its cooperative interest not previously
20 disposed of; or

21 (2) reserves or succeeds to any special declarant right.

22 "Declaration." Any instruments, however denominated, that
23 create a cooperative, and any amendments to those instruments.

24 "Development rights." Any right or combination of rights
25 reserved by a declarant in the declaration to:

26 (1) add real estate to a cooperative;

27 (2) create units, common elements or limited common
28 elements within a cooperative;

29 (3) subdivide units or convert units into common
30 elements; or

1 (4) withdraw real estate from a cooperative.

2 "Dispose" or "disposition." A voluntary transfer to a
3 purchaser of any legal or equitable interest in a cooperative
4 interest. The term does not include the creation, transfer,
5 satisfaction or release of a security interest.

6 "Executive board." The body, regardless of name, designated
7 in the declaration to act on behalf of the association.

8 "Identifying number." A symbol or address that identifies
9 only one unit in a cooperative.

10 "Leasehold cooperative." A cooperative in which all or a
11 portion of the real estate is subject to a lease, the expiration
12 or termination of which will terminate the cooperative or reduce
13 its size.

14 "Limited common element." A portion of the common elements
15 allocated by the declaration or by operation of section 4202(2)
16 or (4) (relating to unit boundaries) for the exclusive use of
17 one or more but fewer than all of the units.

18 "Limited equity cooperative." A cooperative whose
19 declaration and bylaws impose a restriction or limitation (in a
20 specified amount or in an amount determined pursuant to a
21 specified formula) upon the consideration that may be paid to
22 the transferor of a cooperative interest. The formula may not
23 include the fair market value of the cooperative interest as a
24 factor in establishing the restriction or limitation.

25 "Limited equity cooperative association." An association for
26 a limited equity cooperative.

27 "Low-income and moderate-income persons." Persons who are
28 members of households and whose incomes are less than 80% of the
29 median household income in the area which the cooperative is
30 located, as established by the United States Department of

1 Housing and Urban Development, or a successor organization, for
2 the smallest geographic area which includes the cooperative and
3 for which such income data is established by such organization.

4 "Master association." An organization described in section
5 4219 (relating to master associations), whether or not it is
6 also an association described in section 4301 (relating to
7 organization of association).

8 "Offer" or "offering." Any advertisement, inducement,
9 solicitation or attempt to encourage any person to acquire any
10 interest in a cooperative interest, other than as security for
11 an obligation. An advertisement in a newspaper or other
12 periodical of general circulation, or in any broadcast medium to
13 the general public, of a cooperative not located in this
14 Commonwealth, is not an offer or offering if the advertisement
15 states that an offer or offering may be made only in compliance
16 with the law of the jurisdiction in which the cooperative is
17 located.

18 "Original lease termination date." The date on which the
19 lease or sublease of a residential tenant or subtenant in
20 possession of a unit in a conversion building will expire by the
21 terms of such lease or sublease, after taking into account any
22 renewal or extension rights that may have been exercised prior
23 to the conversion notice date.

24 "Person." A natural person, corporation, business trust,
25 estate, trust, general or limited partnership, association,
26 joint venture, government, governmental subdivision or agency,
27 other legal or commercial entity, or any combination of the
28 foregoing. In the case of a land trust, the term means the
29 beneficiary of the trust rather than the trust or the trustee.

30 "Proprietary lease." An agreement with the association

1 pursuant to which a proprietary lessee has a possessory interest
2 in a unit.

3 "Proprietary lessee." A person who owns a cooperative
4 interest, other than as security for an obligation, and the
5 declarant with respect to cooperative interests or potential
6 cooperative interests to which allocated interests have been
7 allocated pursuant to section 4207 (relating to allocation of
8 ownership interests, votes and common expense liabilities) until
9 that cooperative interest has been created and conveyed to
10 another person.

11 "Purchaser." Any person, other than a declarant or a person
12 in the business of selling cooperative interests for his own
13 account, who, by means of a disposition, acquires or contracts
14 to acquire a cooperative interest other than as security for an
15 obligation.

16 "Real estate." Any fee, leasehold or other estate or
17 interest in, over or under land, including structures, fixtures
18 and other improvements and interests which by custom, usage or
19 law pass with a conveyance of land though not described in the
20 contract of sale or instrument of conveyance. The term includes
21 parcels with or without upper or lower boundaries and spaces
22 that may be filled with air or water.

23 "Residential purposes." Use for dwelling or recreational
24 purposes, or both.

25 "Residential tenant" or "residential subtenant." A tenant or
26 subtenant, respectively, who is a natural person lawfully
27 occupying real estate for residential use.

28 "Security interest." An interest in real or personal
29 property, created by contract or conveyance, which secures
30 payment or performance of an obligation. The term includes a

1 mortgage, deed of trust, trust deed, security deed, contract for
2 deed, land sales contract, lease intended as security, security
3 agreement, assignment of lease or rents intended as security,
4 pledge of an ownership interest in an association and any other
5 consensual lien or title retention contract intended as security
6 for an obligation.

7 "Special declarant rights." Rights reserved for the benefit
8 of a declarant to:

9 (1) Complete improvements described in the public
10 offering statement (section 4403(a)(2)).

11 (2) Exercise any development right (section 4209).

12 (3) Maintain sales offices, management offices, signs
13 advertising the cooperative and models (section 4214).

14 (4) Use easements through the common elements for the
15 purpose of making improvements within the cooperative or
16 within real estate which may be added to the cooperative
17 (section 4215).

18 (5) Make the cooperative part of a larger cooperative or
19 group of cooperatives (section 4220).

20 (6) Make the cooperative subject to a master association
21 (section 4219).

22 (7) Appoint or remove any officer of the association or
23 any master association or any executive board member during
24 any period of declarant control (section 4303(d)).

25 "Time share." A right to occupy a unit or any of several
26 units during five or more separated time periods over a period
27 of at least five years, including renewal options, whether or
28 not coupled with an estate or interest in a cooperative or a
29 specified portion thereof.

30 "Unit." A physical portion of the cooperative designated for

1 separate occupancy under a proprietary lease.

2 § 4104. Variation by agreement.

3 Except as expressly provided in this subpart, provisions of
4 this subpart may not be varied by agreement and rights conferred
5 by this subpart may not be waived. A declarant may not act under
6 a power of attorney or use any other device to evade the
7 limitations or prohibitions of this subpart or the declaration.

8 § 4105. Property classification of cooperative interests.

9 A cooperative interest shall be deemed to be a separate
10 leasehold interest in real estate for all purposes except as is
11 otherwise provided in section 4321(b) (relating to limited
12 equity cooperatives).

13 § 4106. Applicability of local ordinances, regulations and
14 building codes.

15 A zoning, subdivision, building code or other real estate tax
16 or use law, ordinance or regulation may not prohibit the
17 cooperative form of ownership or impose any requirement upon a
18 cooperative which it would not impose upon a physically
19 identical development under a different form of ownership.
20 Otherwise, no provision of this subpart invalidates or modifies
21 any provision of any zoning, subdivision, building code or other
22 real estate tax or use law, ordinance or regulation except as is
23 otherwise provided in section 4321(f) (relating to limited
24 equity cooperatives).

25 § 4107. Eminent domain.

26 (a) General rule.--If a unit is acquired by eminent domain
27 or if part of a unit is acquired by eminent domain leaving the
28 proprietary lessee with a remnant which may not practically or
29 lawfully be used for any purpose permitted by the declaration,
30 the award must include compensation to the proprietary lessee

1 for the value of his cooperative interest. Upon acquisition of
2 all of a unit by eminent domain, unless the decree otherwise
3 provides, that cooperative interest's allocated interests are
4 automatically reallocated to the remaining cooperative interests
5 in proportion to the respective allocated interests of those
6 cooperative interests before the taking, and the association
7 shall promptly prepare, execute and record an amendment to the
8 declaration reflecting the reallocations. Any remnant of a unit
9 remaining after part of a unit is taken under this subsection is
10 thereafter a common element.

11 (b) Acquisition of part of a unit.--Except as provided in
12 subsection (a), if part of a unit is acquired by eminent domain,
13 the award must compensate the proprietary lessee for the
14 reduction in value of his cooperative interest. Upon
15 acquisition, unless the decree otherwise provides:

16 (1) That cooperative interest's allocated interests are
17 reduced in proportion to the reduction in the size of the
18 unit or on any other basis specified in the declaration.

19 (2) The portion of the allocated interests divested from
20 the cooperative interest of which the partially acquired unit
21 is a part are automatically reallocated to that cooperative
22 interest and the remaining units in proportion to the
23 respective allocated interests of those cooperative interests
24 before the taking, with the cooperative interest of which the
25 partially acquired unit is a part participating in the
26 reallocation on the basis of its reduced allocated interests.

27 (c) Acquisition of part of common elements.--If part of the
28 common elements is acquired by eminent domain, the portion of
29 the award attributable to the common elements taken must be paid
30 to the association. Unless the declaration provides otherwise,

1 any portion of the award attributable to the acquisition of a
2 limited common element must be equally divided among the
3 proprietary lessees of the units to which that limited common
4 element was allocated at the time of acquisition.

5 (d) Recording court decree.--The court decree shall be
6 recorded in every county in which any portion of the cooperative
7 is located.

8 § 4108. Supplemental general principles of law applicable.

9 The principles of law and equity, including the law of
10 corporations and nonprofit corporations and unincorporated
11 associations, the law of real property and the law relative to
12 the capacity to contract, principal and agent, eminent domain,
13 estoppel, fraud, misrepresentation, duress, coercion, mistake,
14 receivership, substantial performance or other validating or
15 invalidating cause supplement the provisions of this subpart,
16 except to the extent inconsistent with this subpart.

17 § 4109. Construction against implicit repeal.

18 This subpart being a general statute intended as a unified
19 coverage of its subject matter, no part of it shall be construed
20 to be repealed by subsequent legislation if that construction
21 can reasonably be avoided.

22 § 4110. Uniformity of application and construction.

23 This subpart shall be applied and construed so as to
24 effectuate its general purpose to make uniform the law with
25 respect to the subject of this subpart among states enacting it.

26 § 4111. Unconscionable agreement or term of contract.

27 (a) Powers of court.--The court, upon finding as a matter of
28 law that a contract or contract clause was unconscionable at the
29 time the contract was made, may:

30 (1) refuse to enforce the contract;

1 (2) enforce the remainder of the contract without the
2 unconscionable clause; or

3 (3) limit the application of any unconscionable clause
4 in order to avoid an unconscionable result.

5 (b) Parties may present evidence.--Whenever it is claimed,
6 or appears to the court, that a contract or any contract clause
7 is or may be unconscionable, the parties, in order to aid the
8 court in making the determination, shall be afforded a
9 reasonable opportunity to present evidence as to:

10 (1) The commercial setting of the negotiations.

11 (2) Whether a party has knowingly taken advantage of the
12 inability of the other party reasonably to protect his
13 interests by reason of physical or mental infirmity,
14 illiteracy or inability to understand the language of the
15 agreement or similar factors.

16 (3) The effect and purpose of the contract or clause.

17 (4) If a sale, any gross disparity, at the time of
18 contracting, between the amount charged for the cooperative
19 interest and the value of the cooperative interest measured
20 by the price at which similar cooperative interests were
21 readily obtainable in similar transactions, but a disparity
22 between the contract price and the value of the cooperative
23 interest measured by the price at which similar cooperative
24 interests were readily obtainable in similar transactions
25 does not, of itself, render the contract unconscionable.

26 § 4112. Obligation of good faith.

27 Every contract or duty governed by this subpart imposes an
28 obligation of good faith in its performance or enforcement.

29 § 4113. Remedies to be liberally administered.

30 (a) General rule.--The remedies provided by this subpart

1 shall be liberally administered to the end that the aggrieved
2 party is put in as good a position as if the other party had
3 fully performed. However, consequential, special or punitive
4 damages may not be awarded except as specifically provided in
5 this subpart or by other rule of law. Without limiting the
6 rights or remedies available to any person or classes of
7 persons, the Attorney General shall have the power to represent,
8 for the purpose of exercising any available right or seeking any
9 available remedy, one or more persons, including classes of
10 persons, who may have been injured by any breach of the
11 obligations of a declarant under Chapter 44 (relating to
12 protection of cooperative purchasers).

13 (b) Judicial enforcement of rights and obligations.--Any
14 right or obligation declared by this subpart is enforceable by
15 judicial proceeding.

16 CHAPTER 42

17 CREATION, ALTERATION AND TERMINATION

18 OF COOPERATIVES

19 Sec.

20 4201. Creation of cooperative ownership.

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8 4218. Rights of secured lenders and secured creditors.

9 4219. Master associations.

10 4220. Merger or consolidation of cooperatives.

11 4221. Method for transferring a cooperative interest.

12 § 4201. Creation of cooperative ownership.

13 (a) General rule.--A cooperative may be created pursuant to
14 this subpart only by either of the following:

15 (1) Recording a declaration executed in the same manner
16 as a deed, and subsequently recording an instrument that
17 conveys or leases to the association the real estate that is
18 to be included in the cooperative, which conveyance or lease
19 is subject to the declaration.

20 (2) Recording an instrument conveying or leasing to the
21 association the real estate to be included in the
22 cooperative, which instrument also includes all provisions
23 required to be in a declaration by section 4205 (relating to
24 contents of declaration) and which instrument shall then be
25 deemed to be a declaration for all purposes of this subpart.

26 (b) Execution of instrument.--The instrument by which the
27 conveyance or lease to the association of the real estate to be
28 in the cooperative is to be effected shall be executed and
29 acknowledged by the association as well as by all persons having
30 an interest in the real estate to be included in the cooperative

1 and whose interest is being conveyed to, or subjected to a lease
2 in favor of, the association.

3 (c) Recording instruments.--The declaration and any separate
4 instrument of conveyance or lease of the real estate to the
5 association must be recorded in every county in which any
6 portion of the cooperative is located and must be indexed in the
7 grantee's index in the name of the cooperative and the
8 association and in the grantor's index in the name of every
9 person executing the declaration and such separate instrument.

10 § 4202. Unit boundaries.

11 Except as provided by the declaration:

12 (1) If walls, floors or ceilings are designated as
13 boundaries of a unit, all lath, furring, wallboard,
14 plasterboard, plaster, paneling, tiles, wallpaper, paint,
15 finished flooring and any other materials constituting any
16 part of the finished surfaces thereof are a part of the unit,
17 and all other portions of the walls, floors or ceilings are a
18 part of the common elements.

19 (2) If any chute, flue, duct, wire, conduit, bearing
20 wall, bearing column or any other fixture lies partially
21 within and partially outside the designated boundaries of a
22 unit, any portion thereof serving only that unit is a limited
23 common element allocated solely to that unit, and any portion
24 thereof serving more than one unit or any portion of the
25 common elements is a part of the common elements.

26 (3) Subject to the provisions of paragraph (2), all
27 spaces, interior partitions and other fixtures and
28 improvements within the boundaries of a unit are a part of
29 the unit.

30 (4) Any shutters, awnings, window boxes, doorsteps,

1 stoops, porches, balconies, patios and all exterior doors and
2 windows or other fixtures designed to serve a single unit,
3 but located outside the unit's boundaries, are limited common
4 elements allocated exclusively to that unit.

5 § 4203. Construction and validity of declaration and bylaws.

6 (a) Provisions severable.--All provisions of the declaration
7 and bylaws are severable.

8 (b) Application of rule against perpetuities.--The rule
9 against perpetuities may not be applied to defeat any provision
10 of the declaration, bylaws or rules and regulations adopted
11 pursuant to section 4302(a)(1) (relating to executive board
12 members and officers).

13 (c) Conflict between declaration and bylaws.--In the event
14 of a conflict between the provisions of the declaration and the
15 bylaws, the declaration prevails except to the extent the
16 declaration is inconsistent with this subpart.

17 (d) Effect of noncompliance on title to unit.--Title to a
18 cooperative interest is not rendered unmarketable or otherwise
19 affected by reason of an insubstantial failure of the
20 declaration to comply with this subpart. Whether a substantial
21 failure impairs marketability is not affected by this subpart.

22 § 4204. Description of units.

23 A description of a unit which sets forth the name of the
24 cooperative, the recording data for the declaration, the county
25 or counties in which the cooperative is located and the
26 identifying number of the unit is a legally sufficient
27 description of that unit and all rights, obligations and
28 interests appurtenant to that unit which were created by the
29 declaration or bylaws. Proprietary leases and memoranda or short
30 forms thereof as well as all instruments of transfer of

1 cooperative interests and all instruments creating security
2 interests in cooperative interests may be recorded in the same
3 records as are maintained by the recorder for the recording of
4 like instruments and, if recorded, shall be indexed by the
5 recorder in the same manner as like instruments are recorded.

6 § 4205. Contents of declaration.

7 (a) General rule.--The declaration for a cooperative must
8 contain:

9 (1) The name of the cooperative, which must include the
10 word "cooperative" or be followed by the words "a
11 cooperative" and the name of the association.

12 (2) The name of every county in which any part of the
13 cooperative is situated.

14 (3) A legally sufficient description of the real estate
15 included in the cooperative.

16 (4) A statement of the maximum number of units which the
17 declarant reserves the right to create.

18 (5) A description of each unit created by the
19 declaration, either by reference to plats and plans that are
20 included in or attached to the declaration or by a verbal
21 description which shall include each unit's identifying
22 number, its size or number of rooms and its location within a
23 building if it is within a building containing more than one
24 unit.

25 (6) A description of any limited common elements, other
26 than those specified in section 4202(2) and (4) (relating to
27 unit boundaries).

28 (7) A description of any real estate (except real estate
29 subject to development rights) which may be allocated
30 subsequently as limited common elements, other than limited

1 common elements specified in section 4202(2) and (4),
2 together with a statement that they may be so allocated and a
3 description of the method by which the allocations are to be
4 made.

5 (8) A description of any development rights (section
6 4103(14)) and other special declarant rights (section
7 4103(31)) reserved by the declarant.

8 (9) An allocation to each cooperative interest of the
9 allocated interests in the manner described in section 4207
10 (relating to allocation of ownership interests, votes and
11 common expense liabilities).

12 (10) Any restrictions on:

13 (i) Use and occupancy of the units.

14 (ii) Alienation or encumbering of the cooperative
15 interests.

16 (iii) The amount for which a cooperative interest
17 may be sold or the amount that may be received by a
18 proprietary lessee upon sale, condemnation or casualty
19 loss to the unit or the cooperative or termination of the
20 cooperative.

21 (11) The recording data for recorded encumbrances,
22 easements and licenses appurtenant to or included in the
23 cooperative or to which any portion of the cooperative is or
24 may become subject.

25 (12) If all or any of the units are or may be owned in
26 time-share estates which units may be owned in time-share
27 estates and the maximum number of time-share estates that
28 they may be created in the cooperative, it being intended
29 that time-share estates shall not be permitted except if and
30 to the extent expressly authorized by the declaration.

1 (13) All matters required by sections 4206 (relating to
2 leasehold cooperatives), 4207 (relating to allocation of
3 ownership interests, votes and common expense liabilities),
4 4208 (relating to limited common elements), 4214 (relating to
5 declarant's office, models and signs) and 4303(d) (relating
6 to executive board members and officers).

7 (14) Any items required to be included in all
8 proprietary leases for the cooperative.

9 (b) Reservation of development rights.--The declaration for
10 a cooperative wherein development rights (section 4103(14)) are
11 reserved by the declarant must also contain:

12 (1) A statement of the time limit, not exceeding seven
13 years after the recording of the declaration, when all
14 development rights will lapse, together with a statement of
15 any circumstances that will terminate the development rights
16 before the expiration of the time limit.

17 (2) A statement of any limitations on any development
18 rights, other than limitations created by or imposed pursuant
19 to law, or else a statement that there are no such
20 limitations.

21 (3) A statement of the extent to which the allocated
22 interests may be increased or decreased by the exercise of
23 development rights, including the formulas to be used for
24 those reallocations.

