

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 862 Session of
1991

INTRODUCED BY SALVATORE, APRIL 3, 1991

REFERRED TO URBAN AFFAIRS AND HOUSING, APRIL 3, 1991

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, adding and revising
3 provisions relating to condominiums; and making editorial
4 changes.

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

7 Section 1. Section 3102 of Title 68 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 3102. Applicability of subpart.

10 (a) General rule.--This subpart applies to all condominiums
11 created within this Commonwealth after the effective date of
12 this subpart. [Sections] Subsection (b) and sections 3105
13 (relating to separate titles and taxation), 3106 (relating to
14 applicability of local ordinances, regulations and building
15 codes), 3107 (relating to eminent domain), 3203 (relating to
16 construction and validity of declaration and bylaws), 3204
17 (relating to description of units), 3222 (relating to master
18 associations), 3223 (relating to merger or consolidation of

1 condominiums), 3302(a)(1) through (6), (9) and (11) through (16)
2 (relating to powers of unit owners' association), 3311 (relating
3 to tort and contract liability), 3315 (relating to lien for
4 assessments), 3316 (relating to association records), 3407
5 (relating to resales of units) and 3412 (relating to effect of
6 violations on rights of action), and section 3103 (relating to
7 definitions) to the extent necessary in construing any of those
8 sections, apply to all condominiums created in this Commonwealth
9 before the effective date of this subpart; but those sections
10 apply only with respect to events and circumstances occurring
11 after the effective date of this subpart and do not invalidate
12 existing provisions of the declaration, code of regulations or
13 declaration plan of those condominiums.

14 (b) Prior statutory law.--The provisions of the act of July
15 3, 1963 (P.L.196, No.117), known as the ["Unit Property Act,["]
16 do not apply to condominiums created after the effective date of
17 this subpart and do not invalidate any amendment to the
18 declaration, code of regulations or declaration plan of any
19 condominium created before the effective date of this subpart if
20 the amendment would be permitted by this subpart. The amendment
21 must be adopted in conformity with the procedures and
22 requirements specified by those instruments and by the
23 provisions of the ["Unit Property Act.["] If the amendment
24 grants to any person any rights, powers or privileges permitted
25 by this subpart, all correlative obligations, liabilities and
26 restrictions in this subpart also apply to that person. By
27 amendment to the declaration, code of regulations and
28 declaration plan, a condominium created pursuant to the Unit
29 Property Act may be made subject to all of the provisions of
30 this subpart in lieu of the provisions of the Unit Property Act,

effective as of the date of recordation of such amendments and
without in any way terminating the condominium status of the
property or in any way affecting any lien or encumbrance on the
property, if the terms of such amended documents conform to the
requirements of this subpart and if such amendments have been
approved by all the persons whose actions would have been
required to effect a removal of the property from the Unit
Property Act pursuant to section 601 thereof. No amendment of:

(1) the declaration, code of regulations or declaration
plan of a condominium created pursuant to the Unit Property
Act; or

(2) the declaration, bylaws or plats and plans of a
condominium created pursuant to this subpart;
may increase the obligations or responsibilities of a declarant
(as such and not as a unit owner) without the joinder of the
declarant in such amendment.

(c) Condominiums outside Commonwealth.--This subpart does
not apply to condominiums or units located outside this
Commonwealth, but the public offering statement provisions
(sections 3402 through 3405) apply to all dispositions thereof
in this Commonwealth unless exempt under section 3401(b)(5)
(relating to applicability; waiver).

Section 2. The definitions of "affiliate of a declarant,"
"common expenses," "conversion condominium," "declarant,"
"dispose or disposition," "limited common element," "offering,"
"purchaser" and "special declarant rights" in section 3103 of
Title 68 are amended and the section is amended by adding
definitions to read:

§ 3103. Definitions.

The following words and phrases when used in this subpart and

1 in the declaration and bylaws shall have the meanings given to
2 them in this section unless specifically provided otherwise or
3 unless the context clearly indicates otherwise:

4 * * *

5 "Affiliate of a declarant." Any person who controls, is
6 controlled by, or is under common control with a declarant.

7 (1) A person "controls" a declarant if the person:

8 (i) is a general partner, officer, director or
9 [employee] employer of the declarant;

10 (ii) directly or indirectly or acting in concert
11 with one or more other persons, or through one or more
12 subsidiaries, owns, controls, holds with power to vote,
13 or holds proxies representing, more than 20% of the
14 voting interests of the declarant;

15 (iii) controls in any manner the election of a
16 majority of the directors of the declarant; or

17 (iv) has contributed more than 20% of the capital of
18 the declarant.

19 (2) A person "is controlled by" a declarant if the
20 declarant:

21 (i) is a general partner, officer, director or
22 employee of the person;

23 (ii) directly or indirectly or acting in concert
24 with one or more other persons, or through one or more
25 subsidiaries, owns, controls, holds with power to vote,
26 or holds proxies representing, more than 20% of the
27 voting interests of the person;

28 (iii) controls in any manner the election of a
29 majority of the directors of the person; or

30 (iv) has contributed more than 20% of the capital of

1 the person.

2 (3) Control does not exist if the powers described in
3 paragraphs (1) and (2) are held solely as security for an
4 obligation and are not exercised.

5 * * *

6 "Common expenses." Expenditures made or liabilities incurred
7 by or on behalf of the association, together with any
8 allocations to reserves, including general common expenses and
9 limited common expenses.

10 * * *

11 "Conversion [condominium] building." A [condominium
12 containing any] building that at any time before [recording of
13 the declaration] the conversion notice date with respect to the
14 condominium in which the building is located was occupied wholly
15 or partially by persons other than purchasers and persons who
16 occupy with the consent of purchasers.

17 "Conversion notice." The notice required to be given to
18 tenants or subtenants by the terms of section 3410(a) (relating
19 to condominiums containing conversion buildings).

20 "Conversion notice date." The date on which the conversion
21 notice is placed in the United States mail, in the case of
22 mailed notices, or delivered to the unit leased by the
23 recipient, in the case of hand-delivered notices.

24 * * *

25 "Declarant."

26 (1) If the condominium has been created, "declarant"
27 means:

28 (i) any person who has executed a declaration, or an
29 amendment to a declaration to add additional real estate,
30 other than persons holding interests in the real estate

solely as security for an obligation, persons whose interests in the real estate will not be conveyed to unit owners, or, in the case of a leasehold condominium, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights; or

(ii) any person who succeeds under section 3304 (relating to transfer of special declarant rights) to any special declarant rights.

(2) If the condominium has not yet been created, "declarant" means any person who offers to dispose of or disposes of his interest in a unit to be created and not previously disposed of.

(3) If a declaration is executed by a trustee of a land trust, "declarant" means the beneficiary of the trust.

"Dispose" or "disposition." A voluntary transfer of any legal or equitable interest in a unit (or a proposed unit), other than as security for an obligation.

* * *

"Limited common element." A portion of the common elements allocated by or pursuant to the declaration or by operation of section 3202(2) or (4) (relating to unit boundaries) for the exclusive use of one or more but fewer than all of the units.

"Limited common expenses." All expenses identified as such pursuant to section 3314(c) (relating to assessments for common expenses).

"Master association." An organization described in section 3222 (relating to master associations), whether or not it is an association described in section 3301 (relating to organization of unit owners' association).

1 ["Offering."] "Offer" or "offering." Any advertisement,
2 inducement, solicitation or attempt to encourage any person to
3 acquire any interest in a unit, other than as security for an
4 obligation. An advertisement in a newspaper or other periodical
5 of general circulation, or in any broadcast medium to the
6 general public, of a condominium not located in this
7 Commonwealth, is not an offer or offering if the advertisement
8 states that an offer or offering may be made only in compliance
9 with the law of the jurisdiction in which the condominium is
10 located.

11 "Original lease termination date." The date on which the
12 lease or sublease of a residential tenant or subtenant in
13 possession of a unit in a conversion building will expire by the
14 terms of such lease or sublease, after taking into account any
15 renewal or extension rights that may have been exercised prior
16 to the conversion notice date.

17 * * *

18 "Purchaser." Any person, other than a declarant, who by
19 means of a [voluntary transfer] disposition acquires a legal or
20 equitable interest in a unit, other than:

21 (1) a leasehold interest (including renewal options) of
22 less than [five] 20 years, but a person who will become a
23 unit owner in a leasehold condominium upon consummation of
24 the disposition shall be deemed to be a purchaser; or

25 (2) as security for an obligation.

26 * * *

27 "Residential tenant" or "residential subtenant." A tenant or
28 subtenant, respectively, who is a natural person lawfully
29 occupying real estate for residential use.

30 "Special declarant rights." Rights reserved for the benefit

1 of a declarant to:

2 (1) Complete improvements indicated on plats and plans
3 filed with the declaration (section 3210).

4 (2) Convert convertible real estate in a flexible
5 condominium (section 3211).

6 (3) Add additional real estate to a flexible condominium
7 (section 3211).

8 (4) Withdraw withdrawable real estate from a flexible
9 condominium (section 3212).

10 (5) Convert a unit into two or more units, common
11 elements, or into two or more units and common elements
12 (section 3215).

13 (6) Maintain [sales] offices, [management offices,]
14 signs [advertising the condominium,] and models (section
15 3217).

16 (7) Use easements through the common elements for the
17 purpose of making improvements within the condominium or
18 within any convertible or additional real estate (section
19 3218).

20 (8) Cause the condominium to be merged or consolidated
21 with another condominium (section 3223).

22 (9) Make the condominium subject to a master association
23 (section 3222).

24 [(8)] (10) Appoint or remove any officer of the
25 association or any master association or any executive board
26 member during any period of declarant control (section
27 3303(c)).

28 * * *

29 Section 3. Sections 3113, 3201, 3205, 3208, 3210, 3211,
30 3215, 3217, 3218, 3219 and 3220 of Title 68 are amended to read:

1 § 3113. Remedies to be liberally administered.

2 (a) General rule.--The remedies provided by this subpart
3 shall be liberally administered to the end that the aggrieved
4 party is put in as good a position as if the other party had
5 fully performed. However, consequential, special or punitive
6 damages may not be awarded except as specifically provided in
7 this subpart or by other rule of law. Without limiting the
8 rights or remedies available to any person or classes of
9 persons, the Attorney General shall have the power to represent,
10 for the purpose of exercising any available right or seeking any
11 available remedy, one or more persons, including classes of
12 persons, who may have been injured by any breach of obligations
13 of a declarant under Chapter 34 (relating to protection of
14 purchasers).

15 (b) Judicial enforcement of rights and obligations.--Any
16 right or obligation declared by this subpart is enforceable by
17 judicial proceeding.

18 § 3201. Creation of condominium.

19 [(a) General rule.--]A condominium may be created pursuant
20 to this subpart only by recording a declaration executed, in the
21 same manner as a deed, by all persons whose interests in the
22 real estate will be conveyed to unit owners and by every lessor
23 of a lease the expiration or termination of which will terminate
24 the condominium or reduce its size, provided, however, in any
25 such lease wherein the lessor is the Commonwealth of
26 Pennsylvania, a municipal government or any agency thereof, said
27 lessor need not execute the declaration if they shall have
28 previously given written consent to its filing and agreed to be
29 bound by the provisions of the Pennsylvania Uniform Condominium
30 Act, in which case said declaration shall be executed by the

1 lessee then in possession of the subject property. The
2 declaration shall be recorded in every county in which any
3 portion of the condominium is located in the same records as are
4 maintained for the recording of deeds of real property and shall
5 be indexed against each declarant as the grantor and the name of
6 the condominium as the grantee.

7 [(b) Substantial completion prerequisite to recording.--A
8 declaration or an amendment to a declaration adding units to a
9 condominium, may not be recorded unless all structural
10 components and mechanical systems of all buildings containing or
11 comprising any units thereby created are substantially completed
12 in accordance with the plans, as evidenced by a recorded
13 certificate of completion executed by an independent registered
14 surveyor, architect or professional engineer. Whenever a plat or
15 plan complying with section 3210 (relating to plats and plans)
16 has been previously recorded pursuant to the act of July 31,
17 1968 (P.L.805, No.247), known as the "Pennsylvania
18 Municipalities Planning Code," or an ordinance regulating land
19 development, the plat or plan may be incorporated into the
20 declaration by reference.

21 (c) Substantial completion prerequisite to conveyance.--No
22 interest in a unit may be conveyed until the unit is
23 substantially completed as evidenced by a recorded certificate
24 of completion executed by an independent registered architect,
25 surveyor or professional engineer.

26 (d) Construction of section.--Nothing contained in this
27 section shall prevent the offering for sale of a unit or
28 interest in a unit or the execution of any agreement to sell and
29 purchase a unit or any interest in a unit (as opposed to actual
30 conveyance) prior to completion of the unit.]

1 § 3205. Contents of declaration; all condominiums.

2 The declaration for a condominium must contain:

3 (1) The name of the condominium which must include the
4 word "condominium" or be followed by the words "a
5 condominium."

6 (2) The name of every county in which any part of the
7 condominium is situated.

8 (3) A legally sufficient description of the real estate
9 included in the condominium.

10 (4) A description or delineation of the boundaries of
11 each unit including the unit's identifying number.

12 (5) A statement of the maximum number of units that may
13 be created by the subdivision or conversion of units owned by
14 the declarant pursuant to section 3215(c) (relating to
15 subdivision or conversion of units).

16 (6) A description of any limited common elements as
17 provided in section 3209 (relating to limited common
18 elements) and limited common expenses, if any, and how they
19 are to be assessed.

20 (7) A description of any common elements not within the
21 boundaries of any convertible real estate which may be
22 allocated subsequently as limited common elements together
23 with a statement that they may be so allocated and a
24 description of the method by which the allocations are to be
25 made.

26 (8) An allocation to each unit of an undivided interest
27 in the common elements, a portion of the votes in the
28 association and a percentage or fraction of the common
29 expenses of the association (section 3208).

30 (9) Any restrictions created by the declarant on use,

1 occupancy and alienation of the units.

2 (10) The recording data for recorded easements and
3 licenses appurtenant to or included in the condominium or to
4 which any portion of the condominium is or may become
5 subject.

6 (11) If all or any of the units are or may be owned in
7 time-share estates as defined in section 3403(a) (relating to
8 public offering statement; time-share estates), which units
9 may be owned in time-share estates and the maximum number of
10 time-share estates that may be created in the condominium, it
11 being intended that time-share estates shall not be permitted
12 except if and to the extent expressly authorized by the
13 declaration.

14 (12) If the declarant wishes to retain the special
15 declarant right to cause section 3222 (relating to master
16 associations) to become applicable to a condominium, then:

17 (i) an explicit reservation of such right;

18 (ii) a statement of the time limit, not exceeding
19 seven years after the recordation of the declaration,
20 upon which the option reserved under subparagraph (i)
21 will lapse, together with a statement of any
22 circumstances that will terminate the option before the
23 expiration of the time limit; and

24 (iii) the information required to be included in the
25 declaration by the provisions of section 3222.

26 (13) If the declarant wishes to retain the special
27 declarant right to merge or consolidate the condominium
28 pursuant to section 3223 (relating to merger or consolidation
29 of condominiums), then:

30 (i) an explicit reservation of such right;

1 (ii) a statement of the time limit, not exceeding
2 seven years after the recording of the declaration, upon
3 which any option reserved under subparagraph (i) will
4 lapse, together with a statement of any circumstances
5 that will terminate the option before the expiration of
6 the time limit;

7 (iii) a statement of the name and location of each
8 other condominium that may be subject to such a merger or
9 consolidation if such other condominiums exist and if
10 such other condominiums do not exist, then the
11 declaration shall include the following:

12 (A) A statement of the extent to which the
13 common element interest, relative voting strength in
14 the association and share of common expense liability
15 of each unit in the condominium at the time the
16 merger or consolidation is effectuated may be
17 increased or decreased by actions pursuant to any
18 option reserved under subparagraph (i), including the
19 formulas to be used for those reallocations.

20 (B) Legally sufficient descriptions of each
21 portion of real estate which is part of any other
22 condominiums which may be created and with which the
23 condominium may merge or consolidate.

24 (C) If mergers or consolidations may be
25 effectuated at different times, a statement to that
26 effect together with:

27 (I) either a statement fixing the boundaries
28 of those condominiums and regulating the order in
29 which they may be merged or consolidated or a
30 statement that no assurances are made in those

1 regards; and

2 (II) a statement as to whether, if any other
3 condominiums are merged or consolidated with the
4 condominium, all or any of such condominiums must
5 be merged or consolidated.

6 (D) A statement of:

7 (I) the maximum number of units that may be
8 created within any such other condominiums, the
9 boundaries of which are fixed pursuant to clause
10 (C);

11 (II) how many of those units will be
12 restricted exclusively to residential use; and

13 (III) the maximum number of units per acre
14 that may be created within any such other
15 condominiums, the boundaries of which are not
16 fixed pursuant to clause (C).

