

**SENATE, No. 2492**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED SEPTEMBER 8, 2016

**Sponsored by:**

**Senator ROBERT M. GORDON**

**District 38 (Bergen and Passaic)**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Senators Weinberg and Beck**

**SYNOPSIS**

Enhances resident voting participation rights in common interest communities.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/14/2016)**

1 AN ACT concerning the governance of common interest community  
2 associations, amending P.L.1977, c.419, and amending and  
3 supplementing P.L.1993, c.30.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) The Legislature finds and declares that:

9 a. In addition to living under State, county, and municipal  
10 government, recent estimates conclude that over one million New  
11 Jersey residents currently live under the governance of a common  
12 interest community association, such as a condominium,  
13 cooperative, or homeowners' association;

14 b. The owners and tenants living in these communities often  
15 benefit from minimized maintenance responsibilities and greater  
16 assurances that neighboring properties will follow a predictable  
17 development scheme;

18 c. Along with these benefits, living under a community  
19 association also creates the necessity of paying assessments and  
20 fees in addition to the State and local taxes that other State residents  
21 pay, and requires compliance with property regulations that may be  
22 more stringent than those required by municipal government alone;

23 d. Because of the significant influence community associations  
24 have over the lives of their residents and because community  
25 associations are creatures of State law, it is unfair and runs contrary  
26 to American democratic values for these communities to be  
27 governed by trustees who are not elected in a fair and open manner;

28 e. Residents living under community associations should have  
29 the right to freely elect the members of the executive boards that  
30 govern the communities, and to run for executive board positions;  
31 and

32 f. It is necessary and in the public interest for the Legislature  
33 to enact legislation establishing basic election participation rights  
34 for the residents of common interest communities.

35  
36 2. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to  
37 read as follows:

38 3. As used in this act unless the context clearly indicates  
39 otherwise:

40 a. "Disposition" means any sales, contract, lease, assignment,  
41 or other transaction concerning a planned real estate development.

42 b. "Developer" or "subdivider" means any person who disposes  
43 or offers to dispose of any lot, parcel, unit, or interest in a planned  
44 real estate development.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1 c. "Offer" means any inducement, solicitation, advertisement,  
2 or attempt to encourage a person to acquire a unit, parcel, lot, or  
3 interest in a planned real estate development.
- 4 d. "Purchaser" or "owner" means any person or persons who  
5 acquires a legal or equitable interest in a unit, lot, or parcel in a  
6 planned real estate development, and shall be deemed to include a  
7 prospective purchaser or owner. Following termination of  
8 developer control of the executive board, pursuant to paragraph (3)  
9 of subsection a. of section 5 of P.L.1993, c.30 (C.45:22A-47), this  
10 definition shall not be construed to create a voting right, or any  
11 other right, for a prospective purchaser or prospective owner.
- 12 e. "State" means the State of New Jersey.
- 13 f. "Commissioner" means the Commissioner of Community  
14 Affairs.
- 15 g. "Person" shall be defined as in R.S.1:1-2.
- 16 h. "Planned real estate development" or "development" means  
17 any real property situated within the State, whether contiguous or  
18 not, which consists of or will consist of, separately owned areas,  
19 irrespective of form, be it lots, parcels, units, or interest, and which  
20 are offered or disposed of pursuant to a common promotional plan,  
21 and providing for common or shared elements or interests in real  
22 property. This definition shall not apply to any form of  
23 timesharing.
- 24 This definition shall specifically include, but shall not be limited  
25 to, property subject to the "Condominium Act," P.L.1969, c.257  
26 (C.46:8B-1 et seq.), any form of homeowners' association, any  
27 housing cooperative or to any community trust or other trust device.
- 28 This definition shall be construed liberally to effectuate the  
29 purposes of this act.
- 30 i. "Common promotional plan" means any offer for the  
31 disposition of lots, parcels, units or interests of real property by a  
32 single person or group of persons acting in concert, where such lots,  
33 parcels, units or interests are contiguous, or are known, designated  
34 or advertised as a common entity or by a common name.
- 35 j. "Advertising" means and includes the publication or causing  
36 to be published of any information offering for disposition or for  
37 the purpose of causing or inducing any other person to purchase an  
38 interest in a planned real estate development, including the land  
39 sales contract to be used and any photographs or drawings or artist's  
40 representations of physical conditions or facilities on the property  
41 existing or to exist by means of any:
- 42 (1) Newspaper or periodical;
  - 43 (2) Radio or television broadcast;
  - 44 (3) Written or printed or photographic matter;
  - 45 (4) Billboards or signs;
  - 46 (5) Display of model houses or units;

