

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1992 Session of
1999

INTRODUCED BY STEVENSON, TRELLO, HENNESSEY, BARRAR, SAYLOR,
McNAUGHTON, PIPPY, BATTISTO, STEIL, YOUNGBLOOD, CLYMER, DALLY
AND McILHINNEY, OCTOBER 25, 1999

REFERRED TO COMMITTEE ON URBAN AFFAIRS, OCTOBER 25, 1999

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 planned community.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5102(a) and (b) of Title 68 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 5102. Applicability.

9 (a) General rule.--This subpart applies to all planned
10 communities created within this Commonwealth after the effective
11 date of this subpart; but, if:

12 (1) such a planned community contains no more than 12
13 units and is not subject to any rights under section 5215
14 (relating to subdivision or conversion of units) to subdivide
15 units or to convert into common elements or under section
16 5211 (relating to conversion and expansion of flexible
17 planned communities) to add additional real estate, create
18 units or limited common elements within convertible real

1 estate or withdraw real estate, it is subject only to
2 sections 5105 (relating to separate titles and taxation),
3 5106 (relating to applicability of local ordinances,
4 regulations and building codes), 5107 (relating to eminent
5 domain) and 5218 (relating to easement to facilitate
6 completion, conversion and expansion) unless the declaration
7 provides that the entire subpart is applicable; or

8 (2) such a planned community, regardless of the number
9 of units, has common elements or limited common elements
10 which include only storm water management facilities and
11 related devices, real estate containing signage, lighting,
12 landscaping, gates, walls, fences or monuments or open space
13 and is not subject to any rights under section 5215 or under
14 section 5211, it shall be subject only to the sections listed
15 in paragraph (1), the provisions of sections 5103 (relating
16 to definitions), 5104 (relating to variation by agreement),
17 5105, 5106, 5107, 5108 (relating to supplemental general
18 principles of law applicable), 5109 (relating to construction
19 against implicit repeal), 5110 (relating to uniformity of
20 application and construction), 5111 (relating to
21 severability), 5112 (relating to unconscionable agreement or
22 term of contract), 5113 (relating to obligation of good
23 faith) and 5114 (relating to remedies to be liberally
24 administered) and the provisions of Chapter 53 (relating to
25 management of planned community) and sections 5407 (relating
26 to resales of units), 5408 (relating to escrow of deposits),
27 5409 (relating to release of liens) and 5411 (relating to
28 warranty against structural defects) unless the declaration
29 provides that the entire subpart is applicable. If a planned
30 community is subject to the provisions of this paragraph, a

1 declarant shall:

2 (i) include [a provision] provisions in any sales
3 agreement for a unit of such planned community which
4 states that an association exists or may be created to
5 own and manage certain generally described common
6 elements or limited common elements[. There] and that
7 there may be imposed by the association assessments upon
8 unit owners for expenses related to the ownership,
9 management, administration or regulation of such elements
10 [and that the]; and

11 (ii) prepare and record a declaration in the manner
12 set forth in section 5205 (relating to contents of
13 declaration; all planned communities) or 5206 (relating
14 to contents of declaration for flexible planned
15 communities) or covenants and restrictions as may be
16 appropriate for the planned community. The declarant
17 shall provide to the purchaser copies of the proposed or
18 recorded declaration or covenants and restrictions, an
19 actual or proposed budget of the planned community in
20 accordance with the provisions of section 5402(a)(7)
21 (relating to public offering statement; general
22 provisions) and the actual or proposed bylaws of the
23 association, provided that the purchaser has the right,
24 before conveyance, to cancel the agreement within seven
25 days of the date of receiving a copy of the proposed or
26 recorded declaration or covenants and restrictions, the
27 actual or proposed budget and the actual or proposed
28 bylaws. As used in this paragraph, the term "open space"
29 shall include an area of land or an area of water or a
30 combination of land and water within a planned community

1 intended for the use or enjoyment of residents,
2 including, but not limited to, ball fields and courts,
3 parks, walking, hiking or biking trails, wetlands, wooded
4 areas and walkways and driveways providing access thereto
5 or parking intended for users of such open space. The
6 term does not include streets, utility lines or
7 facilities or swimming pools or clubhouses owned or
8 leased and maintained by the association.

