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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1578 Session of  
2019

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INTRODUCED BY HELM, JAMES, KEEFER, MILLARD, MOUL AND SCHMITT,  
JUNE 7, 2019

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 7, 2019

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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 all condominiums and for  
5 amendment of declaration; in management of the condominium,  
6 further providing for bylaws; in protection of purchasers,  
7 further providing for public offering statement and general  
8 provisions; in creation, alteration and termination of  
9 cooperatives, further providing for contents of declaration  
10 and for amendment of declaration; in management of  
11 cooperatives, further providing for bylaws; in protection of  
12 cooperative interest purchasers, further providing for public  
13 offering statement and general provisions; in creation,  
14 alteration and termination of planned communities, further  
15 providing for contents of declaration and all planned  
16 communities and for amendment of declaration; in management  
17 of planned community, further providing for bylaws; and, in  
18 protection of purchasers, further providing for public  
19 offering statement and general provisions.

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

22 Section 1. Section 3205 of Title 68 of the Pennsylvania  
23 Consolidated Statutes is amended by adding a paragraph to read:

24 § 3205. Contents of declaration; all condominiums.

25 The declaration for a condominium must contain:

26 \* \* \*

1           (13.2) Any fees or charges to be paid by unit owners,  
2           currently or in the future, for the use of the common  
3           elements, limited common elements and any other facility  
4           related to the condominium.

5           \* \* \*

6           Section 2. Section 3219(f) of Title 68 is amended to read:  
7           § 3219. Amendment of declaration.

8           \* \* \*

9           (f) Corrective amendments.--Except as otherwise provided in  
10          the declaration, if any amendment to the declaration is  
11          necessary in the judgment of the executive board to cure any  
12          ambiguity or to correct or supplement any provision of the  
13          declaration, including the plats and plans, that is defective,  
14          missing or inconsistent with any other provision thereof or with  
15          this subpart or if an amendment is necessary in the judgment of  
16          the executive board to conform to the requirements of any agency  
17          or entity that has established national or regional standards  
18          with respect to loans secured by mortgages or deeds of trust on  
19          units in condominium projects (such as the Federal National  
20          Mortgage Association and the Federal Home Loan Mortgage  
21          Corporation), to comply with any statute, regulation, code or  
22          ordinance which may now or hereafter be made applicable to the  
23          condominium or association, or to make a reasonable  
24          accommodation or permit a reasonable modification in favor of  
25          handicapped, as may be defined by prevailing Federal or State  
26          laws or regulations applicable to the association, unit owners,  
27          residents, tenants or employees, then, at any time and from time  
28          to time, the executive board may at its discretion effect an  
29          appropriate corrective amendment without the approval of the  
30          unit owners or the holders of any liens on all or any part of

1 the condominium, upon receipt by the executive board of an  
2 opinion from [independent] legal counsel who is independent from  
3 the declarant to the effect that the proposed amendment is  
4 permitted by the terms of this subsection.

5 Section 3. Section 3306 of Title 68 is amended by adding a  
6 subsection to read:

7 § 3306. Bylaws.

8 \* \* \*

9 (c) Corrective amendments.--Except as otherwise provided in  
10 the bylaws or code of regulations, if any amendment to the  
11 bylaws or code of regulations is necessary in the judgment of  
12 the executive board to cure any ambiguity or to correct or  
13 supplement any provision of the bylaws or code of regulations  
14 that is defective, missing or inconsistent with any other  
15 provision thereof, with the declaration or with this subpart or  
16 if an amendment is necessary in the judgment of the executive  
17 board to conform to the requirements of any agency or entity  
18 that has established national or regional standards with respect  
19 to loans secured by mortgages or deeds of trust on units in  
20 condominium projects (such as the Federal National Mortgage  
21 Association and the Federal Home Loan Mortgage Corporation), to  
22 comply with any statute, regulation, code or ordinance which may  
23 now or hereafter be made applicable to the condominium or  
24 association, or to make a reasonable accommodation or permit a  
25 reasonable modification in favor of handicapped, as may be  
26 defined by prevailing Federal or State laws or regulations  
27 applicable to the association, unit owners, residents, tenants  
28 or employees, then at any time and from time to time, the  
29 executive board may at its discretion effect an appropriate  
30 corrective amendment without the approval of the unit owners or

1 holders of any liens on all or any part of the condominium, upon  
2 receipt by the executive board of an opinion from legal counsel  
3 who is independent from the declarant to the effect that the  
4 proposed amendment is permitted by the terms of this subsection.