1 (6) Material used in connection with the disposition or offer of  
2 the development by radio, television, telephone or any other  
3 electronic means; or

4 (7) Material used by developers or their agents to induce  
5 prospective purchasers to visit the development, particularly  
6 vacation certificates which require the holders of such certificates to  
7 attend or submit to a sales presentation by a developer or his agents.

8 "Advertising" does not mean and shall not be deemed to include:  
9 Stockholder communications such as annual reports and interim  
10 financial reports, proxy materials, registration statements, securities  
11 prospectuses, applications for listing securities on stock exchanges,  
12 and the like; all communications addressed to and relating to the  
13 account of any person who has previously executed a contract for  
14 the purchase of the subdivider's lands except when directed to the  
15 sale of additional lands.

16 k. "Non-binding reservation agreement" means an agreement  
17 between the developer and a purchaser and which may be canceled  
18 without penalty by either party upon written notice at any time prior  
19 to the formation of a contract for the disposition of any lot, parcel,  
20 unit or interest in a planned real estate development.

21 l. "Blanket encumbrance" means a trust deed, mortgage,  
22 judgment, or any other lien or encumbrance, including an option or  
23 contract to sell or a trust agreement, affecting a development or  
24 affecting more than one lot, unit, parcel, or interest therein, but does  
25 not include any lien or other encumbrance arising as the result of  
26 the imposition of any tax assessment by any public authority.

27 m. "Conversion" means any change with respect to a real estate  
28 development or subdivision, apartment complex or other entity  
29 concerned with the ownership, use or management of real property  
30 which would make such entity a planned real estate development.

31 n. "Association" means an association for the management of  
32 common elements and facilities, organized pursuant to section 1 of  
33 P.L.1993, c.30 (C.45:22A-43).

34 o. "Executive board" means the executive board of an  
35 association, as provided for in section 3 of P.L.1993, c.30  
36 (C.45:22A- 45).

37 p. "Unit" means any lot, parcel, unit or interest in a planned  
38 real estate development that is, or is intended to be, a separately  
39 owned area thereof.

40 q. "Association member" means the owner of a unit within a  
41 planned real estate development, or a unit's tenant or the developer  
42 to the extent that the bylaws permit tenant or developer membership  
43 in the association pursuant to subsection b. of section 1 of P.L.1993,  
44 c.30 (C.45:22A-43).

45 r. "Good standing" means the status assigned to unit owners  
46 who meet qualifications not more excessive than compliance with  
47 the development's governing documents, and who are current on  
48 the payment of all fees lawfully assigned to the unit.

1       s. “Voting-eligible tenant” means a tenant of a unit within a  
2 planned real estate development that permits the tenant’s  
3 participation in executive board elections through its bylaws, but  
4 shall not include a tenant whose right to vote is derived solely as an  
5 agent of the unit owner through a proxy or power of attorney.

6 (cf: P.L.2006, c.63, s.39)

7  
8       3. Section 1 of P.L.1993, c.30 (C.45:22A-43) is amended to  
9 read as follows:

10       1. a. A developer subject to the registration requirements of  
11 section 6 of P.L.1977, c.419 (C.45:22A-26) shall organize or cause  
12 to be organized an association whose obligation it shall be to  
13 manage the common elements and facilities. The association shall  
14 be formed on or before the filing of the master deed or declaration  
15 of covenants and restrictions, and may be formed as a for-profit or  
16 nonprofit corporation, unincorporated association, or any other form  
17 permitted by law.

