
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1499 Session of
2017

INTRODUCED BY M. K. KELLER, O'BRIEN, CALTAGIRONE, DiGIROLAMO,
A. HARRIS, JAMES, MILLARD, ROE AND ZIMMERMAN, JUNE 6, 2017

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 6, 2017

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in management of the
3 condominium, further providing for powers of unit owners'
4 association, for executive board members and officers and for
5 conveyance or encumbrance of common elements; in protection
6 of purchasers, further providing for release of liens and for
7 warranty against structural defects; in management of
8 cooperatives, further providing for powers of association,
9 for executive board members and officers and for conveyance
10 or encumbrance of cooperative; in protection of cooperative
11 interest purchasers, further providing for release of liens
12 and for implied warranty against structural defects; in
13 general provisions relating to planned communities, further
14 providing for definitions; in creation, alteration and
15 termination of planned communities, further providing for
16 construction and validity of declaration and bylaws and for
17 contents of declaration and all planned communities; in
18 management of planned community, further providing for power
19 of unit owners' association, for executive board members and
20 officers and for conveyance or encumbrance of common
21 facilities; and, in protection of purchasers, further
22 providing for release of liens and for warranty against
23 structural defects.

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

26 Section 1. Sections 3302(a)(11) and 3303(e) of Title 68 of
27 the Pennsylvania Consolidated Statutes are amended to read:

28 § 3302. Powers of unit owners' association.

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

3 * * *

4 (11) Impose charges for late payment of assessments and,
5 after notice and an opportunity to be heard[, levy]:

6 (i) Levy reasonable fines for violations of the
7 declaration, bylaws and rules and regulations of the
8 association.

9 (ii) For any period during which assessments are
10 delinquent or violations of the declaration, bylaws and
11 rules and regulations remain uncured, suspend unit
12 owners' rights, including, without limitation, the right
13 to vote, the right to serve on the board or committees
14 and the right of access to common elements, recreational
15 facilities or amenities.

16 * * *

17 § 3303. Executive board members and officers.

18 * * *

19 (e) Election of members and officers following declarant
20 control.--

21 (1) Not later than the termination of any period of
22 declarant control, the unit owners shall elect an executive
23 board of at least three members at least a majority of whom
24 must be unit owners, except that the executive board may
25 consist of two members, both of whom must be unit owners, if
26 the condominium consists of two units. The executive board
27 shall elect the officers. The persons elected shall take
28 office upon election.

29 (2) In the event that the election of the executive
30 board by the unit owners fails to take place not later than

1 the termination of a period of declarant control as provided
2 in this section, then a special meeting of the unit owners
3 may be called for such purpose by any member of the executive
4 board elected by the unit owners or, if there is no such
5 member of the executive board, the unit owners entitled to
6 cast at least 10% of the votes in the association.

7 * * *

8 Section 2. Section 3318(d) of Title 68 is amended and the
9 section is amended by adding a subsection to read:

10 § 3318. Conveyance or encumbrance of common elements.

11 * * *

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

16 * * *

17 (h) Subject to declaration.--An interest in common elements
18 that is subject to the declaration prior to conveyance or
19 encumbrance shall remain subject to the declaration following
20 the conveyance or encumbrance, unless the deed or agreement to
21 convey the common elements or subject them to a security
22 interest specifically provides otherwise.

23 Section 3. Sections 3409(b)(2), 3411(e), 4302(a)(11) and
24 4303(f) of Title 68 are amended to read:

25 § 3409. Release of liens.

26 * * *

27 (b) Other liens.--Before conveying real estate to the
28 association, the declarant shall have the real estate released
29 from:

30 * * *

1 (2) All other liens, including, without limitation, real
2 estate taxes, on that real estate unless the public offering
3 statement describes certain real estate which may be conveyed
4 subject to liens in specified amounts.

5 § 3411. Warranty against structural defects.

