

REAL AND PERSONAL PROPERTY (68 PA.C.S.) - OMNIBUS AMENDMENTS
Act of May. 4, 2018, P.L. 96, No. 17 Cl. 68
Session of 2018
No. 2018-17

HB 595

AN ACT

Amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, as follows:
in general provisions, further providing for definitions;
in management of the condominium, providing for alternative dispute resolution in condominiums and for complaints filed with Bureau of Consumer Protection;
in protection of purchasers, further providing for effect of violations on rights of action;
in general provisions, further providing for definitions;
in management of cooperatives, providing for alternative dispute resolution in cooperatives and for complaints filed with Bureau of Consumer Protection;
in general provisions, further providing for definitions;
in management of planned community, providing for alternative dispute resolution in planned communities and for complaints filed with Bureau of Consumer Protection;
and,
in protection of purchasers, further providing for effect of violations on rights of action.

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

Section 1. Section 3103 of Title 68 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read: § 3103. Definitions.

The following words and phrases when used in this subpart and in the declaration and bylaws shall have the meanings given to them in this section unless specifically provided otherwise or unless the context clearly indicates otherwise:

* * *

"Alternative dispute resolution." A procedure for settling a dispute by means other than litigation, such as arbitration or mediation.

* * *

"Unit owner in good standing." A unit owner who is current in payment of assessments and fines, unless the assessments or fines are directly related to a complaint filed with the Bureau of Consumer Protection in the Office of Attorney General regarding section 3308 (relating to meetings), 3309 (relating to quorums), 3310 (relating to voting; proxies) or 3316 (relating to association records).

* * *

Section 2. Title 68 is amended by adding sections to read: § 3321. **Alternative dispute resolution in condominiums.**

(a) **Applicability.--**

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

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

(b) **Procedures.--**

(1) The bylaws shall establish procedures for an alternative dispute resolution procedure for disputes between:

- (i) two or more unit owners; or
- (ii) a unit owner and the association.

(2) Alternative dispute resolution shall be limited to disputes where all parties agree to alternative dispute resolution.

(3) Costs and fees associated with alternative dispute resolution, excluding attorney fees, shall be assessed equally against all parties to a dispute.

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

§ 3322. Complaints filed with Bureau of Consumer Protection.

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

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

(1) the unit owner exhausting the alternative dispute resolution procedure without a resolution between the unit owner and the association; or

(2) at least 100 days have passed since the unit owner commenced the alternative dispute resolution procedure and the unit owner and association having not reached a resolution.

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

(1) an alternative dispute resolution procedure is not available to the unit owner under the association's declaration, bylaws, rules or regulations; or

(2) the association refuses alternative dispute resolution under section 3321(b) (2) (relating to alternative dispute resolution in condominiums).

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

Section 3. Section 3412 of Title 68 is amended to read:

§ 3412. Effect of violations on rights of action.

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

Section 4. Section 4103 of Title 68 is amended by adding definitions to read:

§ 4103. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases

when used in this subpart and in the declaration and bylaws shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Alternative dispute resolution." A procedure for settling a dispute by means other than litigation, such as arbitration or mediation.

* * *

"Proprietary lessee in good standing." A proprietary lessee who is current in payment of assessments and fines, unless the assessments or fines are directly related to a complaint filed with the Bureau of Consumer Protection in the Office of Attorney General regarding section 4308 (relating to meetings), 4309 (relating to quorums), 4310 (relating to voting; proxies) or 4317 (relating to association records).

* * *

Section 5. Title 68 is amended by adding sections to read:
§ 4322. Alternative dispute resolution in cooperatives.

(a) Applicability.--

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

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

(b) Procedures.--

(1) The bylaws shall establish procedures for an alternative dispute resolution for disputes between:

(i) two or more proprietary lessees; or

(ii) a proprietary lessee and the association.

(2) Alternative dispute resolution shall be limited to disputes where all parties agree to alternative dispute resolution.

(3) Costs and fees associated with alternative dispute resolution, excluding attorney fees, shall be assessed equally against all parties to a dispute.

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

§ 4323. Complaints filed with Bureau of Consumer Protection.

(a) General rule.--A proprietary lessee in good standing may file a complaint with the Bureau of Consumer Protection in the Office of Attorney General in the event of a violation by the declarant or the association of sections 4308 (relating to meetings), 4309 (relating to quorums), 4310 (relating to voting; proxies) and 4317 (relating to association records).

(b) Condition.--If an alternative dispute resolution procedure is available to the proprietary lessee under the association's declaration, bylaws, rules or regulations, a complaint may not be filed by a proprietary lessee with the Bureau of Consumer Protection until the earlier of:

(1) the proprietary lessee exhausting the alternative dispute resolution procedure without a resolution between the proprietary lessee and the association; or

(2) at least 100 days have passed since the proprietary lessee commenced the alternative dispute resolution procedure and the proprietary lessee and association having not reached a resolution.

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

(1) an alternative dispute resolution procedure is not available to the proprietary lessee under the association's declaration, bylaws, rules or regulations; or

(2) the association refuses alternative dispute resolution under section 4322(b)(2) (relating to alternative dispute resolution in cooperatives).

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

Section 6. Section 5103 of Title 68 is amended by adding definitions to read:

§ 5103. Definitions.

The following words and phrases when used in this subpart and in the declaration and bylaws shall have the meanings given to them in this section unless specifically provided otherwise or unless the context clearly indicates otherwise:

* * *

"Alternative dispute resolution." A procedure for settling a dispute by means other than litigation, such as arbitration or mediation.

* * *

"Unit owner in good standing." A unit owner who is current in payment of assessments and fines, unless the assessments or fines are directly related to a complaint filed with the Bureau of Consumer Protection in the Office of Attorney General regarding section 5308 (relating to meetings), 5309 (relating to quorums), 5310 (relating to voting; proxies) or 5316 (relating to association records).

* * *

Section 7. Title 68 is amended by adding sections to read:
§ 5321. Alternative dispute resolution in planned communities.

(a) Applicability.--

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

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

(b) Procedures.--

(1) The bylaws shall establish procedures for an alternative dispute resolution for disputes between:

(i) two or more unit owners; or

(ii) a unit owner and the association.

(2) Alternative dispute resolution shall be limited to disputes where all parties agree to alternative dispute resolution.

(3) Costs and fees associated with alternative dispute resolution, excluding attorney fees, shall be assessed equally against all parties to a dispute.

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

§ 5322. Complaints filed with Bureau of Consumer Protection.

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

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

(1) the unit owner exhausting the alternative dispute resolution procedure without a resolution between the unit owner and the association; or

(2) at least 100 days have passed since the unit owner commenced the alternative dispute resolution procedure and the unit owner and association having not reached a resolution.

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

(1) an alternative dispute resolution procedure is not available to the unit owner under the association's declaration, bylaws, rules or regulations; or

(2) the association refuses alternative dispute resolution under section 5321(b)(2) (relating to alternative dispute resolution in planned communities).

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

Section 8. Section 5412 of Title 68 is amended to read: § 5412. Effect of violations on rights of action.

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

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

APPROVED--The 4th day of May, A.D. 2018.

TOM WOLF