17 (E) If any of the units that may be built within
18 any such other condominiums are not to be restricted
19 exclusively to residential use, a statement with
20 respect to each portion of such other condominiums of
21 the maximum percentage of the real estate areas and
22 the maximum percentage of the floor areas of all
23 units that may be created therein that are not
24 restricted exclusively to residential use.

25 (F) A statement of the extent to which any
26 buildings and units that may be part of such other
27 condominiums will be compatible with the other
28 buildings and units in the condominium in terms of
29 architectural style, quality of construction,
30 principal materials employed in construction and

1 size, or a statement that no assurances are made in
2 those regards.

3 (G) A statement that all restrictions in the
4 declaration affecting use, occupancy and alienation
5 of units will apply to units created within any such
6 other condominiums, or a statement of any
7 differentiations that may be made as to those units.

8 (H) General descriptions of all other
9 improvements and limited common elements that may be
10 made or created within such other condominiums, or a
11 statement that no assurances are made in that regard.

12 (I) A statement of any limitations as to the
13 locations of any buildings or other improvements that
14 may be made within such other condominiums, or a
15 statement that no assurances are made in that regard.

16 (J) A statement that any limited common elements
17 created within any such other condominiums will be of
18 the same general types and sizes as those within the
19 condominium, or a statement of any other assurances
20 in that regard, or a statement that no assurances are
21 made in that regard.

22 (K) A statement that the proportion of limited
23 common elements to units created within such other
24 condominiums will be approximately equal to the
25 proportion existing within the condominium, or a
26 statement of any other assurances in that regard, or
27 a statement that no assurances are made in that
28 regard.

29 (L) A statement of the extent to which any
30 assurances made in the declaration regarding such

1 other condominiums pursuant to clauses (C) through
2 (K) apply in the event any such condominiums are not
3 merged or consolidated with the condominium, or a
4 statement that those assurances do not apply if the
5 condominiums are not merged or consolidated with the
6 condominium; and

7 (iv) a summary description of the other provisions
8 which materially change any rights, obligations or
9 liabilities that will be included in the agreement of
10 merger or consolidation if such right is exercised.

11 [(11)] (14) Any other matters the declarant deems
12 appropriate.

13 § 3208. Allocation of common element interests, votes and
14 common expense liabilities.

15 (a) General rule.--The declaration shall allocate a fraction
16 or percentage of undivided interests in the common elements and
17 in the common expenses of the association, and a portion of the
18 votes in the association, to each unit and state the formulas
19 used to establish those allocations. Such formulas may take into
20 account unusual attributes of identified units if the formulas
21 state how the deviation from the normal rule applies to such
22 units.

23 (b) Flexible condominiums.--[In a flexible condominium, the
24 common element interest and common expense liability allocated
25 to each unit must be equal, or proportionate to the relative
26 size of each unit, unless the declaration as originally
27 recorded:

28 (1) requires that any units created in additional or
29 convertible real estate be substantially identical to the
30 other units in the condominium and provides that common

1 element interests and common expense liabilities will be
2 allocated to those units in accordance with the formulas used
3 for the initial allocations; or

4 (2) identifies all other types of units that may be
5 created in additional or convertible real estate in terms of
6 architectural style, quality of construction, principal
7 materials to be used and ranges of sizes and states the
8 formulas upon which any reallocations of common element
9 interests and common expense liabilities will be made, or
10 states the common element interest and common expense
11 liability to be allocated to each unit that may be created.]

12 If units may be added to, including by conversion of convertible
13 real estate to one or more units, or withdrawn from the
14 condominium, the declaration must state the formulas to be used
15 to reallocate the fractions or percentages of undivided
16 interests in the common elements and in the common expenses of
17 the association, and the portions of the votes in the
18 association among all units included in the condominium after
19 the addition or withdrawal.

20 (c) Votes.--[The number of votes allocated to each unit must
21 be equal, proportionate to that unit's common expense liability,
22 or proportionate to that unit's common element interest. If the
23 declaration allocates an equal number of votes in the
24 association to each unit, each unit that may be subdivided or
25 converted by the declarant into two or more units, common
26 elements, or both (section 3215), must be allocated a number of
27 votes in the association proportionate to the relative size of
28 that unit compared to the aggregate size of all units and the
29 remaining votes in the association must be allocated equally to
30 the other units.] Each unit in the condominium shall be

1 allocated one or more votes in the condominium association. The
2 declaration shall specify how votes in the condominium shall be
3 allocated among the units and may provide:

4 (1) for different allocations of votes among the units
5 on particular matters specified in the declaration; and

6 (2) for class voting on specified issues affecting a
7 particular class of units if necessary to protect the valid
8 interests of the owners of such units and not affecting units
9 outside of the class.

10 Cumulative voting shall only be permitted if so provided
11 expressly in the declaration and only for the purpose of
12 electing members of the executive board. A declarant may not
13 utilize cumulative or class voting for the purpose of evading
14 any limitations imposed upon declarants by this subpart. The
15 declaration may provide that different allocations of votes
16 shall be made to the units on particular matters specified in
17 the declaration.

18 (d) Alteration or partition of allocations.--Except in the
19 case of eminent domain (section 3107), expansion or conversion
20 of a flexible condominium (section 3211), withdrawal of
21 withdrawable real estate (section 3212), relocation of
22 boundaries between adjoining units (section 3214) or subdivision
23 of units (section 3215), the common element interest, votes and
24 common expense liability allocated to any unit may not be
25 altered without unanimous consent of all unit owners. The common
26 elements are not subject to partition and any purported
27 conveyance, encumbrance, judicial sale or other voluntary or
28 involuntary transfer of an undivided interest in the common
29 elements made without the unit to which it is allocated is void.

30 (e) Calculations for undivided interests.--Except for minor

1 variations due to rounding, the sums of the undivided interests
2 in the common elements and common expense liabilities allocated
3 at any time to all the units shall each equal one if stated as
4 fractions or 100% if stated as percentages. In the event of
5 discrepancy between the common element interest, votes or common
6 expense liability allocated to a unit and the result derived
7 from application of the formulas, the allocated common element
8 interest, vote or common expense liability prevails.

9 § 3210. Plats and plans.

10 (a) General rule.--Plats and plans are a part of the
11 declaration. Separate plats and plans are not required by this
12 subpart if all the information required by this section is
13 contained in either a plat or plan. Each plat and plan must be
14 clear and legible [and contain]. The plats and plans must
15 contain, on the first page of the plats and plans, a
16 certification that [the plat or plan accurately depicts all
17 existing conditions and contains] all of the plats and plans
18 contain all information required by this section.

19 (b) Contents of plat.--Each plat must show:

20 (1) The name, location and dimensions of the
21 condominium.

22 (2) The location and dimensions of all existing
23 improvements.

24 (3) The intended location and dimensions of any
25 contemplated improvement to be constructed anywhere within
26 the condominium labeled either "MUST BE BUILT" or "NEED NOT
27 BE BUILT" but need not show contemplated improvements within
28 the boundaries of convertible real estate.

29 (4) The location and dimensions of any convertible real
30 estate, labeled as such.

1 (5) The location and dimensions of any withdrawable real
2 estate, labeled as such.

3 (6) The extent of any encroachments by or upon any
4 portion of the condominium.

5 (7) To the extent feasible, the location and dimensions
6 of all easements serving or burdening any portion of the
7 condominium.

8 (8) The location and dimensions of any vertical unit
9 boundaries not shown or projected on plans recorded pursuant
10 to subsection (c) and that unit's identifying number.

11 (9) The location with reference to established datum of
12 any horizontal unit boundaries not shown or projected on
13 plans recorded pursuant to subsection (c) and that unit's
14 identifying number.

15 (10) The location and dimensions of any real estate in
16 which the unit owners will own only an estate for years,
17 labeled as "leasehold real estate."

18 (11) The distance between noncontiguous parcels of real
19 estate comprising the condominium.

20 (12) The location and dimensions of limited common
21 elements, including porches, balconies and patios, other than
22 parking spaces and the other limited common elements
23 described in section 3202(2) and (4) (relating to unit
24 boundaries) not shown on plans recorded pursuant to
25 subsection (c).

26 (13) All other matters customarily shown on land
27 surveys.

28 (c) Contents of plan.--Plans of every building that contains
29 or comprises all or part of any unit and is located or must be
30 built within any portion of the condominium, other than within

1 the boundaries of any convertible real estate, must show:

2 (1) The location and dimensions of the vertical
3 boundaries of each unit, to the extent those boundaries lie
4 within or coincide with the boundaries of the building in
5 which the unit is located, and that unit's identifying
6 number.

7 (2) Any horizontal unit boundaries, with reference to
8 established datum, not shown on plats recorded pursuant to
9 subsection (b), and that unit's identifying number.

10 (3) Any units that may be converted by the declarant to
11 create additional units or common elements (section 3215(c)),
12 identified appropriately.

13 (4) The location and dimensions of limited common
14 elements, including porches, balconies and patios, other than
15 parking spaces and other limited common elements described in
16 section 3202(2) and (4) not shown on plats recorded pursuant
17 to subsection (b).

18 (d) Horizontal boundaries of unit partly outside building.--
19 Unless the declaration provides otherwise, the horizontal
20 boundaries of part of a unit located outside of a building have
21 the same elevation as the horizontal boundaries of the inside
22 part and need not be depicted on the plats and plans.

23 (e) Converting or adding real estate.--Upon converting
24 convertible real estate or adding additional real estate
25 (section 3211), the declarant shall record new plats for that
26 real estate conforming to the requirements of subsection (b) and
27 new plans for any buildings on that real estate conforming to
28 the requirements of subsection (c). If less than all of any
29 convertible real estate is being converted, the new plats must
30 also show the location and dimensions of the remaining portion.

1 (f) Converting units.--If a declarant converts any unit into
2 two or more units, limited common elements, or both (section
3 3215), he shall record new plans showing the location and
4 dimensions of any new units and limited common elements thus
5 created as well as the location and dimensions of any portion of
6 that space not being converted.

7 (g) Alternative recording.--Instead of recording new plats
8 and plans as required by subsections (e) and (f), the declarant
9 may record new certifications of plats and plans previously
10 recorded if those plats and plans show all improvements required
11 by subsections (e) and (f).

12 (h) Who may make certifications.--Any certification of a
13 plat or plan required by this section or section 3201(b)
14 (relating to creation of condominium) must be made by an
15 independent registered surveyor, architect or professional
16 engineer.

17 § 3211. Conversion and expansion of flexible condominiums.

18 (a) General rule.--To convert convertible real estate or add
19 additional real estate pursuant to an option reserved under
20 section 3206(1) (relating to contents of declaration; flexible
21 condominiums), the declarant shall prepare, execute and record
22 an amendment to the declaration (section 3219) and comply with
23 section 3210 (relating to plats and plans). The declarant is the
24 unit owner of any units thereby created. The amendment to the
25 declaration must assign an identifying number to each unit
26 formed in the convertible or additional real estate and
27 reallocate common element interests, votes in the association
28 and common expense liabilities. The amendment must describe or
29 delineate any limited common elements formed out of the
30 convertible or additional real estate, showing or designating

1 the unit to which each is allocated to the extent required by
2 section 3209 (relating to limited common elements).

3 (b) Creations within [added] additional real estate.--

4 Convertible or withdrawable real estate may be created within
5 any additional real estate added to the condominium if the
6 amendment adding that real estate includes all matters required
7 by section 3205 (relating to contents of declaration; all
8 condominiums) or section 3206 (relating to contents of
9 declaration; flexible condominiums), as the case may be, and the
10 plat includes all matters required by section 3210(b) (relating
11 to plats and plans). This provision does not extend the time
12 limit on conversion or contraction of a flexible condominium
13 imposed by the declaration pursuant to section 3206(2).

14 (c) Liability for expenses and right to income.--Until
15 conversion occurs or the period during which conversion may
16 occur expires, whichever occurs first, the declarant alone is
17 liable for real estate taxes assessed against convertible real
18 estate and all other expenses in connection with that real
19 estate. No other unit owner and no other portion of the
20 condominium is subject to a claim for payment of those taxes or
21 expenses. Unless the declaration provides otherwise, any income
22 or proceeds from convertible real estate inures to the
23 declarant.

24 § 3215. Subdivision or conversion of units.

25 (a) General rule.--If the declaration expressly so permits,
26 a unit may be subdivided into two or more units or, in the case
27 of a unit owned by a declarant, may be subdivided or converted
28 into two or more units, common elements, or a combination of
29 units and common elements. Subject to the provisions of the
30 declaration and other provisions of law, upon application of a

1 unit owner to subdivide a unit or upon application of a
2 declarant to convert a unit the association shall prepare,
3 execute and record an amendment to the declaration, including
4 the plats and plans, subdividing or converting that unit.

5 (b) Execution and contents of amendment.--The amendment to
6 the declaration must be executed by the owner of the unit to be
7 subdivided, assign an identifying number to each unit created
8 and reallocate the common element interest, votes in the
9 association and common expense liability formerly allocated to
10 the subdivided unit to the new units in any reasonable manner
11 prescribed by the owner of the subdivided unit.

12 (c) Conversion of unit of declarant to common elements.--In
13 the case of a unit owned by a declarant, if a declarant converts
14 all of a unit to common elements, the amendment to the
15 declaration must reallocate among the other units the common
16 element interest, votes in the association and common expense
17 liability formerly allocated to the converted unit on [the same
18 basis used for the initial allocation thereof] a pro rata basis,
19 inter se.

20 § 3217. [Use for sales purposes.] Declarant's offices, models
21 and signs.

22 [A declarant may maintain sales offices, management offices
23 and models in the condominium only if the declaration so
24 provides and specifies the rights of a declarant with regard to
25 the number, size, location and relocation thereof. Any sales
26 office, management office or model not designated a unit by the
27 declaration is a common element, and if a declarant ceases to be
28 a unit owner, he ceases to have any rights with regard thereto
29 unless it is removed promptly from the condominium in accordance
30 with a right to remove reserved in the declaration. Subject to

any limitations in the declaration, a declarant may maintain signs on the common elements advertising the condominium.]

(a) Common elements.--A declarant may maintain offices and models in the common element portion of the condominium only in connection with the management, sale or rental of units owned by the declarant in the condominium, if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location and relocation thereof. At such time as a declarant ceases to be a unit owner, he ceases to have any rights with regard to such portions of the common elements so used unless such portions are removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Upon the relocation of a model or office constituting a common element, a declarant may remove all personal property and fixtures therefrom. Any fixtures not so removed shall be deemed common elements, and any personal property not so removed shall be deemed the property of the association.

(b) Signs.--Subject to any limitations in the declaration, a declarant may maintain signs in his units and on the common elements advertising units in the condominium owned by the declarant for sale or lease.

(c) Units.--A declarant shall have the right to locate, relocate and maintain offices and models used only in connection with the management, sale or rental of units owned by the declarant in the condominium, in his unit or units in the condominium, notwithstanding the fact that the declaration would otherwise preclude use of units for such purpose, but subject to all other provisions in the declaration, including, without limitation, modification or elimination of declarant's rights

1 pursuant to this subsection by specific reference thereto.

2 § 3218. Easement to facilitate completion, conversion and
3 expansion.

4 Subject to the provisions of the declaration, a declarant has
5 an easement through the common elements as may be reasonably
6 necessary for the purpose of discharging a declarant's
7 obligations or exercising special declarant rights, [whether
8 arising under this subpart or reserved in the declaration]
9 however arising.

10 § 3219. Amendment of declaration.

11 (a) Number of votes required.--Except in cases of amendments
12 that may be executed by a declarant under [sections] section
13 3210(e) and (f) (relating to plats and plans), 3211(a) (relating
14 to conversion and expansion of flexible condominiums) or 3212(a)
15 (relating to withdrawal of withdrawable real estate); the
16 association under [sections] subsection (f) or section 3107
17 (relating to eminent domain), 3207(d) (relating to leasehold
18 condominiums), 3209(c) (relating to limited common elements) or
19 3215(a) (relating to subdivision or conversion of units); or
20 certain unit owners under [sections] section 3209(b) (relating
21 to limited common elements), 3214(a) (relating to relocation of
22 boundaries between adjoining units), 3215(b) (relating to
23 subdivision or conversion of units) or 3220(b) (relating to
24 termination of condominium), and except as limited by subsection
25 (d), the declaration, including the plats and plans, may be
26 amended only by vote or agreement of unit owners of units to
27 which at least 67% of the votes in the association are
28 allocated, or any larger majority the declaration specifies. The
29 declaration may specify a smaller number only if all of the
30 units are restricted exclusively to nonresidential use.

