

ASSEMBLY, No. 2528

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires certain common interest community associations to publish certain information; requires that homeowners' association contracts for management and maintenance include 24-hour emergency services.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning common interest community associations and
2 amending P.L.1993, c.30.

3

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

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

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

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

37 b. The method of calling meetings of association members, and
38 voting-eligible tenants where applicable, the percentage of
39 association members, and voting-eligible tenants where applicable,
40 or voting rights required to make decisions and to constitute a
41 quorum. The bylaws may, nevertheless, provide that an individual
42 association member, and a voting-eligible tenant where applicable,
43 may waive notice of meetings in writing, or may act by written
44 agreement without meetings. The executive board or association
45 shall cause to be delivered, through regular or electronic mail, or

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 personal delivery, a meeting notice to the homeowners not less than
2 seven days prior to any meeting.

3 c. The manner of collecting from owners their respective
4 shares of common expenses and the method of distribution to the
5 owners of their respective shares of common surplus or such other
6 application of common surplus as may be duly authorized by the
7 bylaws.

8 d. (1) The method by which the bylaws may be amended,
9 provided that no amendment shall be effective until recorded in the
10 same office as the then existing bylaws. The bylaws may also
11 provide a method for the adoption, amendment and enforcement of
12 reasonable administrative rules and regulations relating to the
13 operation, use, maintenance and enjoyment of the units and of the
14 common elements, including limited common elements.

15 (2) If association bylaws provide for no method of their
16 amendment by a vote of the association members open to all
17 association members, or only allow association members to amend
18 the bylaws through a majority vote exceeding a two-thirds majority,
19 then the association members may amend the bylaws by an
20 affirmative vote of a majority of the total authorized votes in the
21 association. If the bylaws do not provide for a method by which the
22 association members may call a meeting of the association members
23 to conduct a vote to amend the bylaws or do not contain provisions
24 concerning the subject matter of subparagraphs (a) through (f) of
25 this paragraph, then a vote concerning an amendment to the bylaws
26 shall be conducted as follows:

27 (a) fifteen percent of the association members may request a
28 meeting of the association's membership by executing a document
29 requesting that a special meeting of the association membership be
30 held, or if the annual meeting of the association membership is
31 scheduled to occur within 60 days of the date of the request, then
32 the amendment vote shall be held at the annual meeting;

33 (b) if the vote is not scheduled to take place at the annual
34 meeting of the association, the executive board shall schedule the
35 special meeting of the association membership to occur within 60
36 days of the receipt of the request. Notice of the meeting shall be
37 provided to the association members and voting-eligible tenants,
38 where applicable, at least 14 days prior to the date of the meeting.
39 The special meeting shall be held at a reasonable time that is likely
40 to permit most association members to attend;

41 (c) the language of the proposed amendment shall be
42 unambiguous and consistent with applicable law and with the
43 provisions of the bylaws that are not proposed to be amended, and if
44 not in such condition shall be revised to satisfy that requirement.
45 Upon satisfaction of this requirement, the amendment shall be
46 mailed, hand-delivered or, if the bylaws permit, electronically
47 delivered, together with the notice of the meeting to the association
48 membership at least 10 days prior to the meeting;

1 (d) if permitted by the association's bylaws, the notice of the
2 meeting shall include a proxy ballot or absentee ballot with
3 instructions for the return of same, which instructions shall permit
4 facsimile or electronic mail delivery of the proxy ballot or absentee
5 ballot to the association and shall not require receipt of the proxy or
6 absentee ballot more than one business day prior to the meeting;

7 (e) if a sufficient number of ballots or proxies are not received
8 at the special or annual meeting to conclusively determine that the
9 proposed amendment has been approved or rejected, the meeting
10 shall be adjourned for a period of 30 days, or such longer period as
11 approved by the association membership by approval of a motion to
12 extend the vote concerning the amendment, but in no event for
13 longer than 11 months from when the notice of the meeting was
14 sent, and all proxies or ballots received prior to the extended date
15 shall remain valid if otherwise valid under the terms of the bylaws;
16 and

17 (f) when an amendment is approved, a copy of the approved
18 amendment shall be provided to all association members, and the
19 association shall promptly record the amendment in the county
20 recording office where the bylaws were recorded.

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

26 (4) For the purposes of paragraph (2) of this subsection, the
27 number of total authorized votes in the association shall be based on
28 the whole number of units owned by someone entitled to
29 association membership after subtracting those association
30 members who are ineligible to vote because they are not in good
31 standing.