25 (4) Legally sufficient descriptions of the real estate
26 to which each of the development rights applies.

27 (5) If development rights may be exercised with respect
28 to different portions of any real estate subject to
29 development rights at different times, a statement to that
30 effect together with:

1 (i) either a statement fixing the boundaries of
2 those portions and regulating the order in which they may
3 be subjected to the exercise of such development rights
4 or a statement that no assurances are made in those
5 regards; and

6 (ii) a statement as to whether, if development
7 rights are exercised with respect to any portion of real
8 estate, any development rights with respect to all or any
9 particular portion of that or any other real estate must
10 be exercised.

11 (6) A statement of:

12 (i) the maximum number of units that may be created
13 within any real estate subject to development rights or
14 within any portion of such real estate, the boundaries of
15 which are fixed pursuant to paragraph (5);

16 (ii) how many of those units will be restricted
17 exclusively to residential use; and

18 (iii) the maximum number of units per acre that may
19 be created within any portions the boundaries of which
20 are not fixed pursuant to paragraph (5).

21 (7) If any of the units that may be built within any
22 real estate subject to development rights are not to be
23 restricted exclusively to residential use, a statement, with
24 respect to each portion of such real estate, of the maximum
25 percentage of the real estate areas and the maximum
26 percentage of the floor areas of all units that may be
27 created therein that are not restricted exclusively to
28 residential use.

29 (8) A statement of the extent to which any buildings and
30 units that may be erected upon each portion of the real

1 estate subject to development rights will be compatible with
2 the other buildings and units in the cooperative in terms of
3 architectural style, quality of construction, principal
4 materials employed in construction and size, or a statement
5 that no assurances are made in those regards.

6 (9) A statement that all restrictions in the declaration
7 as described in subsection (a)(10) will apply to units
8 created within any real estate subject to development rights
9 or a statement of any differentiations that may be made as to
10 those units.

11 (10) General descriptions of all other improvements and
12 limited common elements that may be made or created upon or
13 within each portion of the real estate subject to development
14 rights, or a statement that no assurances are made in that
15 regard.

16 (11) A statement of any limitations as to the locations
17 of any buildings or other improvements that may be made
18 within real estate subject to development rights, or a
19 statement that no assurances are made in that regard.

20 (12) A statement that any limited common elements
21 created within any real estate subject to development rights
22 will be of the same general types and sizes as those limited
23 common elements within other parts of the cooperative, or a
24 statement of any other assurances in that regard, or a
25 statement that no assurances are made in that regard.

26 (13) A statement that the proportion of limited common
27 elements to units created within real estate subject to
28 development rights will be approximately equal to the
29 proportion existing within other parts of the cooperative, or
30 a statement of any other assurances in that regard, or a

statement that no assurances are made in that regard.

(14) A statement of the extent to which any assurances made in the declaration regarding real estate subject to development rights pursuant to paragraphs (5) through (13) apply in the event any development rights are not exercised.

(15) A statement of any other conditions upon or limitations under which the development rights reserved by the declarant may be exercised or will lapse.

(c) Additional matters permitted.--The declaration may contain any other matters the declarant deems appropriate.

§ 4206. Leasehold cooperatives.

(a) Recording lease and contents of declaration.--Any lease the expiration or termination of which may terminate the cooperative or reduce its size shall be recorded. The declaration for any leasehold cooperative shall state in addition to the applicable provisions of section 4205 (relating to contents of declaration):

(1) The recording data for the lease.

(2) The date on which the lease is scheduled to expire.

(3) A legally sufficient description of the real estate subject to the lease.

(4) Any rights of the proprietary lessees to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have such rights.

(5) Any rights of the proprietary lessees to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights.

(6) Any rights of the proprietary lessees to renew the lease and the conditions of any renewal, or a statement that

1 they do not have those rights.

2 (b) Merger of leasehold and fee simple interests.--

3 Acquisition of the leasehold interest of any proprietary lessee
4 by the owner of fee simple title to the real estate that is
5 subject to a lease, the expiration or termination of which may
6 limit the cooperative or reduce its size, does not merge the
7 leasehold and fee simple interests unless such owner also
8 acquires the leasehold interests of all proprietary lessees in
9 the leasehold cooperative and all security interests in all such
10 proprietary leases.

11 (c) Reallocation of interests if number of units reduced.--

12 If the expiration or termination of a lease decreases the number
13 of units in a cooperative, the allocated interests shall be
14 reallocated in accordance with section 4107(a) (relating to
15 eminent domain) as though those units had been taken by eminent
16 domain. Reallocations shall be confirmed by an amendment to the
17 declaration prepared, executed and recorded by the association.

18 § 4207. Allocation of ownership interests, votes and common
19 expense liabilities.

20 (a) General rule.--The declaration shall allocate an
21 ownership interest in the association, and a portion of the
22 votes in the association, to each cooperative interest in the
23 cooperative and shall state the formulas used to establish those
24 allocations. Those allocations may not discriminate in favor of
25 cooperative interests owned by the declarant or an affiliate of
26 the declarant. Such formulas may take into account unusual
27 attributes of identified units if the formulas state how the
28 deviation from the normal rule applies to such units.

29 (b) Addition or withdrawal of units.--If units may be added
30 to or withdrawn from the cooperative, the declaration must state

1 the formulas to be used to reallocate the allocated interests
2 among all cooperative interests included in the cooperative
3 after the addition or withdrawal.

4 (c) Votes.--The declaration may provide:

5 (1) That different allocations of votes shall be made to
6 the cooperative interests on particular matters specified in
7 the declaration.

8 (2) For cumulative voting only for the purpose of
9 electing members of the executive board.

10 (3) For class voting on specified issues affecting the
11 class if necessary to protect valid interests of the class.

12 A declarant may not utilize cumulative or class voting for the
13 purpose of evading any limitation imposed on declarants by this
14 subpart, nor may cooperative interests constitute a class
15 because they are owned by a declarant.

16 (d) Calculations for undivided interests.--Except for minor
17 variations due to rounding, the sum of the common expense
18 liabilities allocated at any time to all the cooperative
19 interests must equal one if stated as a fraction or 100% if
20 stated as a percentage. In the event of a discrepancy between an
21 allocated interest and the result derived from application of
22 the pertinent formula, the allocated interest prevails.

23 (e) Transfer without possessory interest void.--Any
24 purported conveyance, encumbrance, judicial sale or other
25 voluntary or involuntary transfer of the ownership interest in
26 the association, made without the possessory interest in the
27 unit to which that interest is related, is void.

28 § 4208. Limited common elements.

29 (a) Allocation.--Except for the limited common elements
30 described in section 4202(2) and (4) (relating to unit

1 boundaries), the declaration shall specify to which unit or
2 units each limited common element is allocated. The allocation
3 may not be altered without the consent of the proprietary
4 lessees whose units are affected.

5 (b) Reallocation.--Subject to any provisions of the
6 declaration, a limited common element may be reallocated by any
7 amendment to the declaration executed by the proprietary lessees
8 between or among whose units the reallocation is made. The
9 persons executing the amendment to the declaration shall provide
10 a copy thereof to the association which shall record it. The
11 amendment shall be recorded in the names of the parties and the
12 cooperative.

13 (c) Common elements not previously allocated.--A common
14 element not previously allocated as a limited common element may
15 not be so allocated except pursuant to provisions in the
16 declaration made in accordance with section 4205(a)(7) (relating
17 to contents of declaration). The allocation shall be made by
18 amendments to the declaration which shall be recorded by the
19 association in the name of the cooperative.

20 § 4209. Exercise of development rights.

21 (a) General rule.--To exercise any development right
22 reserved under section 4205(a)(8) (relating to contents of
23 declaration), the declarant shall prepare, execute and record an
24 amendment to the declaration (section 4216). If the exercise of
25 such development rights causes real estate to be added to a
26 cooperative or withdrawn from a cooperative, the amendment to
27 the declaration shall either convey or refer to the instrument
28 conveying the real estate so added or withdrawn and shall
29 contain a legally sufficient description of the real estate. The
30 amendment to the declaration must also assign an identifying

1 number to each new unit created, if appropriate, and reallocate
2 the allocated interests among all cooperative interests. The
3 amendment must also describe any common elements and any limited
4 common elements thereby created and, in the case of limited
5 common elements, designate the unit to which each is allocated
6 to the extent required by section 4208 (relating to limited
7 common elements).

8 (b) Reservation of development rights.--Development rights
9 may be reserved within any real estate added to the cooperative
10 if the amendment adding that real estate includes all matters
11 required by section 4205 or 4206 (relating to leasehold
12 cooperatives), as the case may be. This provision does not
13 extend the time limit on the exercise of development rights
14 imposed by the declaration pursuant to section 4205(b)(1).

15 (c) Subdivision or conversion of unit.--Whenever a declarant
16 exercises a development right to subdivide or convert a unit
17 previously created into additional units, common elements or
18 both:

19 (1) If the declarant converts the unit entirely to
20 common elements, the amendment to the declaration must
21 reallocate all the allocated interests of the cooperative
22 interest of which that unit is a part among the other
23 cooperative interests as if that unit had been taken by
24 eminent domain (section 4107).

25 (2) If the declarant subdivides the unit into two or
26 more units, whether or not any part of the unit is converted
27 into common elements, the amendment to the declaration must
28 reallocate all the allocated interests of the cooperative
29 interests created by the subdivision in any reasonable manner
30 prescribed by the declarant.

(d) Withdrawal of real estate.--If the declaration provides, pursuant to section 4205(a)(8), that all or a portion of the real estate is subject to the development right of withdrawal:

(1) If all of the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a cooperative interest has been conveyed to a purchaser.

(2) If a portion or portions are subject to withdrawal, no portion may be withdrawn after a cooperative interest in the portion has been conveyed to a purchaser.

§ 4210. Alterations of units.

Subject to the provisions of the declaration, section 4321(c) (relating to limited equity cooperatives) and other provisions of law, a proprietary lessee:

(1) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen support of any portion of the cooperative.

(2) May not change the common elements or the exterior appearance of a unit without permission of the association.

(3) After acquiring a cooperative interest of which an adjoining unit or an adjoining part of an adjoining unit is a part, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the cooperative. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

§ 4211. Relocation of boundaries between adjoining units.

1 (a) General rule.--Subject to the provisions of the
2 declaration and other provisions of law, the boundaries between
3 adjoining units may be reallocated by an amendment to the
4 declaration upon application to the association by the
5 proprietary lessees of those units. If the proprietary lessees
6 of the adjoining units have specified a reallocation between
7 their cooperative interests of their common interests, votes in
8 the association and common expense liabilities, the application
9 must state the proposed reallocations. Unless the executive
10 board determines, within 30 days, that the reallocations are
11 unreasonable or are inconsistent with any restrictions on such
12 reallocation that may be set forth in the declaration, the
13 association shall prepare and record an amendment to the
14 declaration that identifies the units involved, states the
15 reallocations and shows or describes, by plans or otherwise, the
16 altered boundaries between adjoining units and any changes in
17 their sizes and identifying numbers.

18 (b) Execution and recording of amendment.--The amendment to
19 the declaration shall be executed by the proprietary lessees
20 whose units are being changed and by the association and upon
21 recordation shall be indexed in the name of both lessees as well
22 as the association in the grantor and grantee indexes. The
23 amendment shall be prepared and recorded at the expense of the
24 proprietary lessees of the units involved.

25 § 4212. Subdivision of units.

26 (a) General rule.--Subject to the provisions of the
27 declaration and other provisions of law, a unit may be
28 subdivided into two or more units by an amendment to the
29 declaration upon application to the association by the
30 proprietary lessee of the unit to be subdivided. If the

1 proprietary lessee of such unit has specified a reallocation
2 between the newly created units' cooperative interests of their
3 common interests, votes in the association and common expense
4 liabilities, the application must state the proposed
5 reallocations. Unless the executive board determines, within 30
6 days, that the reallocations are unreasonable or are
7 inconsistent with any restrictions on such reallocation that may
8 be set forth in the declaration, the association shall prepare
9 and record an amendment to the declaration that identifies the
10 newly created units, states the reallocation and shows or
11 describes, by plans or otherwise, the boundaries of the newly
12 created units and their sizes and identifying numbers.

13 (b) Execution and recording of amendment.--The amendment to
14 the declaration shall be executed by the proprietary lessee
15 whose unit is being subdivided and by the association and upon
16 recordation shall be indexed in the name of the proprietary
17 lessee as well as the association in the grantor and grantee
18 indexes. The amendment shall be prepared and recorded at the
19 expense of the proprietary lessee of the unit being subdivided.
20 § 4213. Easement for encroachments.

21 To the extent that any unit or common element encroaches on
22 any other unit or common element, a valid easement for the
23 encroachment exists. The easement does not relieve a proprietary
24 lessee of liability in case of willful misconduct nor relieve a
25 declarant or any other person of liability for failure to adhere
26 to any representation in the public offering statement.

27 § 4214. Declarant's office, models and signs.

28 A declarant may maintain sales or rental offices, management
29 offices and models in units, or on common elements, otherwise
30 restricted to residential use only if the declaration so

1 provides and specifies the right of the declarant with regard to
2 the number, size, location and relocation thereof. The use of
3 any such sales or rental offices, management offices and models
4 by the declarant shall be confined to the sale, rental or
5 management of units in the cooperative where such units are
6 located. Any sales or rental office, management office or model
7 not designated a unit by the declaration is a common element,
8 and, if a declarant ceases to have an ownership interest in the
9 association, he ceases to have any rights with regard thereto
10 unless such office or model is removed promptly from the
11 cooperative in accordance with a right to remove reserved in the
12 declaration. Subject to any limitations in the declaration, a
13 declarant may maintain signs in his units and on the common
14 elements advertising the cooperative owned by the declarant for
15 sale or lease.

16 § 4215. Easement rights.

17 Subject to the provisions of the declaration, a declarant has
18 an easement through the common elements as may be reasonably
19 necessary for the purpose of discharging a declarant's
20 obligations or exercising special declarant rights, whether
21 arising under this subpart or reserved in the declaration.

22 § 4216. Amendment of declaration.

23 (a) Number of votes required.--Except in cases of amendments
24 that may be executed by a declarant under section 4209 (relating
25 to exercise of development rights); the association under
26 section 4107 (relating to eminent domain), 4206(c) (relating to
27 leasehold cooperatives), 4208(c) (relating to limited common
28 elements), 4211(a) (relating to relocation of boundaries between
29 adjoining units) or 4212 (relating to subdivision of units); the
30 executive board of the association under subsection (f); or

1 certain proprietary lessees under section 4208(b), 4211(a),
2 4212(b) or 4217(b) (relating to termination of cooperative
3 ownership), and except as limited by subsection (d), the
4 declaration may be amended only by vote or agreement of
5 proprietary lessees of cooperative interests to which at least
6 67% of the votes in the association are allocated, or any larger
7 majority the declaration specifies. The declaration may specify
8 a smaller number only if all of the units are restricted
9 exclusively to nonresidential use.

10 (b) Limitation of action to challenge amendment.--No action
11 to challenge the validity of an amendment adopted by the
12 association pursuant to this section may be brought more than
13 six months after the amendment is recorded.

14 (c) Recording amendment.--Every amendment to the declaration
15 must be recorded in every county in which any portion of the
16 cooperative is located in the same records as are maintained for
17 the recording of deeds of real property and is effective only
18 upon recordation. In cases where the amendment is executed by
19 the association, it shall be indexed in the name of the
20 cooperative and the association in both the grantor and the
21 grantee index. In cases where the amendment is executed by the
22 declarant or one or more proprietary lessees, it shall be
23 indexed in the grantee's index in the name of the cooperative
24 and the association and in the grantor's index in the name of
25 the declarant or proprietary lessee or lessees, as well as in
26 the name of the association.

27 (d) Restrictions on amendments.--Except to the extent
28 expressly permitted or required by the provisions of this
29 subpart, no amendment may create or increase special declarant
30 rights in the absence of the unanimous consent of the

1 proprietary lessees nor may any amendment otherwise duly
2 adopted:

3 (1) Change the boundaries of any unit without the
4 approval of the proprietary lessee of such unit.

5 (2) Change the allocated interests of a cooperative
6 interest without the approval of the proprietary lessee who
7 owns such cooperative interest.

8 (3) Change the uses to which any unit is restricted
9 without the approval of the proprietary lessee of such unit.

10 (e) Officer authorized to execute amendment.--Amendments to
11 the declaration required by this subpart to be recorded by the
12 association shall be prepared, executed, recorded and certified
13 on behalf of the association by any officer of the association
14 designated for that purpose or, in the absence of designation,
15 by the president of the association.

16 (f) Corrective amendments.--Except as otherwise provided in
17 the declaration, if any amendment to the declaration is
18 necessary in the judgment of the executive board to cure any
19 ambiguity or to correct or supplement any provision of the
20 declaration that is defective, missing or inconsistent with any
21 other provision thereof or with this subpart, or if an amendment
22 is necessary in the judgment of the executive board to conform
23 to the requirements of any agency or entity that has established
24 national or regional standards with respect to loans secured by
25 mortgages or deeds of trust on units in condominium projects
26 (such as the Federal National Mortgage Association and the
27 Federal Home Loan Mortgage Corporation), then, at any time and
28 from time to time, the executive board may at its discretion
29 effect an appropriate corrective amendment without the approval
30 of the proprietary lessees or the holders of any liens on all or

1 any part of the cooperative, upon receipt by the executive board
2 of an opinion from independent legal counsel to the effect that
3 the proposed amendment is permitted by the terms of this
4 subsection.

5 § 4217. Termination of cooperative ownership.

6 (a) Number of votes required.--Except:

7 (1) in the case of the taking of all of the units by
8 eminent domain (section 4107);

9 (2) in the case of foreclosure of a security interest
10 against the entire cooperative which has priority over the
11 declaration or which is subordinate to a declaration that
12 expressly provides that the holder of the security interest
13 has the right to terminate the cooperative when the
14 foreclosure of the security interest has been consummated; or

15 (3) in the case of the expiration or termination of a
16 lease which has priority over the declaration (unless a
17 contrary intent is expressly stated in the lease);
18 cooperative ownership may be terminated only at a meeting of the
19 association and by the vote, in person or by proxy, of
20 proprietary lessees of cooperative interests to which at least
21 80% of the votes in the association are allocated, or any larger
22 percentage the declaration specifies. The declaration may
23 specify a smaller percentage only if all of the units in the
24 cooperative are restricted exclusively to nonresidential uses.

25 (b) Execution and recording of termination agreement.--An
26 agreement to terminate must be evidenced by the execution of a
27 termination agreement, or ratifications thereof, in the same
28 manner as a deed, by the requisite number of proprietary
29 lessees. The termination agreement must specify the date it was
30 first executed or ratified by a proprietary lessee. If, pursuant

1 to a termination agreement, the real estate in the cooperative
2 is to be sold following termination, the termination agreement
3 must set forth the terms of the sale. The termination agreement
4 will become null and void unless it is recorded on or before the
5 earlier of:

6 (1) The expiration of the year from the date and all
7 ratifications thereof it was first executed and ratified by a
8 proprietary lessee.

9 (2) Such date as shall be specified in the termination
10 agreement.

11 A termination agreement and all ratifications thereof must be
12 recorded in every county in which a portion of the cooperative
13 is situated in the same records as are maintained for the
14 recording of deeds of real property and indexed in the name of
15 the cooperative and the association in both the grantor index
16 and the grantee index. A termination agreement is effective only
17 upon recordation.