1 (b) Limitation of action to challenge amendment.--No action
2 to challenge the validity of an amendment adopted by the
3 association pursuant to this section may be brought more than
4 one year after the amendment is recorded.

5 (c) Recording amendment.--Every amendment to the declaration
6 must be recorded in every county in which any portion of the
7 condominium is located in the same records as are maintained for
8 the recording of deeds of real property and shall be indexed in
9 the name of the condominium in both the grantor and grantee
10 index. An amendment is effective only upon recordation.

11 (d) When unanimous consent required.--Except to the extent
12 expressly permitted or required by other provisions of this
13 subpart, no amendment may create or increase special declarant
14 rights, increase the number of units or change the boundaries of
15 any unit, the common element interest, common expense liability
16 or voting strength in the association allocated to a unit, or
17 the uses to which any unit is restricted, in the absence of
18 unanimous consent of the unit owners.

19 (e) Officer authorized to execute amendment.--Amendments to
20 the declaration required by this subpart to be recorded by the
21 association shall be prepared, executed, recorded and certified
22 by any officer of the association designated for that purpose
23 or, in the absence of designation, by the president of the
24 association.

25 (f) Corrective amendments.--Except as otherwise provided in
26 the declaration, if any amendment to the declaration is
27 necessary in the judgment of the executive board to cure any
28 ambiguity or to correct or supplement any provision of the
29 declaration, including the plats and plans, that is defective,
30 missing or inconsistent with any other provision thereof, or

1 with this subpart, or if an amendment is necessary in the
2 judgment of the executive board to conform to the requirements
3 of any agency or entity that has established national or
4 regional standards with respect to loans secured by mortgages or
5 deeds of trust on units in condominium projects (such as the
6 Federal National Mortgage Association and the Federal Home Loan
7 Mortgage Corporation), then, at any time and from time to time,
8 the executive board may at its discretion effect an appropriate
9 corrective amendment without the approval of the unit owners or
10 the holders of any liens on all or any part of the condominium,
11 upon receipt by the executive board of an opinion from
12 independent legal counsel to the effect that the proposed
13 amendment is permitted by the terms of this subsection.

14 § 3220. Termination of condominium.

15 (a) Number of votes required.--Except in the case of a
16 taking of all the units by eminent domain (section 3107), a
17 condominium may be terminated only by agreement of unit owners
18 of units to which at least 80% of the votes in the association
19 are allocated, or any larger percentage the declaration
20 specifies. The declaration may specify a smaller percentage only
21 if all of the units in the condominium are restricted
22 exclusively to nonresidential uses.

23 (b) Execution and recording agreement and ratifications.--
24 [An agreement of unit owners to terminate a condominium must be
25 evidenced by their execution of a termination agreement or
26 ratifications thereof. If, pursuant to a termination agreement,
27 the real estate constituting the condominium is to be sold
28 following termination, the termination agreement must set forth
29 the terms of the sale.] An agreement of unit owners to terminate
30 a condominium must be evidenced by their execution of a

termination agreement or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners who are owners of record as of the date preceding the date of recordation of the termination agreement. The termination agreement must specify the date it was first executed or ratified by a unit owner. The termination agreement will become null and void unless it is recorded on or before the earlier of:

(1) The expiration of one year from the date it was first executed or ratified by a unit owner.

(2) Such date as shall be specified in the termination agreement.

If, pursuant to a termination agreement, the real estate constituting the condominium is to be sold following termination, the termination agreement must set forth the terms of the sale. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is located in the same records as are maintained for the recording of deeds of real property and shall be indexed in the name of the condominium in both the grantor index and the grantee index. A termination agreement is effective only upon recordation.

(c) Status if real estate sold.--The association, on behalf of the unit owners, may contract for the sale of the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If the real estate constituting the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has

1 been concluded and the proceeds thereof distributed, the
2 association continues in existence with all powers it had before
3 termination. Proceeds of the sale must be distributed to unit
4 owners and lienholders as their interests may appear, in
5 proportion to the respective interests of unit owners as
6 provided in subsection (f). Unless otherwise specified in the
7 termination agreement, as long as the association holds title to
8 the real estate, each unit owner and his successors in interest
9 have an exclusive right to occupancy of the portion of the real
10 estate that formerly constituted his unit. During the period of
11 that occupancy, each unit owner and his successors in interest
12 remain liable for all assessments and other obligations imposed
13 on unit owners by this subpart or the declaration.

14 (d) Status if real estate not sold.--If the real estate
15 constituting the condominium is not to be sold following
16 termination, title to the real estate, upon termination, vests
17 in the unit owners as tenants in common in proportion to their
18 respective interests as provided in subsection (f) and liens on
19 the units shift accordingly. While the tenancy in common exists,
20 each unit owner and his successors in interest have an exclusive
21 right to occupancy of the portion of the real estate that
22 formerly constituted his unit.

23 (e) Distribution of assets of association.--Following
24 termination of the condominium, [and after payment of or
25 provision for the claims of the association's creditors, the
26 assets of the association shall be distributed to unit owners in
27 proportion to their respective interests as provided in
28 subsection (f). The proceeds of sale described in subsection (c)
29 and held by the association as trustee are not assets of the
30 association.] the proceeds of any sale of real estate, together

1 with the assets of the association, shall be held by the
2 association as trustee or unit owners and holders of liens on
3 the units, as their interests may appear. Following termination,
4 creditors of the association holding liens on the units, which
5 were recorded, filed of public record or otherwise perfected
6 before termination, may enforce those liens in the same manner
7 as any lienholder. All other creditors of the association are to
8 be treated as if they had perfected liens on the units
9 immediately before termination.

10 (f) Respective interests of unit owners.--The respective
11 interests of unit owners referred to in subsections (c), (d) and
12 (e) are as follows:

13 (1) Except as provided in paragraph (2), the respective
14 interests of unit owners are the fair market values of their
15 units, limited common elements and common element interests
16 immediately before the termination, as determined by one or
17 more independent appraisers selected by the association. The
18 decision of the independent appraisers shall be distributed
19 to the unit owners and becomes final unless disapproved
20 within 30 days after distribution by unit owners of units to
21 which 25% of the votes in the association are allocated. The
22 proportion of any unit owner's interest to that of all unit
23 owners is determined by dividing the fair market value of
24 that unit owner's unit and common element interest by the
25 total fair market values of all the units and common
26 elements.

27 (2) If any unit or any limited common element is
28 destroyed to the extent that an appraisal of the fair market
29 value thereof prior to destruction cannot be made, the
30 interests of all unit owners are their respective common

1 element interests immediately before the termination.

2 (g) Effect of foreclosure or enforcement of lien.--

3 [Foreclosure] Except as provided in subsection (h), foreclosure
4 or enforcement of a lien or encumbrance against the entire
5 condominium does not of itself terminate the condominium, and
6 foreclosure or enforcement of a lien or encumbrance against a
7 portion of the condominium, other than withdrawable real estate,
8 does not withdraw that portion from the condominium. Foreclosure
9 or enforcement of a lien or encumbrance against withdrawable
10 real estate does not of itself withdraw that real estate from
11 the condominium but the person taking title thereto has the
12 right to require from the association, upon request, an
13 amendment excluding the real estate from the condominium.

14 (h) Exclusion from condominium upon foreclosure.--If a lien
15 or encumbrance against a portion of the real estate comprising
16 the condominium has priority over the declaration and if the
17 lien or encumbrance has not been partially released, the parties
18 foreclosing the lien or encumbrance may, upon foreclosure,
19 record an instrument excluding the real estate subject to that
20 lien or encumbrance from the condominium.

21 Section 4. Title 68 is amended by adding sections to read:

22 § 3222. Master associations.

23 (a) Applicability of section.--If the declaration for a
24 condominium provides that any of the powers described in section
25 3302 (relating to powers of unit owners' association) with
26 respect to the condominium are to be exercised by or may be
27 delegated to a profit or nonprofit corporation or unincorporated
28 association (a "master association") which exercises those or
29 other powers on behalf of one or more other condominiums or
30 other incorporated or unincorporated associations, then, except

1 as modified by this section, all provisions of this subpart
2 applicable to unit owners' associations shall apply to any such
3 master association insofar as its actions affect the
4 condominium.

5 (b) Powers.--Unless a master association is acting in the
6 capacity of an association described in section 3301 (relating
7 to organization of unit owners' association) with respect to a
8 condominium which is part of the master association, it may
9 exercise with respect to the condominium only such powers set
10 forth in section 3302 and only to the extent expressly permitted
11 in the declaration of condominium which provides for the
12 delegation of powers from its condominium association to the
13 master association and accepted by such master association as
14 indicated in the provisions of the declaration or other
15 organizational documents of such master association.

16 (c) Liability of executive board members and officers.--If
17 the declaration of a condominium provides that the executive
18 board may delegate certain powers to a master association, the
19 members of the executive board have no liability for the acts or
20 omissions of the master association with respect to those powers
21 following such delegation. The officers and members of the
22 governing board of the master association are subject to
23 liability to the condominium association whose powers are
24 delegated thereto and the unit owners of such condominium on the
25 same basis as officers and executive board members of such
26 condominium immediately before such delegation of powers.

27 (d) Rights and responsibilities of persons electing
28 governing body.--The rights and responsibilities of unit owners
29 with respect to the unit owners' association set forth in
30 sections 3303 (relating to executive board members and

officers), 3308 (relating to meetings), 3309 (relating to quorums), 3310 (relating to voting; proxies) and 3320 (relating to declarant delivery of items to association) apply in the conduct of the affairs of a master association with respect to the exercise of powers delegated pursuant to a condominium declaration to such master association, but apply only to those persons who elect the governing body of a master association, whether or not those persons are otherwise unit owners within the meaning of this subpart.

(e) Election of master association governing body.--
Notwithstanding the provisions of section 3303(e) with respect to the election of the executive board by all unit owners after the period of declarant control ends, and even if a master association is also an association described in section 3301, the instrument creating the master association and the declaration of each condominium or the organizational documents of other associations the powers of which are assigned pursuant to the declaration or organizational documents or delegated to the master association shall provide that the governing body of the master association must be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums and other properties subject to the master association elect all members of the governing body of the master association.

(2) All members of the governing bodies of the condominium associations and other property owners' associations subject to the master association elect all members of the master association governing body.

(3) All unit owners of each condominium and other property owners' associations subject to the master

1 association elect specified members of the master association
2 governing body.

3 (4) All members of the governing bodies of the
4 condominiums and other property associations subject to the
5 master association elect specified members of the master
6 association governing body.

7 (f) Delegation of responsibility and authority.--The
8 provisions of this section shall apply to a condominium if and
9 when:

10 (1) there occurs either a date specified in the
11 declaration, or any amendment thereto, from and after which
12 this section shall apply to the condominium;

13 (2) there occurs an event or action that the
14 declaration, or any amendment thereto, states shall cause
15 this section to become applicable, and the association causes
16 to be recorded an instrument duly executed by the president
17 of the association stating that:

18 (i) such event or action has occurred, and the date
19 of such occurrence, thereby causing this section to
20 become applicable to the condominium; and

21 (ii) that a copy of such instrument has been sent to
22 all unit owners; or

23 (3) the declarant executes and records an instrument
24 stating that this section shall thereafter apply to the
25 condominium and that a copy of such instrument has been sent
26 to the executive board and all unit owners.

27 Paragraph (3) shall be applicable only if the declarant shall
28 have expressly reserved in the declaration, pursuant to section
29 3205(12) (relating to contents of declaration; all
30 condominiums), the special declarant right to make this section

1 applicable to the condominium and only if the instrument
2 exercising such right shall have been recorded during the time
3 period allowed for the exercise of such right.

4 (g) Delegation of all powers.--If all the powers of a
5 condominium association are delegated to a master association
6 and accepted by such master association pursuant to subsection
7 (b), then the governing body of the master association may act
8 in all respects as the executive board of the condominium and no
9 separate executive board need be elected or exist.

10 § 3223. Merger or consolidation of condominiums.

11 (a) General rule.--Any two or more condominiums, by
12 agreement of the unit owners as provided in subsection (b), may
13 be merged or consolidated into a single condominium. In the
14 event of a merger or consolidation, unless the agreement
15 otherwise provides, the resultant condominium is, for all
16 purposes, the legal successor of all of the preexisting
17 condominiums, and the operations and activities of all
18 associations of the preexisting condominiums shall be merged or
19 consolidated into a single association which shall hold all
20 powers, rights, obligations, assets and liabilities of all
21 preexisting associations. The resultant condominium shall, in
22 addition, be subject in all respects to the provisions and
23 requirements of this subpart regardless of whether or not any of
24 the preexisting condominiums shall have been established under
25 this subpart.

26 (b) Requirements of agreement.--The merger or consolidation
27 of two or more condominiums pursuant to subsection (a) must be
28 evidenced by a recorded agreement duly executed by the president
29 of the association of each of the preexisting condominiums
30 following approval by owners of units to which are allocated the

percentage of votes in each condominium required to terminate such condominium. Any such agreement must be recorded in every county in which a portion of the condominium is located and is not effective until so recorded.

(c) Reallocations.--Every merger or consolidation agreement must provide for the reallocation of the common element interests, common expense liability, including both general and limited common expenses, and portion of the votes in the resulting association among the units of the resulting condominium either:

(1) by stating the reallocations or the formulas upon which they are based; or

(2) by stating the common element interests, common expense liability, including both general and limited common expenses, and portion of the votes in the resulting association which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the common element interests, common expense liability, including both general and limited common expenses, and portion of the votes in the association for the resulting condominium shall be the same as was allocated to each unit formerly comprising a part of the preexisting condominium by the declaration of the preexisting condominium.

(d) Action by declarant.--Notwithstanding the provisions of subsections (a) and (b), if a declarant expressly retained the special declarant right to merge or consolidate a condominium pursuant to section 3205(13) (relating to contents of declaration; all condominiums) and if the declarant exercised such right within the time period allowed for such exercise, by

1 giving written notice to that effect to all unit owners
2 accompanied by a copy of the agreement evidencing such merger or
3 consolidation, then such agreement may be executed by the
4 declarant rather than by the president of the association of
5 that condominium and without the necessity for approval or
6 consent by unit owners, or their mortgagees; provided that the
7 agreement is recorded within the time period allowed for the
8 exercise of this special declarant right.

9 Section 5. Sections 3301, 3302, 3303, 3304, 3306, 3308,
10 3310, 3311, 3312, 3313, 3314, 3315 and 3316 of Title 68 are
11 amended to read:

12 § 3301. Organization of unit owners' association.

13 A unit owners' association shall be organized no later than
14 the date [the condominium is created] the first unit of the
15 condominium is conveyed to a person other than a successor
16 declarant. The membership of the association at all times shall
17 consist exclusively of all the unit owners or, following
18 termination of the condominium, of all former unit owners
19 entitled to distributions of proceeds under section 3220
20 (relating to termination of condominium) or their heirs,
21 successors or assigns. The association shall be organized as a
22 profit or nonprofit corporation or as an unincorporated
23 association.

24 § 3302. Powers of unit owners' association.

25 (a) General rule.--Subject to the provisions of the
26 declaration, the association, even if unincorporated, may:

27 (1) Adopt and amend bylaws and rules and regulations.

28 (2) Adopt and amend budgets for revenues, expenditures

29 and reserves and collect assessments for common expenses from
30 unit owners.

1 (3) Hire and terminate managing agents and other
2 employees, agents and independent contractors.

3 (4) Institute, defend or intervene in litigation or
4 administrative proceedings in its own name on behalf of
5 itself or two or more unit owners on matters affecting the
6 condominium.

7 (5) Make contracts and incur liabilities.

8 (6) Regulate the use, maintenance, repair, replacement
9 and modification of common elements.

10 (7) Cause additional improvements to be made as a part
11 of the common elements.

12 (8) Acquire, hold, encumber and convey in its own name
13 any right, title or interest to real or personal property,
14 but common elements may be conveyed or subjected to a
15 security interest only pursuant to the provisions of section
16 3318 (relating to conveyance or encumbrance of common
17 elements).

18 (9) Grant easements, leases, licenses and concessions
19 through or over the common elements, but any such easement,
20 lease, license or concession:

21 (i) that is not for the benefit of all or
22 substantially all of the unit owners shall not be granted
23 without the same unit owner approval that is required for
24 an amendment to the declaration; or

25 (ii) that materially impairs any right or benefit
26 that one or more unit owners may have with respect to the
27 common elements shall not be granted without the prior
28 written approval of those unit owners.

29 (10) Impose and receive any payments, fees or charges
30 for the use, rental or operation of the common elements other

1 than limited common elements described in section 3202(2) and
2 (4) (relating to unit boundaries).