5 Section 4. Section 3402(a)(17) of Title 68 is amended to  
6 read:

7 § 3402. Public offering statement; general provisions.

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

11 \* \* \*

12 (17) Any [current or expected] fees or charges to be  
13 paid by unit owners, currently or in the future, for the use  
14 of the common elements, limited common elements and other  
15 facilities related to the condominium.

16 \* \* \*

17 Section 5. Section 4205(a) of Title 68 is amended by adding  
18 a paragraph to read:

19 § 4205. Contents of declaration.

20 (a) General rule.--The declaration for a cooperative must  
21 contain:

22 \* \* \*

23 (16) Any fees or charges to be paid by proprietary  
24 lessees, currently or in the future, for the use of the  
25 common elements, limited common elements and any other  
26 facilities related to the cooperative.

27 \* \* \*

28 Section 6. Section 4216(f) of Title 68 is amended to read:

29 § 4216. Amendment of declaration.

30 \* \* \*

1 (f) Corrective amendments.--Except as otherwise provided in  
2 the declaration, if any amendment to the declaration is  
3 necessary in the judgment of the executive board to cure any  
4 ambiguity or to correct or supplement any provision of the  
5 declaration that is defective, missing or inconsistent with any  
6 other provision thereof or with this subpart or if an amendment  
7 is necessary in the judgment of the executive board to conform  
8 to the requirements of any agency or entity that has established  
9 national or regional standards with respect to loans secured by  
10 mortgages or deeds of trust on units in cooperative projects  
11 (such as the Federal National Mortgage Association and the  
12 Federal Home Loan Mortgage Corporation), to comply with any  
13 statute, regulation, code or ordinance which may now or  
14 hereafter be made applicable to the cooperative or association,  
15 or to make a reasonable accommodation or permit a reasonable  
16 modification in favor of handicapped, as may be defined by  
17 prevailing Federal or State laws or regulations applicable to  
18 the association, [unit owners,] proprietary lessees, residents  
19 or employees, then, at any time and from time to time, the  
20 executive board may at its discretion effect an appropriate  
21 corrective amendment without the approval of the proprietary  
22 lessees or the holders of any liens on all or any part of the  
23 cooperative, upon receipt by the executive board of an opinion  
24 from [independent] legal counsel who is independent from the  
25 declarant to the effect that the proposed amendment is permitted  
26 by the terms of this subsection.

27 Section 7. Section 4306 of Title 68 is amended by adding a  
28 subsection to read:

29 § 4306. Bylaws.

30 \* \* \*

1 (c) Corrective amendments.--Except as otherwise provided in  
2 the bylaws or code of regulations, if any amendment to the  
3 bylaws or code of regulations is necessary in the judgment of  
4 the executive board to cure any ambiguity or to correct or  
5 supplement any provision of the bylaws or code of regulations  
6 that is defective, missing or inconsistent with any other  
7 provision thereof, with the declaration or with this subpart or  
8 if an amendment is necessary in the judgment of the executive  
9 board to conform to the requirements of any agency or entity  
10 that has established national or regional standards with respect  
11 to loans secured by mortgages or deeds of trust on units in  
12 cooperative projects (such as the Federal National Mortgage  
13 Association and the Federal Home Loan Mortgage Corporation), to  
14 comply with any statute, regulation, code or ordinance which may  
15 now or hereafter be made applicable to the cooperative or  
16 association, or to make a reasonable accommodation or permit a  
17 reasonable modification in favor of handicapped, as may be  
18 defined by prevailing Federal or State laws or regulations  
19 applicable to the association, proprietary lessees, residents or  
20 employees, then, at any time and from time to time, the  
21 executive board may at its discretion effect an appropriate  
22 corrective amendment without the approval of the proprietary  
23 lessees or the holders of any liens on all or any part of the  
24 cooperative, upon receipt by the executive board of an opinion  
25 from legal counsel who is independent from the declarant to the  
26 effect that the proposed amendment is permitted by the terms of  
27 this subsection.

28 Section 8. Section 4403(a)(16) of Title 68 is amended to  
29 read:

30 § 4403. Public offering statement; general provisions.