18       b. Membership in the association of a planned real estate  
19 development shall be comprised exclusively of each unit owner  
20 within the planned real estate development, and may include the  
21 developer if the development contains unsold lots, parcels, units, or  
22 interests. If permitted by the association’s bylaws, a tenant may  
23 also be entitled to association membership. However, a tenant  
24 entitled to association membership shall have only the same voting  
25 rights as unit owners if the tenant is a voting-eligible tenant.  
26 Pursuant to subsection e. of section 5 of P.L.     , c.     (C.     )  
27 (pending before the Legislature as this bill), the voting influence of  
28 a unit shall not be altered by the number of association members,  
29 and voting-eligible tenants, who own or reside in the unit.

30 (cf: P.L.1993, c.30, s.1)

31  
32       4. Section 3 of P.L.1993, c.30 (C.45:22A-45) is amended to  
33 read as follows:

34       3. a. The form of administration of an association organized  
35 pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43) shall provide  
36 for the election of an executive board, elected by the association  
37 members and voting-eligible tenants, and responsible to the  
38 members of the association pursuant to section 4 of P.L.1993, c.30  
39 (C.45:22A-46), through which the powers of the association shall  
40 be exercised and its functions performed.

41       b. Subject to the master deed, declaration of covenants and  
42 restrictions, bylaws or other instruments of creation, subsection d.  
43 of this section, and the laws of the State, the executive board may  
44 act in all instances on behalf of the association.

45       c. The members of the executive board appointed by the  
46 developer shall be liable as fiduciaries to the owners for their acts  
47 or omissions.

1 d. During control of the executive board by the developer,  
2 copies of the annual audit of association funds shall be available for  
3 inspection by owners or their authorized representative at the  
4 project site.

5 (cf: P.L.1993, c.30, s.3)

6  
7 5. (New section) a. Notice of the right to nominate candidates  
8 for election to the executive board shall be mailed, hand-delivered  
9 or, where permitted by the bylaws, electronically delivered to each  
10 association member and each voting-eligible tenant at least 30 days  
11 prior to the meeting at which an election of the members of the  
12 executive board will be conducted.

13 b. Each position on the executive board shall be up for election  
14 every four years, except that the bylaws may provide for more  
15 frequent elections.

16 c. If the bylaws permit tenant participation in executive board  
17 elections, then a tenant may exercise the voting rights of a unit  
18 owner with whom he has contracted a leasehold interest.

19 d. (1) Subject to the exceptions under subsection g. of this  
20 section, a resident-owner in good standing shall have the authority  
21 to:

22 (a) nominate himself or any other resident-owner in good  
23 standing to run for any membership position on the executive board  
24 in an election at least 21 days subsequent to the nomination; and

25 (b) run for any membership position on the executive board  
26 after obtaining a nomination at least 21 days prior to the election.

27 (2) In the case of a person nominated by someone other than  
28 themselves, if the nominated person accepts the nomination in  
29 writing within seven days of being nominated and the number of  
30 candidates is less than the number of executive board positions  
31 open for election, the 21-day requirement stated in paragraph (1) of  
32 this subsection shall not apply.

33 (3) The bylaws may extend the right to nominate and run for  
34 positions on the executive board provided pursuant to paragraph (1)  
35 of this subsection, to all unit owners, all tenants, or others.

36 (4) Subject to the exceptions provided in subsection g. of this  
37 section, all association members and voting-eligible tenants shall  
38 have the authority to vote in each election for each position of  
39 membership on the executive board. The bylaws may limit voting  
40 eligibility under this paragraph to association members in good  
41 standing.

42 e. Unless the bylaws provide for the voting interest of each unit  
43 to be proportional to the unit's value or size, each unit conveyed to  
44 an owner shall be entitled to one vote regardless of the number of  
45 association members, and voting-eligible tenants, who own or  
46 reside in a unit.

