THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 859 Session of 2013

INTRODUCED BY ARGALL, ALLOWAY, FOLMER, PILEGGI AND YUDICHAK,
APRIL 18, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MAY 13, 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. <u>The time</u>

4   <u>limit shall not exceed the later of:</u>

5   <u>(i)   ten years after the recording of the</u>

6   <u>declaration; or</u>

7   <u>(ii)   in the case of a preliminary plat calling for</u>

8   <u>the installation of improvements in sections, 120 days</u>

9   <u>after municipal approval or denial of each particular</u>

10   <u>section's final plat which was filed prior to the</u>

11   <u>deadline approved or modified by the municipal governing</u>

12   <u>body pursuant to section 508(4)(v) of the act of July 31,</u>

13   <u>1968 (P.L.805, No.247), known as the Pennsylvania</u>

14   <u>Municipalities Planning Code, or in the event of an</u>

15   <u>appeal from the municipal approval or denial of such</u>

16   <u>final plat, 120 days after a final judgment on appeal.</u>

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 (RELATING TO RIGHTS OF SECURED LENDERS)]   **<--**

6   (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE

7 DECLARATION, INCLUDING THE PLATS AND PLANS, MAY be amended

8 only by vote or agreement of unit owners of units to which at

9 least:

10   (i) [67%] Sixty-seven percent of the votes in the

11   association are allocated[, or];

12   (ii) any larger majority the declaration specifies[.

13   The declaration may specify]; or

14   (iii) a smaller number [only] as specified in the

15   declaration if all of the units are restricted

16   exclusively to nonresidential use.

17   (2) Paragraph (1) is limited to subsection (d) and SHALL **<--**

18 NOT APPLY TO AN APPROVAL REQUIRED BY:

19   (I) SUBSECTION (D); OR

20   (II) section 3221 (relating to rights of secured

21   lenders).

22   (3) Paragraph (1) shall not apply to any of the

23 following:

24   (i) Amendments executed by a declarant under:

25   (A) section 3210(e) and (f) (relating to plats

26   and plans);

27   (B) section 3211(a) (relating to conversion and

28   expansion of flexible condominiums); or

29   (C) section 3212(a) (relating to withdrawal of

30   withdrawable real estate).

1   (ii)   Amendments executed by the association under:

2   (A)   subsection (f);

3   (B)   section 3107 (relating to eminent domain);

4   (C)   section 3207(d) (relating to leasehold

5   condominiums);

6   (D)   section 3209(c) (relating to limited common

7   elements); or

8   (E)   3215(a) (relating to subdivision or

9   conversion of units).

10   (iii)   Amendments executed by certain unit owners

11   under:

12   (A)   section 3209(b);

13   (B)   section 3214(a) (relating to relocation of

14   boundaries between adjoining units);

15   (C)   section 3215(b) (relating to subdivision or

16   conversion of units); or

17   (D)   section 3220(b) (relating to termination of

18   condominium).

19   (iv)   Amendments executed by a declarant which

20   conform the maximum time limit for exercising declarant

21   options to the time limit authorized by section 3206(2)

22   (relating to contents of declaration; flexible

23   condominiums).

24   * * *

25   § 5206.   Contents of declaration for flexible planned

26   communities.

27   The declaration for a flexible planned community shall

28   include, in addition to the matters specified in section 5205

29   (relating to contents of declaration; all planned communities),

30   all of the following:

1   * * *

2   (2) A statement of the time limit, [not exceeding seven

3   years after the recording of the declaration,] upon which any

4   option reserved under paragraph (1) will lapse, together with

5   a statement of circumstances that will terminate the option

6   before the expiration of the time limit. The time limit shall

7   not exceed the later of:

8   (i) ten years after the recording of the

9   declaration; or

10   (ii) in the case of a preliminary plat calling for

11   the installation of improvements in sections, 120 days

12   after municipal approval or denial of each particular

13   section's final plat which was filed prior to the

14   deadline approved or modified by the municipal governing

15   body pursuant to section 508(4)(v) of the act of July 31,

16   1968 (P.L.805, No.247), known as the Pennsylvania

17   Municipalities Planning Code, or in the event of an

18   appeal from the municipal approval or denial of such

19   final plat, 120 days after a final judgment on appeal.

20   * * *

21   § 5219. Amendment of declaration.

22   (a) Number of votes required.--

23   * * *

24   (3) Paragraph (1) shall not apply to any of the

25   following:

26   (i) Amendments executed by a declarant under:

27   (A) section 5210(e) or (f) (relating to plats

28   and plans);

29   (B) section 5211(a) (relating to conversion and

30   expansion of flexible planned communities); or

(C) section 5212(a) (relating to withdrawal of

1

2   withdrawable real estate).

3   (ii) Amendments executed by the association under:

4   (A) subsection (f);

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

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

7   planned communities);

8   (D) section 5209 (relating to limited common

9   elements); or

10   (E) section 5215 (relating to subdivision or

11   conversion of units).

12   (iii) Amendments executed by certain unit owners

13   under:

14   (A) section 5209(b);

15   (B) section 5214(a) (relating to relocation of

16   boundaries between units);

17   (C) section 5215; or

18   (D) section 5220(b) (relating to termination of

19   planned community).

20   (iv) Amendments executed by a declarant which

21   conform the maximum time limit for exercising declarant

22   options to the time limit authorized by section 5206(2)

23   (relating to contents of declaration for flexible planned

24   communities).

25   Section 2. The amendment of 68 Pa.C.S. §§ 3206(2) and

26 5206(2) shall apply to all condominiums and planned communities,

27 respectively, created by declarations recorded less than seven

28 years prior to the effective date of this section.

29   Section 3. This act shall take effect immediately.