

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1795 Session of 2021

INTRODUCED BY R. BROWN, RADER, HELM, M. MACKENZIE, CIRESI AND GAYDOS, AUGUST 17, 2021

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 28, 2021

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in general provisions
3 relating to condominiums, further providing for definitions;
4 in management of the condominium, further providing for
5 executive board members and officers, for bylaws and for
6 meetings; in protection of purchasers, further providing for
7 effect of violations on rights of action; in general
8 provisions relating to cooperatives, further providing for
9 definitions; in creation, alteration and termination of
10 cooperatives, further providing for master associations; in
11 management of cooperatives, further providing for bylaws and
12 for meetings; in protection of cooperative interest
13 purchasers, further providing for effect of violations on
14 rights of action; in general provisions relating to planned
15 communities, further providing for definitions; in creation,
16 alteration and termination of planned communities, further
17 providing for master associations; in management of planned
18 community, further providing for bylaws and for meetings;
19 and, in protection of purchasers, further providing for
20 effect of violations on rights of action.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 3103 of Title 68 of the Pennsylvania
24 Consolidated Statutes is amended by adding a definition

<--

25 DEFINITIONS to read:

<--

26 § 3103. Definitions.

1 The following words and phrases when used in this subpart and
2 in the declaration and bylaws shall have the meanings given to
3 them in this section unless specifically provided otherwise or
4 unless the context clearly indicates otherwise:

5 * * *

6 "Independent reviewer." A person who is selected by the
7 declarant or a majority of the unit owners of a condominium and
8 satisfies all of the following:

9 (1) Holds a certificate issued by the Commonwealth as a
10 certified public accountant, is licensed to practice law in
11 this Commonwealth or is a vote management system.

12 (2) Is not a unit owner, directly or indirectly.

13 (3) Has no family relationship with the declarant, a
14 unit owner or a condominium manager.

15 (4) Has no financial interest shared with the declarant,
16 a unit owner or a condominium manager.

17 (5) If compensated by the declarant, a director, the
18 association or a condominium manager, has disclosed the terms
19 of the compensation to all unit owners.

20 * * *

21 "VOTE MANAGEMENT SYSTEM." A THIRD-PARTY VENDOR WHO OPERATES <--
22 A DIGITAL OR SUBSCRIPTION SERVICE THAT SECURELY MANAGES THE
23 CONDUCT OF ELECTIONS AND VOTING PROCEDURES.

24 * * *

25 Section 2. Section 3303(d) and (e) of Title 68 are amended
26 and the section is amended by adding a subsection to read:

27 § 3303. Executive board members and officers.

28 * * *

29 (d) Election of members during transfer of declarant
30 control.--

1 (1) Not later than 60 days after conveyance of 25% of
2 the units to unit owners other than a declarant, not less
3 than 25% of the members of the executive board shall be
4 elected by unit owners other than the declarant.

5 (2) Not later than 60 days after conveyance of 50% of
6 the units to unit owners other than a declarant, not less
7 than 33 1/3% of the members of the executive board shall be
8 elected by unit owners other than the declarant.

9 (3) A vote by a unit owner must be submitted by the unit
10 owner to an independent reviewer who shall tally the results
11 of the election and certify the results to the declarant, the
12 executive board and unit owners. All votes by unit owners
13 under this paragraph shall be submitted to the independent
14 reviewer in either an electronic or a paper format. The
15 interchangeable submission of votes by unit owners in an
16 electronic and a paper format in the same election shall be
17 prohibited. All votes in the same community shall be <--
18 submitted in the same form for the same election. This
19 paragraph shall only apply to a condominium with at least 25 <--
20 100 units. IF A CONDOMINIUM HAS MORE THAN 100 UNITS AND LESS <--
21 THAN 500 UNITS, THE ASSOCIATION MAY OPT OUT OF THE
22 REQUIREMENTS UNDER THIS PARAGRAPH BY AMENDING THE
23 ASSOCIATION'S BYLAWS IN ACCORDANCE WITH SECTION 3306
24 (RELATING TO BYLAWS).