18 (c) Status if real estate sold.--The association, on behalf
19 of the proprietary lessees, may contract for the sale of real
20 estate in the cooperative, but the contract is not binding until
21 approved pursuant to subsections (a) and (b). Thereafter, the
22 association has all powers necessary and appropriate to effect
23 the sale. Until the sale has been concluded and the proceeds
24 thereof distributed, the association continues in existence with
25 all powers it had before termination. Except to the extent that
26 any provisions in the declaration limit the amount that may be
27 received by a proprietary lessee upon termination (section
28 4205(a)(10)), proceeds of the sale must be distributed to
29 holders of liens against the association, against the
30 cooperative interests and to proprietary lessees, all as their

1 interests may appear, in accordance with subsections (d) and (e)
2 with proprietary lessees being entitled to receive the entire
3 balance of the association's assets, after payment of all such
4 lienholders, pursuant to subsection (e), except that in the case
5 of a limited equity cooperative with a declaration of the type
6 described in section 4321(f) (relating to limited equity
7 cooperatives), the provisions of that section shall govern.
8 Unless otherwise specified in the termination agreement, as long
9 as the association holds title to the real estate, each
10 proprietary lessee and his successors in interest have an
11 exclusive right to occupancy of the portion of the real estate
12 that formerly constituted his unit. During the period of that
13 occupancy, each proprietary lessee and his successors in
14 interest remain liable for all assessments and other obligations
15 imposed on proprietary lessees by this subpart or the
16 declaration.

17 (d) Priority of liens.--Following termination of the
18 cooperative, the proceeds of any sale of real estate, together
19 with the assets of the association, are held by the association
20 as trustee for proprietary lessees and holders of liens against
21 the association and the cooperative interests as their interests
22 may appear. The declaration may provide that all creditors of
23 the association have priority over any interests of proprietary
24 lessees and creditors of proprietary lessees. In that event,
25 following termination, creditors of the association holding
26 liens on the cooperative which were perfected before termination
27 may enforce their liens in the same manner as any lienholder,
28 and any other creditor of the association is to be treated as if
29 he had perfected a lien against the cooperative immediately
30 before termination. Unless the declaration provides that all

1 creditors of the association have that priority:

2 (1) The lien of each creditor of the association which
3 was perfected against the association before termination
4 becomes, upon termination, a lien against each cooperative
5 interest as of the date the lien was perfected.

6 (2) Any other creditor of the association is to be
7 treated upon termination as if he had perfected a lien
8 against the cooperative interests immediately before
9 termination.

10 (3) The amount of the lien of an association's creditor
11 described in paragraphs (1) and (2) against each of the
12 cooperative interests must be proportionate to the ratio
13 which that cooperative interest's common expense liability
14 bears to the common expense liability of all of the
15 cooperative interests.

16 (4) The one lien, unless the declaration designates a
17 greater number, against each proprietary lessee which was
18 perfected prior to any other liens against the proprietary
19 lessee and before termination continues as a lien against the
20 proprietary lessee's cooperative interest as of the date the
21 lien was perfected.

22 (5) Any other creditor of a proprietary lessee is to be
23 treated upon termination as if he had perfected a lien
24 against that proprietary lessee immediately before
25 termination.

26 (6) The assets of the association shall be distributed
27 to all proprietary lessees and all lienholders against their
28 cooperative interests as their interests may appear in the
29 order described in paragraphs (1) through (5), and creditors
30 of the association are not entitled to payment from any

1 proprietary lessee in excess of the amount of the creditor's
2 lien against that proprietary lessee's cooperative interest.
3 Regardless of the priority given to creditors of the
4 association, no proprietary lessee shall have any personal
5 liability to a creditor of the association beyond such
6 proprietary lessee's cooperative interest.

7 (e) Valuation of proprietary lessee's interest.--The
8 declaration may provide that the respective interests of
9 proprietary lessees referred to in subsections (c) and (d) are
10 the fair market values of the cooperative interests as of a date
11 no earlier than six months prior to the termination as
12 determined by one or more independent appraisers selected by the
13 association. The decision of the independent appraisers shall be
14 distributed to the proprietary lessees at least 30 days prior to
15 a meeting of the association at which meeting the appraisal will
16 be deemed approved unless it is rejected by vote, in person or
17 by proxy, of proprietary lessees holding more than 50% of the
18 votes in the association. If the declaration provides for such
19 an appraisal procedure, the proportion of any proprietary
20 lessee's interest to that of all proprietary lessees is
21 determined by dividing the fair market value of that proprietary
22 lessee's cooperative interest by the total fair market values of
23 all the cooperative interests. If the declaration does not
24 provide for such an appraisal procedure or if the appraisal is
25 rejected by the requisite number of votes in the association,
26 the interests of all proprietary lessees are their respective
27 ownership interests in the association immediately before the
28 termination. If the declaration provides for an appraisal
29 procedure, there shall be no vote taken among the proprietary
30 lessees as to whether or not the cooperative form of ownership

1 should be terminated until after the vote is first taken as to
2 whether or not the appraisal should be approved.

3 (f) Termination by successor in title.--In the case of a
4 foreclosure of a lien against the entire cooperative or in the
5 case of the expiration or termination of a lease which has
6 priority over the declaration, the successor in title shall have
7 the right to terminate the cooperative.

8 § 4218. Rights of secured lenders and secured creditors.

9 The declaration may provide that all or a specified number or
10 percentage of secured creditors of the association or lenders
11 holding security interests encumbering the cooperative interests
12 approve specified actions of the proprietary lessees of the
13 association as a condition to the effectiveness of those
14 actions, and the declaration may provide for procedures that
15 will enable such lenders to have their approval rights
16 recognized by the executive board, but no requirement for
17 approval may operate to:

18 (1) Deny or delegate control over the general
19 administrative affairs of the association by the proprietary
20 lessees or the executive board.

21 (2) Prevent the association or the executive board from
22 commencing, intervening in or settling any litigation or
23 proceeding.

24 (3) Receive and distribute any insurance proceeds except
25 pursuant to section 4313 (relating to insurance).

26 § 4219. Master associations.

27 (a) General rule.--If the declaration provides that any of
28 the powers described in section 4302 (relating to powers of
29 association) are to be exercised by or may be delegated to a
30 profit or nonprofit corporation or unincorporated association (a

1 "master association") which exercises those or other powers on
2 behalf of one or more cooperatives, condominiums, homeowners
3 associations or any combination of the foregoing, or for the
4 benefit of the proprietary lessees of one or more cooperatives,
5 unit owners of one or more condominiums, members of one or more
6 homeowners associations or some combination of the foregoing,
7 all provisions of this subpart applicable to associations apply
8 to any such corporation or unincorporated association, insofar
9 as such association is acting on behalf of one or more
10 cooperatives, except as modified by this section.

11 (b) Exercise of powers of association.--Unless a master
12 association is acting in the capacity of an association
13 described in section 4301 (relating to organization of
14 association), it may exercise the powers set forth in section
15 4302 only to the extent expressly permitted in the declarations
16 of the cooperatives which are part of the master association or
17 expressly described in the delegations of power from those
18 cooperatives to the master association.

19 (c) Liability for exercise of delegated powers.--If the
20 declaration of any cooperative provides that the executive board
21 may delegate certain powers to a master association, the members
22 of the executive board have no liability for the acts of
23 omissions of the master association with respect to those powers
24 following delegation. The officers and members of the governing
25 board of the master association are subject to liability to the
26 cooperative association whose powers are delegated thereto and
27 the proprietary lessees of such cooperative on the same basis as
28 officers and executive board members of such cooperative
29 immediately before such delegation of power.

30 (d) Rights and liabilities of proprietary lessees.--The

1 rights and responsibilities of proprietary lessees with respect
2 to the association set forth in sections 4303 (relating to
3 executive board members and officers), 4308 (relating to
4 meetings), 4309 (relating to quorums), 4310 (relating to voting;
5 proxies), 4312 (relating to conveyance or encumbrance of
6 cooperative) and 4320 (relating to declarant delivery of items
7 to association) apply in the conduct of the affairs of a master
8 association only to those persons who elect the board of a
9 master association, whether or not those persons are otherwise
10 proprietary lessees within the meaning of this subpart.

11 (e) Election of executive board.--Notwithstanding the
12 provisions of section 4303(f) with respect to the election of
13 the executive board of an association by all proprietary lessees
14 after the period of declarant control ends, and even if a master
15 association is also an association described in section 4301,
16 the certificate of incorporation or other instrument creating
17 the master association and the declaration of each cooperative
18 the powers of which are assigned by the declaration or delegated
19 to the master association may provide that the executive board
20 of the master association must be elected after the period of
21 declarant control in any of the following ways:

22 (1) All proprietary lessees of all cooperatives subject
23 to the master association may elect all members of that
24 executive board.

25 (2) All members of the executive boards of all
26 cooperatives subject to the master association may elect all
27 members of that executive board.

28 (3) All proprietary lessees of each cooperative subject
29 to the master association may elect specified members of the
30 executive board.

1 (4) All members of the executive boards of each
2 cooperative subject to the master association may elect
3 specified members of that executive board.

4 (f) When section applicable to cooperative.--The provisions
5 of this section shall apply to a cooperative if and when:

6 (1) there occurs either a date specified in the
7 declaration, or any amendment thereto, from and after which
8 this section shall apply to the cooperative;

9 (2) there occurs an event or action that the
10 declaration, or any amendment thereto, states shall cause
11 this section to become applicable, and the association causes
12 to be recorded an instrument duly executed by the president
13 of the association stating that:

14 (i) such event or action has occurred, and the date
15 of such occurrence, thereby causing this section to
16 become applicable to the cooperative; and

17 (ii) that a copy of such instrument has been sent to
18 all proprietary lessees; or

19 (3) the declarant executes and records an instrument
20 stating that this section shall thereafter apply to the
21 cooperative and that a copy of the instrument has been sent
22 to the executive board and all proprietary lessees.

23 Paragraph (3) shall be applicable only if the declarant
24 expressly reserved in the declaration, pursuant to section
25 4205(a)(8) (relating to contents of declaration), the special
26 declarant right to make this section applicable to the
27 cooperative, and only if the instrument exercising such right is
28 recorded during the time period allowed for the exercise of such
29 right.

30 (g) When executive board not required.--If all of the powers

1 of a cooperative association are delegated to a master
2 association and accepted by the master association pursuant to
3 this section, then the governing body of the master association
4 may act in all respects as the executive board of the
5 cooperative and no separate executive board need be elected or
6 exist.

7 § 4220. Merger or consolidation of cooperatives.

8 (a) General rule.--Any two or more cooperatives, by
9 agreement of the proprietary lessees as provided in subsection
10 (b), may be merged or consolidated into a single cooperative. In
11 the event of a merger or consolidation, unless the agreement
12 otherwise provides, the resultant cooperative is, for all
13 purposes, the legal successor of all of the preexisting
14 cooperatives, and the operations and activities of all
15 associations of the preexisting cooperatives shall be merged or
16 consolidated into a single association which shall hold all
17 powers, rights, obligations, assets and liabilities of all
18 preexisting associations. The resultant cooperative shall, in
19 addition, be subject in all respects to the provisions and
20 requirements of this subpart regardless of whether or not any of
21 the preexisting cooperatives have been established under this
22 subpart.

23 (b) Execution and recording of agreement.--The merger or
24 consolidation of two or more cooperatives pursuant to subsection
25 (a) must be evidenced by a recorded agreement duly executed by
26 the president of the association of each of the preexisting
27 cooperatives following approval by proprietary lessees of
28 cooperative interests to which are allocated the percentage of
29 votes in each cooperative required to terminate that
30 cooperative. Any such agreement must be recorded in every county

1 in which a portion of the cooperative is located and is not
2 effective until so recorded.

3 (c) Reallocation of allocated interests.--Every merger or
4 consolidation agreement must provide for the reallocation of the
5 allocated interests in the new association among the cooperative
6 interests of the resultant cooperative either:

7 (1) by stating the reallocations or the formulas upon
8 which they are based; or

9 (2) by stating the percentage of overall allocated
10 interests of the new cooperative which are allocated to all
11 of the cooperative interests comprising each of the
12 preexisting cooperatives, and providing that the portion of
13 the percentages allocated to each cooperative interest
14 formerly comprising a part of the preexisting cooperative
15 must be equal to the percentages of allocated interests
16 allocated to that cooperative interest by the declaration of
17 the preexisting cooperative.

18 (d) Execution of agreement by declarant who retained
19 rights.--Notwithstanding the provisions of subsection (a) and
20 (b), if a declarant expressly retained the special declarant
21 right to merge or consolidate a cooperative pursuant to section
22 4205(a)(8) (relating to contents of declaration) and if the
23 declarant exercised such right within the time period allowed
24 for such exercise, by giving written notice to that effect to
25 all proprietary lessees accompanied by a copy of the agreement
26 evidencing such merger or consolidation, then such agreement may
27 be executed by the declarant rather than by the president of the
28 association of that cooperative and without the necessity for
29 approval or consent by proprietary lessees or their mortgagees
30 provided the agreement is recorded within the time period

1 allowed for the exercise of this special declarant right.

2 § 4221. Method for transferring a cooperative interest.

3 (a) General rule.--In order to effectuate the transfer of a
4 cooperative interest, the transferor, the transferee and the
5 association shall execute an instrument which may be recorded in
6 the same manner as a lease and which must include the following:

7 (1) The names of the transferor and transferee.

8 (2) A description of the unit that is the subject of the
9 proprietary lease included in such cooperative interest,
10 which description shall contain the items required by section
11 4204 (relating to description of units).

12 (3) Language evidencing an intent to transfer the
13 cooperative interest, which may include:

14 (i) An assignment by the transferor, by endorsement
15 or otherwise, of the instrument, if any, used to evidence
16 the ownership of the cooperative interest, including, but
17 not limited to, a stock or membership certificate.

18 (ii) The transfer of the cooperative interest on the
19 books of the association.

20 (iii) An assignment of the transferor's interest in
21 the proprietary lease that is part of the cooperative
22 interest being disposed of.

23 (4) Joinder by the association for the purpose of:

24 (i) Acknowledging such transfer on the books of the
25 association.

26 (ii) Stating the amount, if any, of any unpaid
27 common expense or special assessment currently due and
28 payable from the transferor.

29 (iii) Stating whether or not such transfer violates
30 any rights of the association restricting the alienation

1 of the cooperative interest or restricting the amount for
2 which the cooperative interest may be sold or restricting
3 the amount that may be received by the transferor upon
4 such sale.

5 (b) Rights and liabilities of transferee.--The transferee
6 shall not be liable for any unpaid assessment or fee greater
7 than the amount set forth in the instrument, nor shall the
8 transferee be bound by any restriction in favor of the
9 association which is violated as a result of the transfer but
10 which is not stated as having been violated in the instrument.

11 CHAPTER 43

12 MANAGEMENT OF COOPERATIVES

13 Sec.

14 4301. Organization of association.

15 4302. Powers of association.

16 4303. Executive board members and officers.

17 4304. Transfer of special declarant rights.

18 4305. Termination of contracts and leases of declarant.

19 4306. Bylaws.

20 4307. Upkeep of cooperative.

21 4308. Meetings.

22 4309. Quorums.

23 4310. Voting; proxies.

24 4311. Tort and contract liability.

25 4312. Conveyance or encumbrance of cooperative.

26 4313. Insurance.

27 4314. Assessments for common expenses.

28 4315. Lien for assessments.

29 4316. Other liens affecting the cooperative.

30 4317. Association records.

1 4318. Association as trustee.

2 4319. Termination of cooperative interest.

3 4320. Declarant delivery of items to association.

4 4321. Limited equity cooperatives.

5 § 4301. Organization of association

6 An association must be organized prior to the date the first
7 cooperative interest in the cooperative is conveyed to anyone
8 other than the declarant or an affiliate of the declarant. An
9 association may be organized prior to the date on which the real
10 estate subject to the provisions of this subpart is acquired.
11 Immediately upon creation of the cooperative pursuant to section
12 4201 (relating to creation of cooperative ownership) and at all
13 times thereafter, the membership of the association shall
14 consist exclusively of all the proprietary lessees or, following
15 termination of the cooperative, of all former proprietary
16 lessees entitled to distributions of proceeds under section 4217
17 (relating to termination of cooperative ownership) or their
18 heirs, successors or assigns. The association shall be organized
19 as a profit or nonprofit corporation, trust, trustee or
20 partnership.

21 § 4302. Powers of association.

22 (a) General rule.--Except as provided in subsection (b) and
23 subject to the provisions of the declaration, the association
24 may:

25 (1) Adopt and amend bylaws and rules and regulations.

26 (2) Adopt and amend budgets for revenues, expenditures
27 and reserves, which budgets shall include, but shall not be
28 limited to, the financial information listed in section

29 4403(a)(5) (relating to public offering statement; general
30 provisions), and collect assessments for common expenses from

1 proprietary lessees.

2 (3) Hire and discharge managing agents and other
3 employees, agents and independent contractors.

4 (4) Institute, defend or intervene in litigation or
5 administrative proceedings in its own name on behalf of
6 itself or two or more proprietary lessees on matters
7 affecting the cooperative.

8 (5) Make contracts and incur liabilities.

9 (6) Regulate the use, maintenance, repair, replacement
10 and modification of common elements.

11 (7) Cause additional improvements to be made as a part
12 of the common elements.

13 (8) Acquire, hold, encumber and convey in its own name
14 any right, title or interest to real or personal property,
15 but part of the cooperative may be conveyed, or all or part
16 of the cooperative may be subjected to a security interest,
17 only pursuant to section 4312 (relating to conveyance or
18 encumbrance of cooperative).

19 (9) Grant easements, leases, licenses and concessions
20 through or over the common elements. Any such easement,
21 lease, license or concession that is not for the benefit of
22 all or substantially all of the proprietary lessees shall not
23 be granted without the same proprietary lessee approval that
24 is required for an amendment to the declaration or that
25 materially impairs any right or benefit that one or more
26 proprietary lessees may have with respect to the common
27 elements shall not be granted without the prior written
28 approval of those proprietary lessees.

29 (10) Impose and receive any payments, fees or charges
30 for the use, rental or operation of the common elements other

1 than limited common elements described in sections 4202(2)
2 and (4) (relating to unit boundaries) and for services
3 provided to proprietary lessees.

4 (11) Impose charges for late payment of assessments and,
5 after notice and an opportunity to be heard, levy reasonable
6 fines for violations of the declaration, bylaws and rules and
7 regulations of the association.

8 (12) Impose reasonable charges for the preparation and
9 recordation of amendments to the declaration, resale
10 certificates required by section 4409 (relating to resales of
11 cooperative interests) or statements of unpaid assessments.

12 (13) Provide for the indemnification of its officers and
13 executive board and maintain directors' and officers'
14 liability insurance.

15 (14) Assign its right to future income, including the
16 right to receive the payments made on account of common
17 expense assessments, but only to the extent the declaration
18 expressly so provides.

19 (15) Enjoin, abate or remedy by appropriate legal
20 proceedings either at law or in equity any violation of the
21 declaration, bylaws or this subpart by any proprietary lessee
22 or other person.

23 (16) Terminate proprietary leases, and all rights of
24 proprietary lessees with respect to their cooperative
25 interests, and redeem cooperative interests of proprietary
26 lessees in connection with the exercise of the association's
27 remedies for nonpayment of assessments pursuant to section
28 4315 (relating to remedies for nonpayment of assessments) or
29 in connection with the association's remedies for other
30 violations of the declaration, bylaws, proprietary lease or

1 this subpart pursuant to section 4319 (relating to
2 termination of cooperative interest), although the
3 declaration may expressly require such termination to be
4 subject to the approval of a specified vote of the
5 proprietary lessees if the cause for such termination is of a
6 type specified in the declaration or is for any cause if the
7 declaration so specifies.

8 (17) Assign or delegate any powers of the association
9 listed in this section to a master association subject to the
10 provisions of section 4219 (relating to master associations)
11 and accept any assignment or delegation of powers from one or
12 more cooperatives or other incorporated or unincorporated
13 associations.

14 (18) Exercise any other powers conferred by the
15 declaration or bylaws.

16 (19) Exercise all other powers that may be exercised in
17 this Commonwealth by legal entities of the same type as the
18 association.

19 (20) Exercise any other powers necessary and proper for
20 the governance and operation of the association.

21 (b) Restrictions on limitations in declaration.--The
22 declaration may not impose limitations on the power of the
23 association to deal with the declarant which are more
24 restrictive than the limitations imposed on the power of the
25 association to deal with other persons.

