

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1122 Session of 2013

INTRODUCED BY GINGRICH, KAUFFMAN, ELLIS, GABLER, SWANGER, MACKENZIE, REGAN, BARRAR, TOOHL, EVERETT, C. HARRIS, COHEN, LONGIETTI AND R. BROWN, APRIL 8, 2013

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 15, 2013

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, IN CREATION, ALTERATION <--
3 AND TERMINATION OF CONDOMINIUMS, FURTHER PROVIDING FOR
4 CONTENTS OF DECLARATION AND FLEXIBLE CONDOMINIUMS AND FOR
5 AMENDMENT OF DECLARATION; AND, IN CREATION, ALTERATION AND
6 TERMINATION OF PLANNED COMMUNITIES, further providing for
7 contents of declaration for flexible planned communities and
8 for amendment of declaration.

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

11 Section 1. Sections 3206(2), 3219(A), 5206(2) and 5219(a) (3) <--
12 of Title 68 of the Pennsylvania Consolidated Statutes are
13 amended to read:

14 § 3206. CONTENTS OF DECLARATION; FLEXIBLE CONDOMINIUMS. <--
15 THE DECLARATION FOR A FLEXIBLE CONDOMINIUM SHALL INCLUDE, IN
16 ADDITION TO THE MATTERS SPECIFIED IN SECTION 3205 (RELATING TO
17 CONTENTS OF DECLARATION; ALL CONDOMINIUMS):

18 * * *

19 (2) A STATEMENT OF THE TIME LIMIT, [NOT EXCEEDING SEVEN
20 YEARS AFTER THE RECORDING OF THE DECLARATION,] UPON WHICH ANY

1 OPTION RESERVED UNDER PARAGRAPH (1) WILL LAPSE TOGETHER WITH
2 A STATEMENT OF ANY CIRCUMSTANCES THAT WILL TERMINATE THE
3 OPTION BEFORE THE EXPIRATION OF THE TIME LIMIT. THE TIME
4 LIMIT SHALL NOT EXCEED THE LATER OF:

5 (I) TEN YEARS AFTER THE RECORDING OF THE
6 DECLARATION; OR

7 (II) IN THE CASE OF A PRELIMINARY PLAT CALLING FOR
8 THE INSTALLATION OF IMPROVEMENTS IN SECTIONS, 120 DAYS
9 AFTER MUNICIPAL APPROVAL OR DENIAL OF EACH PARTICULAR
10 SECTION'S FINAL PLAT WHICH WAS FILED PRIOR TO THE
11 DEADLINE APPROVED OR MODIFIED BY THE MUNICIPAL GOVERNING
12 BODY PURSUANT TO SECTION 508(4)(V) OF THE ACT OF JULY 31,
13 1968 (P.L.805, NO.247), KNOWN AS THE PENNSYLVANIA
14 MUNICIPALITIES PLANNING CODE, OR IN THE EVENT OF AN
15 APPEAL FROM THE MUNICIPAL APPROVAL OR DENIAL OF SUCH
16 FINAL PLAT, 120 DAYS AFTER A FINAL JUDGMENT ON APPEAL.

17 * * *

18 § 3219. AMENDMENT OF DECLARATION.

19 (A) NUMBER OF VOTES REQUIRED.--[EXCEPT IN CASES OF
20 AMENDMENTS THAT MAY BE EXECUTED BY A DECLARANT UNDER SECTION
21 3210(E) AND (F) (RELATING TO PLATS AND PLANS), 3211(A) (RELATING
22 TO CONVERSION AND EXPANSION OF FLEXIBLE CONDOMINIUMS) OR 3212(A)
23 (RELATING TO WITHDRAWAL OF WITHDRAWABLE REAL ESTATE); THE
24 ASSOCIATION UNDER SUBSECTION (F) OR SECTION 3107 (RELATING TO
25 EMINENT DOMAIN), 3207(D) (RELATING TO LEASEHOLD CONDOMINIUMS),
26 3209(C) (RELATING TO LIMITED COMMON ELEMENTS) OR 3215(A)
27 (RELATING TO SUBDIVISION OR CONVERSION OF UNITS); OR CERTAIN
28 UNIT OWNERS UNDER SECTION 3209(B) (RELATING TO LIMITED COMMON
29 ELEMENTS), 3214(A) (RELATING TO RELOCATION OF BOUNDARIES BETWEEN
30 ADJOINING UNITS), 3215(B) (RELATING TO SUBDIVISION OR CONVERSION

1 OF UNITS) OR 3220(B) (RELATING TO TERMINATION OF CONDOMINIUM),
2 AND EXCEPT AS LIMITED BY SUBSECTION (D) AND SECTION 3221
3 (RELATING TO RIGHTS OF SECURED LENDERS), THE]

4 (1) THE DECLARATION, INCLUDING THE PLATS AND PLANS, MAY
5 BE AMENDED ONLY BY VOTE OR AGREEMENT OF UNIT OWNERS OF UNITS
6 TO WHICH AT LEAST [67%];

7 (I) SIXTY-SEVEN PERCENT OF THE VOTES IN THE
8 ASSOCIATION ARE ALLOCATED[, OR];

9 (II) ANY LARGER MAJORITY THE DECLARATION SPECIFIES[.
10 THE DECLARATION MAY SPECIFY]; OR

11 (III) A SMALLER NUMBER [ONLY] AS SPECIFIED IN THE
12 DECLARATION IF ALL OF THE UNITS ARE RESTRICTED
13 EXCLUSIVELY TO NONRESIDENTIAL USE.

