
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1774 Session of
2015

INTRODUCED BY R. BROWN, BARRAR, COHEN, DAVIS, EMRICK, GIBBONS,
A. HARRIS, HEFFLEY, MALONEY, MILLARD, O'NEILL, THOMAS,
TOEPEL, MOUL AND KORTZ, JANUARY 5, 2016

SENATOR WAGNER, URBAN AFFAIRS AND HOUSING, IN SENATE, AS
AMENDED, SEPTEMBER 27, 2016

AN ACT

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

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

22 ~~Section 1. Title 68 of the Pennsylvania Consolidated~~ <--
23 ~~Statutes is amended by adding sections to read:~~

1 SECTION 1. SECTION 3103 OF TITLE 68 OF THE PENNSYLVANIA
2 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
3 § 3103. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBPART AND
5 IN THE DECLARATION AND BYLAWS SHALL HAVE THE MEANINGS GIVEN TO
6 THEM IN THIS SECTION UNLESS SPECIFICALLY PROVIDED OTHERWISE OR
7 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

8 * * *

9 "ALTERNATIVE DISPUTE RESOLUTION." A PROCEDURE FOR SETTLING A
10 DISPUTE BY MEANS OTHER THAN LITIGATION, SUCH AS ARBITRATION OR
11 MEDIATION.

12 * * *

13 "UNIT OWNER IN GOOD STANDING." A UNIT OWNER WHO IS CURRENT
14 IN PAYMENT OF ASSESSMENTS AND FINES, UNLESS THE ASSESSMENTS OR
15 FINES ARE DIRECTLY RELATED TO A COMPLAINT FILED WITH THE BUREAU
16 OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY GENERAL
17 REGARDING SECTION 3308 (RELATING TO MEETINGS), 3309 (RELATING TO
18 QUORUMS), 3310 (RELATING TO VOTING; PROXIES) OR 3316 (RELATING
19 TO ASSOCIATION RECORDS).

20 * * *

21 SECTION 2. TITLE 68 IS AMENDED BY ADDING SECTIONS TO READ:

22 § 3321. ~~Mediation or alternative~~ ALTERNATIVE dispute resolution <--
23 in condominiums.

24 (a) Applicability.--

25 (1) A condominium established after the effective date
26 of this section shall adopt bylaws in compliance with this
27 section.

28 (2) A condominium established on or before the effective
29 date of this section may adopt bylaws in compliance with the
30 provisions of this section.

1 (b) Procedures.--

2 (1) The bylaws shall establish procedures for ~~mediation~~ <--
3 ~~or~~ AN alternative dispute resolution procedure for disputes <--
4 between:

5 (i) two or more unit owners; or

6 (ii) a unit owner and the association.

7 (2) ~~Mediation or alternative~~ ALTERNATIVE dispute <--
8 resolution shall be limited to disputes where all parties
9 agree to ~~mediation or~~ alternative dispute resolution. <--

10 (3) Costs and fees associated with ~~mediation or~~ <--
11 alternative dispute resolution, excluding attorney fees,
12 shall be assessed equally against all parties to a dispute.

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

17 § 3322. Complaints filed with Bureau of Consumer Protection.

18 (a) General rule.--A unit owner in good standing may file a
19 complaint with the Bureau of Consumer Protection in the Office
20 of Attorney General in the event of a violation by the declarant
21 or the association of sections 3308 (relating to meetings), 3309
22 (relating to quorums), 3310 (relating to voting; proxies) and
23 3316 (relating to association records).

24 (b) Condition.--If a ~~mediation or~~ AN alternative dispute <--
25 resolution procedure is available to the unit owner under the
26 association's declaration, bylaws, rules or regulations, a
27 complaint may not be filed by a unit owner with the Bureau of
28 Consumer Protection until the earlier of:

29 (1) the unit owner exhausting the ~~mediation or~~ <--
30 alternative dispute resolution procedure without a resolution

1 between the unit owner and the association; or
2 (2) at least 100 days have passed since the unit owner
3 commenced the ~~mediation or~~ alternative dispute resolution <--
4 procedure and the unit owner and association having not
5 reached a resolution.