26 § 4303. Executive board members and officers.

27 (a) Fiduciary status and exercise of duties.--Except as
28 provided in the declaration, the bylaws in subsection (b) or in
29 other provisions of this subpart, the executive board may act in
30 all instances on behalf of the association. In the performance

1 of their duties, the officers and members of the executive board
2 shall stand in a fiduciary relation to the association and shall
3 perform their duties, including duties as members of any
4 committee of the board upon which they may serve, in good faith,
5 in a manner they reasonably believe to be in the best interests
6 of the association and with such care, including reasonable
7 inquiry, skill and diligence, as a person of ordinary prudence
8 would use under similar circumstances. In performing his duties,
9 an officer or executive board member shall be entitled to rely
10 in good faith on information, opinions, reports or statements,
11 including financial statements and other financial data, in each
12 case prepared or presented by any of the following:

13 (1) One or more other officers or employees of the
14 association whom the officer or executive board member
15 reasonably believes to be reliable and competent in the
16 matters presented.

17 (2) Counsel, public accountants or other persons as to
18 matters which the officer or executive board member
19 reasonably believes to be within the professional or expert
20 competence of such person.

21 (3) A committee of the executive board upon which he
22 does not serve, duly designated in accordance with law, as to
23 matters within its designated authority, which committee the
24 officer or executive board member reasonably believes to
25 merit confidence.

26 An officer or executive board member shall not be considered to
27 be acting in good faith if he has knowledge concerning the
28 matter in question that would cause his reliance to be
29 unwarranted.

30 (b) Limitation on authority.--The executive board may not

1 act on behalf of the association to amend the declaration
2 (section 4216), to terminate the cooperative (section 4217) or
3 to elect members of the executive board or determine the
4 qualifications, powers and duties or terms of office of
5 executive board members (section 4303(f), but the executive
6 board may fill vacancies in its membership for the unexpired
7 portion of any term. The law governing corporations, including
8 nonprofit corporations, and such other laws governing the legal
9 entities of the same type as the association, supplement the
10 provisions of this subsection, to the extent not inconsistent
11 with the provisions of this subpart.

12 (c) Adoption and ratification of budget.--Within 30 days
13 after adoption of any proposed budget for the cooperative, the
14 executive board shall provide the budget to all the proprietary
15 lessees and shall set a date for a meeting of the proprietary
16 lessees to consider ratification of the budget not less than 14
17 nor more than 30 days after mailing of the budget. Unless at
18 that meeting a majority of all the proprietary lessees or any
19 larger vote specified in the declaration reject the budget, the
20 budget is ratified whether or not a quorum is present. In the
21 event the proposed budget is rejected, the periodic budget last
22 ratified by the proprietary lessees shall be continued until
23 such time as the proprietary lessees ratify a subsequent budget
24 proposed by the executive board.

25 (d) Status during period of declarant control.--Subject to
26 subsection (e), the declaration may provide for a period of
27 declarant control of the association, during which period a
28 declarant, or persons designated by him, may appoint and remove
29 the officers and members of the executive board. Regardless of
30 the period provided in the declaration, any period of declarant

1 control terminates no later than the earlier of:

2 (1) 180 days after conveyance to proprietary lessees
3 other than a declarant of 75% of the cooperative interests
4 which may be created; or

5 (2) two years after the date of the first conveyance of
6 cooperative interests to a person other than a declarant.

7 A declarant may voluntarily surrender the right to appoint and
8 remove some or all of the officers and members of the executive
9 board before termination of that period, but in that event he
10 may require, for the duration of the period of declarant
11 control, that specified actions of the association or executive
12 board, as described in a recorded instrument executed by the
13 declarant, be approved by the declarant before they become
14 effective.

15 (e) Election of members during transfer of declarant
16 control.-- Not later than 60 days after conveyance to
17 proprietary lessees, other than a declarant, of 25% of the
18 cooperative interests which may be created, at least one member
19 and not less than 25% of the members of the executive board must
20 be elected by proprietary lessees other than the declarant. Not
21 later than 60 days after conveyance to proprietary lessees,
22 other than a declarant, of 50% of the cooperative interests
23 which may be created, not less than 33 1/3% of the members of
24 the executive board must be elected by proprietary lessees other
25 than the declarant.

26 (f) Election of executive board following declarant
27 control.--Not later than the termination of any period of
28 declarant control, the proprietary lessees shall elect an
29 executive board of at least three members, at least a majority
30 of whom must be proprietary lessees. Unless the declarant has

1 retained such right during the declarant control period, the
2 executive board shall elect the officers. The executive board
3 members and officers shall take office upon election.

4 (g) Removal of member of executive board.--Notwithstanding
5 any provision of the declaration or bylaws to the contrary, the
6 proprietary lessees, by a two-thirds vote of all persons present
7 and entitled to vote at any meeting of the proprietary lessees
8 at which a quorum is present, may remove any member of the
9 executive board with or without cause, other than a member
10 appointed by the declarant, provided notice of the intention to
11 remove a member of the executive board is given with the notice
12 of the meeting at which such removal is considered.

13 § 4304. Transfer of special declarant rights.

14 (a) Execution and recording of instrument of transfer.--No
15 special declarant rights (section 4103) created or reserved
16 under this subpart may be transferred except by an instrument
17 evidencing the transfer recorded in every county in which any
18 portion of the cooperative is located in the same records as are
19 maintained for the recording of deeds of real property and shall
20 be indexed in the name of the cooperative, the transferor and
21 the transferee in both the grantor and grantee index. The
22 instrument is not effective unless executed by the transferee.

23 (b) Liability of declarant following transfer.--Upon
24 transfer of any special declarant right, the liability of a
25 transferor declarant is as follows:

26 (1) A transferor is not relieved of any obligation or
27 liability arising before the transfer and remains liable for
28 warranty obligations imposed upon him by this subpart. Lack
29 of privity does not deprive any proprietary lessee of
30 standing to bring an action to enforce any obligation of the

1 transferor.

2 (2) If a successor to any special declarant right is an
3 affiliate of a declarant (section 4103), the transferor is
4 jointly and severally liable with the successor for any
5 liabilities and or obligations or liabilities of the
6 successor relating to the cooperative.

7 (3) If a transferor retains any special declarant
8 rights, but transfers one or more other special declarant
9 rights to a successor who is not an affiliate of the
10 declarant, the transferor is liable for any obligations or
11 liabilities imposed on a declarant by this subpart or by the
12 declaration relating to the retained special declarant rights
13 arising after the transfer.

14 (4) A transferor who retains no special declarant rights
15 has no liability for any act or omission or any breach of a
16 contractual or warranty obligation arising from the exercise
17 of a special declarant right by a successor declarant who is
18 not an affiliate of the transferor and to whom the special
19 declarant right has not theretofore been assigned.

20 (c) Rights of purchaser in foreclosure, etc., proceedings.--
21 Unless otherwise provided in the documents creating a security
22 interest, in case of foreclosure of a security interest, tax
23 sale, judicial sale, sale by a trustee under a security
24 agreement or sale under 11 U.S.C. (relating to bankruptcy) or
25 receivership proceedings, of any cooperative interests owned by
26 a declarant or real estate in a cooperative subject to
27 development rights, a person acquiring all the cooperative
28 interests or real estate being foreclosed or sold, but only upon
29 his request, succeeds to all special declarant rights related to
30 that property held by that declarant, or only to any rights

1 reserved in the declaration pursuant to section 4214 (relating
2 to declarant's office, models and signs) and held by that
3 declarant to maintain models, sales offices and signs. The
4 judgment or instrument conveying title shall provide for
5 transfer of only the special declarant rights requested.

6 (d) Rights of declarant following foreclosure, etc.,
7 proceedings.--Upon foreclosure, tax sale, judicial sale, sale by
8 a trustee under a security agreement or sale under 11 U.S.C. or
9 receivership or similar proceedings of all cooperative interests
10 or real estate in a cooperative owned by a declarant:

11 (1) the declarant ceases to have any special declarant
12 rights; and

13 (2) the period of declarant control (section 4303(d))
14 terminates unless the judgment or instrument conveying title
15 provides for transfer to a successor declarant of all special
16 declarant rights held by the transferor declarant.

17 (e) Liabilities and obligations of successors.--The
18 liabilities and obligations of a person who succeeds to special
19 declarant rights are as follows:

20 (1) A successor to any special declarant right who is an
21 affiliate of a declarant is subject to all obligations and
22 liabilities imposed on the transferor by this subpart or by
23 the declaration.

24 (2) A successor to any special declarant right, other
25 than a successor described in paragraph (3) or (4), who is
26 not an affiliate of a declarant, is subject to all
27 obligations and liabilities imposed by this subpart or the
28 declaration:

29 (i) on a declarant which relate to his exercise or
30 nonexercise of special declarant rights; or

(ii) on his transferor, other than:

(A) misrepresentations by any previous declarant, except to the extent knowingly continued or permitted to continue without correcting such misrepresentations;

(B) warranty obligations on improvements made by any previous declarant made before the cooperative was created;

(C) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or

(D) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) A successor to only a right reserved in the declaration to maintain models, sales offices and signs (section 4214), if he is not an affiliate of a declarant, may not exercise any other special declarant right and is not subject to any liability or obligation as a declarant except the obligation to provide a public offering statement and any liability arising as a result thereof.

(4) A successor to all special declarant rights held by his transferor who is not an affiliate of that transferor declarant and who succeeded to those rights pursuant to a deed or other instrument conveying title to cooperative interests or real estate subject to special declarant rights under subsection (c) may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any

1 cooperative interest or real estate subject to development
2 rights owned by the successor or until recording an
3 instrument permitting exercise of all those rights, that
4 successor may not exercise any of those rights other than any
5 right held by his transferor to control the executive board
6 in accordance with the provisions of section 4303(d)
7 (relating to executive board members and officers) for the
8 duration of any period of declarant control, and any
9 attempted exercise of those rights is void. So long as a
10 successor declarant may not exercise special declarant right
11 under this subsection, he is not subject to any liability or
12 obligations as a declarant except liability for his subparts
13 and omissions under section 4303(d) and except the
14 obligations set forth in subsection (e)(3) of this section.

15 (f) Limitation on liability of successor.--Nothing in this
16 section subjects any successor to a special declarant right to
17 any claims against or other obligations of a transferor
18 declarant other than claims and obligations arising under this
19 subpart or the declaration.

20 § 4305. Termination of contracts and leases of declarant.

21 If entered into before the executive board elected by the
22 proprietary lessees pursuant to section 4303(f) (relating to
23 executive board members and officers) takes office:

24 (1) any management contract, employment contract or
25 lease of recreational or parking areas or facilities;

26 (2) any other contract or lease between the association
27 and declarant or an affiliate of a declarant; or

28 (3) any contract or lease that is not bona fide or was
29 unconscionable to the proprietary lessees at the time entered
30 into under the circumstances then prevailing;

1 may be terminated without penalty by the association at any time
2 within one year after the executive board elected by the
3 proprietary lessees pursuant to section 4303(f) takes office
4 upon not less than 90 days' notice to the other party. This
5 section does not apply to any agreement of sale for the purchase
6 of land and other real property which has been subjected to the
7 cooperative form of ownership, nor does this section apply to
8 any proprietary lease or any lease the termination of which
9 would terminate the cooperative or reduce its size unless the
10 real estate subject to that lease was included in the
11 cooperative for the purpose of avoiding the right of the
12 association to terminate a lease under this section.

13 § 4306. Bylaws.

14 (a) Mandatory provisions.--The bylaws of the association
15 must provide for:

16 (1) The number of members of the executive board and the
17 titles of the officers of the association.

18 (2) Election by the executive board of a president,
19 treasurer, secretary and any other officers of the
20 association the bylaws specify.

21 (3) The qualifications, powers and duties, terms of
22 office and manner of electing and removing executive board
23 members and officers and filling vacancies.

24 (4) Which, if any, of its powers the executive board or
25 officers may delegate to other persons or to a managing
26 agent.

27 (5) Which of its officers may prepare, execute, certify
28 and record amendments to the declaration on behalf of the
29 association.

30 (6) The method of amending the bylaws.

1 (b) Other provisions.--Subject to the provisions of the
2 declaration, the bylaws may provide for any other matters the
3 association deems necessary and appropriate.

4 § 4307. Upkeep of cooperative.

5 (a) General rule.--Except to the extent provided by the
6 declaration, subsection (b) or section 4313(g) (relating to
7 insurance) or 4321(g) (relating to limited equity cooperatives),
8 the association is responsible for maintenance, repair and
9 replacement of the common elements, and each proprietary lessee
10 is responsible for maintenance, repair and replacement of his
11 unit. Each proprietary lessee shall afford to the association
12 and the other proprietary lessees, and to their agents or
13 employees, access through his unit reasonably necessary for
14 those purposes. If damage is inflicted on the common elements or
15 on any units through which access is taken, the proprietary
16 lessee responsible for the damage, or the association if it is
17 responsible, is liable for the prompt repair thereof.

18 (b) Rights and liabilities of declarant.--In addition to the
19 liability that a declarant as a proprietary lessee has under
20 this subpart, the declarant alone is liable for all expenses in
21 connection with real estate subject to development rights. No
22 other proprietary lessee and no other portion of the cooperative
23 is subject to a claim for payment of those expenses. Unless the
24 declaration provides otherwise, any income or proceeds from real
25 estate subject to development rights inures to the declarant.

26 § 4308. Meetings.

27 A meeting of the association must be held at least once each
28 year. Special meetings of the association may be called by the
29 president, a majority of the executive board or by 20%, or any
30 lower percentage specified in the bylaws, of the proprietary

1 lessees. Not less than ten nor more than 60 days in advance of
2 any meeting, the secretary or other officer specified in the
3 bylaws shall cause notice to be hand delivered or sent prepaid
4 by United States mail to the mailing address of each unit or to
5 any other mailing address designated in writing by the
6 proprietary lessee. The notice of any meeting must state the
7 time and place of the meeting and the items on the agenda,
8 including the general nature of any proposed amendment to the
9 declaration or bylaws, any budget or assessment changes, and,
10 where the declaration or bylaws require approval of the
11 proprietary lessees, any proposal to remove an executive board
12 member or officer.

13 § 4309. Quorums.

14 (a) Association.--Unless the bylaws provide otherwise, a
15 quorum is deemed present throughout any meeting of the
16 association if persons entitled to cast 20% of the votes which
17 may be cast for election of the executive board are present in
18 person or by proxy at the beginning of the meeting. The bylaws
19 may require a larger percentage or a smaller percentage not less
20 than ten percent.

21 (b) Executive board.--Unless the bylaws provide otherwise, a
22 quorum is deemed present throughout any meeting of the executive
23 board if persons entitled to cast 50% of the votes on that board
24 are present at the beginning of the meeting.

25 § 4310. Voting; proxies.

26 (a) Multiple owners of a unit.--If only one of the multiple
27 proprietary lessees of a unit is present or represented by proxy
28 at a meeting of the association, he is entitled to cast all the
29 votes allocated to the cooperative interest of which that unit
30 is a part. If more than one of the multiple proprietary lessees

1 are present, the votes allocated to that cooperative interest
2 may be cast only in accordance with the agreement of a majority
3 in interest of the multiple proprietary lessees, unless the
4 declaration expressly provides otherwise. There is majority
5 agreement if any one of the multiple proprietary lessees casts
6 the votes allocated to that cooperative interest without protest
7 being made promptly to the person presiding over the meeting by
8 any of the other proprietary lessees of the cooperative
9 interest.

10 (b) Proxies.--Votes allocated to a cooperative interest may
11 be cast pursuant to a proxy duly executed by a proprietary
12 lessee. If there is more than one proprietary lessee of a unit,
13 each proprietary lessee of the unit may vote or register protest
14 to the casting of votes by the other proprietary lessees of the
15 unit through a duly executed proxy. A proprietary lessee may not
16 revoke a proxy given pursuant to this section except by actual
17 notice of revocation to the person presiding over a meeting of
18 the association. A proxy is void if it is not dated or purports
19 to be revocable without notice. A proxy terminates one year
20 after its date, unless it specifies a shorter term. The bylaws
21 may provide for requirements and a limit on the class of persons
22 who may hold proxies pursuant to this subsection.

23 (c) Lessees other than proprietary lessees.--If the
24 declaration requires that votes on specified matters affecting
25 the cooperative be cast by lessees other than proprietary
26 lessees of leased units:

27 (1) The provisions of subsections (a) and (b) apply to
28 lessees as if they were proprietary lessees.

29 (2) Proprietary lessees who have leased their units to
30 other persons may not cast votes on those specified matters.

1 (3) Lessees are entitled to notice of meetings, access
2 to records and other rights respecting those matters as if
3 they were proprietary lessees.

4 Proprietary lessees must also be given notice, in the manner
5 provided in section 4308 (relating to meetings), of all meetings
6 at which lessees may be entitled to vote. For the purposes of
7 this subsection, the association shall maintain a register of
8 lessees, showing the name and address of each lessee.

9 (d) Cooperative interests owned by association.--No votes
10 allocated to a cooperative interest owned by the association may
11 be cast.

12 § 4311. Tort and contract liability.

13 (a) General rule.--Neither the association nor any
14 proprietary lessee except the declarant is liable for that
15 declarant's torts in connection with any part of the cooperative
16 which that declarant has the responsibility to maintain.
17 Otherwise, an action alleging a wrong done by the association
18 must be brought against the association and not against any
19 proprietary lessee. If the wrong occurred during any period of
20 declarant control, the declarant who then controlled the
21 association is liable to the association or to any proprietary
22 lessee:

23 (1) For all tort losses suffered by the association or
24 that proprietary lessee not covered by insurance.

25 (2) For all costs which the association would not have
26 incurred but for a breach of contract or other wrongful act
27 or omission.

28 (b) Claims after declarant control.--If a claim for a tort
29 or breach of contract is made after the period of declarant
30 control, the association shall have no right against the

1 declarant under this section unless the association has given
2 the declarant:

3 (1) Notice of the existence of such a claim promptly
4 after the date on which one or more members of the executive
5 board who are not designees of the declarant learns of the
6 existence of such a claim.

7 (2) An opportunity to defend against such claim on behalf
8 of the association but at the declarant's expense.

9 (c) Liability for litigation expenses.--Whenever the
10 declarant is liable to the association under this section, the
11 declarant is also liable for all litigation expenses, including
12 reasonable attorney fees, incurred by the association.

13 (d) Tolling statute of limitations.--Any statute of
14 limitation affecting the association's right of action under
15 this section is tolled until the period of declarant control
16 terminates.

17 (e) Proprietary lessee as party.--A proprietary lessee is
18 not precluded from bringing an action contemplated by this
19 section because he is a proprietary lessee or a member or
20 officer of the association.

21 (f) Liens.--Liens resulting from judgments against the
22 association are governed by section 4316 (relating to other
23 liens affecting the cooperative).

24 § 4312. Conveyance or encumbrance of cooperative.

25 (a) General rule.--Except as is otherwise provided in
26 section 4321(h) (relating to limited equity cooperatives), part
27 of the cooperative may be conveyed and all or part of the
28 cooperative may be subjected to a security interest by the
29 association if persons entitled to cast at least 66 2/3% of the
30 votes in the association, including 66 2/3% of the votes

1 allocated to cooperative interests not owned by a declarant, or
2 any larger percentage the declaration specifies, agree to that
3 action. Except as is otherwise provided in section 4321(h), if
4 fewer than all the units or limited common elements are to be
5 conveyed or subjected to a security interest, then all the
6 proprietary lessees of those units, or the units to which those
7 limited common elements are allocated, must agree in order to
8 convey those units or limited common elements or subject them to
9 a security interest. The declaration may specify a smaller
10 percentage only if all of the units are restricted exclusively
11 to nonresidential uses. Proceeds of the sale are an asset of the
12 association.