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

27 (1) Not later than the termination of any period of
28 declarant control, the unit owners shall elect an executive
29 board of at least three members at least a majority of whom
30 must be unit owners, except that the executive board may

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

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

13 (3) A vote by a unit owner must be submitted by the unit
14 owner to an independent reviewer who shall tally the results
15 of the election and certify the results to the executive
16 board and unit owners. All votes by unit owners under this
17 paragraph shall be submitted to the independent reviewer in
18 either an electronic or a paper format. The interchangeable
19 submission of votes by unit owners in an electronic and a
20 paper format in the same election shall be prohibited. All <--
21 votes in the same community shall be submitted in the same
22 form for the same election. This paragraph shall only apply
23 to a condominium with at least 25 100 units. IF A CONDOMINIUM <--
24 HAS MORE THAN 100 UNITS AND LESS THAN 500 UNITS, THE
25 ASSOCIATION MAY OPT OUT OF THE REQUIREMENTS UNDER THIS
26 PARAGRAPH BY AMENDING THE ASSOCIATION'S BYLAWS IN ACCORDANCE
27 WITH SECTION 3306.

28 * * *

29 (g) Penalties.--A person who attempts to interfere with the
30 votes or election process under subsection (d) or (e) is guilty

1 of a misdemeanor of the first degree and, upon conviction, shall
2 be sentenced to pay a fine not exceeding \$10,000 or to undergo
3 imprisonment of not more than five years, or both, in the
4 discretion of the court.

5 Section 3. Sections 3306(a)(6), 3308 and 3412 of Title 68
6 are amended to read:

7 § 3306. Bylaws.

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

10 * * *

11 (6) The method of amending the bylaws. The following
12 apply:

13 (i) The bylaws may be amended only by vote or
14 agreement of unit owners of units to which at least:

15 (A) ~~sixty seven~~ FIFTY-ONE percent of the votes <--
16 in the association is allocated as provided under
17 section 3208 (relating to allocation of common
18 element interests, votes and common expense
19 liabilities);

20 (B) any larger majority as specified in the
21 bylaws; or

22 (C) a smaller number as specified in the bylaws
23 if all of the units are restricted exclusively to
24 nonresidential use.

25 (ii) The vote may be taken only at a scheduled
26 meeting as provided under section 3308 (relating to
27 meetings) that was advertised seven days in advance to
28 the unit owners. Absentee voting shall be permitted to
29 unit owners provided that the ballots must be submitted
30 to an independent reviewer during a time period

1 consistent with the absentee voting provisions under
2 Article XIII of the act of June 3, 1937 (P.L.1333,
3 No.320), known as the Pennsylvania Election Code.

4 * * *

5 § 3308. Meetings.

6 (a) Association meetings.--The bylaws must require that
7 meetings of the association be held at least once each year and
8 provide for special meetings. The bylaws must specify which of
9 the association's officers, not less than ten nor more than 60
10 days in advance of any meeting, shall cause notice to be hand
11 delivered or sent prepaid by United States mail to the mailing
12 address of each unit or to any other mailing address designated
13 in writing by the unit owner. The notice of any meeting must
14 state the time and place of the meeting and the items on the
15 agenda, including the general nature of any proposed amendment
16 to the declaration or bylaws, any budget or assessment changes
17 and, where the declaration or bylaws require approval of unit
18 owners, any proposal to remove an executive board member or
19 officer.

20 (b) Election ~~meetings~~ SESSIONS.--The bylaws must require <--
21 that a special ~~meeting~~ SESSION of the association be held not <--
22 later than seven days before the election of an executive board
23 member or officer of the association to allow the unit owners to
24 meet each candidate for an executive board position or officer
25 position. A special ~~meeting~~ SESSION under this subsection may be <--
26 held virtually or in person. Each candidate for an executive
27 board position or officer position with the association shall
28 have equal time to address the unit owners during a special
29 ~~meeting~~ SESSION under this subsection. <--

30 § 3412. Effect of violations on rights of action.

1 (a) General rule.--If a declarant or [any other person] AN <--
2 EXECUTIVE BOARD MEMBER subject to this subpart violates any
3 provision thereof or any provision of the declaration or
4 bylaws[, any]± IN EXECUTING HIS OR HER DUTIES AS A DECLARANT OR <--
5 AN EXECUTIVE BOARD MEMBER:

6 (1) Any person or class of persons adversely affected by
7 the violation has a claim for appropriate relief.

8 (2) The violation shall constitute an unfair trade
9 practice as defined in and may be enforced by the Office of
10 Attorney General under the act of December 17, 1968
11 (P.L.1224, No.387), known as the Unfair Trade Practices and
12 Consumer Protection Law.

13 (b) Punitive damages.--Punitive damages may be awarded in
14 the case of a willful violation of the subpart and, if
15 appropriate, the prevailing party may be entitled to an award of
16 costs and reasonable attorney fees.