47 f. Initial executive board elections in condominium  
48 associations, governed under the "Condominium Act," P.L.1969,

1 c.257 (C.46:8B-1 et seq.), shall follow the notice timeline under  
2 subsection b. of section 2 of P.L.1979, c.157 (C.46:8B-12.1), and  
3 shall not be subject to the notice requirements under subsections a.  
4 and d. of this section.

5 g. (1) It shall be permissible:

6 (a) for the association members and voting-eligible tenants of a  
7 planned real estate development with units of different use types to  
8 nominate and vote for some members of the executive board and,  
9 pursuant to the mixed-use development's governing documents,  
10 have other members of the executive board nominated and elected  
11 by association members and voting-eligible tenants of units of a  
12 different use type;

13 (b) for the association members and voting-eligible tenants of a  
14 planned real estate development to nominate and vote only for some  
15 members of the executive board based upon a distribution that  
16 allocates votes with approximate proportionality to the number,  
17 value, or size of units located in certain geographical areas within  
18 the development;

19 (c) to limit the number of executive board members nominated  
20 and elected by only certain association members, and voting-  
21 eligible tenants, if that limit is based upon a classification intended  
22 to further the election of one or more executive board members by  
23 the association members, and voting-eligible tenants, of affordable  
24 housing units that represent a minority of the units in a planned real  
25 estate development; and

26 (d) for the association members, and voting-eligible tenants, of a  
27 planned real estate development to nominate and vote for some  
28 members of the executive board and, pursuant to the governing  
29 documents, have other members of the executive board nominated  
30 and elected by the association members, and voting-eligible tenants,  
31 of one or more separate developments, so long as each  
32 development's voting weight is approximately proportional, based  
33 on the number, value, or size of the units;

34 (2) The executive board of an umbrella or master association  
35 that does not directly contain units need not be elected by  
36 individuals who are association members, and voting-eligible  
37 tenants, with units within the geographical area of the umbrella or  
38 master association, provided the members of the executive board  
39 serve as executive board members of another planned real estate  
40 development executive board, and have been nominated and elected  
41 by the association members, and voting-eligible tenants, with units  
42 in that planned real estate development, in compliance with this  
43 section.

44 (3) The requirements of this section do not apply to members of  
45 the executive board that may be appointed by the developer  
46 pursuant to section 5 of P.L.1993, c.30 (C.45:22A-47).

1       6. Section 4 of P.L.1993, c.30 (C.45:22A-46) is amended to  
2 read as follows:

3       4. The bylaws of the association, which shall initially be  
4 recorded with the master deed shall include, in addition to any other  
5 lawful provisions, the following:

6       a. A requirement that all meetings of the executive board,  
7 except conference or working sessions at which no binding votes  
8 are to be taken, shall be open to attendance by all unit owners, and  
9 voting-eligible tenants where applicable, and adequate notice of any  
10 such meeting shall be given to all unit owners, and voting-eligible  
11 tenants where applicable, in such manner as the bylaws shall  
12 prescribe; except that the executive board may exclude or restrict  
13 attendance at those meetings, or portions of meetings, dealing with  
14 (1) any matter the disclosure of which would constitute an  
15 unwarranted invasion of individual privacy; (2) any pending or  
16 anticipated litigation or contract negotiations; (3) any matters  
17 falling within the attorney-client privilege, to the extent that  
18 confidentiality is required in order for the attorney to exercise his  
19 ethical duties as a lawyer, or (4) any matter involving the  
20 employment, promotion, discipline or dismissal of a specific officer  
21 or employee of the association. At each meeting required under this  
22 subsection to be open to all unit owners, and voting-eligible tenants  
23 where applicable, the participation of unit owners, and voting-  
24 eligible tenants where applicable, in the proceedings or the  
25 provision of a public comment session shall be at the discretion of  
26 the executive board, minutes of the proceedings shall be taken, and  
27 copies of those minutes shall be made available to all unit owners ,  
28 and voting-eligible tenants where applicable, before the next open  
29 meeting.