9 (b) Retroactivity.--Except as provided in subsection (c),
10 sections 5105, 5106, 5107, 5108, 5113, 5202 (relating to unit
11 boundaries), 5203 (relating to construction and validity of
12 declaration and bylaws), 5204 (relating to description of
13 units), 5218, 5219 (relating to amendment of declaration), 5222
14 (relating to master associations), 5223 (relating to merger or
15 consolidation of planned community), 5302(a)(1) through (6), (8)
16 and (11) through [(15)] (17) (relating to power of unit owners'
17 association), 5303 (relating to executive board members and
18 officers), 5307 (relating to upkeep of planned community), 5311
19 (relating to tort and contract liability), 5312 (relating to
20 insurance), 5314 (relating to assessments for common expenses),
21 5315 (relating to lien for assessments), 5316 (relating to
22 association records), 5407 (relating to resales of units) and
23 5412 (relating to effect of violations on rights of action) and
24 section 5103 (relating to definitions), to the extent necessary
25 in construing any of those sections, apply to all planned
26 communities created in this Commonwealth before the effective
27 date of this subpart; but those sections apply only with respect
28 to events and circumstances occurring after the effective date
29 of this subpart and do not invalidate specific provisions
30 contained in existing provisions of the declaration, bylaws or

1 plats and plans of those planned communities.

2 * * *

3 Section 2. Section 5203 of Title 68 is amended by adding a
4 subsection to read:

5 § 5203. Construction and validity of declaration and bylaws.

6 * * *

7 (e) Interpretation and application of declaration.--The
8 executive board shall have the powers to interpret and apply the
9 declaration and bylaws, and to resolve all conflicts or disputes
10 requiring the interpretation and application of the declaration.
11 The executive board and its members shall have no liability for
12 exercising these powers provided they are exercised in good
13 faith and in the best interest of the association in the manner
14 set forth in section 3303 (relating to executive board members
15 and officers).

16 Section 3. Sections 5218, 5219(a) and (f), 5220(a), 5221,
17 5302(a)(4), (6), (8) and (12) and 5303(a) of Title 68 are
18 amended to read:

19 § 5218. Easement to facilitate completion, conversion and
20 expansion.

21 Subject to the provisions of the declaration, a declarant has
22 an easement through the common elements as may be reasonably
23 necessary for the purpose of discharging a declarant's
24 obligations or exercising special declarant rights. In addition,
25 without affecting the rights, if any, of each unit owner with
26 respect to the use and enjoyment of the common elements, subject
27 to the provisions of the declaration, each unit owner and its
28 agents, contractors and invitees shall have a nonexclusive
29 access easement through the common elements as may be reasonably
30 necessary for the purpose of construction, repair and renovation

1 of the owner's unit. An association shall have the power during
2 spring thaw conditions to restrict road usage by vehicles of
3 more than ten tons gross weight, provided:

4 (1) such restrictions shall be imposed only on a week-
5 by-week basis for an aggregate period not to exceed eight
6 weeks during any calendar year;

7 (2) thaw conditions shall be reviewed by the association
8 at least weekly; and

9 (3) signs shall be conspicuously posted by the
10 association at all entrances to the planned community
11 advising when and where such thaw restrictions are
12 applicable.

13 An association shall not have the power to impose any fees or
14 charges or require financial security, including, but not
15 limited to, surety bonds, letters of credit or escrow deposits
16 for the use of the easement rights described in this section[.

17 An association shall be entitled to recover costs and expenses
18 incurred by the association for the repair of damage caused to
19 common elements in the exercise of the easement rights.];

20 however, the declarant or owner who exercises the easement
21 rights described in this section, whether directly or indirectly
22 through an agent, servant, contractor or employee, shall have
23 the obligation to promptly return any damaged portion of the
24 common elements to the appearance, condition and function in
25 which it existed prior to the exercise of the easement, or to
26 reimburse the association for all reasonable costs, fees and
27 expenses incurred by the association to return any damaged
28 portion of the common elements to the appearance, condition and
29 function in which it existed prior to the exercise of the
30 easement.

§ 5219. Amendment of declaration.