32 (5) An executive board shall not amend the bylaws of an
33 association without a vote of the association members open to all
34 association members, as provided in the association's bylaws, or
35 where the bylaws provide for no method of their amendment by a
36 vote of the association members, or only allow association members
37 to amend the bylaws through a majority vote exceeding a two-thirds
38 majority, then an association shall only amend the bylaws pursuant
39 to paragraph (2) of this subsection, except an executive board may
40 amend the bylaws under the following circumstances:

41 (a) to the extent necessary to render the bylaws consistent with
42 State, federal or local law; or

43 (b) after providing notice to all association members of the
44 proposed amendment, which notice shall include a ballot to reject
45 the proposed amendment. Other than an amendment to render the
46 bylaws consistent with State, federal, or local law, if at least 10
47 percent of association members vote to reject the amendment within
48 30 days of its mailing, the amendment shall be deemed defeated.

1 e. A requirement that an executive board or association shall
2 provide, upon request by a unit owner, the following information:
3 the roster of current board members; contact information for each
4 current board member, consisting of a private electronic mail
5 address by which a board member can be contacted directly by unit
6 owners; board election dates and application forms for candidacy;
7 the most recently adopted annual budget; and insurance information
8 for any policy held by an association, including the names of
9 insurance companies, the name of the broker or provider of the
10 insurance policy, and any applicable policy numbers. The
11 association shall provide the information to the homeowner
12 electronically within one business day of the submission of the
13 request, or, if the homeowner requests a paper copy, within two
14 business days of the submission of the request. When inspection of
15 an insurance policy is requested by a unit owner, an association
16 shall provide the homeowner with an electronic copy of the
17 insurance policy within 24 hours of the submission of the request,
18 or, if the homeowner requests a paper copy, within two business
19 days of the submission of the request.

20 f. A requirement that any contract for maintenance,
21 management, or operation services entered into by the executive
22 board or association shall provide for 24-hour emergency
23 maintenance or management services, as applicable, which shall
24 include a 24-hour emergency maintenance or management
25 telephone hotline for use by unit owners.

26 g. A requirement that an executive board or association shall
27 maintain financial records in accordance with generally accepted
28 accounting standards and principles. The records shall be open to
29 inspection by unit owner or their authorized representatives at
30 reasonable times, and written summaries of such records shall be
31 supplied at least annually to the unit owners or their authorized
32 representatives. The failure of the association to permit inspection
33 of its financial records by unit owners or their authorized
34 representatives entitles any persons prevailing in an enforcement
35 action to recover reasonable attorney's fees from the person in
36 control of the books and records who, directly or indirectly,
37 knowingly denied access to the books and records for inspection.
38 The records shall include, but not be limited to (1) a record of all
39 receipts and expenditures; and (2) an account for each unit owner,
40 designating the name and current mailing address of the unit owner,
41 the amount of each assessment, the dates on which and amounts in
42 which the assessments come due, the amount paid on the account,
43 and the balance due.

44 h. Any amendment, revision, modification, or replacement of
45 any existing bylaws of the association, after the effective date of
46 P.L. , c. (C.) (pending before the Legislature as this bill),
47 shall include the provisions required under each subsection of this
48 section, even when the original bylaws were adopted prior to the

1 effective date of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3 (cf: P.L.2017, c.106, s.7)

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5 2. This act shall take effect immediately.

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STATEMENT

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10 This bill establishes additional requirements on homeowners'
11 associations subject to "The Planned Real Estate Development Full
12 Disclosure Act," N.J.S.A. 45:22A-21 et seq., concerning
13 management companies and public inspection of certain association
14 documents. The bill also requires an association to provide certain
15 annual accounting information to unit owners and modernizes the
16 requirements to allow for the inspection of the association's records
17 by unit owners.

18 Specifically, the bill requires that an association provide, upon
19 request by a unit owner, the following information:

20 (i) roster of current board members;

21 (ii) contact information for each current board member,
22 consisting of a private electronic mail address by which a board
23 member can be contacted directly by association members;

24 (iii) board election dates and application forms for candidacy;

25 (iv) the most recently adopted annual budget;

26 (v) insurance information for any policy held by an association,
27 including the name of insurance companies, the name of the broker
28 or provider of the insurance policy, and any applicable policy
29 numbers.

30 Regarding contracts with management companies, the bill
31 requires that any contract for maintenance, management, and
32 operation services entered into by the association provide for 24-
33 hour emergency maintenance or management services, as
34 applicable, which must include a 24-hour emergency maintenance
35 or management telephone hotline for use by association members.

36 Finally, the bill establishes that, when inspection of an insurance
37 policy is requested by an association member, an association shall
38 provide the unit owner with an electronic copy of the insurance
39 policy within 24 hours of the submission of the request. If the unit
40 owner requests a paper copy, an association must provide the policy
41 to the requester within two business days of the submission of the
42 request.

43 This bill is applicable to condominiums, cooperatives, and
44 generic homeowners' associations while having no effect on
45 residential home or apartment owners that do not belong to a
46 common interest community. The bill is not retroactive, but the
47 new requirements outlined in the bill must be adopted by
48 associations the next time any change is made to the existing
49 bylaws, or when new bylaws are adopted.