6 * * *

7 (e) Limitation of actions.--No action to enforce the
8 warranty created by this section shall be commenced later than
9 six years after the warranty begins[.], provided, however, that
10 the limitation period affecting a right of action by the
11 association under this section is tolled until the period of
12 declarant control terminates.

13 § 4302. Powers of association.

14 (a) General rule.--Except as provided in subsection (b) and
15 subject to the provisions of the declaration, the association
16 may:

17 * * *

18 (11) Impose charges for late payment of assessments and,
19 after notice and an opportunity to be heard[, levy]:

20 (i) Levy reasonable fines for violations of the
21 declaration, bylaws and rules and regulations of the
22 association.

23 (ii) For any period during which assessments are
24 delinquent or violations of the declaration, bylaws and
25 rules and regulations remain uncured, suspend unit
26 owners' rights, including, without limitation, the right
27 to vote, the right to serve on the board or committees
28 and the right of access to common elements, recreational
29 facilities or amenities.

30 * * *

1 § 4303. Executive board members and officers.

2 * * *

3 (f) Election of executive board following declarant
4 control.--

5 (1) Not later than the termination of any period of
6 declarant control, the proprietary lessees shall elect an
7 executive board of at least three members, at least a
8 majority of whom must be proprietary lessees. Unless the
9 declarant has retained such right during the declarant
10 control period, the executive board shall elect the officers.
11 The executive board members and officers shall take office
12 upon election.

13 (2) In the event that the election of the executive
14 board by the proprietary lessees fails to take place not
15 later than the termination of a period of declarant control
16 as provided in this section, then a special meeting of the
17 proprietary lessees may be called for such purpose by any
18 member of the executive board elected by the proprietary
19 lessees or, if there is no such member of the executive
20 board, the proprietary lessees entitled to cast at least 10%
21 of the votes in the association.

22 * * *

23 Section 4. Section 4312(d) of Title 68 is amended and the
24 section is amended by adding a subsection to read:

25 § 4312. Conveyance or encumbrance of cooperative.

26 * * *

27 (d) Unauthorized conveyance or encumbrance void.--Any
28 purported conveyance, encumbrance, judicial sale, tax sale or
29 other voluntary or involuntary transfer of the cooperative,
30 unless made pursuant to this section or section 4217(c)

1 (relating to termination of cooperative ownership), is void.

2 * * *

3 (f) Subject to declaration.--A part of the cooperative which
4 is subject to the declaration prior to conveyance or encumbrance
5 shall remain subject to the provisions of the declaration
6 following the conveyance or encumbrance, unless the deed or
7 agreement to convey the cooperative or subject it to a security
8 interest specifically provides otherwise.

9 Section 5. Sections 4411(b) and 4414(e) of Title 68 are
10 amended to read:

11 § 4411. Release of liens.

12 * * *

13 (b) Conveyance to association.--Before conveying real estate
14 to the association, the declarant shall have that real estate
15 released from liens, including, without limitation, real estate
16 taxes, on that real estate unless the public offering statement
17 discloses the amount of the real estate encumbered by and the
18 effect of a default under a lien not being released.

19 § 4414. Implied warranty against structural defects.

20 * * *

21 (e) Limitation of action.--No action to enforce the warranty
22 created by this section shall be commenced later than six years
23 after the warranty begins[.], provided, however, that the
24 limitation period affecting a right of action by the association
25 under this section is tolled until the period of declarant
26 control terminates.

27 Section 6. The definition of "common facilities" in section
28 5103 of Title 68 is amended to read:

29 § 5103. Definitions.

30 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 "Common facilities." Any real estate within a planned
6 community which is owned by the association [or], leased to the
7 association[.] or designated as common facilities, common area
8 or open space or other similar term intended to identify a
9 parcel in the declaration or the plats and plans recorded or
10 referenced in the declaration. The term does not include a unit.

11 * * *

12 Section 7. Section 5203 of Title 68 is amended by adding a
13 subsection to read:

14 § 5203. Construction and validity of declaration and bylaws.