(a) Number of votes required.--

(1) [The] Without regard for any larger majority the declaration may specify or the absence of any amendment provisions in the declaration, the declaration, including the plats and plans, may be amended only by vote of at least:

(i) 67% of the association;

(ii) a larger percentage of the association specified in the declaration; or

(iii) a smaller percentage of the association specified in the declaration if all units are restricted exclusively to nonresidential use.

(2) Paragraph (1) is limited by subsection (d).

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

(i) Amendments executed by a declarant under:

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

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

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

(ii) Amendments executed by the association under:

(A) subsection (f);

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

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

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

(E) section 5215 (relating to subdivision or

conversion of units).

(iii) Amendments executed by certain unit owners under:

(A) section 5209(b);

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

(C) section 5215; or

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

* * *

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

(1) cure an ambiguity;

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

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

(4) comply with any statute, regulation, code or ordinance which may now or hereafter be made applicable to the planned community or association, or to make a reasonable accommodation or permit a reasonable modification in favor of handicapped, as may be defined by prevailing Federal or State

1 laws or regulations applicable to the association, unit
2 owners, residents or employees;
3 then, at any time, the executive board may, at its discretion,
4 effect an appropriate corrective amendment without the approval
5 of the unit owners or the holders of liens on all or any part of
6 the planned community, upon receipt of an opinion from
7 independent legal counsel to the effect that the proposed
8 amendment is permitted by the terms of this subsection.

9 § 5220. Termination of planned community.

10 (a) Number of votes required.--[Except] Without regard for
11 the provisions of any declaration purporting to establish any
12 self-executing deadline or termination date for any planned
13 community existing under this subpart or any planned community
14 or "PUD" created prior to the adoption of this subpart, and
15 except in the case of a taking of all the units by eminent
16 domain in section 5107 (relating to eminent domain), [a] no
17 planned community may be terminated [only] except by the written
18 agreement of unit owners of units to which at least 80%, or such
19 larger percentage specified in the declaration, of the votes in
20 the association are allocated. The declaration may specify a
21 smaller percentage only if all of the units in the planned
22 community are restricted exclusively to nonresidential uses.

23 * * *

24 § 5221. Rights of secured lenders.

25 (a) Secured lender approval.--The declaration may require
26 that all or a specified number or percentage of the mortgagees
27 or beneficiaries of deeds of trust encumbering the units approve
28 specified actions of the unit owners or the association as a
29 condition to the effectiveness of those actions, but no
30 requirement for approval may operate to do any of the following:

1 (1) Deny or delegate control over the general
2 administrative affairs of the association by the unit owners
3 or the executive board.

4 (2) Prevent the association or the executive board from
5 commencing, intervening in or settling any litigation or
6 proceeding or receiving and distributing any insurance
7 proceeds except under section 5312 (relating to insurance).

8 (b) Secured lender approval procedures.--If the declaration
9 requires mortgagees or beneficiaries of deeds of trust
10 encumbering the units to approve specified actions of the unit
11 owners or the association as a condition to the effectiveness of
12 those actions, then the executive board will provide the lender
13 with written notice of the specified action proposed to be
14 taken, together with a request for the secured lender to approve
15 or disapprove the actions specified. If the notice to the
16 secured lender states that the secured lender will be deemed to
17 have approved the actions specified in the written notice if it
18 does not respond to the request within 30 days, and the secured
19 lender does not respond in writing within 30 days, then the
20 secured lender will be deemed for all purposes to have approved
21 the action specified in the notice. Written notice to the
22 secured lender shall be given by first-class mail, postage
23 prepaid, at the address provided by the secured lender, or in
24 the absence thereof, at the address of the secured lender
25 endorsed on any mortgage or deed of trust of record, or the
26 address to which the unit owner mails any periodic payment paid
27 to the secured lender; the notice to the secured lender shall
28 include a statement of the specified action, a copy of the full
29 text of any proposed amendment, and a form prepared by the
30 association upon which the secured lender may indicate its

1 approval or rejection of the specified action or amendment.

2 § 5302. Power of unit owners' association.

