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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 859 Session of  
2013

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INTRODUCED BY ARGALL, ALLOWAY, FOLMER, PILEGGI AND YUDICHAK,  
APRIL 18, 2013

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REFERRED TO URBAN AFFAIRS AND HOUSING, APRIL 18, 2013

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AN ACT

1 Amending Title 68 (Real and Personal Property) of the  
2 Pennsylvania Consolidated Statutes, in creation, alteration  
3 and termination of condominiums, further providing for  
4 contents of declaration and flexible condominiums and for  
5 amendment of declaration; and, in creation, alteration and  
6 termination of planned communities, further providing for  
7 contents of declaration for flexible planned communities and  
8 for amendment of declaration.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Sections 3206(2), 3219(a), 5206(2) and 5219(a)(3)  
12 of Title 68 of the Pennsylvania Consolidated Statutes are  
13 amended to read:

14 § 3206. Contents of declaration; flexible condominiums.

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

18 \* \* \*

19 (2) A statement of the time limit, [not exceeding seven  
20 years after the recording of the declaration,] upon which any  
21 option reserved under paragraph (1) will lapse together with

1 a statement of any circumstances that will terminate the  
2 option before the expiration of the time limit. The time  
3 limit shall not exceed the later of:

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

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

16 \* \* \*

17 § 3219. Amendment of declaration.

18 (a) Number of votes required.--[Except in cases of  
19 amendments that may be executed by a declarant under section  
20 3210(e) and (f) (relating to plats and plans), 3211(a) (relating  
21 to conversion and expansion of flexible condominiums) or 3212(a)  
22 (relating to withdrawal of withdrawable real estate); the  
23 association under subsection (f) or section 3107 (relating to  
24 eminent domain), 3207(d) (relating to leasehold condominiums),  
25 3209(c) (relating to limited common elements) or 3215(a)  
26 (relating to subdivision or conversion of units); or certain  
27 unit owners under section 3209(b) (relating to limited common  
28 elements), 3214(a) (relating to relocation of boundaries between  
29 adjoining units), 3215(b) (relating to subdivision or conversion  
30 of units) or 3220(b) (relating to termination of condominium),

1 and except as limited by subsection (d) and section 3221  
2 (relating to rights of secured lenders), the]

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

6 (i) [67%] Sixty-seven percent of the votes in the  
7 association are allocated[, or];

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

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

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

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

17 (i) Amendments executed by a declarant under:

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

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

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

24 (ii) Amendments executed by the association under:

25 (A) subsection (f);

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

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

29 (D) section 3209(c) (relating to limited common  
30 elements); or

1                   (E) 3215(a) (relating to subdivision or  
2                   conversion of units).

3                   (iii) Amendments executed by certain unit owners  
4                   under:

5                   (A) section 3209(b);

6                   (B) section 3214(a) (relating to relocation of  
7                   boundaries between adjoining units);

8                   (C) section 3215(b) (relating to subdivision or  
9                   conversion of units); or

10                   (D) section 3220(b) (relating to termination of  
11                   condominium).

12                   (iv) Amendments executed by a declarant which  
13                   conform the maximum time limit for exercising declarant  
14                   options to the time limit authorized by section 3206(2)  
15                   (relating to contents of declaration; flexible  
16                   condominiums).

17                   \* \* \*

18 § 5206. Contents of declaration for flexible planned  
19                   communities.

20                   The declaration for a flexible planned community shall  
21 include, in addition to the matters specified in section 5205  
22 (relating to contents of declaration; all planned communities),  
23 all of the following:

24                   \* \* \*

25                   (2) A statement of the time limit, [not exceeding seven  
26 years after the recording of the declaration,] upon which any  
27 option reserved under paragraph (1) will lapse, together with  
28 a statement of circumstances that will terminate the option  
29 before the expiration of the time limit. The time limit shall  
30 not exceed the later of:

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

13           \* \* \*

14 § 5219. Amendment of declaration.

15           (a) Number of votes required.--

16           \* \* \*

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

19           (i) Amendments executed by a declarant under:

20                   (A) section 5210(e) or (f) (relating to plats  
21 and plans);

22                   (B) section 5211(a) (relating to conversion and  
23 expansion of flexible planned communities); or

24                   (C) section 5212(a) (relating to withdrawal of  
25 withdrawable real estate).

26           (ii) Amendments executed by the association under:

27                   (A) subsection (f);

28                   (B) section 5107 (relating to eminent domain);

29                   (C) section 5207(d) (relating to leasehold  
30 planned communities);

1 (D) section 5209 (relating to limited common  
2 elements); or

3 (E) section 5215 (relating to subdivision or  
4 conversion of units).

5 (iii) Amendments executed by certain unit owners  
6 under:

7 (A) section 5209(b);

8 (B) section 5214(a) (relating to relocation of  
9 boundaries between units);

10 (C) section 5215; or

11 (D) section 5220(b) (relating to termination of  
12 planned community).

13 (iv) Amendments executed by a declarant which  
14 conform the maximum time limit for exercising declarant  
15 options to the time limit authorized by section 5206(2)  
16 (relating to contents of declaration for flexible planned  
17 communities).

18 Section 2. The amendment of 68 Pa.C.S. §§ 3206(2) and  
19 5206(2) shall apply to all condominiums and planned communities,  
20 respectively, created by declarations recorded less than seven  
21 years prior to the effective date of this section.

22 Section 3. This act shall take effect immediately.