13 (b) Execution and recording of agreement to convey or
14 encumber.--An agreement to convey a part of the cooperative or
15 subject it to a security interest must be evidenced by the
16 execution of an agreement, or ratifications thereof, in the same
17 manner as a deed, by the requisite number of proprietary
18 lessees. The agreement must specify a date after which the
19 agreement will be void unless recorded before that date. The
20 agreement and all ratifications thereof must be recorded in
21 every county in which a portion of the cooperative is situated
22 and is effective only upon recordation.

23 (c) Powers of association.--The association, on behalf of
24 the proprietary lessees, may contract to convey a part of the
25 cooperative or subject it to a security interest, but the
26 contract is not enforceable against the association until
27 approved pursuant to subsections (a) and (b). Thereafter, the
28 association has all powers necessary to execute deeds or other
29 instruments.

30 (d) Unauthorized conveyance or encumbrance void.--Any

1 purported conveyance, encumbrance or other voluntary transfer of
2 the cooperative, unless made pursuant to this section or section
3 4217(c) (relating to termination of cooperative ownership), is
4 void.

5 (e) Right of access and support preserved.--A conveyance or
6 encumbrance of the cooperative pursuant to this section does not
7 deprive any unit of its rights of access and support.

8 § 4313. Insurance.

9 (a) Insurance to be carried by association.--Commencing not
10 later than the time of the first conveyance of a cooperative
11 interest to a person other than a declarant, the association
12 shall maintain, to the extent reasonably available:

13 (1) Property insurance on the common elements and units
14 insuring against all risks of direct physical loss commonly
15 insured against or, in the case of a conversion building,
16 against fire and extended coverage perils. The total amount
17 of insurance after application of any deductibles shall be
18 not less than 80% of the actual cash value of the insured
19 property at the time the insurance is purchased and at each
20 renewal date, exclusive of land, excavations, foundations and
21 other items normally excluded from property policies.

22 (2) Liability insurance, including medical payments
23 insurance, in an amount determined by the executive board but
24 not less than any amount specified in the declaration,
25 covering all occurrences commonly insured against for death,
26 bodily injury and property damage arising out of or in
27 connection with the use, ownership or maintenance of the
28 common elements and units.

29 (b) Other insurance carried by association.--If the
30 insurance described in subsection (a) is not reasonably

1 available, the association promptly shall cause notice of that
2 fact to be hand delivered or sent prepaid by the United States
3 mail to all proprietary lessees. The declaration may require the
4 association to carry any other insurance, and the association in
5 any event may carry any other insurance it deems appropriate to
6 protect the association or the proprietary lessees.

7 (c) Contents of insurance policies.--Insurance policies
8 carried pursuant to subsection (a) must provide that:

9 (1) Each proprietary lessee is an insured person under
10 the policy with respect to liability arising out of his
11 interest in the common elements or membership in the
12 association.

13 (2) The insurer waives its right to subrogation under
14 the policy against any proprietary lessee or member of his
15 household.

16 (3) No act or omission by any proprietary lessee, unless
17 acting within the scope of his authority on behalf of the
18 association, will void the policy or be a condition to
19 recovery under the policy.

20 (4) If, at the time of a loss under the policy, there is
21 other insurance in the name of a proprietary lessee covering
22 the same risk covered by the policy, the association's policy
23 provides primary insurance.

24 (d) Proceeds from property insurance.--Any loss covered by
25 the property policy under subsection (a)(1) must be adjusted
26 with the association, but the insurance proceeds for that loss
27 are payable to any insurance trustee designated for that
28 purpose, or otherwise to the association, and not to any
29 mortgagee or beneficiary under a mortgage or deed of trust. The
30 insurance trustee or the association shall hold any insurance

1 proceeds in trust for the association, proprietary lessees and
2 the lienholders as their interests may appear. Subject to the
3 provisions of subsection (g), the proceeds must be disbursed
4 first for the repair or restoration of the damaged property, and
5 the association, proprietary lessees and lienholders are not
6 entitled to receive payment of any portion of the proceeds
7 unless there is a surplus of proceeds after the property has
8 been completely repaired or restored, or the cooperative is
9 terminated.

10 (e) Unit owner may obtain insurance.--An insurance policy
11 issued to the association does not prevent a proprietary lessee
12 from obtaining insurance for his own benefit.

13 (f) Evidence and cancellation of insurance.--An insurer that
14 has issued an insurance policy under this section shall issue
15 certificates or memoranda of insurance to the association and,
16 upon written request, to any proprietary lessee or holder of a
17 security interest. The insurer issuing the policy may not cancel
18 or refuse to renew it until 30 days after notice of the proposed
19 cancellation or nonrenewal has been mailed to the association,
20 each proprietary lessee and each holder of a security interest
21 to whom a certificate or memorandum of insurance has been issued
22 at their respective last known addresses.

23 (g) Disposition of insurance proceeds.--

24 (1) Any portion of the cooperative for which insurance
25 is required under this section which is damaged or destroyed
26 shall be repaired or replaced promptly by the association
27 unless:

28 (i) the cooperative is terminated;

29 (ii) repair or replacement would be illegal under
30 any State or local health or safety statute or ordinance;

1 or

2 (iii) eighty percent of the proprietary lessees,
3 including every proprietary lessee of a unit or assigned
4 limited common element which will not be rebuilt, vote
5 not to rebuild.

6 The cost of repair or replacement in excess of insurance
7 proceeds and reserves is a common expense.

8 (2) If the entire cooperative is not repaired or
9 replaced:

10 (i) the insurance proceeds attributed to the damaged
11 common elements must be used to restore the damaged area
12 to a condition compatible with the remainder of the
13 cooperative; and

14 (ii) except to the extent that other persons will be
15 distributees and except as is otherwise provided in
16 section 4321(i) (relating to limited equity
17 cooperatives):

18 (A) the insurance proceeds attributable to units
19 and limited common elements which are not rebuilt
20 must be distributed to the proprietary lessees of
21 those units and the proprietary lessees of the units
22 to which those limited common elements were located,
23 or to lienholders, as their interests may appear; and

24 (B) the remainder of the proceeds must be
25 distributed to all the proprietary lessees or
26 lienholders, as their interests may appear, in
27 proportion to the common expense liabilities of all
28 the cooperative interests.

29 If the proprietary lessees vote not to rebuild any unit, the
30 allocated interests of the cooperative interest of which that

1 unit is a part are automatically reallocated upon the vote as
2 if the unit had been condemned under section 4107(a)
3 (relating to eminent domain), and the association promptly
4 shall prepare, execute and record an amendment to the
5 declaration reflecting the reallocations.

6 (3) Notwithstanding the provisions of this subsection,
7 section 4217 (relating to termination of cooperative
8 ownership) governs the distribution of insurance proceeds if
9 the cooperative is terminated.

10 (h) Nonresidential cooperative.--The provisions of this
11 section may be varied or waived in the case of a cooperative all
12 of whose units are restricted to nonresidential use.

13 § 4314. Assessments for common expenses.

14 (a) General rule.--Until the association makes a common
15 expense assessment, the declarant shall pay all common expenses.
16 After any assessment has been made by the association,
17 assessments must be made at least annually, based on a budget
18 adopted at least annually by the association, subject, however,
19 to the provisions of section 4303(c) (relating to executive
20 board members and officers), concerning ratification of the
21 budget by the association.

22 (b) Allocation and interest.--Except for assessments under
23 subsections (c), (d) and (e) and except as provided in
24 subsection (g) with respect to cooperative interests owned by
25 declarant, all common expenses must be assessed against all the
26 cooperative interests in accordance with the allocations set
27 forth in the declaration pursuant to section 4207(a) (relating
28 to allocation of ownership interests, votes and common expense
29 liabilities). Any past due common expense assessment or
30 installment thereof shall bear interest at the rate established

1 by the association from time to time by prior written notice to
2 all propriety lessees.

3 (c) Limited expenses.--Unless otherwise required by the
4 declaration or as is otherwise provided in section 4321(j)
5 (relating to limited equity cooperatives):

6 (1) any common expense associated with the maintenance,
7 repair or replacement of a limited common element must be
8 assessed against the cooperative interests for the units to
9 which that limited common element is assigned equally or in
10 any other proportion that the declaration provides; and

11 (2) any common expense or portion thereof benefiting
12 fewer than all of the units must be assessed exclusively
13 against the cooperative interests for the units benefited.

14 (d) Insurance costs.--If required by the declaration, the
15 costs of insurance must be assessed in proportion to risk and
16 the costs of utilities must be assessed in proportion to usage.

17 (e) Payment of judgments.--Assessments to pay a judgment
18 against the association (section 4317(a)) may be made only
19 against the cooperative interests in the cooperative at the time
20 the judgment was entered, in proportion to their common expense
21 liabilities.

22 (f) Common expense attributable to proprietary lessee.--If
23 any common expense is caused by the action or failure to act of
24 any proprietary lessee, the association may assess that expense
25 exclusively against him or his cooperative interest or both of
26 them.

27 (g) Reallocated common expense liabilities.--If common
28 expense liabilities are reallocated, common expense assessments
29 and any installment thereof not yet due shall be recalculated in
30 accordance with the reallocated common expense liabilities.

1 (h) Crediting of excess assessments.--Any amounts
2 accumulated from assessments for limited common expenses and
3 income from the operation of limited common elements to which
4 such limited common expenses pertain in excess of the amount
5 required for actual limited common expenses and reserves for
6 future limited common expenses shall be credited to the
7 cooperative interest assessed for a share of such limited common
8 expenses in proportion to the share of such limited common
9 expenses so assessed. Unless the declaration provides otherwise,
10 the credits shall be applied to the next monthly assessments of
11 limited common expenses against the cooperative interest under
12 the then current fiscal year's budget, and thereafter, until
13 exhausted. Any amounts accumulated from assessments for general
14 common expenses and income from the operation of the common
15 elements, other than limited common elements with regard to
16 which limited common expenses are assessed, in excess of the
17 amount required for actual general common expenses and reserve
18 for future general common expenses shall be credited to each
19 cooperative interest in accordance with the allocations set
20 forth in the declaration, unless the declaration provides
21 otherwise, to the next monthly assessments of general common
22 expenses against the cooperative interest under the then current
23 fiscal year's budget and thereafter, until exhausted.

24 § 4315. Lien for assessments.

25 (a) General rule.--The association has a lien on a
26 cooperative interest for any assessment levied against that
27 cooperative interest, including payments to be made by declarant
28 pursuant to section 4314(g) (relating to assessments for common
29 expenses), or fines imposed against its owner from the time the
30 assessment or fine becomes due. A judicial or other sale of the

1 cooperative interest shall not affect the lien of a mortgage
2 thereon if the mortgage is, or shall be, prior to all other
3 liens upon the same property except those liens identified in 42
4 Pa.C.S. § 8152(a) (relating to judicial sale as affecting lien
5 of mortgage) and liens for cooperative assessments created under
6 this section. Unless the declaration otherwise provides, fees,
7 charges, late charges, fines and interest charged pursuant to
8 section 4302(a)(11) and (12) (relating to powers of association)
9 and reasonable costs and expenses of the association, including
10 legal fees, incurred in connection with collection of any sums
11 due the association by the unit owner or enforcement of the
12 provisions of the declaration, bylaws, rules or regulations
13 against the unit owner are enforceable as assessments under this
14 section. If an assessment is payable in installments, and one or
15 more installments is not paid when due, the entire outstanding
16 balance becomes effective as a lien from the due date of the
17 delinquent installment. Upon nonpayment of the assessment, the
18 proprietary lessee may be evicted in the same manner as provided
19 by law in the case of an unlawful holdover by a commercial
20 tenant, and the lien may be foreclosed by judicial sale of the
21 cooperative interest in like manner as a mortgage on real
22 estate.

23 (b) Priority of lien.--

24 (1) A lien under this section is prior to all other
25 liens and encumbrances on a cooperative interest except:

26 (i) Liens and encumbrances on the cooperative which
27 the association creates, assumes or takes subject to.

28 (ii) The first security interest encumbering only
29 the cooperative interest and perfected before the date on
30 which the assessment or the first installment payable on

1 the assessment, if the assessment is payable in
2 installments, sought to be enforced became delinquent.

3 (iii) Liens for real estate taxes and other
4 governmental assessments or charges against the
5 cooperative or the cooperative interest.

6 (2) The association's lien for common expenses shall be
7 divested by a judicial sale of the cooperative interest:

8 (i) As to unpaid common expense assessments made
9 under section 4314(b) that come due during the six months
10 immediately preceding institution of an action to enforce
11 collection of a lien against a cooperative interest by a
12 judicial sale, only to the extent that the six months
13 unpaid assessments are paid out of the proceeds of the
14 sale.

15 (ii) As to unpaid common expense assessments made
16 under section 4314(b) other than the six months
17 assessment referred to in subparagraph (i), in the full
18 amount of these unpaid assessments, whether or not the
19 proceeds of the judicial sale are adequate to pay these
20 assessments.

21 To the extent the proceeds of the sale are sufficient to pay
22 some or all of these additional assessments, after
23 satisfaction in full of the costs of the judicial sale, and
24 the liens and encumbrances of the types described in
25 paragraph (1) and the unpaid common expense assessments that
26 come due during the six-month period described in
27 subparagraph (i), they shall be paid before any remaining
28 proceeds may be paid to any other claimant, including the
29 prior owner of the cooperative interest.

30 (3) The lien is not subject to the provisions of 42

1 Pa.C.S. § 8123 (relating to general monetary exemption).

2 (c) Multiple liens on same property.--Unless the declaration
3 otherwise provides, if two or more associations have liens for
4 assessments created at any time on the same property, those
5 liens have equal priority.

6 (d) Notice and perfection of lien.--Subject to the
7 provisions of subsection (b), recording of the declaration
8 constitutes record notice and perfection of the lien. No further
9 recordation or filing of any claim of lien for assessment under
10 this section is required.

11 (e) Limitation of actions.--A lien for unpaid assessments is
12 extinguished unless proceedings to enforce the lien are
13 instituted within three years after the date on which the full
14 amount of the assessment becomes due or, if paid in
15 installments, the date on which the first installment payable on
16 the assessment becomes due.

17 (f) Other remedies preserved.--This section does not
18 prohibit actions to recover sums for which subsection (a)
19 creates a lien or prohibit an association from taking a transfer
20 or assignment in lieu of foreclosure.

21 (g) Costs and attorney fees.--A judgment or decree in any
22 action brought under this section must include costs and
23 reasonable attorney fees for the prevailing party.

24 (h) Statement of unpaid assessments.--The association, upon
25 written request, shall furnish to a proprietary lessee a
26 statement setting forth the amount of unpaid assessments against
27 his cooperative interest. The statement must be in recordable
28 form. The statement must be furnished within ten business days
29 after receipt of the request and is binding on the association,
30 the executive board and every proprietary lessee.

1 § 4316. Other liens affecting the cooperative.

2 (a) General rule.--Property of a proprietary lessee other
3 than his cooperative interest is not subject to claims of the
4 association's creditors, whether or not his cooperative interest
5 is subject to those claims.

6 (b) Notice of foreclosure.--If the association receives
7 notice of an impending foreclosure on all or any portion of the
8 association's real estate, the association shall promptly
9 transmit a copy of that notice to each proprietary lessee of a
10 unit located within the real estate to be foreclosed and to the
11 holder of the first security interest encumbering the
12 cooperative interest with respect to such unit. Failure of the
13 association to transmit the notice does not affect the validity
14 of the foreclosure.

15 § 4317. Association records.

16 (a) General rule.--During the period of declarant control,
17 the association shall keep detailed financial records, including
18 without limitation, a record of expenses paid by the declarant
19 until the commencement of common expense assessments by the
20 association under section 4314(a) (relating to expenses for
21 common assessments), the commencement date of common expense
22 assessments by the association and, for the period commencing on
23 such date, a record for each cooperative interest in the
24 cooperative, including those owned by the declarant, of the
25 common expense assessments and the payment thereof.

26 (b) Sufficiency and examination of records.--The association
27 shall keep financial records sufficiently detailed to enable the
28 association to comply with section 4409 (relating to resales of
29 cooperative interests). All financial and other records shall be
30 made reasonably available for examination by any proprietary

1 lessee and his authorized agents.

2 § 4318. Association as trustee.

3 With respect to a third person dealing with the association
4 in the association's capacity as a trustee pursuant to sections
5 4217 (relating to termination of cooperative ownership) or 4313
6 (relating to insurance), the existence of trust powers and their
7 proper exercise by the association may be assumed without
8 inquiry. A third person is not bound to inquire whether the
9 association has power to act as trustee or is properly
10 exercising trust powers. A third person, without actual
11 knowledge that the association is exceeding or improperly
12 exercising its powers, is fully protected in dealing with the
13 association as if it possessed and properly exercised the powers
14 it purports to exercise. A third person is not bound to assure
15 the proper application of trust assets paid or delivered to the
16 association in its capacity as trustee.

17 § 4319. Termination of cooperative interest.

18 (a) General rule.--The association's right to terminate a
19 cooperative interest shall be exercised by judicial sale of the
20 cooperative interest in like manner as a foreclosure upon a
21 leasehold interest in real estate. Where the articles of
22 incorporation, declaration or bylaws provide a fixed price or
23 formula for determining the maximum amount which the owner of
24 the cooperative interest may receive upon transfer or where the
25 articles of incorporation, declaration or bylaws provide an
26 option, but not a right of first refusal, in the association to
27 acquire the cooperative interest at a fixed price or price
28 determined by formula and where the association has obtained a
29 judgment authorizing the sale of the cooperative interest, the
30 association may acquire the cooperative interest by payment of

1 such amount to the owner of the cooperative interest or to the
2 sheriff at any time prior to the sale. In case of judicial sale
3 or payment to the sheriff in lieu of sale, liens and
4 encumbrances shall be divested and proceeds distributed as if
5 the right to terminate were deemed to be a lien for nonpayment
6 of assessments under section 4315 (relating to remedies for
7 nonpayment of assessments), arising as of the date of
8 commencement of the action.

9 (b) Enforcement of proprietary lease.--The association shall
10 have the right, at its option, to enforce the provisions of the
11 proprietary lease, including termination of the cooperative
12 interest for default thereunder, under the provisions of the act
13 of April 6, 1951 (P.L.69, No.20), known as The Landlord and
14 Tenant Act of 1951, as amended, or by any other means available
15 to it at law or in equity. In any such case, the court shall
16 have the power to order judicial sale of the cooperative
17 interest. In the event the proprietary lessee appeals an adverse
18 decision in any court in which the association seeks to enforce
19 its rights, the appeal may be dismissed, upon motion of the
20 association, by the court in which the appeal is pending, if the
21 proprietary lessee has not paid all the lessee's common expense
22 assessments as they become due both prior to and during the
23 pendency of the appeal, subject to any final judicial
24 determination of the proprietary lessee's liability to make the
25 payments if that is an issue in the appeal.

26 § 4320. Declarant delivery of items to association.

27 Except as set forth in paragraph (g), not later than 60 days
28 after the required termination of the period of declarant
29 control pursuant to section 4303(d) (relating to executive board
30 members and officers) or the declarant's earlier voluntary

1 termination of control, the declarant shall deliver to the
2 association all property of the proprietary lessees and of the
3 association held by or controlled by the declarant, including,
4 without limitation, the following items, if applicable, as to
5 each cooperative or other owners' association operated by the
6 association:

7 (1) The original or a certified copy or a photocopy of
8 the recorded declaration and all amendments thereto. If a
9 photocopy is delivered, the photocopy shall reflect the
10 recording information and shall be accompanied by an
11 affidavit executed by the declarant certifying the photocopy
12 to be a true, correct and complete copy of the actual
13 recorded declaration and all amendments thereto.

14 (2) The association articles of incorporation, if
15 incorporated, with evidence of filing with the Department of
16 State.

17 (3) A copy of the bylaws.

18 (4) A complete set of all executive board minutes and
19 resolutions and all other books and records of the
20 association.

21 (5) A complete copy of all rules and regulations that
22 may have been adopted.