30       b. The method of calling meetings of unit owners , and voting-  
31 eligible tenants where applicable, the percentage of unit owners ,  
32 and voting-eligible tenants where applicable, or voting rights  
33 required to make decisions and to constitute a quorum. The bylaws  
34 may, nevertheless, provide that unit owners , and voting-eligible  
35 tenants where applicable, may waive notice of meetings or may act  
36 by written agreement without meetings.

37       c. The manner of collecting from unit owners their respective  
38 shares of common expenses and the method of distribution to the  
39 unit owners of their respective shares of common surplus or such  
40 other application of common surplus as may be duly authorized by  
41 the bylaws.

42       d. (1) The method by which the bylaws may be amended,  
43 provided that no amendment shall be effective until recorded in the  
44 same office as the then existing bylaws. The bylaws may also  
45 provide a method for the adoption, amendment and enforcement of  
46 reasonable administrative rules and regulations relating to the  
47 operation, use, maintenance and enjoyment of the units and of the  
48 common elements, including limited common elements.



1       (2) If association bylaws provide for no method of their  
2 amendment by a vote of the association members, or only allow  
3 association members to amend the bylaws through a majority vote  
4 exceeding a two-thirds majority, then the members may amend the  
5 bylaws by an affirmative vote of two-thirds of the total authorized  
6 votes in the association. If the bylaws do not provide for a method  
7 by which the members may call a meeting of the members to  
8 conduct a vote to amend the bylaws or do not contain provisions  
9 concerning the subject matter of subparagraphs (a) through (f) of  
10 this paragraph, then a vote concerning an amendment to the bylaws  
11 shall be conducted as follows:

12       (a) fifteen percent of the members may request a meeting of the  
13 association's membership by executing a document requesting that  
14 a special meeting of the membership be held, or if the annual  
15 meeting of the membership will occur within 60 days of the date of  
16 the request, then the amendment vote shall be held at the annual  
17 meeting;

18       (b) if the vote will not take place at the annual meeting of the  
19 association, the executive board shall schedule the special meeting  
20 of the membership to occur within 60 days of the receipt of the  
21 request, which special meeting shall be held between the hours of  
22 7:00 p.m. and 8:00 p.m., except that if such day is a Sunday, the  
23 meeting shall be held on the next day thereafter;

24       (c) the language of the amendment shall be submitted to the  
25 association and shall be placed in appropriate form for distribution  
26 to the membership, which amendment shall be mailed, hand-  
27 delivered or, if the bylaws permit, electronically delivered, together  
28 with the notice of the meeting to the membership at least 10 days  
29 prior to the meeting;

30       (d) if permitted by the association's bylaws, the notice of the  
31 meeting shall include a proxy ballot or absentee ballot with  
32 instructions for the return of same, which instructions shall permit  
33 facsimile or electronic mail delivery of the proxy ballot or absentee  
34 ballot to the association and shall not require receipt of the proxy or  
35 absentee ballot more than one business day prior to the meeting;

36       (e) if a sufficient number of ballots or proxies are not received  
37 at the special or annual meeting to conclusively determine that the  
38 proposed amendment has been approved or rejected, the meeting  
39 shall be adjourned for a period of 30 days, or such longer period as  
40 approved by the membership by approval of a motion to extend the  
41 vote concerning the amendment, but in no event for longer than 11  
42 months from when the notice of the meeting was sent, and all  
43 proxies or ballots received prior to the extended date shall remain  
44 valid if otherwise valid under the terms of the bylaws; and

45       (f) if the amendment is approved, the association shall promptly  
46 record the same in the county recording office where the bylaws  
47 were recorded.

1       (3) Paragraph (2) of this subsection shall not be construed to  
2 require a vote to be held on an amendment to the bylaws that has  
3 been voted on in the preceding 12 months of the initial meeting  
4 request, made pursuant to subparagraph (a) of paragraph (2) of this  
5 subsection.