15 * * *

16 (e) Effect of noncompliance.--If the declarant preserved the
17 rights identified in section 5205(13), (14), (15) or (16)
18 (relating to contents of declaration; all planned communities)
19 in the declaration or any of those provisions are otherwise
20 applicable, the declarant's failure to include in the
21 declaration any of the provisions or statements as required
22 under each of those provisions shall not affect the
23 enforceability of the provisions or statements as if they were
24 included in the declaration.

25 Section 8. Sections 5205(16) introductory paragraph, 5302(a)
26 (11) and 5303(e) of Title 68 are amended to read:

27 § 5205. Contents of declaration; all planned communities.

28 The declaration for a planned community must contain:

29 * * *

30 (16) If a declarant designates or wishes to retain the

1 right to designate in the declaration as a common facility
2 any portion of a planned community or any improvement or
3 facility then existing or contemplated for a planned
4 community, then all of the following:

5 * * *

6 § 5302. Power of unit owners' association.

7 (a) General rule.--Except as provided in subsection (b) and
8 subject to the provisions of the declaration and the limitations
9 of this subpart, the association, even if unincorporated, may:

10 * * *

11 (11) Impose charges for late payment of assessments and,
12 after notice and an opportunity to be heard[, levy]:

13 (i) Levy reasonable fines for violations of the
14 declaration, bylaws and rules and regulations of the
15 association.

16 (ii) For any period during which assessments are
17 delinquent or violations of the declaration, bylaws and
18 rules and regulations remain uncured, suspend unit
19 owners' rights, including, without limitation, the right
20 to vote, the right to serve on the board or committees
21 and the right of access to common elements, recreational
22 facilities or amenities.

23 * * *

24 § 5303. Executive board members and officers.

25 * * *

26 (e) Election of members and officers following declarant
27 control.--

28 (1) 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

1 shall be unit owners, provided that the executive board may
2 consist of two members, both of whom shall be unit owners, if
3 the planned community consists of two units. The executive
4 board shall elect the officers. The executive board members
5 and officers shall take office upon election.

6 (2) In the event that the election if the executive
7 board by the unit owners fails to take place not later than
8 the termination of a period of declarant control as provided
9 in this section, then a special meeting of the unit owners
10 may be called for such purpose by any member of the executive
11 board elected by the unit owners or, if there is no such
12 member of the executive board, unit owners entitled to cast
13 at least 10% of the votes in the association.

14 * * *

15 Section 9. Section 5318(d) of Title 68 is amended and the
16 section is amended by adding a subsection to read:

17 § 5318. Conveyance or encumbrance of common facilities.

18 * * *

19 (d) Other conveyances or encumbrances void.--Any purported
20 conveyance, encumbrance, judicial sale, tax sale or other
21 voluntary or involuntary transfer of common facilities, unless
22 made pursuant to this section, is void.

23 * * *

24 (h) Subject to declaration.--An interest in common
25 facilities that is subject to the declaration prior to
26 conveyance or encumbrance shall remain subject to the provisions
27 of the declaration following the conveyance or encumbrance,
28 unless the deed or agreement to convey the common facilities or
29 subject them to a security interest specifically provides
30 otherwise.

1 Section 10. Sections 5409(b)(2) and 5411(e) of Title 68 are
2 amended to read:

3 § 5409. Release of liens.

4 * * *

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

8 * * *

9 (2) All other liens, including, without limitation, real
10 estate taxes, on that real estate unless the public offering
11 statement describes certain real estate which may be conveyed
12 subject to liens in specified amounts.

13 § 5411. Warranty against structural defects.

14 * * *

15 (e) Limitation of actions.--No action to enforce the
16 warranty created by this section shall be commenced later than
17 six years after the warranty begins[.], provided, however, that
18 the limitation period affecting a right of action by the
19 association under this section is tolled until the period of
20 declarant control terminates.

21 * * *

22 Section 11. This act shall take effect in 60 days.