17 Section 4. Section 4103 of Title 68 is amended by adding a- <--
18 ~~definition~~ DEFINITIONS to read: <--

19 § 4103. Definitions.

20 Subject to additional definitions contained in subsequent
21 provisions of this subpart which are applicable to specific
22 provisions of this subpart, the following words and phrases when
23 used in this subpart and in the declaration and bylaws shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 * * *

27 "Independent reviewer." A person who is selected by the
28 declarant or a majority of the proprietary lessees of a
29 cooperative and satisfies all of the following:

30 (1) Holds a certificate as a certified public accountant

1 issued by the Commonwealth, is licensed to practice law in
2 this Commonwealth or is a vote management system.

3 (2) Is not a proprietary lessee of the cooperative,
4 directly or indirectly.

5 (3) Has no family relationship with a proprietary lessee
6 of the cooperative or a cooperative manager.

7 (4) Has no financial interest shared with a proprietary
8 lessee of the cooperative or a cooperative manager.

9 (5) If compensated by the declarant, a director, the
10 association or a cooperative manager, has disclosed the terms
11 of the compensation to all proprietary lessees of the
12 cooperative.

13 * * *

14 "VOTE MANAGEMENT SYSTEM." A THIRD-PARTY VENDOR WHO OPERATES <--
15 A DIGITAL OR SUBSCRIPTION SERVICE THAT SECURELY MANAGES THE
16 CONDUCT OF ELECTIONS AND VOTING PROCEDURES.

17 Section 5. Section 4219 of Title 68 is amended by adding
18 subsections to read:

19 § 4219. Master associations.

20 * * *

21 (e.1) Independent reviewer.--The certificate of
22 incorporation or other instrument creating the master
23 association and the declaration of each cooperative, the powers
24 of which are assigned by the declaration or delegated to the
25 master association, shall provide that a vote by a proprietary
26 lessee in an election of the executive board of an association
27 must be submitted by the proprietary lessee to an independent
28 reviewer who shall tally the results of the election and certify
29 the results to the executive board and proprietary lessees. All
30 votes by proprietary lessees under this subsection shall be

1 submitted to the independent reviewer in either an electronic or
2 a paper format. The interchangeable submission of votes by
3 proprietary lessees in an electronic and a paper format in the
4 same election shall be prohibited. All votes in the same <--
5 community shall be submitted in the same form for the same
6 election. This subsection shall only apply to a cooperative with
7 at least 25 100 units. IF A COOPERATIVE HAS MORE THAN 100 UNITS <--
8 AND LESS THAN 500 UNITS, THE ASSOCIATION MAY OPT OUT OF THE
9 REQUIREMENTS UNDER THIS SUBSECTION BY AMENDING THE ASSOCIATION'S
10 BYLAWS IN ACCORDANCE WITH SECTION 4306 (RELATING TO BYLAWS).

11 * * *

12 (h) Penalties.--A person who attempts to interfere with the
13 votes or election process under subsection (e.1) is guilty of a
14 misdemeanor of the first degree and, upon conviction, shall be
15 sentenced to pay a fine not exceeding \$10,000 or to undergo
16 imprisonment of not more than five years, or both, in the
17 discretion of the court.

18 Section 6. Sections 4306(a)(6), 4308 and 4415 of Title 68
19 are amended to read:

20 § 4306. Bylaws.

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

23 * * *

24 (6) The method of amending the bylaws. The following
25 apply:

26 (i) The bylaws may be amended only by vote or
27 agreement of proprietary lessees of cooperative interests
28 to which at least 67% 51% of the votes in the association <--
29 are allocated as provided under section 4207 (relating to
30 allocation of ownership interests, votes and common

1 expense liabilities) or any larger majority the
2 declaration specifies. The declaration may specify a
3 smaller number only if all of the units are restricted
4 exclusively to nonresidential use.

5 (ii) The vote may be taken only at a scheduled
6 meeting as provided under section 4308 (relating to
7 meetings) that was advertised seven days in advance to
8 the proprietary lessees. Absentee voting shall be
9 permitted to proprietary lessees provided that the
10 ballots must be submitted to an independent reviewer
11 during a time period consistent with the absentee voting
12 provisions under Article XIII of the act of June 3, 1937
13 (P.L.1333, No.320), known as the Pennsylvania Election
14 Code.

15 * * *

16 § 4308. Meetings.