3 (11) Impose charges for late payment of assessments and,
4 after notice and an opportunity to be heard, levy reasonable
5 fines for violations of the declaration, bylaws and rules and
6 regulations of the association.

7 (12) Impose reasonable charges for the preparation and
8 recordation of amendments to the declaration, resale
9 certificates required by section 3407 (relating to resales of
10 units) or statements of unpaid assessments.

11 (13) Provide for the indemnification of its officers and
12 executive board and maintain directors' and officers'
13 liability insurance.

14 (14) Exercise any other powers conferred by the
15 declaration or bylaws.

16 (15) Exercise all other powers that may be exercised in
17 this Commonwealth by legal entities of the same type as the
18 association.

19 (16) Exercise any other powers necessary and proper for
20 the governance and operation of the association.

21 (17) Assign its right to future income, including the
22 right to receive the payments made on account of common
23 expense assessments, but only to the extent the declaration
24 expressly so provides.

25 (18) Assign or delegate any powers of the association
26 listed in this section to a master association subject to the
27 provisions of section 3222 (relating to master associations)
28 and accept any assignment or delegation of powers from one or
29 more condominiums or other incorporated or unincorporated
30 associations.

(b) Restriction on limitations in declaration.--

Notwithstanding subsection (a), the declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

§ 3303. Executive board members and officers.

(a) Powers and fiduciary status.--Except as provided in the declaration, the bylaws, in subsection (b) or other provisions of this subpart, the executive board may act in all instances on behalf of the association. [The] In the performance of their duties, the officers and members of the executive board [appointed by the declarant are subject to liability as fiduciaries of the unit owners for their acts or omissions] shall stand in a fiduciary relation to the association and shall perform their duties, including duties as members of any committee of the board upon which they may serve, in good faith, in a manner they reasonably believe to be in the best interests of the association and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, an officer or executive board member shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

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

(2) Counsel, public accountants or other persons as to matters which the officer or executive board member

1 reasonably believes to be within the professional or expert
2 competence of such person.

3 (3) A committee of the executive board upon which he
4 does not serve, duly designated in accordance with law, as to
5 matters within its designated authority, which committee the
6 officer or executive board member reasonably believes to
7 merit confidence.

8 An officer or executive board member shall not be considered to
9 be acting in good faith if he has knowledge concerning the
10 matter in question that would cause his reliance to be
11 unwarranted.

12 (b) Limitation on authority.--The executive board may not
13 act on behalf of the association to amend the declaration
14 (section 3219), to terminate the condominium (section 3220) or
15 to elect members of the executive board or determine the
16 qualifications, powers and duties or terms of office of
17 executive board members (section 3303(e)) but the executive
18 board may fill vacancies in its membership for the unexpired
19 portion of any term. The executive board shall deliver to all
20 unit owners copies of each budget approved by the executive
21 board and notice of any capital expenditure approved by the
22 executive board promptly after either such approval. In addition
23 to other rights conferred by the declaration, bylaws or this
24 subpart, the unit owners, by majority or any larger vote
25 specified in the declaration, may reject any budget or capital
26 expenditure approved by the executive board, within 30 days
27 after the approval.

28 (c) Status during period of declarant control.--Subject to
29 subsection (d), the declaration may provide for a period of
30 declarant control of the association during which period a

1 declarant or persons designated by him may appoint and remove
2 the officers and members of the executive board. Any period of
3 declarant control extends from the date of the first conveyance
4 of a unit to a person other than a declarant for a period not
5 exceeding seven years in the case of a flexible condominium
6 containing convertible real estate or to which additional real
7 estate may be added, or five years in the case of any other
8 condominium. Regardless of the period provided in the
9 declaration, a period of declarant control terminates no later
10 than 180 days after conveyance of 75% of the units to unit
11 owners other than a declarant. A declarant may voluntarily
12 surrender the right to appoint and remove officers and members
13 of the executive board before termination of that period but in
14 that event he may require, for the duration of the period of
15 declarant control, that specified actions of the association or
16 executive board, as described in a recorded instrument executed
17 by the declarant, be approved by the declarant before they
18 become effective.

19 (d) Election of members during transfer of declarant
20 control.--Not later than 60 days after conveyance of 25% of the
21 units to unit owners other than a declarant, not less than 25%
22 of the members of the executive board shall be elected by unit
23 owners other than the declarant. Not later than 60 days after
24 conveyance of 50% of the units to unit owners other than a
25 declarant, not less than 33 1/3% of the members of the executive
26 board shall be elected by unit owners other than the declarant.

27 (e) Election of members and officers following declarant
28 control.--Not later than the termination of any period of
29 declarant control, the unit owners shall elect an executive
30 board of at least three members at least a majority of whom must

1 be unit owners, except that the executive board may consist of
2 two members, both of whom must be unit owners, if the
3 condominium consists of two units. The executive board shall
4 elect the officers. The persons elected shall take office upon
5 election.

6 (f) Calculation of percentages of units conveyed.--In
7 determining whether the period of declarant control has
8 terminated under subsection (c), or whether unit owners other
9 than a declarant are entitled to elect members of the executive
10 board under subsection (d), the percentage of the units conveyed
11 is presumed to be that percentage which would have been conveyed
12 if all the units the declarant has built or reserved the right
13 to build in the declaration were included in the condominium.
14 § 3304. Transfer of special declarant rights.

15 (a) Execution and recording instrument of transfer.--No
16 special declarant rights (section 3103) created or reserved
17 under this subpart may be transferred except by an instrument
18 evidencing the transfer recorded in every county in which any
19 portion of the condominium is located in the same records as are
20 maintained for the recording of deeds of real property and shall
21 be indexed in the name of the condominium in both the grantor
22 and grantee index. The instrument is not effective unless
23 executed by the transferee.

24 (b) Liability of declarant following transfer.--Upon
25 transfer of any special declarant right, the liability of a
26 transferor declarant is as follows:

27 (1) A transferor is not relieved of any obligation or
28 liability arising before the transfer and remains liable for
29 warranty obligations imposed upon him by this subpart. Lack
30 of privity does not deprive any unit owner of standing to

1 bring an action to enforce any obligation of the transferor.

2 (2) If [a transferor retains any special declarant right
3 or if] a successor to any special declarant right is an
4 affiliate of a declarant (section 3103), the transferor [is
5 subject to liability for all obligations and liabilities
6 imposed on a declarant by this subpart or by the declaration
7 arising after the transfer and] is jointly and severally
8 liable with [the] any successor for the liabilities and
9 obligations or liabilities of the successor [which relate]
10 relating to the condominium.

11 (2.1) If a transferor retains any special declarant
12 right, but transfers one or more other special declarant
13 rights to a successor who is not an affiliate of the
14 declarant, the transferor is liable for any obligations or
15 liabilities imposed on a declarant by this subpart or by the
16 declaration relating to the retained special declarant rights
17 arising after the transfer.

18 (3) A transferor [who retains no special declarant
19 right] has no liability for any act or omission or any breach
20 of a contractual or warranty obligation arising from the
21 exercise of a special declarant right by a successor
22 declarant who is not an affiliate of the transferor and to
23 whom the special declarant right has not theretofore been
24 assigned.

25 (c) Rights of purchaser in foreclosure, etc. proceedings.--
26 Unless otherwise provided in a mortgage instrument or deed of
27 trust, in case of foreclosure of a mortgage, sale by a trustee
28 under a deed of trust or sale under [the Federal Bankruptcy Act]
29 11 U.S.C. (relating to bankruptcy) or receivership proceedings
30 of any units owned by a declarant in the condominium or

1 additional real estate in a flexible condominium, a person
2 acquiring title to all the units being foreclosed or sold, but
3 only upon his request, succeeds to all special declarant rights
4 related to such units or additional real estate, or only to any
5 rights reserved in the declaration pursuant to section 3217
6 (relating to [use for sales purposes] declarant's offices,
7 models and signs) and held by that declarant to maintain models,
8 sales offices and signs. The judgment or instrument conveying
9 title shall provide for transfer of only the special declarant
10 rights requested.

11 (d) Rights of declarant following foreclosure, etc.
12 proceedings.--Upon foreclosure, tax sale, judicial sale, sale by
13 a trustee under a deed of trust or sale under [the Federal
14 Bankruptcy Act] 11 U.S.C. (relating to bankruptcy) or
15 receivership or similar proceedings of all units and other real
16 estate in a condominium owned by a declarant:

17 (1) the declarant ceases to have any special declarant
18 rights; and

19 (2) the period of declarant control (section 3303(c))
20 terminates unless the judgment or instrument conveying title
21 provides for transfer of all special declarant rights held by
22 that declarant to a successor declarant.

23 (e) Liabilities and obligations of successors.--The
24 liabilities and obligations of persons who succeed to special
25 declarant rights are as follows:

26 (1) A successor to any special declarant right who is an
27 affiliate of a declarant is subject to all obligations and
28 liabilities imposed on [any declarant] the transferor by this
29 subpart or by the declaration.

30 (2) A successor to any special declarant right, other

1 than a successor described in paragraph (3) or (4), who is
2 not an affiliate of a declarant is subject to all obligations
3 and liabilities imposed [upon a declarant] by this subpart or
4 the declaration [but he is not subject to liability for
5 misrepresentations or warranty obligations on components made
6 by any previous declarant or made before the condominium was
7 created, or for a breach of fiduciary obligation by any
8 previous declarant.]:

9 (i) on a declarant which relate to his exercise or
10 nonexercise of special declarant rights; or

11 (ii) on his transferor, other than:

12 (A) misrepresentations by any previous
13 declarant, except to the extent knowingly continued
14 or permitted to continue without correcting such
15 misrepresentations;

16 (B) warranty obligations on improvements made by
17 any previous declarant or made before the condominium
18 was created;

19 (C) breach of any fiduciary obligation by any
20 previous declarant or his appointees to the executive
21 board; or

22 (D) any liability or obligation imposed on the
23 transferor as a result of the transferor's acts or
24 omissions after the transfer.

25 (3) A successor to only a right reserved in the
26 declaration to maintain models, sales offices and signs
27 (section 3217), if he is not an affiliate of a declarant, may
28 not exercise any other special declarant right and is not
29 subject to any liability or obligation as a declarant except
30 the obligation to provide a public offering statement and any

1 liability arising as a result thereof.

2 (4) A successor to all special declarant rights held by
3 his transferor who is not an affiliate of [a] that transferor
4 declarant and who succeeded to those rights pursuant to a
5 deed in lieu of foreclosure or a judgment or instrument
6 conveying title to units under subsection (c) may declare his
7 intention in a recorded instrument to hold those rights
8 solely for transfer to another person. Thereafter, until
9 transferring all special declarant rights to any person
10 acquiring title to any unit owned by the successor or until
11 recording an instrument permitting exercise of all those
12 rights, that successor may not exercise any of those rights
13 other than [the] any right held by his transferor to control
14 the executive board in accordance with the provisions of
15 section 3303(c) (relating to executive board members and
16 officers) for the duration of any period of declarant control
17 and any attempted exercise of those rights is void. So long
18 as a successor declarant may not exercise special declarant
19 rights under this subsection he is not subject to any
20 liability or obligation as a declarant other than liability
21 for the successor's acts and omissions under section 3303(c).

22 (f) Limitation on liability of successor.--Nothing in this
23 section subjects any successor to a special declarant right to
24 any claims against or other obligations of a transferor
25 declarant other than claims and obligations arising under this
26 subpart or the declaration.

27 § 3306. Bylaws.

28 (a) Mandatory provisions.--The bylaws of the association
29 must provide for:

30 (1) The number of members of the executive board and the

1 titles of the officers of the association.

2 (2) Election by the executive board of a president,
3 treasurer, secretary and any other officers of the
4 association the bylaws specify.

5 (3) The qualifications, powers and duties, terms of
6 office and manner of electing and removing executive board
7 members and officers and filling vacancies.

8 (4) Which, if any, of its powers the executive board or
9 officers may delegate to other persons or to a managing
10 agent.

11 (5) Which of its officers may prepare, execute, certify
12 and record amendments to the declaration on behalf of the
13 association.

14 (6) The method of amending the bylaws.

15 (b) Other provisions.--Subject to the provisions of the
16 declaration, the bylaws may provide for any other matters the
17 association deems necessary and appropriate.

18 § 3308. Meetings.

19 The bylaws must require that meetings of the association be
20 held at least once each year and provide for special meetings.
21 The bylaws must specify which of the association's officers, not
22 less than ten nor more than 60 days in advance of any meeting,
23 shall cause notice to be hand delivered or sent prepaid by
24 United States mail to the mailing address of each unit or to any
25 other mailing address designated in writing by the unit owner.
26 The notice of any meeting must state the time and place of the
27 meeting and the items on the agenda, including the general
28 nature of any proposed amendment to the declaration or bylaws,
29 any budget or assessment changes and, where the declaration or
30 bylaws require approval of unit owners, any proposal to remove

1 an executive board member or officer.

2 § 3310. Voting; proxies.

3 (a) [Multiple owners of a unit.--If only one of the multiple
4 owners of a unit is present at a meeting of the association, he
5 is entitled to cast all the votes allocated to that unit.] Unit
6 owner other than natural person.--If the owner of a unit is a
7 corporation, joint venture, partnership or unincorporated
8 association, the natural person who shall be entitled to cast
9 the vote for such unit shall be the person named in a
10 certificate executed by such entity pursuant to its governing
11 documents. If the owner of a unit is a trust, the trustee or
12 trustees shall be deemed to be the owner for the voting
13 purposes. Where the ownership of a unit is in more than one
14 person, the natural person who shall be entitled to cast the
15 vote of such unit shall be the person named in a certificate
16 executed by all of the owners of such unit and filed with the
17 secretary or, in the absence of such named person from the
18 meeting or the failure to execute and file such a certificate,
19 the person who shall be entitled to cast the vote of such unit
20 shall be the person owning such unit who is present. If more
21 than one of the multiple owners are present, the votes allocated
22 to that unit may be cast only in accordance with their unanimous
23 agreement unless the declaration expressly provides otherwise.
24 There [is] shall be deemed to be unanimous agreement if any one
25 of the multiple owners casts the votes allocated to that unit
26 without protest being made promptly to the person presiding over
27 the meeting by any of the other owners of the unit. Such
28 certificate shall be valid until revoked by a subsequent
29 certificate similarly executed. Except where execution by owners
30 of a unit in the same manner as a deed is required in this

1 subpart and subject to the provisions of the declaration and
2 bylaws, wherever the approval or disapproval of a unit owner is
3 required by this subpart, the declaration or the bylaws, such
4 approval or disapproval shall be made only by the person who
5 would be entitled to cast the vote of such unit at any meeting
6 of the association.

7 (b) Proxies.--Votes allocated to a unit may be cast pursuant
8 to a proxy duly executed by a unit owner. If a unit is owned by
9 more than one person, each owner of the unit may vote or
10 register protest to the casting of votes by the other owners of
11 the unit through a duly executed proxy. A unit owner may not
12 revoke a proxy given pursuant to this section except by actual
13 notice of revocation to the person presiding over a meeting of
14 the association. A proxy is void if it is not dated or purports
15 to be revocable without notice. A proxy terminates one year
16 after its date unless it specifies a shorter term.

17 [(c) Cumulative and class voting.--The declaration may
18 provide for cumulative voting only for the purpose of electing
19 members of the executive board and for class voting on specified
20 issues affecting the class if necessary to protect valid
21 interests of the class. A declarant may not utilize cumulative
22 or class voting for the purpose of evading any limitation
23 imposed on declarants by this subpart.]

24 (d) Units owned by association.--No votes allocated to a
25 unit owned by the association may be cast.

26 § 3311. Tort and contract liability.

27 (a) General rule.--

28 (1) An action in tort alleging a wrong done by a
29 declarant or his agent or employee in connection with a
30 portion of any convertible or withdrawable real estate or

1 other portion of the condominium which the declarant has the
2 responsibility to maintain may not be brought against the
3 association or against a unit owner other than a declarant.

4 (2) Except as otherwise provided by paragraph (1):

5 (i) An action in tort alleging a wrong done by the
6 association or by an agent or employee of the
7 association, or an action arising from a contract made by
8 or on behalf of the association, shall be brought against
9 the association.

10 (ii) A unit owner shall not be subject to suit or,
11 except as otherwise provided by subsection (b), be
12 otherwise directly or indirectly held accountable for the
13 acts of the association or its agents or employees on
14 behalf of the association.