14 (2) PARAGRAPH (1) IS LIMITED TO SUBSECTION (D) AND
15 SECTION 3221 (RELATING TO RIGHTS OF SECURED LENDERS).

16 (3) PARAGRAPH (1) SHALL NOT APPLY TO ANY OF THE
17 FOLLOWING:

18 (I) AMENDMENTS EXECUTED BY A DECLARANT UNDER:

19 (A) SECTION 3210(E) AND (F) (RELATING TO PLATS
20 AND PLANS);

21 (B) SECTION 3211(A) (RELATING TO CONVERSION AND
22 EXPANSION OF FLEXIBLE CONDOMINIUMS); OR

23 (C) SECTION 3212(A) (RELATING TO WITHDRAWAL OF
24 WITHDRAWABLE REAL ESTATE).

25 (II) AMENDMENTS EXECUTED BY THE ASSOCIATION UNDER:

26 (A) SUBSECTION (F);

27 (B) SECTION 3107 (RELATING TO EMINENT DOMAIN);

28 (C) SECTION 3207(D) (RELATING TO LEASEHOLD
29 CONDOMINIUMS);

30 (D) SECTION 3209(C) (RELATING TO LIMITED COMMON

1 ELEMENTS); OR

2 (E) 3215(A) (RELATING TO SUBDIVISION OR
3 CONVERSION OF UNITS).

4 (III) AMENDMENTS EXECUTED BY CERTAIN UNIT OWNERS

5 UNDER:

6 (A) SECTION 3209(B);

7 (B) SECTION 3214(A) (RELATING TO RELOCATION OF
8 BOUNDARIES BETWEEN ADJOINING UNITS);

9 (C) SECTION 3215(B) (RELATING TO SUBDIVISION OR
10 CONVERSION OF UNITS); OR

11 (D) SECTION 3220(B) (RELATING TO TERMINATION OF
12 CONDOMINIUM).

13 (IV) AMENDMENTS EXECUTED BY A DECLARANT WHICH
14 CONFORM THE MAXIMUM TIME LIMIT FOR EXERCISING DECLARANT
15 OPTIONS TO THE TIME LIMIT AUTHORIZED BY SECTION 3206(2)
16 (RELATING TO CONTENTS OF DECLARATION; FLEXIBLE
17 CONDOMINIUMS).

18 * * *

19 § 5206. Contents of declaration for flexible planned
20 communities.

21 The declaration for a flexible planned community shall
22 include, in addition to the matters specified in section 5205
23 (relating to contents of declaration; all planned communities),
24 all of the following:

25 * * *

26 (2) A statement of the time limit, [not exceeding seven
27 years after the recording of the declaration,] upon which any
28 option reserved under paragraph (1) will lapse, together with
29 a statement of circumstances that will terminate the option
30 before the expiration of the time limit. The time limit shall

1 not exceed the later of:

2 (i) ten years after the recording of the
3 declaration; or

4 (ii) in the case of a preliminary plat calling for
5 the installation of improvements in sections, 120 days
6 after municipal approval or denial of each particular
7 section's final plat which was filed prior to the
8 deadline approved or modified by the municipal governing
9 body pursuant to section 508(4)(v) of the act of July 31,
10 1968 (P.L.805, No.247), known as the Pennsylvania
11 Municipalities Planning Code, or in the event of an
12 appeal from the municipal approval or denial of such
13 final plat, 120 days after a final judgment on appeal.

14 * * *

15 § 5219. Amendment of declaration.

16 (a) Number of votes required.--

17 * * *

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

20 (i) Amendments executed by a declarant under:

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

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

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

27 (ii) Amendments executed by the association under:

28 (A) subsection (f);

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

30 (C) section 5207(d) (relating to leasehold

1 planned communities);
2 (D) section 5209 (relating to limited common
3 elements); or

4 (E) section 5215 (relating to subdivision or
5 conversion of units).

6 (iii) Amendments executed by certain unit owners
7 under:

8 (A) section 5209(b);

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

11 (C) section 5215; or

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

14 (iv) Amendments executed by a declarant which
15 conform the maximum time limit for exercising declarant
16 options to the time limit authorized by section 5206(2)
17 (relating to contents of declaration for flexible planned
18 communities).

19 ~~Section 2. The amendment of 68 Pa.C.S. § 5206(2) shall apply <--~~

20 SECTION 2. THIS ACT SHALL APPLY AS FOLLOWS: <--

21 (1) THE AMENDMENT OF 68 PA.C.S. §§ 3206(2) AND 5206(2)
22 SHALL APPLY to all CONDOMINIUMS AND planned communities, <--
23 RESPECTIVELY, created by declarations recorded less than
24 seven years prior to the effective date of this act.

25 (2) THE AMENDMENT OF THE FOLLOWING PROVISIONS SHALL NOT <--
26 AFFECT ANY OTHER PROVISION OF TITLE 68:

27 (I) 68 PA.C.S. § 3206(2).

28 (II) 68 PA.C.S. § 3219(A).

29 (III) 68 PA.C.S. § 5206(2).

30 (IV) 68 PA.C.S. § 5219(A)(3).

1 Section 3. This act shall take effect immediately.