6       (4) For the purposes of paragraph (2) of this subsection, the  
7 number of total authorized votes in the association shall be based on  
8 the whole number of units owned by someone entitled to  
9 membership in the association after subtracting those owners  
10 ineligible to vote because they are not in good standing.

11 (cf: P.L.1993, c.30, s.4)

12  
13       7. Section 5 of P.L.1993, c.30 (C.45:22A-47) is amended to  
14 read as follows:

15       5. a. Irrespective of the time set for developer control of the  
16 association provided in the master deed, declaration of covenants  
17 and restrictions, or other instruments of creation, control of the  
18 association shall be surrendered to the owners in the following  
19 manner:

20       (1) Sixty days after conveyance of 25 percent of the lots,  
21 parcels, units or interests, not fewer than 25 percent of the members  
22 of the executive board shall be elected by the owners and voting-  
23 eligible tenants.

24       (2) Sixty days after conveyance of 50 percent of the lots,  
25 parcels, units or interests, not fewer than 40 percent of the members  
26 of the executive board shall be elected by the owners and voting-  
27 eligible tenants.

28       (3) Sixty days after conveyance of 75 percent of the lots,  
29 parcels, units or interests, the developer's control of the executive  
30 board shall terminate, at which time the owners and voting-eligible  
31 tenants shall elect the entire executive board; except that the  
32 developer may retain the selection of one executive board member  
33 so long as there are any units remaining unsold in the regular course  
34 of business.

35       b. The percentages specified in subsection a. of this section  
36 shall be calculated upon the basis of the whole number of units  
37 entitled to membership in the association. The bylaws of the  
38 association shall specify the number or proportion of votes of all  
39 units conveyed to owners that shall be required for the election of  
40 board members. Unless the bylaws provide **[otherwise]** for the  
41 voting interest of each unit to be proportional to the unit's value or  
42 size, each unit conveyed to an owner shall be entitled to one vote  
43 regardless of the number of association members, and voting-  
44 eligible tenants, residing in a unit. A developer may surrender  
45 control of the executive board of the association before the time  
46 specified in subsection a. of this section, if the **[owners]**  
47 association members, and voting-eligible tenants, agree by a  
48 majority vote to assume control.

1 c. Upon assumption by the owners of control of the executive  
2 board of the association, the developer shall forthwith deliver to the  
3 association all items and documents pertinent to the association,  
4 such as, but not limited to, a copy of the master deed, declaration of  
5 covenants and restrictions, documents of creation of the association,  
6 bylaws, minute book including all minutes, any rules and  
7 regulations, association funds and an accounting therefor, all  
8 personal property, insurance policies, government permits, a  
9 membership roster and all contracts and agreements relative to the  
10 association.

11 d. The association when controlled by the owners and voting-  
12 eligible tenants shall not take any action that would be detrimental  
13 to the sale of units by the developer, and shall continue the same  
14 level of maintenance, operation and services as immediately prior to  
15 their assumption of control, until the last unit is sold.

16 e. From the time of conveyance of 75 percent of the lots,  
17 parcels, units, or interests, until the last lot, parcel, unit, or interest  
18 in the development is conveyed in the ordinary course of business,  
19 the master deed, bylaws or declaration of covenants and restrictions  
20 shall not require that more than 75 percent of the votes entitled to  
21 be cast thereon be cast in the affirmative for a change in the bylaws  
22 or regulations of the association.

23 f. The developer shall not be permitted to cast any votes  
24 allocated to unsold lots, parcels, units, or interests, in order to  
25 amend the master deed, bylaws, or any other document, for the  
26 purpose of changing the permitted use of a lot, parcel, unit, or  
27 interest, or for the purpose of reducing the common elements or  
28 facilities.

29 (cf: P.L.1993, c.30, s.5)

30  
31 8. This act shall take effect immediately.  
32  
33

34 STATEMENT  
35

36 This bill enhances resident voting participation rights in common  
37 interest communities.

38 New Jersey contains many planned real estate developments in  
39 which an association, through its executive board, is responsible for  
40 decisions concerning cost of assessments, the maintenance and use  
41 of common areas and facilities within the community, as well as  
42 other matters of importance to unit owners and tenants.