15 (3) If the tort or breach of contract occurred during
16 any period of declarant control (section 3303(c)), the
17 declarant is liable to the association for all unreimbursed
18 losses suffered by the association as a result of that tort
19 or breach of contract, including costs and reasonable
20 attorney's fees. If a claim for a tort or breach of contract
21 is made after the period of declarant control, the
22 association shall have no right against the declarant under
23 this paragraph unless the association shall have given the
24 declarant:

25 (i) notice of the existence of such a claim promptly
26 after the date on which one or more members of the
27 executive board who are not designees of the declarant
28 learns of the existence of such a claim; and

29 (ii) an opportunity to defend against such claim on
30 behalf of the association but at the declarant's expense.

1 Any statute of limitation affecting the association's right
2 of action under this section is tolled until the period of
3 declarant control terminates.

4 (4) A unit owner is not precluded from bringing an
5 action contemplated by this subsection because he is a unit
6 owner or a member or officer of the association.

7 (b) Lien of judgment.--[A] Except as otherwise provided in
8 this subpart, a judgment for money against the association, if
9 and when entered of record against the name of the association
10 in the office of the clerk of the court of common pleas of the
11 county or counties where the condominium is located, or in the
12 office of the branch of the court of common pleas embracing such
13 county or counties, shall also constitute a lien against each
14 unit for a pro rata share of the amount of that judgment,
15 including interest thereon, based on the common expense
16 liability allocated to that unit (section 3208). No other
17 property of a unit owner is subject to the claims of creditors
18 of the association.

19 (c) Indexing judgment.--A judgment against the association
20 shall be indexed in the name of the condominium.

21 (d) Applicability of section.--The provisions of this
22 section shall be applicable to all associations without regard
23 to whether the association is organized as a corporation or as
24 an unincorporated association.

25 § 3312. Insurance.

26 (a) Insurance to be carried by association.--Commencing not
27 later than the time of the first conveyance of a unit to a
28 person other than a declarant, the association shall maintain,
29 to the extent reasonably available:

30 (1) Property insurance on the common elements and units

1 exclusive of improvements and betterments installed in units
2 [by unit owners] insuring against all risks of direct
3 physical loss commonly insured against or, in the case of a
4 conversion [condominium] building, against fire and extended
5 coverage perils. The total amount of insurance after
6 application of any deductibles shall be not less than 80% of
7 the actual cash value of the insured property exclusive of
8 land, excavations, foundations and other items normally
9 excluded from property policies.

10 (2) Comprehensive general liability insurance, including
11 medical payments insurance, in an amount determined by the
12 executive board but not less than any amount specified in the
13 declaration covering all occurrences commonly insured against
14 for death, bodily injury and property damage arising out of
15 or in connection with the use, ownership or maintenance of
16 the common elements.

17 (b) Other insurance carried by association.--If the
18 insurance described in subsection (a) is not maintained, the
19 association promptly shall cause notice of that fact to be hand
20 delivered or sent prepaid by United States mail to all unit
21 owners. The declaration may require the association to carry any
22 other insurance and the association in any event may carry any
23 other insurance it deems appropriate to protect the association
24 or the unit owners.

25 (c) Contents of insurance policies.--Insurance policies
26 carried pursuant to subsection (a) must provide that:

27 (1) Each unit owner is an insured person under the
28 policy with respect to liability arising out of his ownership
29 of an undivided interest in the common elements or membership
30 in the association.

1 (2) The insurer waives its right to subrogation under
2 the policy against any unit owner of the condominium or
3 members of his household.

4 (3) No act or omission by any unit owner, unless acting
5 within the scope of his authority on behalf of the
6 association, will void the policy or be a condition to
7 recovery under the policy.

8 (4) If, at the time of a loss under the policy, there is
9 other insurance in the name of a unit owner covering the same
10 property covered by the policy, the policy is primary
11 insurance not contributing with the other insurance.

12 (d) Proceeds from property insurance.--Any loss covered by
13 the property policy under subsection (a)(1) shall be adjusted
14 with the association but the insurance proceeds for that loss
15 shall be payable to any insurance trustee designated for that
16 purpose or otherwise to the association and not to any mortgagee
17 or beneficiary under a deed of trust. The insurance trustee or
18 the association shall hold any insurance proceeds in trust for
19 unit owners and lienholders as their interests may appear.
20 Subject to the provisions of subsection (g), the proceeds shall
21 be disbursed first for the repair or restoration of the damaged
22 common elements and units and unit owners and lienholders are
23 not entitled to receive payment of any portion of the proceeds
24 unless there is a surplus of proceeds after the common elements
25 and units have been completely repaired or restored or the
26 condominium is terminated.

27 (e) Unit owner may obtain insurance.--An insurance policy
28 issued to the association does not prevent a unit owner from
29 obtaining insurance for his own benefit.

30 (f) Evidence and cancellation of insurance.--An insurer that

1 has issued an insurance policy under this section shall issue
2 certificates or memoranda of insurance to the association and,
3 upon request, to any unit owner, mortgagee or beneficiary under
4 a deed of trust. The insurance may not be cancelled until 30
5 days after notice of the proposed cancellation has been mailed
6 to the association, each unit owner and each mortgagee or
7 beneficiary under a deed of trust to whom certificates of
8 insurance have been issued.

9 (g) Disposition of insurance proceeds.--

10 (1) Any portion of the condominium damaged or destroyed
11 shall be repaired or replaced promptly by the association
12 unless:

13 (i) the condominium is terminated;

14 (ii) repair or replacement would be illegal under
15 any state or local health or safety statute or ordinance;
16 or

17 (iii) eighty percent of the unit owners, including
18 every owner of a unit or assigned limited common element
19 which will not be rebuilt, vote not to rebuild.

20 The cost of repair or replacement in excess of insurance
21 proceeds and reserves is a common expense.

22 (2) If the entire condominium is not repaired or
23 replaced:

24 (i) the insurance proceeds attributable to the
25 damaged common elements shall be used to restore the
26 damaged area to a condition compatible with the remainder
27 of the condominium;

28 (ii) the insurance proceeds attributable to units
29 and limited common elements which are not rebuilt shall
30 be distributed to the owners of those units and the

owners of the units to which those limited common elements were assigned; and

(iii) the remainder of the proceeds shall be distributed to all the unit owners in proportion to their common element interests.

If the unit owners vote not to rebuild any unit, that unit's entire common element interest, votes in the association and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under section 3107(a) (relating to eminent domain) and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

(3) Notwithstanding the provisions of this subsection, section 3220 (relating to termination of condominium) governs the distribution of insurance proceeds if the condominium is terminated.

(h) Nonresidential condominiums.--The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to nonresidential use.

§ 3313. Surplus funds.

[Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be credited to the unit owners to reduce their future common expense assessments.] Any amounts accumulated from assessments for limited common expenses and income from the operation of limited common elements to which such limited common expenses pertain in excess of the amount required for actual limited common expenses and reserves for future limited common expenses shall be credited to each unit assessed for a share of such

1 limited common expenses in proportion to the share of such
2 limited common expenses so assessed, these credits to be
3 applied, unless the declaration provides otherwise, to the next
4 monthly assessments of limited common expenses against that unit
5 under the then current fiscal year's budget, and thereafter,
6 until exhausted. Any amounts accumulated from assessments for
7 general common expenses and income from the operation of the
8 common elements, other than limited common elements with regard
9 to which limited common expenses are assessed, in excess of the
10 amount required for actual general common expenses and reserves
11 for future general common expenses shall be credited to each
12 unit in accordance with such unit's interests in common
13 elements, these credits to be applied, unless the declaration
14 provides otherwise, to the next monthly assessments of general
15 common expenses against that unit under the then current fiscal
16 year's budget and thereafter, until exhausted.

17 § 3314. Assessments for common expenses.

18 (a) General rule.--Until the association makes a common
19 expense assessment, the declarant shall pay all the expenses of
20 the condominium. After any assessment has been made by the
21 association, assessments shall be made at least annually and
22 shall be based on a budget adopted at least annually by the
23 association. The budgets of the association shall segregate
24 limited common expenses from general common expenses, if and to
25 the extent appropriate.

26 (b) Allocation and interest.--Except for assessments under
27 subsection (c), common expenses shall be assessed against all
28 the units in accordance with the common expense liability
29 allocated to each unit (section 3208) in the case of general
30 common expenses and in accordance with subsection (c) in the

1 case of special allocations of expenses. Any past due assessment
2 or installment thereof shall bear interest at the rate
3 established by the association not exceeding 15% per year.

4 (c) [Limited] Special allocations of expenses.--Except as
5 provided by the declaration:

6 (1) [any] Any common expense associated with the
7 maintenance, repair or replacement of a limited common
8 element shall be assessed in equal shares against the units
9 to which that limited common element was assigned at the time
10 the expense was incurred[; and].

11 (2) [any] Any common expense benefiting fewer than all
12 of the units shall be assessed exclusively against the units
13 benefited.

14 (3) The costs of insurance shall be assessed in
15 proportion to risk and the costs of utilities that are
16 separately metered to each unit shall be assessed in
17 proportion to usage.

18 (4) If any common expense is caused by the negligence or
19 misconduct of any unit owner, the association may assess that
20 expense exclusively against his unit.

21 (d) Reallocation.--If common expense liabilities are
22 reallocated, common expense assessments and any installment
23 thereof not yet due shall be recalculated in accordance with the
24 reallocated common expense liabilities.

25 § 3315. Lien for assessments.

26 (a) General rule.--The association has a lien on a unit for
27 any assessment levied against that unit or fines imposed against
28 its unit owner from the time the assessment or fine becomes due.
29 The association's lien may be foreclosed in like manner as a
30 mortgage on real estate. A judicial or other sale of the unit in

1 execution of a common element lien or any other lien shall not
2 affect the lien of a mortgage thereon, except the mortgage for
3 which the sale is being held, if the mortgage is or shall be
4 prior to all other liens upon the same property except those
5 liens identified in 42 Pa.C.S. § 8152(a) (relating to judicial
6 sale as affecting lien of mortgage) and liens for condominium
7 assessments created under this section. Unless the declaration
8 otherwise provides, fees, charges, late charges, fines and
9 interest charged pursuant to section 3302(a)(10), (11) and (12)
10 (relating to powers of unit owners' association) and reasonable
11 costs and expenses of the association, including legal fees,
12 incurred in connection with collection of any sums due the
13 association by the unit owner or enforcement of the provisions
14 of the declaration, bylaws, rules or regulations against the
15 unit owner are enforceable as assessments under this section. If
16 an assessment is payable in installments[, the full amount of
17 the assessment becomes effective as a lien from the time the
18 first installment thereof becomes due] and one or more
19 installments is not paid when due, the entire outstanding
20 balance of the assessment becomes effective as a lien from the
21 due date of the delinquent installment.

22 (b) Priority of lien.--

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

25 (i) Liens and encumbrances recorded before the
26 recordation of the declaration.

27 (ii) [Mortgages and deeds of trust on the unit
28 securing first mortgage holders and recorded before the
29 due date of the assessment or the due date of the first
30 installment payable on the assessment.] Mortgages and

1 deeds of trust on the unit securing first mortgage
2 holders and recorded before the due date of the
3 assessment, if the assessment is not payable in
4 installments, or the due date of the unpaid installment,
5 if the assessment is payable in installments.

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

8 (2) Limited nondivestiture.--The association's lien for
9 common expenses shall be divested by a judicial sale of the
10 unit:

11 (i) As to unpaid common expense assessments made
12 under section 3314(b) (relating to assessments for common
13 expenses) that come due during the six months immediately
14 preceding institution of an action to enforce collection
15 of a lien against a unit by a judicial sale, only to the
16 extent that the six months unpaid assessments are paid
17 out of the proceeds of the sale.

18 (ii) As to unpaid common expense assessments made
19 under section 3314(b) other than the six months
20 assessment referred to in subparagraph (i), in the full
21 amount of these unpaid assessments, whether or not the
22 proceeds of the judicial sale are adequate to pay these
23 assessments. To the extent the proceeds of the sale are
24 sufficient to pay some or all of these additional
25 assessments, after satisfaction in full of the costs of
26 the judicial sale, and the liens and encumbrances of the
27 types described in paragraph (1) and the unpaid common
28 expense assessments that come due during the six-month
29 period described in subparagraph (i), they shall be paid
30 before any remaining proceeds may be paid to any other

1 claimant, including the prior owner of the unit.

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

5 (c) Notice and perfection of lien.--Subject to the
6 provisions of subsection (b), recording of the declaration
7 constitutes record notice and perfection of the lien.

8 (d) Limitation of actions.--A lien for unpaid assessments is
9 extinguished unless proceedings to enforce the lien are
10 instituted within three years after the assessments become
11 payable.

12 (e) Other remedies preserved.--Nothing in this section shall
13 be construed to prohibit actions or suits to recover sums for
14 which subsection (a) creates a lien or to prohibit an
15 association from taking a deed in lieu of foreclosure.

16 (f) Costs and attorney's fees.--A judgment or decree in any
17 action or suit brought under this section shall include costs
18 and reasonable attorney's fees for the prevailing party.

19 (g) Statement of unpaid assessments.--The association shall
20 furnish to a unit owner upon written request a recordable
21 statement setting forth the amount of unpaid assessments
22 currently levied against his unit and any credits of surplus in
23 favor of his unit pursuant to section 3313 (relating to surplus
24 funds). The statement shall be furnished within ten business
25 days after receipt of the request and is binding on the
26 association, the executive board and every unit owner.

27 § 3316. Association records.

28 During the period of declarant control, the association shall
29 keep detailed financial records, including, without limitation,
30 a record of expenses paid by the declarant until the

1 commencement of common expense assessments by the association
2 under section 3314(a) (relating to assessments for common
3 expenses), the commencement date of common expense assessments
4 by the association, and, for the period commencing on such date,
5 a record for each unit in the condominium, (including those
6 owned by the declarants) of its common expense assessments and
7 the payments thereof. The association shall keep financial
8 records sufficiently detailed to enable the association to
9 comply with section 3407 (relating to resales of units). All
10 financial and other records shall be made reasonably available
11 for examination by any unit owner and his authorized agents.

12 Section 6. Title 68 is amended by adding sections to read:

13 § 3318. Conveyance or encumbrance of common elements.

14 (a) General rule.--Portions of the common elements may be
15 conveyed or subjected to a security interest by the association
16 if the persons entitled to cast at least 80% of the votes in the
17 association, including 80% of the votes allocated to units not
18 owned by a declarant, or any larger percentage the declaration
19 specifies, agree to that action; but all the owners of units to
20 which any limited common element is allocated must agree in
21 order to convey that limited common element or subject it to a
22 security interest. The declaration may specify a smaller
23 percentage only if all of the units are restricted exclusively
24 to nonresidential uses. Proceeds of the sale are an asset of the
25 association.

26 (b) Required agreement.--An agreement to convey common
27 elements or subject them to a security interest must be
28 evidenced by the execution of an agreement, or ratifications
29 thereof, in the same manner as a deed, by the requisite number
30 of unit owners. The agreement must specify a date after which

the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) Association powers.--The association, on behalf of the unit owners, may contract to convey common elements, or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Other conveyances or encumbrances void.--Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements, unless made pursuant to this section, is void.

(e) Right of access and support.--A conveyance or encumbrance of common elements pursuant to this section does not deprive any unit of its right of access and support.

(f) Preexisting encumbrances.--Unless the declaration otherwise provides, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

(g) Limitation.--Common elements which may be conveyed or encumbered pursuant to this section shall not include any land, buildings or other facilities:

(1) containing or comprising one or more units; or

(2) necessary for the use or operation of one or more units.

§ 3319. Other liens affecting the condominium.

1 (a) General rule.--Except as provided in subsection (b), a
2 judgment for money against the association, if and when the
3 judgment has been perfected as a lien on real property, is not a
4 lien on the common elements, but is a lien in favor of the
5 judgment lienholder against all of the units in the condominium
6 at the time the judgment was entered. No other property of a
7 unit owner is subject to the claims of creditors of the
8 association.

9 (b) If security interest in common elements.--If the
10 association has granted a security interest in the common
11 elements to a creditor of the association pursuant to section
12 3318 (relating to conveyance or encumbrance of common elements),
13 the holder of that security interest shall exercise its right
14 against the common elements before its judgment lien on any unit
15 may be enforced.

16 (c) Release upon payment of unit owner's share.--Whether
17 perfected before or after the creation of the condominium, if a
18 lien other than a deed of trust or mortgage, including a
19 judgment lien or lien attributable to work performed or
20 materials supplied before creation of the condominium, becomes
21 effective against two or more units, the unit owner of an
22 affected unit may pay to the lienholder the amount of the lien
23 attributable to his unit, and the lienholder, upon receipt of
24 payment, promptly shall deliver a release of the lien covering
25 that unit. The amount of the payment must be proportionate to
26 the ratio which that unit owner's common expense liability bears
27 to the common expense liabilities of all unit owners whose units
28 are subject to the lien. After payment, the association may not
29 assess or have a lien against that unit owner's unit for any
30 portion of the common expenses incurred in connection with that

1 lien.