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

4 \* \* \*

5 (16) Any [current or expected] fees or charges to be  
6 paid by proprietary lessees, currently or in the future, for  
7 the use of the common elements, limited common elements and  
8 other facilities related to the cooperative in addition to  
9 monthly common expense assessments described in paragraph (5)  
10 (iv) and including, without limitation, user or membership  
11 fees that may be charged for the use or enjoyment of common  
12 elements, limited common elements and other facilities  
13 related to the cooperative.

14 \* \* \*

15 Section 9. Section 5205 of Title 68 is amended by adding a  
16 paragraph to read:

17 § 5205. Contents of declaration; all planned communities.

18 The declaration for a planned community must contain:

19 \* \* \*

20 (16.2) Any fees or charges to be paid by unit owners,  
21 currently or in the future, for the use of the common  
22 elements, limited common elements and any other facilities  
23 related to the planned community.

24 \* \* \*

25 Section 10. Section 5219(f) of Title 68 is amended to read:

26 § 5219. Amendment of declaration.

27 \* \* \*

28 (f) Technical corrections.--Except as otherwise provided in  
29 the declaration, if any amendment to the declaration is  
30 necessary in the judgment of the executive board to do any of

1 the following:

2 (1) cure an ambiguity;

3 (2) correct or supplement any provision of the  
4 declaration, including the plats and plans, that is  
5 defective, missing or inconsistent with any other provision  
6 of the declaration or with this subpart;

7 (3) conform to the requirements of any agency or entity  
8 that has established national or regional standards with  
9 respect to loans secured by mortgages or deeds of trust or  
10 units in planned community or so-called "PUD" projects, such  
11 as Federal National Mortgage Association and the Federal Home  
12 Loan Mortgage Corporation; or

13 (4) comply with any statute, regulation, code or  
14 ordinance which may now or hereafter be made applicable to  
15 the planned community or association, or to make a reasonable  
16 accommodation or permit a reasonable modification in favor of  
17 handicapped, as may be defined by prevailing Federal or State  
18 laws or regulations applicable to the association, unit  
19 owners, residents, tenants or employees;

20 then, at any time, the executive board may, at its discretion,  
21 effect an appropriate corrective amendment without the approval  
22 of the unit owners or the holders of liens on all or any part of  
23 the planned community, upon receipt of an opinion from  
24 [independent] legal counsel who is independent from the  
25 declarant to the effect that the proposed amendment is permitted  
26 by the terms of this subsection.

27 Section 11. Section 5306 of Title 68 is amended by adding a  
28 subsection to read:

29 § 5306. Bylaws.

30 \* \* \*

1 (c) Corrective amendments.--Except as otherwise provided in  
2 the bylaws or code of regulations, if any amendment to the  
3 bylaws or code of regulations is necessary in the judgment of  
4 the executive board to cure any ambiguity or to correct or  
5 supplement any provision of the bylaws or code of regulations  
6 that is defective, missing or inconsistent with any other  
7 provision thereof, with the declaration or with this subpart or  
8 if an amendment is necessary in the judgment of the executive  
9 board to conform to the requirements of any agency or entity  
10 that has established national or regional standards with respect  
11 to loans secured by mortgages or deeds of trust on units in  
12 planned communities or so-called "PUD projects," cooperative  
13 projects (such as the Federal National Mortgage Association and  
14 the Federal Home Loan Mortgage Corporation), to comply with any  
15 statute, regulation, code or ordinance which may now or  
16 hereafter be made applicable to the planned community or  
17 association, or to make a reasonable accommodation or permit a  
18 reasonable modification in favor of handicapped, as may be  
19 defined by prevailing Federal or State laws or regulations  
20 applicable to the association, unit owners, residents, tenants  
21 or employees, then, at any time and from time to time, the  
22 executive board may at its discretion effect an appropriate  
23 corrective amendment without the approval of the unit owners or  
24 the holders of any liens on all or any part of the planned  
25 community or association, upon receipt by the executive board of  
26 an opinion from legal counsel who is independent from the  
27 declarant to the effect that the proposed amendment is permitted  
28 by the terms of this subsection.

29 Section 12. Section 5402(a)(18) of Title 68 is amended to  
30 read:

1 § 5402. Public offering statement; general provisions.

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

5 \* \* \*

6 (18) Any [current or expected] fees or charges to be  
7 paid by unit owners, currently or in the future, for the use  
8 of the common elements, limited common elements and other  
9 facilities related to the planned community.

10 \* \* \*

11 Section 13. This act shall take effect in 60 days.