43 This bill defines an "association member" as a unit owner, and  
44 may also include tenants to the extent that the association's bylaws  
45 permit tenant membership in the association. Recently-established  
46 associations may also permit the developer's membership if all the  
47 units have not yet been sold. The bill also creates a definition of  
48 "voting-eligible tenant," meaning a tenant residing in a

1 development that permits the tenant's participation in executive  
2 board elections through its bylaws. The bill confines voting  
3 eligibility to the association members and voting eligible tenants,  
4 meaning more than one person per unit could potentially have  
5 voting rights. However, the voting influence of a unit would not be  
6 altered by the number of association members and voting-eligible  
7 tenants connected to the unit.

8 The bill requires that the executive board shall ensure that notice  
9 of any executive board election is provided to all association  
10 members, and voting-eligible tenants, at least 30 days prior to the  
11 election. The bill further requires that each resident-owner in good  
12 standing shall have the authority to (1) nominate oneself or any  
13 other resident-owner in good standing to run for any position on the  
14 executive board; and (2) accept a nomination and run for any  
15 membership position on the executive board. The bylaws may  
16 permit others to also make nominations and run for executive board  
17 positions. The bill requires common interest communities to also  
18 allow all association members in good standing, and voting-eligible  
19 tenants, to vote in each election for each position of membership on  
20 the executive board. Certain types of associations, however, are  
21 exempted from some of these requirements. These exemptions  
22 consist of the following:

- 23 1) In a mixed-use development, certain executive board  
24 members may be elected exclusively by the members and  
25 voting-eligible tenants of units of the same use-type;
- 26 2) Associations may distribute vote shares proportionally to the  
27 number of units in different geographical areas of the  
28 development, so that the association members and voting  
29 eligible-tenants in each area nominates and elects only  
30 certain executive board members representing their part of  
31 the development;
- 32 3) If residents of affordable housing represent a minority of  
33 housing units in the development, then associations may  
34 limit the number of executive board members that certain  
35 association members and voting-eligible tenants may vote  
36 for, in order to ensure the election of one or more affordable  
37 housing residents;
- 38 4) An association may allow the members of the executive  
39 board to be separately nominated and elected by the  
40 association members, and voting-eligible tenants, of separate  
41 developments, so long as each development's voting weight  
42 is proportional, based on the number, value, or size of the  
43 units; and
- 44 5) The executive board of an umbrella or master association  
45 that does not directly contain units does not have to be  
46 elected by individuals who are association members, and  
47 voting-eligible tenants, of units within the geographical area  
48 of the umbrella or master association, provided the members

1           of the executive board serve as executive board members of  
2           another planned real estate development executive board,  
3           and have been nominated and elected by the association  
4           members, and voting-eligible tenants, of units in that  
5           planned real estate development.

6           Under this bill, unless the bylaws provide for the voting interest  
7           of each unit to be proportional to the unit's value or size, each unit  
8           shall be entitled to one vote regardless of the number of association  
9           members and voting-eligible tenants residing in a unit. The bill  
10          requires each position on the executive board to be up for election  
11          at least as often as once every four years.

12          Finally, most common interest community bylaws include a  
13          method through which the bylaws themselves may be amended  
14          through a vote of the association membership. For those  
15          associations that do not include a method for amendment by the  
16          association membership, or only allow association members to  
17          amend the bylaws through a majority vote exceeding a two-thirds  
18          majority, this bill establishes a mechanism through which  
19          association members would be able to compel the executive board  
20          to hold a meeting at which the association membership could amend  
21          the bylaws through a two-thirds majority vote. Compelling this  
22          vote would require 15 percent of the association members to present  
23          a request for a meeting, at which the vote would be conducted. The  
24          bill would not allow the use of this mechanism to require a vote on  
25          an amendment to the bylaws that had already been voted on by the  
26          association in the preceding 12 months.