2 (d) Indexing of judgments.--A judgment against the
3 association must be indexed in the name of the condominium and
4 the association and, when so indexed, is notice of the lien
5 against the units.

6 § 3320. Declarant delivery of items to association.

7 Except as set forth in paragraph (9), not later than 60 days
8 after the required termination of the period of declarant
9 control pursuant to section 3303(c) (relating to executive board
10 members and officers) or the declarant's earlier voluntary
11 termination of control, the declarant shall deliver to the
12 association all property of the unit owners and of the
13 association held by or controlled by the declarant, including,
14 without limitation, all of the following items, if applicable,
15 as to each condominium or other owners' association operated by
16 the association:

17 (1) The original or a certified copy or a photocopy of
18 the recorded declaration and all amendments thereto. If a
19 photocopy is delivered, such photocopy shall reflect the
20 recording information and shall be accompanied by an
21 affidavit executed by the declarant certifying such photocopy
22 to be a true, correct and complete copy of the actual
23 recorded declaration and all amendments thereto.

24 (2) The association articles of incorporation, if
25 incorporated, with evidence of filing with the Department of
26 State.

27 (3) A copy of the bylaws.

28 (4) A complete set of all executive board minutes and
29 resolutions and all other books and records of the
30 association.

1 (5) A complete copy of all rules and regulations that
2 may have been adopted.

3 (6) Copies of all Federal, State and local tax returns
4 filed by or on behalf of the association and copies of any
5 tax-exempt elections made by or on behalf of the association.

6 (7) Copies of all past and current budgets of the
7 association.

8 (8) Resignations of officers and members of the
9 executive board who are required to resign because the
10 declarant is required to relinquish or has relinquished
11 control of the association.

12 (9) Not later than 90 days after the required
13 termination of the period of declarant control pursuant to
14 section 3303(c) or the declarant's earlier voluntary
15 termination of control, a complete audit of the finances of
16 the association for the time period between the last audit of
17 the association's financial books and records and the date of
18 termination of the period of declarant control, prepared by
19 an independent certified public accountant in accordance with
20 generally accepted accounting principles, the costs of which
21 audit are to be borne equally by the declarant and the
22 association. If the condominium consists of not more than 12
23 units, a warranty from the declarant to the association that
24 the books and records of the association completely and
25 accurately reflect all activities of the association from its
26 inception through the date of termination of the period of
27 declarant control may be substituted for the audit referred
28 to in this paragraph.

29 (10) All association funds or control thereof.

30 (11) All tangible personal property, and inventories

1 thereof:

2 (i) that may have been represented or should have
3 been represented by the declarant in any public offering
4 statement, sales materials or other writings to be part
5 of the common elements; or

6 (ii) that is otherwise property of the association.

7 (12) A copy of the plans or drawings and specifications,
8 if any, utilized in the construction, rehabilitation,
9 renovation or remodeling of any buildings and improvements
10 within the condominium and in the construction and
11 installation of any mechanical components and equipment
12 serving the buildings and improvements and property, if and
13 to the extent the construction, rehabilitation, renovation,
14 remodeling or installation was performed by or on behalf of
15 the declarant and substantially completed during the period
16 commencing three years prior to the date of the first public
17 offering statement regarding the condominium, unless no
18 public offering statement is required for any unit in the
19 condominium in which event such period shall commence on the
20 date of the recordation of the condominium declaration or
21 amendment thereto with respect to such improvements, and
22 ending on the date by which compliance with this section is
23 required. In the event such construction, rehabilitation,
24 renovation, remodeling or installation was substantially
25 completed within such period but not by or on behalf of the
26 declarant, the obligation of the declarant under this
27 paragraph shall be to provide all such plans, drawings and
28 specifications in the possession of the declarant and to use
29 reasonable efforts to obtain and provide any such plans,
30 drawings or specifications not within the possession of the

1 declarant. If such construction, rehabilitation, renovation,
2 remodeling or installation was substantially completed more
3 than three years prior to the commencement of the period
4 described in this paragraph, the obligations of the declarant
5 under this paragraph shall be to provide all such plans,
6 drawings and specifications in the possession of the
7 declarant. To the extent previously made available to the
8 declarant, the declarant in all cases shall deliver to the
9 association owners, operating, care and maintenance manuals
10 and other information regarding mechanical components and
11 equipment serving any buildings and improvements in the
12 condominium. A declarant's delivery of any plans, drawings or
13 specifications pursuant to this paragraph shall not
14 constitute a representation or warranty of the accuracy or
15 completeness of such plans, drawings or specifications, and
16 shall not expand, or otherwise affect, the declarant's
17 warranties created under section 3411 (relating to warranty
18 against structural defects).

19 (13) All insurance policies insuring the association
20 then in force.

21 (14) Copies of any certificates or statements of
22 occupancy which may have been issued with respect to the
23 improvements comprising the condominium, if and to the extent
24 available.

25 (15) Any other permits issued by governmental bodies
26 applicable to the condominium property which are then
27 currently in force, all notices of violations of governmental
28 requirements then outstanding and uncured and all reports of
29 investigations for the presence of hazardous conditions as
30 defined in section 3402(a)(26) (relating to public offering

1 statement; general provisions).

2 (16) Any written warranties then in force and effect
3 from contractors, subcontractors, suppliers or manufacturers
4 who have performed work with respect to the condominium
5 property or have supplied equipment or services to the
6 condominium property.

7 (17) A roster of unit owners and mortgagees and their
8 respective addresses and telephone numbers, if known, as
9 shown on the declarant's records.

10 (18) Employment contracts in which the association is or
11 is to be one of the contracting parties.

12 (19) Service and other contracts and leases in which the
13 association is or is to be one of the contracting parties and
14 service contracts in which the association has directly or
15 indirectly an obligation or a responsibility to pay some or
16 all of the fees or charges of the person or persons
17 performing such services.

18 Section 7. Section 3401, 3402, 3403, 3404, 3405, 3406, 3407,
19 3408, 3409, 3410, 3411 and 3414 of Title 68 are amended to read:
20 § 3401. Applicability; waiver.

21 (a) General rule.--This chapter applies to all units subject
22 to this subpart, except as provided in subsection (b) and
23 section 3411 (relating to warranty against structural defects)
24 or as modified or waived by agreement of [purchasers of units in
25 a condominium in which all units are restricted to residential
26 use.] the purchaser of any unit which is intended for
27 nonresidential use at the time of sale of such unit by the
28 declarant or by agreement of purchasers of units in a
29 condominium who are or intend to be in the business of buying
30 and selling condominium units, provided that:

1 (1) a purchaser of a unit intended for residential use
2 at the time of sale by the declarant may not modify or waive
3 the provisions of section 3411 with regard to such unit and
4 the common elements;

5 (2) with regard to any limited common element
6 appurtenant only to nonresidential units, the unit owners of
7 all such units have agreed to such modification or waiver
8 and, with regard to any common elements, other than limited
9 common elements, in a condominium in which all units are
10 restricted to nonresidential use, all unit owners have agreed
11 to such modification or waiver; and

12 (3) no modification or waiver shall prevent any unit
13 owner from indirectly benefiting from any provision in this
14 chapter by reason of such unit owner being a unit owner in
15 the condominium and a member of the association.

16 (b) Public offering statements.--A public offering statement
17 need not be prepared or delivered in the case of:

18 (1) a gratuitous transfer of a unit;

19 (2) a disposition pursuant to court order;

20 (3) a disposition by a government or governmental
21 agency;

22 (4) a disposition by foreclosure or deed in lieu of
23 foreclosure;

24 (5) a disposition of a condominium situated wholly
25 outside this Commonwealth pursuant to a contract executed
26 wholly outside this Commonwealth; or

27 (6) a transfer to which section 3407 (relating to
28 resales of units) applies.

29 (c) Resale certificates.--A resale certificate as described
30 in section 3407 need not be prepared or delivered in the cases

1 described in subsection (b)(1) through (5).

2 (d) Unified public offering statement.--If a unit is part of
3 a condominium and is part of any other real estate regime in
4 connection with the sale of which the delivery of a public
5 offering statement is required under the laws of this
6 Commonwealth, a single public offering statement conforming to
7 the requirements of sections 3402 (relating to public offering
8 statement; general provisions), 3403 (relating to public
9 offering statement; time-share estates) and 3404 (relating to
10 public offering statement; condominiums containing conversion
11 buildings) as those requirements relate to any real estate
12 regimes in which the unit is located, and to any other
13 requirements imposed under the laws of this Commonwealth, may be
14 prepared and delivered in lieu of providing two or more public
15 offering statements.

16 § 3402. Public offering statement; general provisions.

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

20 (1) The name and principal address of the declarant and
21 of the condominium.

22 (2) A general description of the condominium, including
23 without limitation the types, number and declarant's schedule
24 of commencement and completion of construction of all
25 buildings, units and amenities. The public offering statement
26 shall also contain a narrative description of the type and
27 character of units offered, including a statement of the
28 degree of completion to be provided or undertaken by the
29 declarant of such units and the common elements necessary for
30 use and enjoyment of such units upon the conveyance by the

1 declarant of the units offered.

2 (3) The total number of additional units that may be
3 included in the condominium and the proportion of units the
4 declarant intends to rent or market in blocks of units to
5 investors.

6 (4) A brief narrative description of any options
7 reserved by a declarant to withdraw withdrawable real estate
8 under section 3206(1) (relating to contents of declaration;
9 flexible condominiums) and the expected effects that
10 withdrawal would have on the remaining portion of the
11 condominium.

12 (5) Copies and a brief narrative description of the
13 significant features of the declaration (other than the plats
14 and plans), and the bylaws [and] rules and regulations, the
15 agreement of sale, copies of any contracts and leases to be
16 signed by the purchasers prior to or at closing and a brief
17 narrative description of any other contracts or leases or
18 agreements of a material nature to the condominium that will
19 or may be subject to cancellation by the association under
20 section 3305 (relating to termination of contracts and leases
21 of declarant).

22 (6) Any current balance sheet and a projected budget for
23 the association, either within or as an exhibit to the public
24 offering statement, for one year after the date of the first
25 conveyance to a purchaser, and thereafter the current budget
26 of the association, a statement of who prepared the budget
27 and a statement of the budget's material assumptions,
28 including those concerning occupancy and inflation factors.

29 The budget must include, without limitation:

30 (i) A statement of the amount, or a statement that

1 there is no amount, included in the budget as a reserve
2 for repairs and replacement.

3 (ii) A statement [of any other reserves] containing
4 a description of any provisions made in the budget for
5 reserves for anticipated material capital expenditures or
6 any other reserves or, if no provision is made for
7 reserves, a statement to that effect.

8 (iii) The projected common expense assessment by
9 category of expenditures for the association.

10 (iv) The projected monthly common expense assessment
11 for each type of unit.

12 (7) Any:

13 (i) services not reflected in the budget that the
14 declarant provides, or expenses that he pays, and that he
15 expects may become at any subsequent time a common
16 expense of the association; and

17 (ii) personal property not owned by the association
18 but provided by the declarant and being used or to be
19 used in the operation and enjoyment of the common
20 elements which is or will be required in connection with
21 the operation and enjoyment of the common elements after
22 such personal property is no longer provided by the
23 declarant, and the projected common expense assessment
24 for the association and for each type of unit
25 attributable to each of those services or expenses [for
26 the association and for each type of unit] and purchase
27 or rental of such personal property.

28 (8) Any initial or special fee due from the purchaser at
29 closing together with a description of the purpose and method
30 of calculating the fee.

1 (9) A description of any liens, defects or encumbrances
2 on or affecting the title to the condominium.

3 (10) A description of any financing for purchasers
4 offered or arranged by the declarant.

5 (11) The terms and significant limitations of any
6 warranties provided by the declarant including statutory
7 warranties and limitations on the enforcement thereof or on
8 damages.

9 (12) A statement in at least ten-point bold face type,
10 appearing on the first page of the public offering statement,
11 [that] as follows:

12 (i) [Within 15 days after receipt of a public
13 offering statement a] That within 15 days after receipt
14 of a public offering statement, or within seven days in
15 the case of the sale of a time-share estate, or an
16 amendment to the public offering statement that
17 materially and adversely affects the rights or
18 obligations of the purchaser, the purchaser, before
19 conveyance, may cancel any contract for purchase of a
20 unit from a declarant.

21 (ii) [If] That if a declarant fails to provide a
22 public offering statement, and any amendments thereto, to
23 a purchaser before conveying a unit, that purchaser may
24 recover from the declarant damages as provided in section
25 3406(c) (relating to purchaser's right to cancel) [and a
26 description of such damages].

27 (iii) A description of such damages.

28 [(iii) If] (iv) That if a purchaser receives the
29 public offering statement more than 15 days before
30 signing a contract, he cannot cancel the contract, or

1 more than seven days in the case of the sale of a time-
2 share estate, except that, in accordance with
3 subparagraph (i), he shall have the right to cancel the
4 contract before conveyance within 15 days (seven days in
5 the case of the sale of a time-share estate) after
6 receipt of any amendment thereto that would have a
7 material and adverse effect on the rights or obligations
8 of that purchaser.

9 (13) A statement of any judgments against the
10 association, the status of any pending suits to which the
11 association is a party and the status of any pending suits
12 material to the condominium of which a declarant has actual
13 knowledge.

14 (14) A statement that any deposit made in connection
15 with the purchase of a unit will be held in an escrow account
16 in accordance with the provisions of section 3408 (relating
17 to escrow of deposits) and will be returned to the purchaser
18 if the purchaser cancels the contract pursuant to section
19 3406.

20 (15) Any restraints on alienation of any portion of the
21 condominium.

22 (16) A description of [the] all insurance coverage
23 provided, or intended to be provided if such insurance is not
24 then in effect, for the benefit of unit owners, including the
25 types and extent of coverage, and the extent to which such
26 coverage includes or excludes improvements or betterments
27 made to units.

28 (17) Any current or expected fees or charges to be paid
29 by unit owners for the use of the common elements and other
30 facilities related to the condominium.

1 (18) The extent to which financial arrangements have
2 been provided for completion of all improvements labeled
3 "MUST BE BUILT" pursuant to section 3414 (relating to
4 declarant's obligation to complete and restore).

5 (19) All unusual and material circumstances, features
6 and characteristics of the condominium and the units.

7 (20) In the case of a leasehold condominium, at least
8 the following information:

9 (i) The name and address of each lessor and his
10 assignee, if any.

11 (ii) Any relationship between the declarant and any
12 lessor or assignee.

13 (iii) A description of the leased property.

14 (iv) The rent and any provision in the lease for
15 increases in the rent and any other charges or payments
16 required to be paid by the lessee under the lease.

17 (v) Whether the lessee has any right to terminate
18 the lease.

19 (vi) The information contained in the declaration as
20 required by section 3207(a) (relating to leasehold
21 condominiums).

22 (vii) The following notice in bold type: "Purchasers
23 should be aware that this is a leasehold condominium and
24 the purchaser's interest therein may be less valuable
25 than a fee interest, may depreciate over time and may be
26 of questionable marketability."

27 [(21) A statement containing a description of any
28 provisions made in the budget for reserves for capital
29 expenditures or, if no provision is made for reserves, a
30 statement to this effect.

1 (22)] (21) A statement containing a declaration as to
2 the present condition of all structural components and major
3 utility installations in the subject property, including the
4 dates of construction, installation and major repairs if
5 known or ascertainable, and the expected useful life of each
6 item, together with the estimated cost (in current dollars)
7 of replacing each of the same.

8 (22) A description of how votes are allocated among the
9 units and a statement as to whether cumulative or class
10 voting is permitted and, if so, under what circumstances.
11 Such statement shall also explain the operation of such
12 cumulative or class voting.

13 (23) A description of any circumstances under which the
14 association is to become a master association or part of a
15 master association.

16 (24) A statement of all governmental approvals and
17 permits required for the use and occupancy of the condominium
18 indicating the name and expiration date of each such approval
19 or permit that has been obtained and, as to any governmental
20 approvals or permits that have not been obtained, a statement
21 indicating when each such permit or approval is expected to
22 be obtained and the person who shall bear the expense of
23 obtaining each such permit or approval.

24 (25) A statement as to whether there are any outstanding
25 and uncured notices of violations of governmental
26 requirements and, if there are any such notices of
27 violations, a description of the alleged violation and a
28 statement indicating when each violation is expected to be
29 cured and the person who shall bear the expense of curing
30 such violation.

1 (26) A statement as to whether the declarant has
2 knowledge of any one or more of the following:

3 (i) Hazardous conditions, including contamination
4 affecting the condominium site by hazardous substances,
5 hazardous wastes or the like, or the existence of
6 underground storage tanks for petroleum products or other
7 hazardous substances.

