

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 862 Session of  
1991

INTRODUCED BY SALVATORE, APRIL 3, 1991

SENATOR GREENWOOD, URBAN AFFAIRS AND HOUSING, AS AMENDED,  
MAY 6, 1992

## 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

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

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

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

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the 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

bring an action to enforce any obligation of the transferor.

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

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

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

(c) Rights of purchaser in foreclosure, etc. proceedings.-- Unless otherwise provided in a mortgage instrument or deed of trust, in case of foreclosure of a mortgage, sale by a trustee under a deed of trust or sale under [the Federal Bankruptcy Act] 11 U.S.C. (relating to bankruptcy) or receivership proceedings 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

claimant, including the prior owner of the unit.

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

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

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

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

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

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

§ 3316. Association records.

During the period of declarant control, the association shall keep detailed financial records, including, without limitation, 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.