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

8 (1) a ~~mediation or~~ AN alternative dispute resolution <--
9 procedure is not available to the unit owner under the
10 association's declaration, bylaws, rules or regulations; or

11 (2) the association refuses ~~mediation or~~ alternative <--
12 dispute resolution under section 3321(b)(2) (relating to
13 ~~mediation or~~ alternative dispute resolution in condominiums). <--

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

18 ~~(e) Definitions. As used in this section, the following~~ <--
19 ~~words and phrases shall have the meanings given to them in this~~
20 ~~subsection unless the context clearly indicates otherwise:~~

21 ~~"Unit owner in good standing." A unit owner who is current~~
22 ~~in payment of assessments and fines, unless the assessment or~~
23 ~~fines are directly related to the complaint being filed with the~~
24 ~~Bureau of Consumer Protection regarding sections 3308 (relating~~
25 ~~to meetings), 3309 (relating to quorums), 3310 (relating to~~
26 ~~voting; proxies) and 3316 (relating to association records).~~

27 Section 2 3. Section 3412 of Title 68 is amended to read: <--
28 § 3412. Effect of violations on rights of action.

29 If a declarant or any other person subject to this subpart
30 violates any provision thereof or any provision of the

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

7 SECTION 4. SECTION 4103 OF TITLE 68 IS AMENDED BY ADDING <--
8 DEFINITIONS TO READ:

9 § 4103. DEFINITIONS.

10 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
11 PROVISIONS OF THIS SUBPART WHICH ARE APPLICABLE TO SPECIFIC
12 PROVISIONS OF THIS SUBPART, THE FOLLOWING WORDS AND PHRASES WHEN
13 USED IN THIS SUBPART AND IN THE DECLARATION AND BYLAWS SHALL
14 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
15 CONTEXT CLEARLY INDICATES OTHERWISE:

16 * * *

17 "ALTERNATIVE DISPUTE RESOLUTION." A PROCEDURE FOR SETTLING A
18 DISPUTE BY MEANS OTHER THAN LITIGATION, SUCH AS ARBITRATION OR
19 MEDIATION.

20 * * *

21 "PROPRIETARY LESSEE IN GOOD STANDING." A PROPRIETARY LESSEE
22 WHO IS CURRENT IN PAYMENT OF ASSESSMENTS AND FINES, UNLESS THE
23 ASSESSMENTS OR FINES ARE DIRECTLY RELATED TO A COMPLAINT FILED
24 WITH THE BUREAU OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY
25 GENERAL REGARDING SECTION 4308 (RELATING TO MEETINGS), 4309
26 (RELATING TO QUORUMS), 4310 (RELATING TO VOTING; PROXIES) OR
27 4317 (RELATING TO ASSOCIATION RECORDS).

28 * * *

29 Section 3 5. Title 68 is amended by adding sections to read: <--
30 § 4322. ~~Mediation or alternative~~ ALTERNATIVE dispute resolution <--

1 in cooperatives.

2 (a) Applicability.--

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

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

9 (b) Procedures.--

10 (1) The bylaws shall establish procedures for
11 alternative dispute resolution ~~or mediation~~ of disputes <--
12 between:

13 (i) two or more proprietary lessees; or

14 (ii) a proprietary lessee and the association.

15 (2) ~~Mediation or alternative~~ ALTERNATIVE dispute <--
16 resolution shall be limited to disputes where all parties
17 agree to ~~mediation or~~ alternative dispute resolution. <--

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

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

25 § 4323. Complaints filed with Bureau of Consumer Protection.

26 (a) General rule.--A proprietary lessee in good standing may
27 file a complaint with the Bureau of Consumer Protection in the
28 Office of Attorney General in the event of a violation by the
29 declarant or the association of sections 4308 (relating to
30 meetings), 4309 (relating to quorums), 4310 (relating to voting;

1 proxies) and 4317 (relating to association records).

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

8 (1) the proprietary lessee exhausting the ~~mediation or~~ <--
9 alternative dispute resolution procedure without a resolution
10 between the proprietary lessee and the association; or

11 (2) at least 100 days have passed since the proprietary
12 lessee commenced the ~~mediation or~~ alternative dispute <--
13 resolution procedure and the proprietary lessee and
14 association having not reached a resolution.