8 (ii) Any investigation conducted to determine the
9 presence of hazardous conditions on or affecting the
10 condominium site.

11 (iii) Any finding or action recommended to be taken
12 in the report of any such investigation, or by any
13 governmental body, agency or authority, in order to
14 correct any hazardous conditions, and any action taken
15 pursuant to those recommendations.

16 If the declarant has no knowledge of such matters, the declarant
17 shall make a statement to that effect. Declarant shall also set
18 forth the address and phone number of the regional offices of
19 the Department of Environmental Resources and the United States
20 Environmental Protection Agency where information concerning
21 environmental conditions affecting the condominium site may be
22 obtained.

23 (b) Exceptions.--If a condominium composed of not more than
24 12 units is not a flexible condominium and no power is reserved
25 to a declarant to make the condominium part of a larger
26 condominium, group of condominiums or other real estate, a
27 public offering statement may but need not include the
28 information otherwise required by subsection (a)(3), (4) and
29 (18) and the narrative descriptions of documents required by
30 subsection (a)(5).

1 (c) Amendment for material change in information.--A
2 declarant promptly shall amend the public offering statement to
3 report any material change in the information required by this
4 section.

5 § 3403. Public offering statement; time-share estates.

6 (a) Definition.--For purposes of this section, "time-share
7 estate" means either:

8 (1) an "interval estate," meaning a combination of:

9 (i) an estate for years in a unit, during the term
10 of which title to the unit rotates among the time-share
11 owners thereof, vesting in each of them in turn for
12 periods established by a fixed recorded schedule, with
13 the series thus established recurring regularly until the
14 term expires, coupled with

15 (ii) a vested undivided fee simple interest in the
16 remainder in that unit, the magnitude of that interest
17 having been established by the declaration or by the deed
18 creating the interval estate; or

19 (2) a "time-span estate," meaning a combination of:

20 (i) an undivided interest in a present estate in fee
21 simple in a unit, the magnitude of that interest having
22 been established by the declaration or by the deed
23 conveying the time-span estate, coupled with

24 (ii) the exclusive right to possession and occupancy
25 of that unit during a regularly recurring period
26 designated by that deed or by a recorded document
27 referred to therein.

28 (b) General rule.--If the declaration provides that
29 ownership or occupancy of [the] any units are or may be owned in
30 time-shares, the public offering statement shall contain or

disclose in addition to the information required by section 3402
(relating to public offering statement; general provisions):

(1) The total number of units in which time-share
estates may be created.

(2) The total number of time-share estates that may be
created in the condominium.

(3) The projected common expense assessment for each
time-share estate and whether those assessments may vary
seasonally.

(4) A statement of any services not reflected in the
budget which the declarant provides, or expenses which he
pays, and which he expects may become at any subsequent time
a common expense of the association, and the projected common
expense assessment attributable to each of those services or
expenses for each time-share estate.

(5) The extent to which the time-share owners of a unit
are jointly and severally liable for the payment of real
estate taxes and all assessments and other charges levied
against that unit.

(6) The extent to which a suit for partition may be
maintained against a unit owned in time-share estates.

(7) The extent to which a time-share estate may become
subject to a tax or other lien arising out of claims against
other time-share owners of the same unit.

(8) A statement in at least ten-point bold face type,
appearing on the first page of the public offering statement,
that:

(i) Within seven days after receipt of a public
offering statement a purchaser, before conveyance, may
cancel any contract for purchase of a unit from a

1 declarant.

2 (ii) If a declarant fails to provide a public
3 offering statement to a purchaser before conveying a
4 unit, the purchaser may recover from the declarant
5 damages as provided in section 3406(c) (relating to
6 purchaser's right to cancel) and a description of such
7 damages.

8 (iii) If a purchaser receives the public offering
9 statement more than seven days before signing a contract,
10 he cannot cancel the contract.

11 § 3404. Public offering statement; [conversion] condominiums
12 containing conversion buildings.

13 (a) General rule.--The public offering statement of a
14 [conversion] condominium containing a conversion building must
15 contain, in addition to the information required by section 3402
16 (relating to public offering statement; general provisions):

17 (1) A statement by the declarant, based on a report
18 prepared by an independent registered architect or
19 professional engineer[,];

20 (i) describing the age and present condition, and,
21 if known or reasonably ascertainable, the dates of
22 construction, installation and major repairs, of all
23 structural components and mechanical and electrical
24 installations, including but not limited to roofs,
25 plumbing, heating, air conditioning[,], and elevators [and
26 pest control conditions], material to the use and
27 enjoyment of the condominium[.]; and

28 (ii) describing the results of the inspection of the
29 units and common elements required pursuant to section
30 3411(c) (relating to warranty against structural defects)

1 for visible conditions that adversely affect the health
2 or safety of residential occupants. The statement should
3 also state the extent to which the report by the
4 architect or professional engineer is based upon a visual
5 inspection of the units as well as the common elements.

6 (2) A statement by the declarant of the expected useful
7 life of each item reported on in paragraph (1) including the
8 current replacement costs of such item.

9 (3) A list of any outstanding notices of uncured
10 violations of building code or other municipal regulations,
11 together with the estimated cost of curing those violations.

12 (4) A statement by the declarant, based on a report
13 prepared by an independent licensed exterminating company,
14 describing the presence at the condominium of any visible
15 pest conditions dangerous to health and safety, such as the
16 presence of insects and rodents dangerous to health or
17 safety, and outlining actions taken or to be taken to
18 eliminate the existence of pest conditions dangerous to
19 health or safety.

20 (b) Applicability of section.--This section applies only to
21 units that may be occupied for residential use.

22 § 3405. Public offering statement; condominium securities.

23 If an interest in a condominium is currently registered with
24 the Securities and Exchange Commission of the United States, a
25 declarant satisfies all requirements relating to the preparation
26 of a public offering statement in this subpart if he delivers to
27 the purchaser a copy of the public offering statement filed with
28 the Securities and Exchange Commission. An interest in a
29 condominium is not, in and of itself, a security under the
30 provisions of the act of December 5, 1972 (P.L.1280, No.284),

1 known as the ["]Pennsylvania Securities Act of 1972[."], and the
2 offer and sale of condominium units in accordance with the
3 requirements of this chapter shall not also be subject to the
4 registration requirements of sections 201 or 301 of the
5 Pennsylvania Securities Act of 1972 or the promotional real
6 estate sales requirements of the act of February 19, 1980
7 (P.L.15, No.9), known as the Real Estate Licensing and
8 Registration Act.

9 § 3406. Purchaser's right to cancel.

10 (a) General rule.--[Unless] In cases where delivery of a
11 public offering statement is [not] required under section
12 3401[(b)] (relating to applicability; waiver), a declarant shall
13 provide a purchaser of a unit with a copy of the public offering
14 statement and all amendments thereto not later than the date [of
15 any] the purchaser executes the contract of sale for such unit
16 or, if no contract of sale is executed, 15 days before
17 conveyance of such unit. Unless a purchaser is given the public
18 offering statement [more than 15 days before execution of a
19 contract for the purchase of a unit], including all the
20 currently effective amendments thereof, within the time period
21 referred to in the preceding sentence, the purchaser, before
22 conveyance, may cancel the contract within 15 days after first
23 receiving the public offering statement and all currently
24 effective amendments thereof, except in the case of the sale of
25 a time-share estate. Unless a purchaser of a time-share estate
26 is given the public offering statement, including all the
27 currently effective amendments thereof, more than seven days
28 before [execution of a] the purchaser executes the contract for
29 the purchase of [a] such unit or, if no contract of sale is
30 executed, seven days before conveyance of such unit, the

1 purchaser, before conveyance, may cancel the contract within
2 seven days after first receiving the public offering statement
3 and all currently effective amendments thereof. If a public
4 offering statement is amended after the public offering
5 statement has been received by a purchaser of a unit, the
6 amendment shall be provided to the purchaser promptly after it
7 becomes effective, and, if the amendment materially and
8 adversely affects the rights or obligations, or both, of the
9 purchaser, then the purchaser, before conveyance, may cancel the
10 contract of sale within 15 days, or seven days in case of the
11 sale of a time-share estate, after receiving the amendment.

12 (b) Method and effect of cancellation.--If a purchaser
13 elects to cancel a contract pursuant to subsection (a), he may
14 do so by hand delivering notice thereof to the declarant, or by
15 mailing notice thereof by prepaid United States mail to the
16 declarant or to his agent for service of process. Cancellation
17 is without penalty and all payments made by the purchaser before
18 cancellation shall be refunded promptly.

19 (c) Penalty for noncompliance by declarant.--If a declarant
20 fails to provide a purchaser to whom a unit is conveyed with a
21 public offering statement and all amendments thereto as required
22 by subsection (a), the purchaser, in addition to any other
23 relief, is entitled to receive from the declarant an amount
24 equal to 5% of the sales price of the unit up to the maximum of
25 \$2,000, or actual damages, whichever is the greater amount. A
26 minor omission or error in the public offering statement or an
27 amendment thereto, that is not willful, shall entitle the
28 purchaser to recover only actual damages, if any.

29 § 3407. Resales of units.

30 (a) Information supplied by unit owner.--In the event of a

1 resale of a unit by a unit owner other than a declarant, the
2 unit owner shall furnish to a purchaser before execution of any
3 contract for sale of a unit, or otherwise before conveyance, a
4 copy of the declaration (other than the plats and plans), the
5 bylaws, the rules or regulations of the association and a
6 certificate containing:

7 (1) A statement disclosing the effect on the proposed
8 disposition of any right of first refusal or other restraint
9 on the free alienability of the unit.

10 (2) A statement setting forth the amount of the monthly
11 common expense assessment and any unpaid common expense or
12 special assessment currently due and payable from the selling
13 unit owner and any surplus fund credits to be applied with
14 regard to the unit pursuant to section 3313 (relating to
15 surplus funds).

16 (3) A statement of any other fees payable by unit
17 owners.

18 (4) A statement of any capital expenditures proposed by
19 the association for the current and two next succeeding
20 fiscal years.

21 (5) A statement of the amount of any reserves for
22 capital expenditures and of any portions of those reserves
23 designated by the association for any specified project.

24 (6) The most recent regularly prepared balance sheet and
25 income and expense statement, if any, of the association.

26 (7) The current operating budget of the association.

27 (8) A statement of any judgments against the association
28 and the status of any pending suits to which the association
29 is a party.

30 (9) A statement describing any insurance coverage

1 provided for the benefit of unit owners.

2 (10) A statement as to whether the executive board has
3 knowledge that any alterations or improvements to the unit or
4 to the limited common elements assigned thereto violate any
5 provision of the declaration.

6 (11) A statement as to whether the executive board has
7 knowledge of any violations of [the health or building codes]
8 applicable governmental requirements or knowledge of the
9 existence of any hazardous conditions pursuant to section
10 3402(a)(26) (relating to public offering statement; general
11 provisions) or with respect to the unit, the limited common
12 elements assigned thereto or any other portion of the
13 condominium.

14 (12) A statement of the remaining term of any leasehold
15 estate affecting the condominium and the provisions governing
16 any extension or renewal thereof.

17 (13) A statement as to whether the declaration provides
18 for cumulative voting or class voting.

19 (14) A statement as to whether an agreement to terminate
20 the condominium has been submitted to the unit owners for
21 approval and remains outstanding.

22 (15) A statement of whether the condominium is a master
23 association or is part of a master association, or could
24 become a master association or part of a master association.

25 (16) A statement describing which units, if any, may be
26 owned in time-share estates and the maximum number of time-
27 share estates that may be created in the condominium.

28 (17) A statement of whether the declarant retains the
29 special declarant right to cause a merger or consolidation of
30 the condominium and, if so, the information describing such

1 right which was supplied by the declarant pursuant to section
2 3205(13) (relating to contents of declaration; all
3 condominiums), if any.

4 (b) Information supplied by association.--The association,
5 within ten days after a request by a unit owner, shall furnish a
6 certificate containing the information and copies of documents
7 necessary to enable the unit owner to comply with this section.
8 A unit owner providing a certificate pursuant to subsection (a)
9 is not liable to the purchaser for any erroneous information
10 provided by the association and included in the certificate.

11 (c) Liability for error or inaction by association.--A
12 purchaser is not liable for any unpaid assessment or fee greater
13 than the amount set forth in the certificate prepared by the
14 association. A unit owner is not liable to a purchaser for the
15 failure or delay of the association to provide the certificate
16 in a timely manner but the purchase contract is voidable by the
17 purchaser until the certificate has been provided and for five
18 days thereafter or until conveyance, whichever first occurs.

19 § 3408. Escrow of deposits.

20 Any deposit (which shall not include any installment payment
21 under an installment sales contract nor payments specifically
22 stated in a sales contract to be in payment of or on account of
23 extras, changes or custom work) made in connection with the
24 purchase or reservation of a unit from a declarant shall be
25 placed in escrow and held in this Commonwealth by a licensed
26 real estate broker, an attorney admitted to practice in this
27 Commonwealth, a financial institution or a licensed title
28 insurance company, in an account, or in the form of a
29 certificate of deposit, designated solely for that purpose [by
30 an] with a financial institution whose accounts are insured by a

1 governmental agency or instrumentality until:

2 (1) delivered to the declarant at closing, or in the
3 case of the sale of a unit pursuant to an installment sales
4 contract, upon the expiration of 30 days from the date of
5 occupancy of the unit;

6 (2) delivered to the declarant because of purchaser's
7 default under a contract to purchase the unit; or

8 (3) refunded to the purchaser.

9 § 3409. Release of liens.

10 (a) General rule.--Before conveying a unit, other than by
11 deed in lieu of foreclosure, to a purchaser other than a
12 declarant, a declarant shall record or furnish to the purchaser
13 releases of all liens affecting that unit and its common element
14 interest which the purchaser does not expressly agree to take
15 subject to or assume, or shall provide a surety bond or
16 substitute collateral for or insurance against the lien adequate
17 in nature and amount. This subsection does not apply to any
18 convertible or withdrawable real estate in which no unit has
19 been conveyed.

20 (b) [Lien against multiple units.--Whether perfected before
21 or after creation of the condominium, if a lien other than a
22 deed of trust or mortgage, including a lien attributable to work
23 performed or materials supplied before creation of the
24 condominium, becomes effective against two or more units, the
25 unit owner of an affected unit may pay to the lienholder the
26 amount of the lien attributable to his unit and the lienholder,
27 upon receipt of payment, promptly shall deliver a release of the
28 lien covering that unit and its common element interest. The
29 amount of the payment must be proportionate to the ratio which
30 that unit owner's common expense liability bears to the common

1 expense liabilities of all unit owners whose units are subject
2 to the lien. After payment, the association may not assess or
3 have a lien against that unit owner's unit for any portion of
4 the common expenses incurred in connection with that lien.]

5 Other liens.--Before conveying real estate to the association,
6 the declarant shall have the real estate released from:

7 (1) All liens, the foreclosure of which would deprive
8 unit owners of any right of access to or easements of support
9 of their units.

10 (2) All other liens on that real estate unless the
11 public offering statement describes certain real estate which
12 may be conveyed subject to liens in specified amounts.

13 § 3410. [Conversion condominiums] Condominiums containing
14 conversion buildings.

15 (a) Notice of conversion.--[A] The declarant of every
16 [conversion] condominium containing one or more conversion
17 buildings shall give each of the residential tenants and [any
18 subtenant] residential subtenants, if any, lawfully in
19 possession of a unit or units in a conversion building or
20 buildings [subject to this subpart], a conversion notice [of the
21 conversion] no later than one year before the declarant will
22 require [the tenants and any] such residential tenant and
23 residential subtenant [in possession] to vacate. The conversion
24 notice must set forth generally the rights of residential
25 tenants and residential subtenants under this section and shall
26 be hand delivered to the unit or mailed by prepaid United States
27 certified or registered mail return receipt requested to the
28 residential tenant and residential subtenant at the address of
29 the unit and not more than one other mailing address provided by
30 a residential tenant. Every notice shall be accompanied by a

1 public offering statement concerning the proposed sale of
2 condominium units within such building or buildings. Except as
3 otherwise provided in subsection (f), no residential tenant or
4 residential subtenant in a conversion building may be required
5 by the declarant to vacate [upon less] the unit he leases
6 earlier than one [year's] year after the conversion notice date,
7 except by reason of nonpayment of rent, waste or conduct that
8 disturbs other tenants' peaceful enjoyment of the premises, and
9 the terms of the tenancy, including those terms that apply to a
10 period occurring in whole or in part after the conversion notice
11 date, may not be altered, but may be enforced, during that
12 period. Failure of a declarant to give notice [as required by]
13 to a residential tenant or residential subtenant entitled to
14 such notice pursuant to this subsection is a defense to an
15 action for possession against such residential tenant or
16 residential subtenant.