3 (a) General rule.--Except as provided in subsection (b) and
4 subject to the provisions of the declaration and the limitations
5 of this subpart, the association, even if unincorporated, may:

6 * * *

7 (4) Institute, defend or intervene in litigation or
8 administrative proceedings, or engage in arbitrations or
9 mediations, in its own name on behalf of itself or two or
10 more unit owners on matters affecting the planned community.

11 * * *

12 (6) Regulate the use, maintenance, repair, replacement
13 and modification of common elements; and make reasonable
14 accommodations, or permit reasonable modifications to be made
15 to units, the common facilities, the controlled facilities or
16 the common elements, to accommodate people with disabilities,
17 as defined by prevailing Federal, State or local statute,
18 regulations, code or ordinance, unit owners, residents,
19 tenants or employees.

20 * * *

21 (8) Acquire, hold, encumber and convey in its own name
22 any right, title or interest to real or personal property,
23 and pledge or assign assessment income necessary to create
24 amortization reserves to retire debts, but common facilities
25 may be conveyed or subjected to a security interest only
26 under the provisions of section 5318 (relating to conveyance
27 or encumbrance of common facilities). Reserve funds held for
28 future major repairs and replacements of the common elements
29 or controlled facilities may not be assigned or pledged.

30 * * *

1 (12) Impose reasonable charges for the preparation and
2 recording of amendments to the declaration, resale
3 certificates required by section 5407 (relating to resales of
4 units) which shall be one charge that may be made by the
5 association solely because of the resale or retransfer of any
6 unit or statement of unpaid assessments. In addition, an
7 association may impose a capital improvement fee, but no
8 other fees, on the resale or transfer of units in accordance
9 with the following:

10 (i) The capital improvement fee for any unit shall
11 not exceed the annual assessments for general common
12 expense charged to such unit during the most recently
13 completed fiscal year of the association, provided that:

14 (A) in the case of resale or transfer of a unit
15 consisting of unimproved real estate, the capital
16 improvement fee shall not exceed one-half of the
17 annual assessments for general common expenses
18 charged to such unit during the most recently
19 completed fiscal year of the association; [and]

20 (B) in the case of resale or transfer of a unit
21 which was either created or added to the planned
22 community in accordance with section 5211 (relating
23 to conversion and expansion of flexible planned
24 communities) at some time during the most recently
25 completed fiscal year of the association but was not
26 in existence for the entire fiscal year, the capital
27 improvement fee shall not exceed one-half of the
28 annual assessments for general common expenses
29 charged to a unit comparable to such unit during the
30 most recently completed fiscal year of the

1 association[.]; and

2 (C) capital improvement fees are not refundable
3 upon any sale, conveyance or any other transfer of
4 the title to a unit.

5 (ii) Capital improvement fees allocated by an
6 association must be maintained in a separate capital
7 account and may be expended only for new capital
8 improvements or replacement of existing common elements
9 and may not be expended for operation, maintenance or
10 other purposes.

11 (iii) No capital improvement fee shall be imposed on
12 any gratuitous transfer of a unit between any of the
13 following family members: spouses, parent and child,
14 siblings, grandparent and grandchild.

15 (iv) No fees may be imposed upon any person who:

16 (A) acquires a unit consisting of unimproved
17 real estate and signs and delivers to the association
18 at the time of such person's acquisition a sworn
19 affidavit declaring the person's intention to
20 reconvey such unit within 18 months of its
21 acquisition; and

22 (B) completes such reconveyance within such 18
23 months.

24 * * *

25 § 5303. Executive board members and officers.

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

1 shall stand in a fiduciary relation to the association and shall
2 perform their duties, including duties as members of any
3 committee of the board upon which they may serve, in good faith;
4 in a manner they reasonably believe to be in the best interests
5 of the association; and with care, including reasonable inquiry,
6 skill and diligence as a person of ordinary prudence would use
7 under similar circumstances. In authorizing the investment of
8 association funds, including, but not limited to, reserves, the
9 officers and members of the executive board shall exercise that
10 degree of judgment and care, under the then prevailing
11 circumstances of the association, which persons of prudence,
12 discretion and intelligence would exercise in the management of
13 their own affairs, not in regard to speculation, but in regard
14 to the permanent disposition of their funds, considering the
15 probable income to be derived therefrom as well as the probable
16 safety of their capital. In performing any duties, an officer or
17 executive board member shall be entitled to rely in good faith
18 on information, opinions, reports or statements, including
19 financial statements and other financial data, in each case
20 prepared or presented by any of the following:

21 (1) One or more other officers or employees of the
22 association whom the officer or executive board member
23 reasonably believes to be reliable and competent in the
24 matters presented.