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

18 (1) a ~~mediation or~~ AN alternative dispute procedure is <--
19 not available to the proprietary lessee under the
20 association's declaration, bylaws, rules or regulations; or

21 (2) the association refuses ~~mediation or~~ alternative <--
22 dispute resolution under section 4322(b)(2) (relating to
23 ~~mediation or~~ alternative dispute resolution in cooperatives). <--

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

28 (e) Definitions. As used in this section, the following <--
29 words and phrases shall have the meanings given to them in this
30 subsection unless the context clearly indicates otherwise:

1 ~~"Proprietary lessee in good standing." A proprietary lessee~~
2 ~~who is current in payment of assessments and fines, unless the~~
3 ~~assessment or fines are directly related to the complaint being~~
4 ~~filed with the Bureau of Consumer Protection regarding sections~~
5 ~~4308 (relating to meetings), 4309 (relating to quorums), 4310~~
6 ~~(relating to voting; proxies) and 4317 (relating to association~~
7 ~~records).~~

8 SECTION 6. SECTION 5103 OF TITLE 68 IS AMENDED BY ADDING <--
9 DEFINITIONS TO READ:

10 § 5103. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBPART AND
12 IN THE DECLARATION AND BYLAWS SHALL HAVE THE MEANINGS GIVEN TO
13 THEM IN THIS SECTION UNLESS SPECIFICALLY PROVIDED OTHERWISE OR
14 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 * * *

16 "ALTERNATIVE DISPUTE RESOLUTION." A PROCEDURE FOR SETTLING A
17 DISPUTE BY MEANS OTHER THAN LITIGATION, SUCH AS ARBITRATION OR
18 MEDIATION.

19 * * *

20 "UNIT OWNER IN GOOD STANDING." A UNIT OWNER WHO IS CURRENT
21 IN PAYMENT OF ASSESSMENTS AND FINES, UNLESS THE ASSESSMENTS OR
22 FINES ARE DIRECTLY RELATED TO A COMPLAINT FILED WITH THE BUREAU
23 OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY GENERAL
24 REGARDING SECTION 5308 (RELATING TO MEETINGS), 5309 (RELATING TO
25 QUORUMS), 5310 (RELATING TO VOTING; PROXIES) OR 5316 (RELATING
26 TO ASSOCIATION RECORDS).

27 * * *

28 Section 4 7. ~~The act~~ TITLE 68 is amended by adding sections <--
29 to read:

30 § 5321. Mediation or alternative ALTERNATIVE dispute resolution <--

1 in planned communities.

2 (a) Applicability.--

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

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

9 (b) Procedures.--

10 (1) The bylaws shall establish procedures for
11 alternative dispute resolution ~~or mediation~~ of disputes <--
12 between:

13 (i) two or more unit owners; or

14 (ii) a unit owner and the association.

15 (2) ~~Mediation or alternative~~ ALTERNATIVE dispute <--
16 resolution shall be limited to disputes where all parties
17 agree to ~~mediation or~~ alternative dispute resolution. <--

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

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

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

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

1 voting; proxies).

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

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

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

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

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

19 (2) the association refuses ~~mediation or~~ alternative <--
20 dispute resolution under section 5321(b)(2) (relating to
21 ~~mediation or~~ alternative dispute resolution in planned <--
22 communities).

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

27 ~~(e) Definitions. As used in this section, the following~~ <--
28 ~~words and phrases shall have the meanings given to them in this~~
29 ~~subsection unless the context clearly indicates otherwise:~~

30 "Unit owner in good standing." A unit owner who is current

1 ~~in payment of assessments and fines, unless the assessment or~~
2 ~~finer are directly related to the complaint being filed with the~~
3 ~~Bureau of Consumer Protection regarding sections 5308 (relating~~
4 ~~to meetings), 5309 (relating to quorums), 5310 (relating to~~
5 ~~voting; proxies) and 5316 (relating to association records).~~

6 Section 5 8. Section 5412 of Title 68 is amended to read: <--

7 § 5412. Effect of violations on rights of action.

8 If a declarant or any other person subject to this subpart
9 violates any provision of this subpart or any provisions of the
10 declaration or bylaws, any person or class of persons adversely
11 affected by the violation has a claim for appropriate relief.
12 Punitive damages may be awarded in the case of a willful
13 violation of the subpart and, if appropriate, the prevailing
14 party may be entitled to an award of costs and reasonable
15 attorney fees.

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