17 (b) Offer to tenant to purchase unit.--For six months after
18 [delivery or mailing of the notice described in subsection (a)]
19 the conversion notice date, the declarant shall offer to convey
20 each unit or proposed unit occupied for residential use in a
21 conversion building to the tenant who leases that unit. If [a]
22 the tenant fails to purchase [the] his unit during that six-
23 month period, the declarant may not offer to dispose of an
24 interest in that unit during the following six months at a price
25 or on terms more favorable to the offeree than the price or
26 terms offered to the tenant. This [section] subsection shall not
27 apply to any rental unit which immediately prior to the
28 conversion notice date was restricted or devoted exclusively to
29 nonresidential use or the boundaries of which unit, after the
30 creation of the condominium, will not substantially conform to

1 the boundaries of such unit on the conversion notice date. [The
2 purchase option set forth in this subsection shall be recorded
3 in the recorder of deeds office in any county in which the
4 proposed conversion condominium is located.]

5 (c) Effect of wrongful conveyance.--If a declarant, in
6 violation of subsection (b), conveys a unit to a purchaser for
7 value who has no knowledge of the violation, recordation of the
8 deed conveying the unit extinguishes any right a tenant may have
9 under subsection (b) to purchase that unit if the deed states
10 that the seller has complied with subsection (b) but does not
11 affect the right of a tenant to recover damages from the
12 declarant for a violation of subsection (b).

13 (d) Notice to vacate.--If a [notice of] conversion notice
14 specifies a date by which a unit or proposed unit must be
15 vacated, the conversion notice also constitutes a notice of
16 termination of the tenant's lease, subject to revocation in
17 accordance with subsection (j), and a notice to quit specified
18 by section 501 of the act of April 6, 1951 (P.L.69, No.20),
19 known as ["The Landlord and Tenant Act of 1951.["]

20 (e) Improper lease termination prohibited.--

21 (1) Nothing in this section permits termination of a
22 lease by a declarant in violation of its terms.

23 (2) Nothing in this section or in any lease shall
24 prohibit a residential tenant, after receiving notice
25 pursuant to subsection (a), from terminating any lease
26 without any liability for such termination provided such
27 tenant gives the building owner 90 days' written notice of
28 the intent to terminate the lease.

29 (3) The declarant or owner of any proposed conversion
30 condominium shall not engage in any activity of any nature

1 which would coerce the tenant into terminating any lease,
2 including but not limited to stampeding, harassing tenants or
3 withholding normal services or repairs.

4 (f) Units leased to senior citizens and [blind and] disabled
5 persons.--

6 (1) For the purpose of this subsection, an eligible
7 tenant or subtenant shall be a natural person who, [at the
8 time the notice described in subsection (a) is given by the
9 declarant,] on the conversion notice date, lawfully occupies
10 a unit in a conversion building as his principal residence
11 and is 62 years of age or older or is [blind or] disabled,
12 and has occupied the unit for at least two years. For the
13 purpose of this subsection, a person shall be deemed to be
14 "disabled" if on the conversion notice date he is totally and
15 permanently unable to engage in any substantial gainful
16 activity by reason of any medically determinable physical or
17 mental impediment, including, but not limited to, blindness.

18 (2) Within [30] 60 days after [receipt of] the
19 conversion notice [from the declarant referred to in
20 subsection (a)] date, any tenant, or subtenant, in possession
21 of a unit, who believes that he is an eligible tenant or
22 subtenant shall so notify the declarant and shall provide the
23 declarant with proof of his eligibility. Any eligible tenant
24 or subtenant who has established his eligibility as aforesaid
25 shall be entitled to remain in possession of his unit for two
26 years following the conversion notice date [of the notice
27 referred to in subsection (a)], notwithstanding any prior
28 termination date in his lease, except by reason of nonpayment
29 of rent, waste or conduct that disturbs other occupants'
30 peaceful enjoyment of the condominium, and the terms of the

1 tenancy, including terms that apply to a time period after
2 the conversion notice date, may not be altered, but may be
3 enforced, during the time period between the original lease
4 termination date [on which the tenant's lease would otherwise
5 terminate] and the expiration of this two-year period except
6 [that the rental may be increased to the extent necessary to
7 reflect any increase in real estate taxes and utility
8 charges, applicable to the unit and not separately paid by
9 the tenant, for the time period between the date of the
10 notice referred to in subsection (a) and the date on which
11 the tenant's lease would otherwise terminate.] as is
12 otherwise provided in paragraph (3).

13 (3) The monthly rental payable by the tenant during the
14 time period commencing upon the later to occur of the
15 original lease termination date or the first anniversary of
16 the conversion notice date and ending upon the expiration of
17 the two-year period described in paragraph (2) shall be the
18 same monthly rental as was payable for the month immediately
19 preceding the original lease termination date, except that,
20 at the landlord's option, such monthly rental may be
21 increased by the lesser of 5% of such monthly rental or the
22 same percentage increase as the percentage increase, if any,
23 in the Consumer Price Index as calculated and published by
24 the United States Department of Labor for the six-month time
25 period commencing on the first day of the first full calendar
26 month after the conversion notice date.

27 (4) Failure of a declarant to comply with the provisions
28 of this subsection is a defense to an action for possession.

29 (g) Tenant meetings; open to the public.--[At] With respect
30 to any conversion building containing one or more units then

1 occupied for residential use, at least 30 days before the
2 [notice of] conversion [is given] notice date, the declarant
3 shall hold a tenant meeting open to the public in the
4 municipality where the [conversion is] proposed conversion
5 building is located at a place and time convenient to the
6 persons who may be directly affected by the conversion. At least
7 10 days' notice of the time and place of the meeting shall be
8 given to residential tenants and subtenants, in lawful
9 possession of their units, in the same manner as is required for
10 the giving of the conversion notice, and to the general public
11 by a notice in a newspaper of general circulation in the
12 municipality in which the condominium is located, except that no
13 notice to the general public need be given with respect to
14 conversion buildings as to which the provisions of section
15 3402(b) (relating to public offering statement; general
16 provisions) are applicable. At such meeting, representatives of
17 the declarant shall briefly describe the following and may, but
18 shall not be required to, discuss other matters:

19 (1) The rights and obligations of tenants and subtenants
20 pursuant to this section.

21 (2) Improvements, if any, then planned to be made to the
22 condominium by the declarant.

23 (3) The anticipated approximate range of initial unit
24 sales prices. Specific unit sales prices need not, however,
25 be provided.

26 (4) The anticipated approximate range of estimated
27 monthly common expenses for various types of units, however,
28 specific per unit estimates need not be provided.

29 (h) Community development grants.--If Federal funds under
30 Title I of the Community Development Act of 1974 have been used

1 to finance the rehabilitation of multifamily rental housing,
2 with the intent that such housing subsequent to the
3 rehabilitation is to be used for residential rental purposes,
4 such housing shall not be converted to a condominium for a
5 period of ten years from the date the rehabilitation is
6 completed.

7 (i) Revocation.--A declarant may subsequently revoke a
8 conversion notice if the declarant has expressly reserved the
9 right of revocation in the conversion notice and if the notice
10 of revocation:

11 (1) is given prior to the conveyance of any unit in the
12 condominium occurring after the conversion notice date other
13 than a unit or units conveyed to a successor declarant or as
14 a result of foreclosure of a mortgage on the unit or a deed
15 in lieu thereof;

16 (2) is given in the same manner as is required for the
17 giving of the conversion notice; and

18 (3) is given to all persons who were entitled to receive
19 the conversion notice and who continue to be in lawful
20 occupancy at the time such notice of revocation is given.

21 The giving of a notice of revocation revokes all rights granted
22 under this section, but does not revoke the rights granted to
23 residential tenants under subsection (a) or (f), and such rights
24 shall be deemed to have been incorporated in each residential
25 tenant's lease.

26 (j) Waiver of purchase rights.--Notwithstanding any
27 provisions of this subpart prohibiting waiver of rights, any
28 tenant may waive his right to purchase a unit pursuant to
29 subsection (b) if the waiver is in writing, is acknowledged and
30 is given in consideration of:

1 (1) an extension of the term of the tenant's tenancy and
2 right of occupancy under this subpart beyond the time period
3 required by subsection (b);

4 (2) the tenant entering into an agreement to purchase
5 another unit in the condominium; or

6 (3) all occupants of the unit making alternative living
7 arrangements.

8 (k) Alteration of terms of tenancy.--Notwithstanding any
9 provisions of subsection (a) or (f), the terms of the tenancy of
10 a tenant or subtenant may be altered with the express written
11 consent of that tenant or subtenant, and such altered terms
12 shall then be the terms of tenancy referred to in this section.

13 (l) Application of section.--The provisions of this section
14 shall apply only with respect to conversion buildings in which
15 one or more residential tenants or residential subtenants are in
16 lawful occupancy on the conversion notice date and the only
17 tenants who are entitled to exercise the rights granted under
18 this section are residential tenants or residential subtenants:

19 (1) who are in lawful occupancy of conversion building
20 on the date the declarant gives the conversion notice; or

21 (2) who commence their tenancy after the notice of
22 conversion is given to the other residential tenants without
23 having been notified in writing, at or prior to the
24 commencement of their tenancy, that the property is then a
25 condominium and that they are not entitled to the rights
26 granted under this section.

27 Such rights continue only so long as the lawful occupancy of the
28 tenant or subtenant continues.

29 § 3411. Warranty against structural defects.

30 (a) Definition.--As used in this section, "structural

1 defects" means those defects in components constituting any unit
2 or common element which reduce the stability or safety of the
3 structure below accepted standards or restrict the normal
4 intended use of all or part of the structure and which require
5 repair, renovation, restoration or replacement. Nothing in this
6 section shall be construed to make the declarant responsible for
7 any items of maintenance relating to the units or common
8 elements.

9 (b) General rule.--A declarant warrants against structural
10 defects in each of the units for two years from the date each is
11 conveyed to a bona fide purchaser, and all of the common
12 elements for two years. Any conveyance of a unit during the two-
13 year warranty period shall be deemed to transfer to the
14 purchaser all of the declarant's warranties created under this
15 section. The two years shall begin as to each of the common
16 elements whenever the common element has been completed or, if
17 later:

18 (1) as to any common element within any additional real
19 estate or portion thereof, at the time the first unit therein
20 is conveyed to a bona fide purchaser;

21 (2) as to any common element within any convertible real
22 estate or portion thereof, at the time the first unit therein
23 is conveyed to a bona fide purchaser; and

24 (3) as to any common element within any other portion of
25 the condominium, at the time the first unit therein is
26 conveyed to a bona fide purchaser.

27 (c) [Conversion condominiums.--A declarant of a conversion
28 condominium warrants against structural defects in components
29 installed by the declarant, work done or improvements made by
30 the declarant, and that the unit and common elements have been

1 inspected for structural and mechanical defects and that any
2 such defects found have been repaired. Otherwise, the declarant
3 of a conversion condominium may offer the units, common
4 elements, or both in an "as is" condition. The declarant of a
5 conversion condominium may also give a more extensive warranty
6 in writing. The times at which these warranties commence and the
7 duration of these warranties shall be as provided in subsection
8 (b).] Condominiums containing conversion buildings.--A declarant
9 of a condominium containing one or more conversion buildings
10 warrants as follows:

11 (1) That there are no structural defects in components
12 installed anywhere in the condominium by or on behalf of the
13 declarant, or in work done or improvements made by or on
14 behalf of the declarant anywhere in the condominium.

15 (2) That all units and common elements in each
16 conversion building have been inspected for visible
17 structural and mechanical defects and for other visible
18 conditions that adversely affect the health or safety of
19 residential occupants, as required by subsection 3404(a)(1)
20 (relating to public offering statement; condominiums
21 containing conversion buildings), except that no such
22 inspection is required of any unit if the tenant or other
23 lawful occupant of the unit does not permit such inspection
24 to be conducted.

25 (3) That any such defects and other visible conditions
26 found have been repaired.

27 The warranties set forth in subsection (b) shall be applicable
28 to any units and common elements that are located within a
29 building that contains or comprises one or more units and is not
30 a conversion building. Otherwise, such a declarant may offer the

1 units, common elements, or both, in an "as is" condition. The
2 declarant of a condominium containing any conversion buildings
3 may also give a more extensive warranty in writing. The times at
4 which the warranties required by this subsection commence and
5 the duration of such warranties shall be as provided in
6 subsection (b).

7 (d) Exclusion or modification of warranty.--Except with
8 respect to a purchaser of a unit for residential use, the
9 warranty against structural defects:

10 (1) may be excluded or modified by agreement of the
11 parties; and

12 (2) is excluded by expression of disclaimer, such as "as
13 is," "with all faults" or other language which in common
14 understanding calls the buyer's attention to the exclusion of
15 warranties.

16 (e) Limitation of actions.--No action to enforce the
17 warranty created by this section shall be commenced later than
18 six years after the warranty begins.

19 § 3414. Declarant's obligation to complete and restore.

20 (a) Completing improvements.--The declarant shall complete
21 all improvements labeled "MUST BE BUILT" on plats or plans
22 prepared pursuant to section 3210 (relating to plats and plans).

23 (b) Repair and restoration.--The declarant is subject to
24 liability for the prompt repair and restoration, to a condition
25 compatible with the remainder of the condominium, of any portion
26 of the condominium affected by the exercise of rights reserved
27 pursuant to or created by sections 3211 (relating to conversion
28 and expansion of flexible condominiums), 3212 (relating to
29 withdrawal of withdrawable real estate), 3217 (relating to [use
30 for sales purposes] declarant's offices, models and signs) and

3218 (relating to easement to facilitate completion, conversion
and expansion).

(c) Substantial completion prerequisite to conveyance.--A
unit which is part of or constitutes a structure shall not be
conveyed unless all structural components and common element
mechanical systems of the structure containing or constituting
such unit or units are substantially completed to the extent
required of declarant so as to permit the use of such unit or
units, and any limited common elements appurtenant thereto, for
their intended use. Such substantial completion shall be
evidenced by a recorded certification of completion executed by
an independent registered surveyor, architect or professional
engineer with regard to any such structure.

(d) Substantial completion of unit.--No interest in a unit
shall be conveyed until the unit is substantially completed in
accordance with the descriptions set forth in both the
declaration pursuant to section 3205(4) (relating to contents of
declaration; all condominiums) and in the public offering
statement pursuant to section 3402(a) (relating to public
offering statement; general provisions) as evidenced by a
recorded certificate of completion executed by an independent
registered surveyor, architect or professional engineer.

(e) Construction of section.--Nothing contained in this
subpart shall prevent the offering for sale of a unit or
interest in a unit or the execution of any agreement to sell and
purchase a unit or any interest in a unit (as opposed to actual
conveyance) prior to the completion of the unit or any other
portion of the condominium.

Section 8. (a) Except as set forth in this section, the
amendments to 68 Pa.C.S. made by this act shall apply only with

1 respect to events and circumstances occurring after the
2 effective date of this act. The changes to 68 Pa.C.S. made by
3 this act neither invalidate otherwise valid provisions of the
4 declaration, code of regulations, bylaws, declaration plan or
5 plats and plans of any condominium created prior to the
6 effective date of this act nor invalidate otherwise proper
7 actions of any declarant, condominium association, council or
8 executive board taken prior to the effective date of this act.

9 (b) The amendment of 68 Pa.C.S. §§ 3208(b) and (c), 3215(c),
10 3217(c) and 3306(a)(6) shall apply only to condominiums created
11 after the effective date of this act.

12 (c) The amendment of 68 Pa.C.S. § 3220 shall apply only with
13 regard to a termination agreement or ratifications thereof not
14 executed by any unit owner prior to the effective date of this
15 act.

16 (d) The amendment of 68 Pa.C.S. § 3308 shall apply only with
17 regard to notices of meetings given after the effective date of
18 this act.

19 (e) The amendment of 68 Pa.C.S. § 3311(a)(3) shall apply
20 only with regard to a claim for a tort or breach of contract,
21 for which litigation shall have been initially instituted after
22 the effective date of this act.

23 (f) The amendment of 68 Pa.C.S. §§ 3313 and 3314 shall apply
24 only with regard to fiscal years of the association commencing
25 after the effective date of this act.

26 (g) The amendment of 68 Pa.C.S. §§ 3402(a) and 3404 shall
27 apply only with regard to a public offering statement not
28 delivered to any purchaser prior to the effective date of this
29 act.

30 (h) The amendment of 68 Pa.C.S. § 3411(c) shall not apply to

1 a conversion building in a condominium with regard to which
2 there has been a conveyance or binding agreement to sell any
3 unit in the conversion building to a bona fide purchaser prior
4 to the effective date of this act.

5 Section 9. This act shall take effect in 45 days.