23 (6) Copies of all Federal, State and local tax returns
24 filed by or on behalf of the association and copies of any
25 tax-exempt elections made by or on behalf of the association.

26 (7) Copies of all past and current budgets of the
27 association.

28 (8) Resignations of officers and members of the
29 executive board who are required to resign because the
30 declarant is required to relinquish or has relinquished

1 control of the association.

2 (9) Not later than 90 days after the required
3 termination of the period of declarant control pursuant to
4 section 4303(d) or the declarant's earlier voluntary
5 termination of control, a complete audit of the finances of
6 the association for the time period between the last audit of
7 the association's financial books and records and the date of
8 termination of the period of declarant control, prepared by
9 an independent certified public accountant in accordance with
10 generally accepted accounting principles, the costs of which
11 audit are to be borne equally by the declarant and the
12 association. If the cooperative consists of not more than 12
13 units, a warranty from the declarant to the association that
14 the books and records of the association completely and
15 accurately reflect all activities of the association from its
16 inception through the date of termination of the period of
17 declarant control may be substituted for the audit referred
18 to in this paragraph.

19 (10) All association funds or control thereof.

20 (11) All tangible personal property:

21 (i) that may have been represented or should have
22 been represented by the declarant in any public offering
23 statement, sales materials or other writings to be part
24 of the common elements that is otherwise property of the
25 association; and inventories of all of such personal
26 property.

27 (12) A copy of the plans or drawings and specifications,
28 if any, utilized in the construction, rehabilitation,
29 renovation or remodeling of any buildings and improvements
30 within the cooperative and in the construction and

1 installation of any mechanical components and equipment
2 serving the buildings and improvements and property, if and
3 to the extent the construction, rehabilitation, renovation,
4 remodeling or installation was performed by or on behalf of
5 the declarant and substantially completed during the period
6 commencing three years prior to the date of the first public
7 offering statement regarding the cooperative. If no public
8 offering statement is required for any unit in the
9 cooperative, such period shall commence on the date of the
10 recordation of the cooperative declaration or amendment
11 thereto with respect to such improvements and end on the date
12 by which compliance with this section is required. In the
13 event the construction, rehabilitation, renovation,
14 remodeling or installation was substantially completed within
15 such period but not by or on behalf of the declarant, the
16 obligation of the declarant under this paragraph shall be to
17 provide all such plans, drawings and specifications in the
18 possession of the declarant and to use reasonable efforts to
19 obtain and provide any such plans, drawings or specifications
20 not within the possession of the declarant. If the
21 construction, rehabilitation, renovation, remodeling or
22 installation was substantially completed more than three
23 years prior to the commencement of the period described in
24 this paragraph, the obligations of the declarant under this
25 paragraph shall be to provide all such plans, drawings and
26 specifications in the possession of the declarant. To the
27 extent previously made available to the declarant, the
28 declarant in all cases shall deliver to the association
29 owners operating, care and maintenance manuals and other
30 information regarding mechanical components and equipment

1 serving any buildings and improvements in the cooperative.

2 (13) All insurance policies insuring the association and
3 then in force.

4 (14) Copies of any certificates or statements of
5 occupancy which may have been issued with respect to the
6 improvements comprising the cooperative, if and to the extent
7 available.

8 (15) Any other permits issued by governmental bodies
9 applicable to the cooperative property which are then
10 currently in force, all notices of violation of governmental
11 regulations then outstanding and uncured and all reports of
12 investigations for the presence of hazardous conditions as
13 defined in section 4403(a)(27) (relating to public offering
14 statements; general provisions).

15 (16) Any written warranties then in force and effect
16 from contractors, subcontractors, suppliers or manufacturers
17 who have performed work with respect to the cooperative
18 property or have supplied equipment or services to the
19 cooperative property.

20 (17) A roster of proprietary lessees and mortgagees and
21 their respective addresses and telephone numbers, if known,
22 as shown on the declarant's records.

23 (18) Employment contracts in which the association is or
24 is to be one of the contracting parties.

25 (19) Service and other contracts and leases in which the
26 association is or is to be one of the contracting parties and
27 service contracts in which the association has directly or
28 indirectly an obligation or a responsibility to pay some or
29 all of the fees or charges of the person or persons
30 performing such services.

1 § 4321. Limited equity cooperatives.

2 (a) General rule.--Except as is otherwise expressly provided
3 in this section, limited equity cooperatives shall be created
4 and operated pursuant to the other provisions of this act.

5 (b) Property classification.--Notwithstanding the provisions
6 of section 4105 (relating to property classification of
7 cooperative interests), unless the declaration filed for the
8 creation of a limited equity cooperative expressly provides
9 otherwise, the cooperative interests shall be personal property
10 for all purposes.

11 (c) Alternation of units.--Notwithstanding the provisions of
12 section 4210 (relating to alteration of units), if the
13 association is responsible for the maintenance, repair and
14 replacement of the units as well as the common elements and
15 limited common elements, as provided in subsection (g), a
16 proprietary lessee may make improvements or alterations to his
17 unit only with the prior permission of the association, which
18 shall not be unreasonably withheld, and otherwise in accordance
19 with the provisions of the declaration and other provisions of
20 law.

21 (d) Distribution to proprietary lessees upon termination of
22 limited equity cooperatives.--Notwithstanding the provisions of
23 section 4217 (relating to termination of cooperative ownership),
24 distributions to proprietary lessees in limited equity
25 cooperatives shall be no greater than the amount for which their
26 respective cooperative interests could be transferred as
27 restricted by the declaration and bylaws of the association.

28 (e) Distribution of residual proceeds upon termination of
29 limited equity cooperatives.--If the declaration of a limited
30 equity cooperative states that it is the declarant's intent that

1 some or all units in the cooperative shall be affordable by low-
2 income and moderate-income income persons throughout the
3 existence of the cooperative, then any assets of the association
4 remaining after the distributions to lienholders and proprietary
5 lessees as provided above and in the last sentence of section
6 4217(e) shall be distributed by the executive board to a public
7 or private entity to be used in a manner consistent with the
8 declarant's intent, for the creation of additional housing
9 affordable by low-income and moderate-income persons. If the
10 balance of the funds is not so disbursed, the court of common
11 pleas of the county in which the property is located is hereby
12 authorized to distribute the funds as provided in this section.

13 (f) Value of cooperative interest.--The fair market value,
14 or actual monetary worth, of a cooperative interest in a limited
15 equity cooperative for the purposes of State and local taxation
16 and for all purposes of this subpart, including, but not limited
17 to, sections 4106 (relating to applicability of local
18 ordinances, regulations and building codes) and 4217(e) and
19 subsection (i), shall be the maximum amount for which the
20 cooperative interest may be sold, or otherwise transferred,
21 pursuant to the controlling provisions of the declaration and
22 by-laws of the association.

23 (g) Upkeep of limited equity cooperative.--Notwithstanding
24 the provisions of section 4307(a) (relating to upkeep of
25 cooperative), unless the declaration expressly provides
26 otherwise, limited equity cooperative associations shall be
27 responsible for the maintenance, repair and replacement of all
28 units as well as the common elements and limited common
29 elements, except that a limited equity cooperative association
30 shall not be responsible for maintenance, repair or replacement

1 necessitated by a proprietary lessee's own negligence, misuse or
2 willful misconduct, nor shall the association be responsible for
3 repair, maintenance or replacement of items of personalty or
4 realty not owned by the association.

5 (h) Subjecting a limited equity cooperative to a security
6 interest.--Notwithstanding the provisions of section 4312(a)
7 (relating to conveyance or incumbrance of cooperative) all or
8 part of a limited equity cooperative may be subjected to a
9 security interest by the association if persons entitled to cast
10 at least 51% of the votes in the association, including 51% of
11 the votes allocated to cooperative interests not owned by a
12 declarant, or any larger percentage the declaration specifies,
13 agree to that action. If fewer than all the units or limited
14 common elements in a limited equity cooperative are to be
15 subjected to a security interest, then all of the proprietary
16 lessees of those units, or the units to which those limited
17 common elements are allocated, must consent in order to subject
18 them to a security interest, except that the provisions of the
19 immediately preceding sentence shall govern if the declaration
20 provides, pursuant to subsection (g), that expenses related to
21 the limited common elements shall be common expenses. The
22 declaration may specify a smaller percentage only if all of the
23 units are restricted exclusively to nonresidential uses.

24 (i) Disposition of insurance proceeds.--The disposition of
25 insurance proceeds due proprietary lessees in limited equity
26 cooperatives under section 4313(g)(2)(ii) (relating to
27 insurance) shall be limited to the amount for which the
28 proprietary lessee's cooperative interest may be sold pursuant
29 to the controlling provisions of the declaration and the bylaws
30 of the association.

1 (j) Limited expenses.--Except as may be otherwise provided
2 in the declaration, the provisions of section 4314(c) (relating
3 to assessments for common expenses) shall not apply to limited
4 equity cooperatives, and expenses covered by that provision
5 shall be deemed common expenses to be assessed against all
6 cooperative interests.

7 CHAPTER 44

8 PROTECTION OF COOPERATIVE INTEREST PURCHASERS

9 Sec.

10 4401. Applicability; waiver.

11 4402. Public offering statement; requirements.

12 4403. Public offering statement; general provisions.

13 4404. Public offering statement; cooperatives subject to
14 development rights.

15 4405. Public offering statement; time shares.

16 4406. Public offering statement; cooperatives containing
17 conversion buildings.

18 4407. Public offering statement; cooperative
19 securities.

20 4408. Purchaser's right to cancel.

21 4409. Resales of cooperative interests.

22 4410. Escrow of deposits.

23 4411. Release of liens.

24 4412. Cooperatives containing conversion buildings.

25 4413. Express warranties of quality.

26 4414. Implied warranty against structural defects.

27 4415. Effect of violations on rights of action.

28 4416. Labeling of promotional material.

29 4417. Declarant's obligation to complete and restore.

30 4418. Substantial completion of unit.

1 § 4401. Applicability; waiver.

2 (a) General rule.--This chapter applies to all cooperative
3 interests subject to this subpart, except as provided in
4 subsection (b) and section 4414 (relating to implied warranty
5 against structural defects) or as modified or waived by
6 agreement of the purchaser of any cooperative interest the unit
7 of which is intended for nonresidential use at the time of sale
8 of the cooperative interest by the declarant or by agreement of
9 the purchaser of any cooperative interest who is or intends to
10 be in the business of buying or selling cooperative interests,
11 subject to the following:

12 (1) A purchaser of a unit intended for residential use
13 at the time of sale by the declarant may not modify or waive
14 the provisions of section 4414 with regard to the unit and
15 the common elements.

16 (2) With regard to any limited common element
17 appurtenant only to nonresidential units, the unit owners of
18 all such units shall have agreed to the modification or
19 waiver and, with regard to any common elements, other than
20 limited common elements, in a cooperative in which all units
21 are restricted to nonresidential use, all unit owners shall
22 have agreed to such modification or waiver.

23 (3) No modification or waiver shall prevent any
24 proprietary lessee from indirectly benefiting from any
25 provision in this chapter by reason of the proprietary lessee
26 being an owner of a cooperative interest in the cooperative
27 and a member of the association.

28 (b) When public offering statements or resale certificates
29 unnecessary.--Neither a public offering statement nor a resale
30 certificate need be prepared or delivered in the case of:

- 1 (1) a gratuitous disposition of a cooperative interest;
- 2 (2) a disposition pursuant to court order;
- 3 (3) a disposition by a government or governmental agency
- 4 which has acquired the cooperative interest by judicial sale
- 5 or deed in lieu of judicial sale;
- 6 (4) a disposition by foreclosure or transfer in lieu of
- 7 foreclosure;
- 8 (5) a disposition to a person in the business of selling
- 9 cooperative interests who intends to offer those cooperative
- 10 interests to purchasers; or
- 11 (6) a disposition that may be canceled at any time and
- 12 for any reason by the purchaser without penalty.

13 (c) Single public offering statements.--If a cooperative
14 interest is part of a cooperative and is also part of any other
15 real estate regime in connection with the sale of which the
16 delivery of a public offering statement or similar disclosure
17 statement is required under the laws of this Commonwealth, a
18 single public offering statement conforming to the requirements
19 of sections 4403 (relating to public offering statement; general
20 provisions), 4404 (relating to public offering statement;
21 cooperatives subject to development rights), 4405 (relating to
22 public offering statement; time shares) and 4406 (relating to
23 public offering statement; cooperatives containing conversion
24 buildings), as those requirements relate to any real estate
25 regimes in which the unit is located and to any other
26 requirements imposed under the laws of this Commonwealth, may be
27 prepared and delivered in lieu of providing two or more public
28 offering statements.

29 § 4402. Public offering statement; requirements.

30 (a) General rule.--Except as provided in subsection (b), a

1 declarant, prior to the offering of any cooperative interest to
2 the public, shall prepare a public offering statement conforming
3 to the requirements of sections 4403 (relating to public
4 offering statement; general provisions), 4404 (relating to
5 public offering statement; cooperative subject to development
6 rights), 4405 (relating to public offering statement; time
7 shares) and 4406 (relating to public offering statement;
8 cooperatives containing conversion buildings).

9 (b) Transfer of declarant responsibility.--A declarant may
10 transfer responsibility for preparation of all or a part of the
11 public offering statement to a successor declarant (section
12 4304) or to a person in the business of selling cooperative
13 interests who intends to offer cooperative interests in the
14 cooperative for his own account. In the event of any such
15 transfer, the transferor shall provide the transferee with any
16 information necessary to enable the transferee to fulfill the
17 requirements of subsection (a).

18 (c) Offering cooperative interest for own account.--Any
19 declarant, or successor declarant, or other person in the
20 business of selling cooperative interests who offers a
21 cooperative interest for his own account to a purchaser shall
22 deliver a public offering statement in the manner prescribed in
23 section 4408(a) (relating to purchaser's right to cancel). The
24 person who prepared all or a part of the public offering
25 statement is liable under sections 4408 and 4415 (relating to
26 effect of violations on rights of action), for any false or
27 misleading statement and for any omission of any material fact
28 with respect to that portion of the public offering statement
29 which he prepared. If a person did not prepare a part of a
30 public offering statement that he delivers, he is not liable for

1 any false or misleading statement set forth in that part or for
2 any omission of material fact from that part unless he had
3 actual knowledge of the statement or omission or, in the
4 exercise of reasonable care, should have known of the statement
5 or omission.

6 § 4403. Public offering statement; general provisions.

7 (a) General rule.--Except as provided in subsection (b), a
8 public offering statement must contain or fully and accurately
9 disclose:

10 (1) The name and principal address of the declarant and
11 of the cooperative.

12 (2) A general description of the cooperative, including,
13 to the extent possible, the types, number and its declarant's
14 schedule of commencement and completion of construction of
15 buildings and amenities that the declarant anticipates
16 including in the cooperative, and a narrative description of
17 the type and character of units offered, including a
18 statement of the degree of completion to be provided or
19 undertaken by the declarant of the units and the common
20 elements necessary for use and enjoyment of the units upon
21 the conveyance by the declarant of the units offered.

22 (3) The number of units in the cooperative.

23 (4) Copies and a brief narrative description of the
24 significant features of the declaration, any other recorded
25 covenants, conditions, restrictions and reservations
26 affecting the cooperative, the bylaws, the agreement of sale
27 and any rules or regulations of the association; copies and a
28 brief narrative description of any contracts, leases or
29 agreements to be signed by purchasers prior to or at closing;
30 and a brief narrative description of any other contracts,

1 leases or agreements of a material nature to the cooperative.

2 (5) Any current balance sheet and a projected budget for
3 the association, either within or as an exhibit to the public
4 offering statement, for the year commencing on the
5 anticipated date of the first conveyance to a purchaser and,
6 thereafter, the current budget of the association, a
7 statement of who prepared the budget and a statement of the
8 budget's assumptions, including those concerning occupancy
9 and inflation factors. The budget must include, without
10 limitation:

11 (i) A statement of the amount, or a statement that
12 there is no amount, included in the budget as a reserve
13 for repairs and replacement.

14 (ii) A statement of any other reserves, including,
15 without limitation, reserves for debt service on an
16 obligation of the association and reserves for
17 anticipated material capital expenditures or, if no
18 provision is made for such other reserves, a statement to
19 this effect.

20 (iii) The projected common expense assessment by
21 category of expenditures for the association.

22 (iv) The projected monthly common expense assessment
23 for each type of unit.

24 (6) Any:

25 (i) services not reflected in the budget that the
26 declarant provides, or expenses that he pays, and that he
27 expects may become at any subsequent time a common
28 expense of the association; and

29 (ii) personal property not owned by the association
30 but provided by the declarant and being used or to be

1 used in the operation and enjoyment of the common
2 elements which is or will be required in connection with
3 the operation and enjoyment of the common elements after
4 such personal property is no longer provided by the
5 declarant, and the projected common expense assessment
6 for the association and for each type of cooperative
7 interest attributable to each of those services and
8 purchase or rental of such personal property.

9 (7) Any initial or special fee due from the purchaser at
10 closing, together with a description of the purpose and
11 method of calculating the fee.

12 (8) A description of any liens, defects or encumbrances
13 on or affecting the title to the cooperative.

14 (9) A description of any financing for purchasers
15 offered or arranged by the declarant.

16 (10) The terms and significant limitations of any
17 warranties provided by the declarant, including statutory
18 warranties and limitations on the enforcement thereof or on
19 damages.

20 (11) Except in the case of time shares (section 4405), a
21 statement in at least ten-point bold face type, appearing on
22 the first page of the public offering statement, that:

23 (i) Within 15 days (seven days in the case of a
24 time-share estate) after a purchaser's receipt of a
25 public offering statement or any amendment thereto that
26 would have a material and adverse effect on the rights or
27 obligations of the purchaser, the purchaser, before
28 conveyance, may cancel any contract for purchase of a
29 cooperative interest from a person required to deliver a
30 public offering statement under this subpart.

1 (ii) If a person required to deliver a public
2 offering statement under this subpart fails to provide a
3 public offering statement, and all amendments thereto, to
4 a purchaser before conveying a cooperative interest or,
5 if the public offering statement or any amendment does
6 not comply with the requirements of this subpart, that
7 purchaser may recover from such person damages, described
8 in detail, as provided in section 4408(f) (relating to
9 purchaser's right to cancel).

10 (iii) A description of such damages.

11 (iv) If a purchaser receives the public offering
12 statement more than 15 days before signing a contract for
13 the purchase of a cooperative interest, he cannot cancel
14 the contract, except that, in accordance with
15 subparagraph (i), he shall have the right to cancel,
16 before conveyance, the contract within 15 days after
17 receipt of any amendment to the public offering statement
18 that would have a material and adverse effect on the
19 rights or obligations of that purchaser.

20 (12) A statement of any unsatisfied judgments or pending
21 suits against the association, and the status of any pending
22 suits material to the cooperative of which a declarant has
23 actual knowledge.

24 (13) A statement that any deposit made in connection
25 with the purchase of a cooperative interest will be held in
26 an escrow account until closing and will be returned to the
27 purchaser if the purchaser cancels the contract pursuant to
28 section 4408 and that the name and address of the escrow
29 agent will be set forth in the purchaser's agreement of sale.

30 (14) Any restrictions on:

1 (i) Use and occupancy of the units.

2 (ii) Alienation of the cooperative interests.

3 (iii) The amount for which a cooperative interest
4 may be sold or on the amount that may be received by a
5 proprietary lessee upon sale, condemnation or casualty
6 loss to the unit or the cooperative or termination of the
7 cooperative.

8 (15) A description of all insurance coverage provided
9 for the benefit of proprietary lessees, including the types
10 and extent of coverage, and the extent to which such coverage
11 includes or excludes improvements or betterments made to
12 units.

13 (16) Any current or expected fees or charges to be paid
14 by proprietary lessees for the use of the common elements and
15 other facilities related to the cooperative in addition to
16 monthly common expense assessments described in paragraph (5)
17 (iv), and including, without limitation, user or membership
18 fees that may be charged for the use or enjoyment of common
19 elements and other facilities related to the cooperative.

