

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 465

STATE OF NEW JERSEY

DATED: MAY 2, 1996

The Senate Community Affairs Committee reports favorably Assembly Bill No. 465 (1R).

This bill would provide statutory authority for provisions found in condominium association master deeds and by-laws that allow for the imposition of reasonable fines on unit owners who fail to comply with the master deed, by-laws, or rules and regulations of the condominium. The bill also specifically indicates that condominium associations may include provisions in their master deeds or by-laws for the imposition of late fees upon unit owners who fail to pay monies duly owed the association after proper notice. Furthermore, the bill provides that by-laws may provide for rules including the imposition of fines and late fees which may be enforced as a lien pursuant to section 21 of P.L.1969, c.257 (C.46:8B-21). However, an association will not be permitted under the bill to file a lien consisting solely of late fees.

Section 6 of the bill would specifically validate by-law provisions that provided for the imposition of reasonable fines and late fees that were adopted prior to the bill's effective date so long as those provisions are not inconsistent with the provisions of the bill and would also validate fines levied pursuant to such by-law provisions. However, section 6 would not be applicable to any case in which a judicial determination relative to the legality of any such fine has been rendered on or before the date this bill takes effect.

This bill was introduced in response to the decision rendered in Walker v. Briarwood Condo Ass'n, 274 N.J. Super. 422 (App. Div. 1994) which held that the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) does not empower condominium associations to enforce their rules and regulations by imposing fines or enforcing fines imposed on unit owners by the placement of liens on units. In Holbert v. Great Gorge Village, 281 N.J. Super. 222 (Ch. Div. 1994), the court followed the decision in Walker by finding that a condominium association exceeded statutory authority by charging a unit owner late fees.

The bill would prohibit imposition of a fine unless the unit owner is given written notice of the action taken and of the alleged basis for

the action, and is advised of the right to participate in a dispute resolution procedure in accordance with subsection (k) of section 14 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not believe that the dispute resolution procedure has satisfactorily resolved the matter may seek a judicial remedy in a court of competent jurisdiction.

In order to forestall future court decisions from holding that actions of condominium associations exceed statutory authority, the bill provides associations with such other powers as may be set forth in the master deed or by-laws, if not prohibited by the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), or any other law of this State.

This bill is identical to Senate Bill No. 575 with committee amendments, also reported favorably by the committee on May 2, 1996.