17 (a) Association meetings.--A meeting of the association must
18 be held at least once each year. Special meetings of the
19 association may be called by the president, a majority of the
20 executive board or by 20%, or any lower percentage specified in
21 the bylaws, of the proprietary lessees. Not less than ten nor
22 more than 60 days in advance of any meeting, the secretary or
23 other officer specified in the bylaws shall cause notice to be
24 hand delivered or sent prepaid by United States mail to the
25 mailing address of each unit or to any other mailing address
26 designated in writing by the proprietary lessee. The notice of
27 any meeting must state the time and place of the meeting and the
28 items on the agenda, including the general nature of any
29 proposed amendment to the declaration or bylaws, any budget or
30 assessment changes and, where the declaration or bylaws require

1 approval of the proprietary lessees, any proposal to remove an
2 executive board member or officer.

3 (b) Election ~~meetings~~ SESSIONS.--The bylaws must require <--
4 that a special ~~meeting~~ SESSION of the association be held not <--
5 later than seven days before the election of an executive board
6 member or officer of the association to allow the proprietary
7 lessees to meet each candidate for an executive board position
8 or officer position. A special ~~meeting~~ SESSION under this <--
9 subsection may be held virtually or in person. Each candidate
10 for an executive board position or officer position with the
11 association shall have equal time to address the proprietary
12 lessees during a special ~~meeting~~ SESSION under this subsection. <--

13 § 4415. Effect of violations on rights of action.

14 (a) General rule.--If a declarant or [any other person] AN <--
15 EXECUTIVE BOARD MEMBER subject to this subpart fails to comply
16 with any provision of this subpart or any provision of the
17 declaration or bylaws[, any]± IN EXECUTING HIS OR HER DUTIES AS <--
18 A DECLARANT OR AN EXECUTIVE BOARD MEMBER:

19 (1) Any person or class of persons adversely affected by
20 the failure to comply has a claim for appropriate relief.

21 (2) The violation shall constitute an unfair trade
22 practice as defined in and may be enforced by the Office of
23 Attorney General under the act of December 17, 1968
24 (P.L.1224, No.387), known as the Unfair Trade Practices and
25 Consumer Protection Law.

26 (b) Punitive damages.--Punitive damages may be awarded for a
27 willful failure to comply with this subpart. The court, in an
28 appropriate case, may award reasonable attorney fees.

29 Section 7. Section 5103 of Title 68 is amended by adding a- <--
30 ~~definition~~ DEFINITIONS to read: <--

1 § 5103. Definitions.

2 The following words and phrases when used in this subpart and
3 in the declaration and bylaws shall have the meanings given to
4 them in this section unless specifically provided otherwise or
5 unless the context clearly indicates otherwise:

6 * * *

7 "Independent reviewer." A person who is selected by the
8 declarant or a majority of the unit owners of a planned
9 community and satisfies all of the following:

10 (1) Holds a certificate as a certified public accountant
11 issued by the Commonwealth, is licensed to practice law in
12 this Commonwealth or is a vote management system.

13 (2) Is not a unit owner of the planned community,
14 directly or indirectly.

15 (3) Has no family relationship with a unit owner of the
16 planned community or a planned community manager.

17 (4) Has no financial interest shared with a unit owner
18 of the planned community or a planned community manager.

19 (5) If compensated by the declarant, a director, the
20 association or a planned community manager, has disclosed the
21 terms of the compensation to all unit owners of the planned
22 community.

23 * * *

24 "VOTE MANAGEMENT SYSTEM." A THIRD-PARTY VENDOR WHO OPERATES <--
25 A DIGITAL OR SUBSCRIPTION SERVICE THAT SECURELY MANAGES THE
26 CONDUCT OF ELECTIONS AND VOTING PROCEDURES.

27 * * *

28 Section 8. Section 5222 of Title 68 is amended by adding
29 subsections to read:

30 § 5222. Master associations.

1 * * *

2 (e.1) Independent reviewer.--The instrument creating the
3 master association and the declaration of each planned community
4 of the organizational documents of other associations, the
5 powers of which are assigned pursuant to the declaration or
6 organizational documents or delegated to the master association,
7 shall also provide that a vote by a unit owner in an election of
8 the members of the master association governing body must be
9 submitted by the unit owner to an independent reviewer who shall
10 tally the results of the election and certify the results to the
11 executive board and unit owner. All votes by unit owners under
12 this subsection shall be submitted to the independent reviewer
13 in either an electronic or a paper format. The interchangeable
14 submission of votes by unit owners in an electronic and a paper
15 format in the same election shall be prohibited. All votes in- <--
16 the same community shall be submitted in the same form for the
17 same election. This subsection shall only apply to a planned
18 community with at least 25 100 units. IF A PLANNED COMMUNITY HAS <--
19 MORE THAN 100 UNITS AND LESS THAN 500 UNITS, THE ASSOCIATION MAY
20 OPT OUT OF THE REQUIREMENTS UNDER THIS SUBSECTION BY AMENDING
21 THE ASSOCIATION'S BYLAWS IN ACCORDANCE WITH SECTION 5306
22 (RELATING TO BYLAWS).