20 (17) The extent to which financial arrangements have
21 been provided for completion of all improvements which the
22 declarant is obligated to build pursuant to section 4417
23 (relating to declarant's obligation to complete and restore).

24 (18) A brief narrative description of any zoning and
25 other land use requirements affecting the cooperative.

26 (19) All unusual and material circumstances, features
27 and characteristics of the cooperative and the units.

28 (20) In the case of a leasehold cooperative, at least
29 the following information:

30 (i) The name and address of each lessor and his

1 assignee, if any.

2 (ii) Any relationship between the declarant and any
3 lessor or assignee.

4 (iii) A description of the leased property.

5 (iv) The rent and any provision in the lease for
6 increases in the rent and any other charges or payments
7 required to be paid by the lessee under the lease.

8 (v) Whether the lessee has any right to terminate
9 the lease and, if so, the effect of such a termination on
10 the cooperative.

11 (vi) The information contained in the declaration as
12 required by section 4206 (relating to leasehold
13 cooperatives).

14 (vii) The following notice in bold face type:
15 "Purchasers should be aware that this is a leasehold
16 cooperative and the purchaser's interest therein may be
17 less valuable than a fee interest, may depreciate over
18 time and may be of questionable marketability."

19 (21) A copy of a legal opinion, based on stated factual
20 assumptions, given to the declarant by legal counsel selected
21 by the declarant and licensed to practice law in the state in
22 which the cooperative is situated stating:

23 (i) Whether the proprietary lessees will be
24 entitled, for Federal, State and local income tax
25 purposes, to a pass-through of deductions for payments
26 made by the association for real estate taxes and
27 interest paid the holder of a security interest
28 encumbering the cooperative.

29 (ii) That the proprietary lessees are entitled to
30 rely upon the opinion.

1 (22) A statement as to the effect on every proprietary
2 lessee if the association fails to pay real estate taxes or
3 payments due the holder of a security interest encumbering
4 the cooperative.

5 (23) A description of how votes are allocated among the
6 cooperative interests and a statement as to whether
7 cumulative or class voting is permitted and, if so, under
8 what circumstances. The statement shall also explain the
9 operation of the cumulative or class voting.

10 (24) A description of any circumstances under which the
11 association is or may become a master association or part of
12 a master association.

13 (25) A statement of all governmental approvals and
14 permits required for the use and occupancy of the cooperative
15 indicating the name and expiration date of each approval or
16 permit that has been obtained and, as to any governmental
17 approvals or permits that have not been obtained, a statement
18 indicating when each permit or approval is expected to be
19 obtained and the person who shall bear the expense of
20 obtaining each permit or approval.

21 (26) A statement as to whether there are any outstanding
22 and uncured notices of violations of governmental
23 requirements and, if there are any such notices of
24 violations, a description of the alleged violation and a
25 statement indicating when each violation is expected to be
26 cured and the person who shall bear the expense of curing
27 such violation.

28 (27) A statement as to whether the declarant has
29 knowledge of any one or more of the following:

30 (i) Hazardous conditions, including contamination

1 affecting the cooperative site by hazardous substances,
2 hazardous wastes or the like, or the existence of
3 underground storage tanks for petroleum products or other
4 hazardous substances.

5 (ii) Any investigation conducted to determine the
6 presence of hazardous conditions on or affecting the
7 cooperative site.

8 (iii) Any finding or action recommended to be taken
9 in the report of any such investigation, or by any
10 governmental body, agency or authority, in order to
11 correct any hazardous conditions, and any action taken
12 pursuant to those recommendations.

13 If the declarant has no knowledge of such matters, the
14 declarant shall make a statement to that effect.

15 (b) Exceptions.--If a cooperative composed of not more than
16 12 units is not subject to any development rights and no power
17 is reserved to a declarant to make the cooperative part of a
18 larger cooperative, group of cooperatives or other real estate,
19 a public offering statement may, but need not, include the
20 information otherwise required by the narrative descriptions of
21 documents required by subsection (a)(4).

22 (c) Amendment for material change in information.--Until all
23 cooperative interests shall have been conveyed to persons not
24 affiliated with the declarant, promptly after any material
25 change in the information required by this section comes to the
26 attention of a person required to deliver a public offering
27 statement pursuant to section 4102(c) (relating to
28 applicability), such person shall amend the public offering
29 statement to report any material change in the information
30 required by this section and shall deliver copies of such

1 amendments to purchasers in accordance with section 4408(a).

2 (d) Providing and maintaining documents.--The declarant
3 shall provide a copy of the public offering statement and all
4 amendments thereto to the association, and the association shall
5 maintain them in its records.

6 § 4404. Public offering statement; cooperatives subject to
7 development rights.

8 If the declaration provides that a cooperative is subject to
9 any development rights, the public offering statement must
10 disclose, in addition to the information required by section
11 4403 (relating to public offering statement; general
12 provisions):

13 (1) The maximum number of units, and the maximum number
14 of units per acre that may be created.

15 (2) A statement of how many or what percentage of the
16 units which may be created will be restricted exclusively to
17 residential use, or a statement that no representations are
18 made regarding use restrictions.

19 (3) If any of the units that may be built within real
20 estate subject to development rights are not to be restricted
21 exclusively to residential use, a statement, with respect to
22 each portion of that real estate, of the maximum percentage
23 of the real estate areas, and the maximum percentage of the
24 floor areas of all units that may be created therein, that
25 are not restricted exclusively to residential use.

26 (4) A brief narrative description of any development
27 rights reserved by a declarant and of any conditions relating
28 to or limitations upon the exercise of development rights.

29 (5) A statement of the maximum extent to which the
30 association's budget and each cooperative interest's

1 allocated interests may be changed by the exercise of any
2 development right described in paragraph (4).

3 (6) A statement of the extent to which any buildings or
4 other improvements that may be erected pursuant to any
5 development right in any part of the cooperative will be
6 compatible with existing buildings and improvements in the
7 cooperative in terms of architectural style, quality of
8 construction and size, or a statement that no assurances are
9 made in those regards.

10 (7) A general description of all other improvements that
11 may be made and limited common elements that may be created
12 within any part of the cooperative pursuant to any
13 development right reserved by the declarant, or a statement
14 that no assurances are made in that regard.

15 (8) A statement of any limitations as to the locations
16 of any building or other improvement that may be made within
17 any part of the cooperative pursuant to any development right
18 reserved by the declarant, or a statement that no assurances
19 are made in that regard.

20 (9) A statement that any limited common elements created
21 pursuant to any development right reserved by the declarant
22 will be of the same general types and sizes as the limited
23 common elements within other parts of the cooperative, or a
24 statement of the types and sizes planned, or a statement that
25 no assurances are made in that regard.

26 (10) A statement that the proportion of limited common
27 elements to units created pursuant to any development right
28 reserved by the declarant will be approximately equal to the
29 proportion existing within other parts of the cooperative, or
30 a statement of any other assurances in that regard, or a

1 statement that no assurances are made in the regard.

2 (11) A statement that all restrictions in the
3 declaration affecting use and occupancy of units, and
4 alienation of cooperative interests, will apply to any units
5 and cooperative interests created pursuant to any development
6 rights reserved by the declarant, or a statement of any
7 differentiations that may be made as to those units and
8 cooperative interests, or a statement that no assurances are
9 made in that regard.

10 (12) A statement of the extent to which any assurances
11 made pursuant to this section apply or do not apply in the
12 event that any development right is not exercised by the
13 declarant.

14 § 4405. Public offering statement; time shares.

15 If the declaration provides that ownership of cooperative
16 interests or occupancy of any units is, or may be, in time
17 shares, the public offering statement shall disclose, in
18 addition to the information required by section 4403 (relating
19 to public offering statement; general provisions):

20 (1) The number and identity of units in which time
21 shares may be created.

22 (2) The total number of time shares that may be created
23 in the cooperative.

24 (3) The minimum duration of any time shares that may be
25 created.

26 (4) The extent to which the creation of time shares will
27 or may affect the enforceability of the association's lien
28 for assessments provided in section 4315 (relating to
29 remedies for nonpayment of assessments).

30 (5) The projected common expense assessment for each

1 time share and whether those assessments may vary seasonally.

2 (6) A statement of any services not reflected in the
3 budget which the declarant provides, or expenses which he
4 pays, and which he expects may become at any subsequent time
5 a common expense of the association, and the projected common
6 expense assessment attributable to each of those services or
7 expenses for each time share.

8 (7) The extent to which time share owners are jointly
9 and severally liable for the payment of common expenses
10 assessments and other charges levied against that cooperative
11 interest.

12 (8) The extent to which a suit for partition may be
13 maintained against a cooperative interest owned in time
14 shares.

15 (9) The extent to which a time share may become subject
16 to lien arising out of claims against other time share owners
17 of the same cooperative interest.

18 (10) In lieu of the statement required under section
19 4403(a)(11), a statement in at least ten-point bold face type
20 appearing on the first page of the public offering statement,
21 that:

22 (i) Within seven days after purchaser's receipt of a
23 public offering statement or any amendment thereto that
24 would have a material and adverse effect on the rights or
25 obligations of that purchaser, a purchaser, before
26 conveyance, may cancel any contract for purchase of a
27 time share from a declarant.

28 (ii) If a person required to deliver a public
29 offering statement under this subpart fails to provide a
30 public offering statement to a purchaser before conveying

1 a time share or if the public offering statement or any
2 amendment does not comply with the requirements of this
3 subpart, the purchaser may recover from such person
4 damages, described in detail, as provided in section
5 4408(f) (relating to purchaser's right to cancel).

6 (iii) If a purchaser receives the public offering
7 statement more than seven days before signing a contract,
8 he cannot cancel the contract, except that, in accordance
9 with subparagraph (i), he shall have the right to cancel
10 the contract within seven days after receipt of any
11 amendment thereto that would have a material and adverse
12 effect on the rights or obligations of that purchaser.

13 § 4406. Public offering statement; cooperatives containing
14 conversion buildings.

15 (a) General rule.--The public offering statement of a
16 cooperative containing any conversion building must contain, in
17 addition to the information required by section 4403 (relating
18 to public offering statement; general provisions):

19 (1) A statement by the declarant, based on a report
20 prepared by an independent registered architect or
21 professional engineer describing:

22 (i) The age, present visible condition and, if known
23 or ascertainable, the dates of construction, installation
24 and major repairs of all structural components and
25 mechanical and electrical installations, including, but
26 not limited to, roofs, plumbing, heating, air
27 conditioning and elevators material to the use and
28 enjoyment of the cooperative.

29 (ii) The results of the inspection of the units and
30 common elements required pursuant to section 4414(c)

1 (relating to implied warranty against structural defects
2 in conversion buildings) for visible conditions that
3 adversely affect the health or safety of the residential
4 occupants.

5 (iii) The extent to which the report by the
6 architect or professional engineer is based upon a visual
7 inspection of the units as well as the common elements.

8 (2) A statement by the declarant of the expected useful
9 life of each item reported on in paragraph (1), including the
10 current replacement cost of such item.

11 (3) A list of any outstanding notices of uncured
12 violations of building code or other municipal regulations,
13 together with the estimated cost of curing those violations.

14 (4) A statement by the declarant, based on a report
15 prepared by an independent licensed exterminating company,
16 describing the presence in the conversion building of, if
17 any, visible pest conditions dangerous to health and safety,
18 such as the presence of insects and rodents dangerous to
19 health or safety, and outlining actions taken or to be taken
20 to eliminate the existence of pest conditions dangerous to
21 health or safety.

22 (b) Applicability of section.--This section applies only to
23 units that are intended for residential use at the time of sale
24 by the declarant of the cooperative interest of which the unit
25 is a part.

26 § 4407. Public offering statement; cooperative securities.

27 If a cooperative interest is registered with the Securities
28 and Exchange Commission of the United States at the time an
29 offer of such cooperative interest is made, a declarant
30 satisfies all requirements relating to the preparation of a

1 public offering statement required by this subpart if he
2 delivers to the purchaser a copy of the public offering
3 statement, or other disclosure statement, filed with the
4 Securities and Exchange Commission. An interest in a cooperative
5 is not, in and of itself, a security under the act of December
6 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities
7 Act of 1972, and the offer and sale of cooperative interests in
8 accordance with the requirements of this chapter shall not also
9 be subject to the registration requirements of section 201 or
10 301 of the Pennsylvania Securities Act of 1972 or the
11 promotional real estate sales requirements of the act of
12 February 19, 1980 (P.L.15, No.9), known as the Real Estate
13 Licensing and Registration Act.

14 § 4408. Purchaser's right to cancel.

15 (a) Delivery of public offering statement.--In cases where
16 delivery of the public offering statement is required under
17 section 4402(c) (relating to liability for public offering
18 statement requirements), a declarant shall provide a purchaser
19 of a cooperative interest with a copy of the public offering
20 statement and all amendments thereto not later than:

21 (1) the date the purchaser executes the contract of sale
22 for such cooperative interest; or

23 (2) if no contract of sale is executed, 15 days before
24 the time of conveyance of that cooperative interest.

25 After a public offering statement has been delivered to a
26 purchaser of a cooperative interest, a person required to
27 deliver a public offering statement pursuant to section 4402(c)
28 shall provide to the purchaser copies of all amendments to the
29 public offering statement made between the date of delivery of
30 the public offering statement and the date of conveyance of that

1 cooperative interest.

2 (b) Cancellation within 15 days.--Except as provided in
3 subsection (c):

4 (1) Unless a purchaser is given the public offering
5 statement more than 15 days before execution of a contract
6 for the purchase of a cooperative interest, a purchaser,
7 before conveyance, may cancel the contract within 15 days
8 after first receiving the public offering statement.

9 (2) A purchaser, before conveyance, may cancel a
10 contract for the purchase of a cooperative interest within 15
11 days after receiving a copy of any amendment to the public
12 offering statement that would have a material and adverse
13 effect on the rights or obligations of that purchaser.

14 (c) Cancellation within seven days.--Unless a purchaser of a
15 time share is given the public offering statement more than
16 seven days before execution of a contract for the purchase of a
17 time share, the purchaser, before conveyance, may cancel the
18 contract within seven days after first receiving the public
19 offering statement. A purchaser of a time share, before
20 conveyance, may cancel a contract for the purchase of a time
21 share within seven days after receiving a copy of any amendment
22 to the public offering statement that would have a material and
23 adverse effect on the rights or obligations of that purchaser.

24 (d) Limitations as to amendments.--Without limiting those
25 amendments that would be deemed not to produce material and
26 adverse effects on the rights or obligations of purchasers,
27 cancellation is not permitted under subsection (a), (b) or (c)
28 if the amendment, or possible future promulgation thereof, was
29 disclosed in the public offering statement previously delivered
30 to the purchaser.

1 (e) Notice and effect of cancellation.--If a purchaser
2 elects to cancel a contract pursuant to subsection (a), (b) or
3 (c), he may do so by hand delivering notice thereof to the
4 offeror or by mailing notice thereof by prepaid United States
5 mail to the offeror or to his agent for service of process.
6 Cancellation is without penalty, and all payments made by the
7 purchaser before cancellation shall be refunded promptly.

8 (f) Damages for noncompliance.--If a person required to
9 deliver a public offering statement pursuant to section 4402(c)
10 fails to provide a purchaser to whom a cooperative interest is
11 conveyed with that public offering statement and all amendments
12 thereto as required by subsection (a), (b) or (c), or, if the
13 public offering statement or any amendment does not comply with
14 the requirements of this subpart, the purchaser, in addition to
15 any other rights to damages or relief, is entitled to receive
16 from that person an amount equal to 5% of the sales price of the
17 cooperative interest up to a maximum of \$5,000, or actual
18 damages, whichever is the greater amount. A minor omission or
19 error in the public offering statement or an amendment thereto,
20 that is not willful, shall entitle the purchaser to recover only
21 actual damages, if any.

22 § 4409. Resales of cooperative interests.

23 (a) Information supplied by proprietary lessee.--Except in
24 the case of a sale where delivery of a public offering statement
25 is required or unless the transaction is exempt under section
26 4401(b) (relating to applicability; waiver), a proprietary
27 lessee shall furnish to a purchaser, before execution of any
28 contract of sale of a cooperative interest or, if there is no
29 contract of sale, before the time of conveyance, a copy of the
30 declaration (other than the plats and plans), the bylaws and the

1 rules or regulations of the association, including all
2 amendments to such documents to the date of their delivery to
3 the purchaser, and a certificate containing:

4 (1) A statement disclosing the effect on the proposed
5 disposition of any right of first refusal or other restraint
6 on the free alienability of the cooperative interest.

7 (2) A statement setting forth the amount of the monthly
8 common expense assessment and any unpaid common expense or
9 special assessment currently due and payable from the selling
10 proprietary lessee and any surplus fund credits to be applied
11 with regard to the cooperative interest pursuant to section
12 4314(h) (relating to assessments for common expenses).

13 (3) A statement of any other fees payable by proprietary
14 lessees.

15 (4) A statement of any capital expenditures anticipated
16 by the association for the current and two next succeeding
17 fiscal years.

18 (5) A statement of the amount of any reserves for
19 capital expenditures and of any portions of those reserves
20 designated by the association for any specified projects.

21 (6) The most recent regularly prepared balance sheet and
22 income and expense statement, if any, of the association.

23 (7) The current operating budget of the association.

24 (8) A statement of any unsatisfied judgments against the
25 association and the status of any pending suits in which the
26 association is a defendant.

27 (9) A statement describing any insurance coverage
28 provided for the benefit of proprietary lessees.

29 (10) A statement as to whether the executive board has
30 knowledge that any alterations or improvements to the unit or

1 to the limited common elements assigned thereto violate any
2 provision of the declaration.

3 (11) A statement as to whether the executive board has
4 knowledge of any violations of the health or building codes
5 with respect to the unit, the limited common elements
6 assigned thereto, or any other portion of the cooperative.

7 (12) A statement of the remaining term of any leasehold
8 estate affecting the cooperative and the provisions governing
9 any extension or renewal thereof.

10 (13) Except where no public offering statement was
11 prepared, a statement that the public offering statement and
12 any amendments thereto are records of the association
13 available for inspection by the purchaser.

14 (14) The most recent statement given to the proprietary
15 lessee by the association stating the amount of the
16 cooperative real estate taxes and mortgage or other interest
17 allocated to the cooperative interest being sold.

18 (15) A statement of any restrictions in the declaration
19 affecting the amount that may be received by a proprietary
20 lessee upon sale, condemnation or casualty loss to the unit
21 or the cooperative or termination of the cooperative.

22 (16) A statement as to whether the declaration provides
23 for cumulative or class voting.

24 (17) A statement as to whether an agreement to terminate
25 the cooperative has been submitted to the proprietary lessees
26 for approval and remains outstanding.

27 (18) A statement as to whether the executive board has
28 knowledge of any violations of applicable governmental
29 requirements or knowledge of the existence of any hazardous
30 conditions (section 3402(a)(26)) with respect to the unit,

1 the limited common elements assigned thereto or any other
2 portion of the cooperative.

3 (19) A statement of whether the cooperative is a master
4 association or is part of a master association, or could
5 become a master association or part of a master association.

6 (20) A statement describing the ownership of cooperative
7 interests, if any, which or the occupancy of units, if any,
8 which may be in time shares and the maximum number of time-
9 share estates that may be created in the cooperative.

10 (21) A statement of whether the declarant retains the
11 special declarant right to cause a merger or consolidation of
12 the cooperative and, if so, the information describing such
13 right which was supplied by the declarant pursuant to section
14 4205 (relating to contents of declaration), if any.

15 (b) Information supplied by association.--The association,
16 within ten days after a request by a proprietary lessee, shall
17 furnish the documents and a certificate containing the
18 information necessary to enable the proprietary lessee to comply
19 with this section. A proprietary lessee providing a certificate
20 pursuant to subsection (a) is not liable to the purchaser for
21 any erroneous information provided by the association and
22 included in or delivered with the certificate.