25 (2) Counsel, public accountants or other persons as to
26 matters which the officer or executive board member
27 reasonably believes to be within the professional or expert
28 competence of that person.

29 (3) A committee of the executive board upon which the
30 officer or executive board member does not serve, designated

1 in accordance with law, as to matters within its designated
2 authority, which committee the officer or executive board
3 member reasonably believes to merit confidence.

4 * * *

5 Section 4. Sections 5312(a), (c), (f) and (h) and 5315(b) of
6 Title 68 are amended and the sections are amended by adding
7 subsections to read:

8 § 5312. Insurance.

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

13 (1) Property insurance on the common facilities and
14 controlled facilities to the extent the controlled facilities
15 can be insured separately from the unit and, if insurance for
16 the unit is not provided by the association under subsection
17 (b) or the declaration, insuring against all common risks of
18 direct physical loss. The total amount of insurance after
19 application of any deductibles shall be not less than 80% of
20 the actual cash value of the insured property, exclusive of
21 land, excavations, foundations and other items normally
22 excluded from property policies.

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

30 (3) Any property or comprehensive general liability

1 insurance carried by the association may contain a deductible
2 provision in a reasonable amount to be determined by the
3 executive board based on the prevailing circumstances of the
4 association and market conditions for the insurance to be
5 carried.

6 * * *

7 (c) Other insurance carried by association.--If the
8 insurance described in subsections (a) and (b) is not
9 maintained, the association promptly shall cause notice of that
10 fact to be hand delivered or sent prepaid by United States mail
11 to all unit owners. The declaration may require the association
12 to carry any other insurance. The association may carry any
13 other insurance [it deems] in such reasonable amounts and with
14 such reasonable deductibles as it may deem appropriate to
15 protect the association or the unit owners.

16 * * *

17 (f) Unit owner insurance.--It shall be the obligation of the
18 owner to insure his unit for all losses not covered by such
19 insurance as is provided by the association in accordance with
20 this section or the declaration. A residential unit owner shall
21 insure the owner's unit except as insurance is provided by the
22 association in accordance with this section or the declaration.
23 An insurance policy issued to the association [does] shall not
24 prevent a unit owner from obtaining insurance for the owner's
25 own benefit, including, but not limited to, insurance to cover
26 any deductibles or losses not covered by the association's
27 property or comprehensive general liability insurance.

28 * * *

29 (h) Disposition of insurance proceeds.--

30 (1) Any portion of the planned community for which

1 insurance is required to be maintained by the association by
2 this section or the declaration and which is damaged or
3 destroyed shall be repaired or replaced promptly by the
4 association unless:

5 (i) the planned community is terminated;

6 (ii) repair or replacement would be illegal under
7 any State or local health or safety statute or ordinance;
8 or

9 (iii) 80% of the unit owners, including every owner
10 of a unit or assigned limited common element which will
11 not be rebuilt, vote not to rebuild.

12 [The] Except for the costs of repair or replacement which are
13 not covered due to deductibles, the cost of repair or
14 replacement of those portions in excess of insurance proceeds
15 and reserves, which have not been identified by the executive
16 board to fund costs of capital expenditures budgeted for the
17 current fiscal year of the association, is a common expense.

18 (2) Any portion of the planned community for which
19 insurance is required to be maintained by the unit owner by
20 this section or the declaration and which is damaged or
21 destroyed shall be repaired or replaced promptly by the unit
22 owner unless:

23 (i) the planned community is terminated;

24 (ii) repair or replacement would be illegal under
25 any State or local health or safety statute or ordinance;
26 or

27 (iii) 80% of the unit owners, including every owner
28 of a unit or assigned limited common element which will
29 not be rebuilt, vote to not rebuild.

30 The cost of repair or replacement of these portions in excess

1 of insurance proceeds is the unit owner's expense.