23 * * *

24 (h) Penalties.--A person who attempts to interfere with the
25 votes or election process under subsection (e.1) is guilty of a
26 misdemeanor of the first degree and, upon conviction, shall be
27 sentenced to pay a fine not exceeding \$10,000 or to undergo
28 imprisonment of not more than five years, or both, in the
29 discretion of the court.

30 Section 9. Sections 5306(a) (6), 5308 and 5412 of Title 68

1 are amended to read:

2 § 5306. Bylaws.

3 (a) Mandatory provisions.--The bylaws of the association
4 shall provide for all of the following:

5 * * *

6 (6) The method of amending the bylaws. The following
7 apply:

8 (i) The bylaws may be amended only by vote or
9 agreement of unit owners of units to which at least:

10 (A) sixty-seven FIFTY-ONE percent of votes in <--
11 the association are allocated as provided under
12 section 5208 (relating to allocation of votes and
13 common expense liabilities);

14 (B) a larger percentage of the votes in the
15 association as specified in the bylaws; or

16 (C) a smaller percentage of the votes in the
17 association as specified in the bylaws if all units
18 are restricted exclusively to nonresidential use.

19 (ii) The vote may be taken only at a scheduled
20 meeting as provided under section 5308 (relating to
21 meetings) that was advertised seven days in advance to
22 the unit owners. Absentee voting shall be permitted to
23 unit owners provided that the ballots must be submitted
24 to an independent reviewer during a time period
25 consistent with the absentee voting provisions under
26 Article XIII of the act of June 3, 1937 (P.L.1333,
27 No.320), known as the Pennsylvania Election Code.

28 * * *

29 § 5308. Meetings.

30 (a) Association meetings.--The bylaws shall require that

1 meetings of the association be held at least once each year and
2 shall provide for special meetings. The bylaws shall specify
3 which of the association's officers, not less than ten nor more
4 than 60 days in advance of any meeting, shall cause notice to be
5 hand delivered or sent prepaid by United States mail to the
6 mailing address of each unit or to any other mailing address
7 designated in writing by the unit owner. The notice of any
8 meeting must state the time and place of the meeting and the
9 items on the agenda, including the general nature of any
10 proposed amendment to the declaration or bylaws; any budget or
11 assessment changes; and, where the declaration or bylaws require
12 approval of unit owners, any proposal to remove a director or
13 officer.

14 (b) Election ~~meetings~~ SESSIONS.--The bylaws shall require <--
15 that a special ~~meeting~~ SESSION of the association be held not <--
16 later than seven days before the election of an executive board
17 member or officer of the association to allow the unit owners to
18 meet each candidate for an executive board position or officer
19 position. A special ~~meeting~~ SESSION under this subsection may be <--
20 held virtually or in person. Each candidate for an executive
21 board position or officer position with the association shall
22 have equal time to address the unit owners during a special
23 ~~meeting~~ SESSION under this subsection. <--

24 § 5412. Effect of violations on rights of action.

25 (a) General rule.--If a declarant or [any other person] AN <--
26 EXECUTIVE BOARD MEMBER subject to this subpart violates any
27 provision of this subpart or any provisions of the declaration
28 or bylaws[, any] IN EXECUTING HIS OR HER DUTIES AS A DECLARANT <--
29 OR AN EXECUTIVE BOARD MEMBER:

30 (1) Any person or class of persons adversely affected by

1 the violation has a claim for appropriate relief.

2 (2) The violation shall constitute an unfair trade
3 practice as defined in and may be enforced by the Office of
4 Attorney General under the act of December 17, 1968
5 (P.L.1224, No.387), known as the Unfair Trade Practices and
6 Consumer Protection Law.

7 (b) Punitive damages.--Punitive damages may be awarded in
8 the case of a willful violation of the subpart and, if
9 appropriate, the prevailing party may be entitled to an award of
10 costs and reasonable attorney fees.

11 Section 10. This act shall take effect in 60 days.