23 (c) Liability for error or inaction by association.--A
24 purchaser is not liable for any unpaid assessment or fee greater
25 than the amount set forth in the certificate prepared by the
26 association. A proprietary lessee is not liable to a purchaser
27 for the failure or delay of the association to provide the
28 certificate in a timely manner, but the purchase contract is
29 voidable by the purchaser until the certificate has been
30 provided and for five days thereafter or until conveyance,

1 whichever first occurs.

2 § 4410. Escrow of deposits.

3 Any deposit (which shall not include any installment payment
4 under an installment sales contract) made in connection with the
5 purchase or reservation of a cooperative interest from a person
6 required to deliver a public offering statement pursuant to
7 section 4402(c) (relating to liability for public offering
8 statement; requirements) shall be placed in escrow and held in
9 this Commonwealth by a licensed real estate broker, an attorney
10 admitted to practice in this Commonwealth, a financial
11 institution or a licensed title insurance company, in an account
12 or in the form of a certificate of deposit, designated solely
13 for that purpose with a financial institution whose accounts are
14 insured by a governmental agency or instrumentality until:

15 (1) delivered to the declarant at closing or, in the
16 case of the sale of a cooperative interest pursuant to an
17 installment sales contract, upon the expiration of 30 days
18 from the date of occupancy of the unit constituting a part of
19 the cooperative interest;

20 (2) delivered to the declarant because of purchaser's
21 default under a contract to purchase the cooperative
22 interest; or

23 (3) refunded to the purchaser.

24 § 4411. Release of liens.

25 (a) Sale of cooperative interest.--In the case of a sale of
26 a cooperative interest where delivery of a public offering
27 statement is required pursuant to section 4402(c) (relating to
28 public offering statement; requirements), a seller shall, before
29 conveying a cooperative interest, record or furnish to the
30 purchaser releases of all liens affecting that cooperative

1 interest and underlying real estate, unless the public offering
2 statement discloses the amount of the real estate encumbered by,
3 and the effect of a default under, a lien not being released or
4 unless the purchaser expressly agrees to take subject to or
5 assume liens not being released.

6 (b) Conveyance to association.--Before conveying real estate
7 to the association, the declarant shall have that real estate
8 released from liens on that real estate unless the public
9 offering statement discloses the amount of the real estate
10 encumbered by, and the effect of a default under, a lien not
11 being released.

12 § 4412. Cooperatives containing conversion buildings.

13 (a) Notice of conversion.--The declarant of every
14 cooperative containing one or more conversion buildings shall
15 give each of the residential tenants, and subtenants, if any,
16 lawfully in possession of a unit or units in a conversion
17 building, a conversion notice no later than one year before the
18 declarant will require residential tenants and residential
19 subtenants to vacate, subject to revocation of such notice in
20 accordance with subsection (k). The conversion notice must set
21 forth generally the rights of residential tenants and
22 residential subtenants under this section and shall be hand
23 delivered to the unit or mailed by prepaid United States
24 certified or registered mail, return receipt requested, to the
25 residential tenant and residential subtenant at the address of
26 the unit and not more than one other mailing address provided by
27 a residential tenant. Every notice shall be accompanied by a
28 public offering statement concerning the proposed sale of
29 cooperative interests within such conversion building or
30 buildings. Except as otherwise provided in subsection (f), no

1 such residential tenant or residential subtenant in a conversion
2 building may be required to vacate the unit he leases earlier
3 than one year after the conversion notice date, except by reason
4 of nonpayment of rent, waste or conduct that disturbs other
5 tenants' peaceful enjoyment of the premises, and the terms of
6 the tenancy, including terms that apply to a period occurring in
7 whole or in part after the conversion notice date, may not be
8 altered, but may be enforced, during that period. Failure to
9 give notice to a residential tenant or residential subtenant
10 entitled to such notice pursuant to this subsection is a defense
11 to an action for possession against such residential tenant or
12 residential subtenant.

13 (b) Offer to tenant to purchase cooperative interest.--For
14 six months after the conversion notice date, the declarant shall
15 offer to convey the cooperative interest for each unit or
16 proposed unit occupied for residential use in a conversion
17 building to the tenant who leases that unit. If the tenant fails
18 to purchase the cooperative interest during that six-month
19 period, the offeror may not offer to dispose of an interest in
20 that cooperative interest during the following six months at a
21 price or on terms more favorable to the offeree than the price
22 or terms offered to the tenant. This subsection shall not apply
23 to any cooperative interest in a conversion building if the unit
24 which is part of that cooperative interest was, immediately
25 prior to the conversion notice date, restricted or devoted
26 exclusively to nonresidential use or the boundaries of which
27 unit, after the creation of the cooperative, will not
28 substantially conform to the boundaries of such unit on the
29 conversion notice date.

30 (c) Effect of wrongful conveyance.--If a declarant, in

1 violation of subsection (b), conveys a cooperative interest to a
2 purchaser for value who has no knowledge of the violation, that
3 conveyance extinguishes any right a tenant may have under
4 subsection (b) to purchase that cooperative interest if the deed
5 states that the declarant has complied with subsection (b), but
6 does not affect the right of a tenant to recover damages from
7 the declarant for a violation of subsection (b).

8 (d) Notice to vacate.--If a conversion notice specifies a
9 date by which a unit or proposed unit must be vacated, the
10 conversion notice also constitutes a notice of termination of
11 the tenant's lease, subject to revocation in accordance with
12 subsection (k) and a notice to quit specified by section 501 of
13 the act of April 6, 1951 (P.L.69, No.20), known as The Landlord
14 and Tenant Act of 1951.

15 (e) Improper lease termination prohibited.--

16 (1) Nothing in this section permits termination of a
17 lease in violation of its terms.

18 (2) Nothing in this section or in any lease shall
19 prohibit a residential tenant, after receiving notice
20 pursuant to subsection (a), from terminating any lease
21 without any liability for such termination provided such
22 tenant gives the building owner at least 90 days' written
23 notice of the intent to terminate the lease.

24 (3) The declarant and, if different, the owner shall not
25 engage in any activity of any nature which would coerce any
26 residential tenant of a conversion building into terminating
27 any lease, including, but not limited to, stampeding,
28 harassing tenants or withholding normal services or repairs.

29 (f) Units leased to senior citizens and blind and disabled
30 persons.--

1 (1) For the purpose of this subsection, an eligible
2 tenant or subtenant shall be a natural person who, on the
3 conversion notice date, lawfully occupies the unit as his
4 principal residence and is 62 years of age or older or is
5 disabled. For the purpose of this subsection, a person shall
6 be deemed to be "disabled" if, on the conversion notice date,
7 he is totally and permanently unable to engage in any
8 substantial gainful activity by reason of any medically
9 determinable physical or mental impediment, including, but
10 not limited to, blindness.

11 (2) Within 60 days after the conversion notice date, any
12 tenant or subtenant in possession of a unit who believes that
13 he is an eligible tenant or subtenant shall so notify the
14 declarant and shall provide the declarant with proof of his
15 eligibility. Any eligible tenant or subtenant who has
16 established his eligibility shall be entitled to remain in
17 possession of his unit for two years following the conversion
18 notice date, notwithstanding any prior termination date in
19 his lease, except by reason of nonpayment of rent, waste or
20 conduct that disturbs other occupants' peaceful enjoyment of
21 the cooperative, and the terms of the tenancy, including
22 terms that apply to a time period after the conversion notice
23 date, may not be altered, but may be enforced, during the
24 time period between the original lease termination date and
25 the expiration of this two-year period, except as is provided
26 in paragraph (3).

27 (3) The monthly rental payable by the tenant during the
28 time period between the later to occur of the original lease
29 termination date or the first anniversary of the conversion
30 notice date and the expiration of the two-year period

1 described in paragraph (2) sentence shall be the same monthly
2 rental as was payable for the month immediately preceding the
3 original lease termination date, except that, at the
4 landlord's option, such monthly rental may be increased by
5 the lesser of 5% of such monthly rental or the same
6 percentage increase as the percentage increase, if any, in
7 the cost of living in the United States of America during the
8 six-month time period commencing on the first day of the
9 first full calendar month after the conversion notice date.

10 (4) Failure to comply with the provisions of this
11 subsection is a defense to an action for possession.

12 (g) Tenant meetings.--With respect to any cooperative
13 containing a conversion building with one or more units then
14 occupied for residential use, at least 30 days before the
15 conversion notice date, the declarant shall hold a tenant
16 meeting open to the public in the municipality where the
17 conversion is proposed at a place and time convenient to the
18 persons who may be directly affected by the conversion. At least
19 ten days' notice of the time and place of the meeting shall be
20 given to tenants, and subtenants in lawful possession of their
21 units, in the same manner as is required for the giving of the
22 conversion notice, and to the general public by a notice in a
23 newspaper of general circulation in the area in which the
24 cooperative is located, except that no notice to the general
25 public need be given with respect to conversion buildings in
26 cooperatives as to which the provisions of subsection 4401(b)
27 (relating to applicability; waiver) are applicable. At such
28 meeting, representatives of the declarant shall briefly describe
29 the following and may, but shall not be required to, discuss
30 other matters:

1 (1) The rights and obligations of tenants and subtenants
2 pursuant to this section.

3 (2) Improvements, if any, then planned to be made to the
4 cooperative.

5 (3) The anticipated approximate range of initial
6 cooperative interest sales prices, but specific sales prices
7 need not be provided.

8 (4) The anticipated approximate range of estimated
9 monthly common expense liabilities for various types of
10 cooperative interests but specific per cooperative interest
11 estimates need not be provided.

12 (h) Waiver of right to purchase.--Notwithstanding any
13 provisions of this subpart prohibiting waiver of rights, any
14 tenant or subtenant may waive his right to purchase a
15 cooperative interest pursuant to subsection (b) if the waiver is
16 in writing, is acknowledged and is given in consideration of:

17 (1) a written extension of the term of that tenant's
18 tenancy and right of occupancy under this subpart beyond the
19 time period required by subsection (a);

20 (2) the tenant entering into an agreement to purchase
21 another cooperative interest in the cooperative; or

22 (3) the tenant or subtenant making alternative living
23 arrangements.

24 (i) Alteration of term of tenancy.--Notwithstanding any
25 provisions of subsection (a) or (f), the terms of the tenancy of
26 a tenant or subtenant may be altered with the express written
27 consent of that tenant or subtenant, and such altered terms
28 shall then be the terms of tenancy referred to in this section.

29 (j) Limitation to tenants in occupancy.--The provisions of
30 this section shall apply only with respect to conversion

1 buildings in which one or more residential tenants or
2 residential subtenants is in lawful occupancy on the conversion
3 notice date, and the only tenants who are entitled to exercise
4 the rights granted under this section are residential tenants or
5 residential subtenants:

6 (1) who are in lawful occupancy of a conversion building
7 on the conversion notice date; or

8 (2) who commence their tenancy after the conversion
9 notice date without having been notified in writing, at or
10 prior to the commencement of their tenancy, that the property
11 is then a cooperative and that they are not entitled to the
12 rights granted under this section.

13 Such rights continue only so long as the lawful occupancy of the
14 tenant or subtenant continues.

15 (k) Revocation of conversion notice.--A declarant may
16 subsequently revoke a conversion notice if the declarant has
17 expressly reserved the right of revocation in the conversion
18 notice and if the notice of revocation:

19 (1) is given prior to the conveyance of any unit in the
20 cooperative occurring after the conversion notice date other
21 than a cooperative interest or cooperative interests conveyed
22 to a successor declarant or as a result of a foreclosure of a
23 mortgage on a cooperative interest or a deed in lieu thereof;

24 (2) is given in the same manner as is required for the
25 giving of the conversion notice; and

26 (3) is given to all persons who were entitled to receive
27 the conversion notice and who continue to be in lawful
28 occupancy at the time such notice of revocation is given.

29 The giving of a notice of revocation revokes all rights granted
30 under this section, but does not revoke the rights granted to

1 residential tenants under subsection (a) or (f), and such rights
2 shall be deemed to have been incorporated in each residential
3 tenant's lease.

4 § 4413. Express warranties of quality.

5 (a) General rule.--Express warranties made by any seller to
6 a purchaser of a cooperative interest, if made or incorporated
7 by reference in the public offering statement, if the seller is
8 required to deliver a public offering statement under section
9 4402(c) (relating to public offering statement; requirements),
10 or in a written statement or document signed by the seller and
11 relied upon by the purchaser, are created as follows:

12 (1) Any affirmation of fact or promise which relates to
13 the unit, its use, or rights appurtenant thereto, or
14 improvements to the cooperative that would directly benefit
15 the unit, or the right to use or have the benefit of
16 facilities not located in the cooperative, creates an express
17 warranty that the unit and related rights and uses will
18 conform to the affirmation or promise.

19 (2) Any model or description of the physical
20 characteristics of the cooperative, including plans and
21 specifications of or for improvements, if incorporated by
22 reference in a public offering statement or other written
23 statement or document signed by the seller and relied upon by
24 the buyer, in accordance with this subsection, creates an
25 express warranty that the cooperative will conform
26 substantially to the model or description.

27 (3) Any description of the quantity or extent of the
28 real estate comprising the cooperative, if incorporated by
29 reference in a public offering statement or other written
30 statement or document signed by the seller and relied upon by

1 the buyer, in accordance with this subsection, including, but
2 not limited to, plats or surveys, creates an express warranty
3 that the cooperative will conform to the description, subject
4 to customary tolerances.

5 (4) A provision that a buyer of a cooperative interest
6 may put a unit which is part of that cooperative interest
7 only to a specified use is an express warranty that the
8 specified use is lawful.

9 (b) Formal words unnecessary.--Neither formal words, such as
10 "warranty" or "guarantee," nor a specific intention to make a
11 warranty are necessary to create an express warranty of quality,
12 but a statement purporting to be merely an opinion or
13 commendation of the real estate or its value does not create a
14 warranty.

15 (c) Transfer of warranty.--Any conveyance of a cooperative
16 interest transfers to the purchaser all express warranties of
17 quality made by previous sellers.

18 (d) Limitation of actions.--No action to enforce the
19 warranty created by this section shall be commenced later than
20 six years after the date of the writing which creates the
21 warranty under subsection (a).

22 § 4414. Implied warranty against structural defects.

23 (a) Definition.--As used in this section, "structural
24 defects" means those defects in components constituting any unit
25 or common element which reduce the stability or safety of the
26 structure below accepted standards or restrict the normal
27 intended use of all or part of the structure and which require
28 repair, renovation, restoration or replacement. Nothing in this
29 section shall be construed to make the warrantor responsible for
30 any items of maintenance relating to the units or common

1 elements.

2 (b) General rule.--A declarant warrants against structural
3 defects in each of the units for two years from the date each is
4 conveyed to a bona fide purchaser, and all of the common
5 elements for two years. Any conveyance of a cooperative interest
6 during the two-year warranty period shall be deemed to transfer
7 to the purchaser all of the warranties created under this
8 section. The two years shall begin as to each of the common
9 elements whenever the common element has been completed or, if
10 later:

11 (1) as to any common element in real estate that may be
12 added to the cooperative, at the time the first cooperative
13 interest for a unit in such real estate is conveyed to a bona
14 fide purchaser;

15 (2) as to any common element for which a development
16 right to convert such common element to units or limited
17 common elements has been reserved, at the time the first
18 cooperative interest for a converted unit out of such common
19 element is conveyed to a bona fide purchaser; and

20 (3) as to any common element within any other portion of
21 the cooperative, at the time the first cooperative interest
22 in the cooperative is conveyed to a bona fide purchaser.

23 (c) Scope and applicability of warranties.--A declarant of a
24 cooperative containing one or more conversion buildings
25 warrants:

26 (1) against structural defects in components installed
27 in each of the conversion buildings by the declarant or in
28 work done or improvements made by the declarant in each of
29 the conversion buildings;

30 (2) that all units and common elements in each

conversion building have been inspected for visible structural and mechanical defects and for other visible conditions that adversely affect the health or safety of residential occupants as required by section 4406 (a)(1)(i) (relating to public offering statement; cooperatives containing conversion buildings), except that no such inspection is required of any unit the tenant, or other lawful occupant, of which does not permit such inspection to be conducted; and

(3) that any such defects and other visible conditions found have been repaired.

The warranties set forth in subsection (b) shall be applicable to any units and common elements that are located within a building containing or comprising one or more units that is not a conversion building. Otherwise, such declarant may offer the units, common elements, or both, in any conversion building in an "as is" condition. If any building containing or comprising units is a conversion building, then the warranty provisions of this subsection shall also apply to all common elements in the cooperative that are located outside of any conversion building and that are not located in a building containing one or more units that is not a conversion building. The declarant of a cooperative containing any conversion buildings may also give a more extensive warranty in writing. The times at which the warranties required by this subsection commence and the duration of such warranties shall be as provided in subsection (b).

(d) Exclusion or modification of warranty.--Except with respect to a purchaser of a unit for residential use, the warranty against structural defects:

(1) may be excluded or modified by agreement of the

1 parties; and

2 (2) is excluded by expression of disclaimer, such as "as
3 is," "with all faults" or other language which in common
4 understanding calls the buyer's attention to the exclusion of
5 warranties.

6 (e) Limitation of action.--No action to enforce the warranty
7 created by this section shall be commenced later than six years
8 after the warranty begins.

9 § 4415. Effect of violations on rights of action.

10 If a declarant or any other person subject to this subpart
11 fails to comply with any provision of this subpart or any
12 provision of the declaration or bylaws, any person or class of
13 persons adversely affected by the failure to comply has a claim
14 for appropriate relief. Punitive damages may be awarded for a
15 willful failure to comply with this subpart. The court, in an
16 appropriate case, may award reasonable attorney fees.

17 § 4416. Labeling of promotional material.

18 No promotional material may be displayed or delivered to
19 prospective purchasers which describes or portrays improvements
20 that are not in existence unless the description or portrayal of
21 the improvement in the promotional material is conspicuously
22 labeled or identified as "MUST BE BUILT" or "NEED NOT BE BUILT."

23 § 4417. Declarant's obligation to complete and restore.

24 (a) Completion.--The declarant shall complete all
25 improvements depicted on any site plan or other graphic
26 representation included in the public offering statement or in
27 any promotional material distributed by or for the declarant
28 unless that improvement is labeled "NEED NOT BE BUILT."

29 (b) Repair and restoration.--The declarant is subject to
30 liability for the prompt repair and restoration, to a condition

1 compatible with the remainder of the cooperative, of any portion
2 of the cooperative affected by his exercise of rights reserved
3 pursuant to or created by sections 4209 (relating to exercise of
4 development rights), 4210 (relating to alteration of units),
5 4211 (relating to relocation of boundaries between adjoining
6 units), 4212 (relating to subdivision of units), 4214 (relating
7 to declarant's office, models and signs) and 4215 (relating to
8 easement rights).

9 § 4418. Substantial completion of unit.

10 (a) General rule.--In the case of a sale of a cooperative
11 interest where delivery of a public offering statement is
12 required, a contract of sale may be executed, but no interest in
13 that cooperative interest may be conveyed until the declaration
14 is recorded and unless all structural components and common
15 element mechanical systems of the structure containing or
16 constituting such unit or units and the common elements
17 appurtenant thereto are substantially completed in accordance
18 with the descriptions set forth in both the declaration pursuant
19 to section 4205 (relating to contents of declaration) and in the
20 public offering statement pursuant to section 4403 (relating to
21 public offering statement; general provision). Such substantial
22 completion shall be evidenced by a recorded certification of
23 completion executed by an independent registered surveyor,
24 architect or professional engineer with regard to any such
25 structure.

26 (b) Sale prior to completion of unit.--Nothing contained in
27 this subpart shall prevent the offering for sale of a
28 cooperative interest or the execution of any agreement to sell
29 and purchase a cooperative interest or any interest in a
30 cooperative interest, as opposed to actual conveyance, prior to

- 1 the completion of the unit or any other portion of the
- 2 cooperative.
- 3 Section 2. This act shall take effect in 60 days.