2 (3) If the entire planned community is not repaired or
3 replaced, the following apply:

4 (i) The insurance proceeds attributable to the
5 damaged common elements shall be used to restore the
6 damaged area to a condition compatible with the remainder
7 of the planned community.

8 (ii) The insurance proceeds attributable to units
9 shall be paid to unit owners except those proceeds
10 attributable to controlled facilities for which insurance
11 is separately maintained by the association under this
12 section or the declaration shall be distributed to all
13 unit owners in proportion to their common expense
14 liability. Proceeds attributable to limited common
15 facilities which are not rebuilt shall be distributed
16 equally to owners of units to which those limited common
17 facilities were assigned.

18 (iii) The remainder of the proceeds shall be
19 distributed to all the unit owners in proportion to their
20 common expense liability.

21 (4) If the unit owners vote not to rebuild any unit,
22 that unit's votes in the association and common expense
23 liability are automatically reallocated upon the vote as if
24 the unit had been condemned under section 5107(a) (relating
25 to eminent domain), and the association promptly shall
26 prepare, execute and record an amendment to the declaration
27 reflecting the reallocations.

28 (5) Notwithstanding the provisions of this subsection,
29 section 5220 (relating to termination of planned community)
30 governs the distribution of insurance proceeds if the planned

community is terminated.

* * *

(j) Recovery of deductibles.--If any insurance policy maintained by the association contains a deductible, then that portion of any loss or claim which is not covered by insurance due to the application of a deductible, as well as any claim or loss for which the association is self-insured, shall be levied by the executive board in accordance with section 5314(c) (relating to assessments for common expenses) to the extent applicable, or in the absence of the application, in a pro rata manner, as a common expense assessment against all of the units benefited by the repair or replacement.

§ 5315. Lien for assessments.

* * *

(b) Priority of lien.--

(1) General rule.--A lien under this section is prior to all other liens and encumbrances on a unit except:

(i) Liens and encumbrances recorded before the recording of the declaration.

(ii) First mortgages or deeds of trust on the unit securing first mortgage holders and recorded before due date of the assessment if the assessment is not payable in installments or the due date of the unpaid installment if the assessment is payable in installments.

(iii) Liens for real estate taxes and other governmental assessments or charges against the unit.

(2) Limited nondivestiture.--The association's lien for common expenses shall be divested by a judicial sale [of] in foreclosure of the first mortgage on the unit:

(i) [As] Except as to unpaid [common expense

1 assessments made under section 5314(b) (relating to
2 assessments for common expenses)] assessments for which
3 the association has a lien under this section that come
4 due during the six months immediately preceding
5 [institution of] a judicial sale of a unit in an action
6 to enforce collection of a lien against a unit [by a
7 judicial sale, only to the extent that the six months'
8 unpaid assessments are paid out of the proceeds of the
9 sale].

10 (ii) As to unpaid [common expense] assessments [made
11 under section 5314(b)] for which the association has a
12 lien under this section other than the six months'
13 assessment referred to in subparagraph (i), in a full
14 amount of the unpaid assessments[, whether or not the
15 proceeds of the judicial sale are adequate to pay these
16 assessments]. To the extent that the proceeds of the sale
17 are sufficient to pay some or all of [these] the
18 additional unpaid assessments after satisfaction in full
19 of the costs of the judicial sale and the liens and
20 encumbrances of the types described in paragraph (1) and
21 the unpaid common expense assessments that come due
22 during the six-month period described in subparagraph
23 (i), the assessments shall be paid before any remaining
24 proceeds may be paid to any other claimant, including the
25 prior owner of the unit.

26 (3) Monetary exemption.--The lien is not subject to the
27 provisions of 42 Pa.C.S. § 8123 (relating to general monetary
28 exemption).

29 * * *

30 (i) Application of payments.--Unless the declaration

1 provides otherwise, any payment received by an association in
2 connection with the lien under this section shall be applied
3 first to any interest accrued by the association, then to any
4 late fee, then to any costs and reasonable attorney fees
5 incurred by the association in collection or enforcement and
6 then to the delinquent assessment. The foregoing shall be
7 applicable notwithstanding any restrictive endorsement,
8 designation or instructions placed on or accompanying a payment.

9 Section 5. This act shall take effect in 60 days.