

ASSEMBLY, No. 3069

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 8, 2014

Sponsored by:

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Provides fair standards for elections and recall of officers for homeowners' associations.

CURRENT VERSION OF TEXT

As introduced.



A3069 ANDRZEJCZAK

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1 AN ACT concerning homeowners' associations and supplementing
2 P.L.1993, c.30 (C.45:22A-43 et seq.).

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

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7 1. An association shall be deemed to have amended its
8 governing documents upon the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) to provide
10 that:

11 a. A member of the executive board may be recalled and
12 removed from office, with or without cause, by the vote of, or
13 agreement in writing by, a majority of the executive board members
14 present and eligible to vote at a meeting called for that purpose,
15 provided that any vote to recall shall be initiated only upon a
16 petition of at least five percent of all unit owners. A special
17 meeting of the unit owners to vote for the recall of a member or
18 members of the executive board may be called by 10 percent of the
19 members giving notice of the meeting as required for a meeting of
20 the unit owners, and the notice shall state the purpose of the
21 meeting.

22 b. The form of administration of the association, which shall
23 consist of an executive board, is described in the governing
24 documents, specifying the powers, duties, manner of selection and
25 removal, and compensation, if any, of the officers, directors, or
26 trustees of the executive board. Unless otherwise provided in the
27 bylaws, the executive board shall consist of five members, but if the
28 number of housing units in the community is less than 11, the
29 executive board shall consist of no more than three members,
30 notwithstanding the governing documents. The executive board
31 shall elect from among its members a president, vice president in
32 the case of communities with more than 10 units, secretary, and
33 treasurer, who shall perform the duties of those offices customarily
34 performed by officers of nonprofit corporations. The executive
35 board may appoint and designate other officers and assign them
36 such duties as it deems appropriate.

37

38 2. a. All unit owners shall be permitted to be candidates for
39 elected positions on the executive board excepted as provided by
40 subsection b. of this section. Elections shall be held at least every
41 two years, and shall be conducted with strict adherence to
42 democratic principles and fairness.

43 b. An association shall conduct elections under the auspices of
44 a committee of unit owners, none of the members of which shall be
45 current board members or candidates for the board. The committee
46 shall function independently of the executive board, and may use
47 the services of a qualified independent individual or organization
48 that is qualified in election monitoring services. The committee or

1 independent individual or organization, as the case may be, shall be
2 responsible for determining the eligibility of unit owners to vote or
3 to be candidates for membership on the executive board, for
4 counting ballots, and for verifying results. A unit owner may only
5 be disqualified from being a candidate for membership on the
6 executive board for the reason of delinquency in the payment of
7 assessments. An association shall give all unit owners at least 60
8 days' advance notice of the election so as to allow all eligible
9 persons who might be interested in filing as candidates a reasonable
10 opportunity to do so. A unit owner may only be disqualified from
11 voting in an election for the reason of delinquency in the payment
12 of assessments.

13 c. A unit owner shall be allowed to cast a ballot anonymously
14 for the election of executive board members. A unit owner shall
15 also be allowed to cast a ballot by mail, in person, or if the
16 association permits, by electronic ballot. A mailed ballot or an
17 electronic ballot shall be deemed to be a proxy for purposes of
18 determining a quorum for the meeting at which the election is
19 conducted. A non-directed proxy ballot may be counted only in an
20 election in which there are not as many listed candidates as there
21 are positions to be filled. All candidates shall be afforded the
22 opportunity to observe the entire process of counting and tabulation
23 of the ballots, either in person or through a designated
24 representative, and shall have access to lists of unit owners who are
25 eligible to vote and, after the voting has started, to any list of unit
26 owners who have voted that the association may maintain.

27 d. A challenge to the validity of an election shall be submitted
28 to the executive board and to the agency administering "The
29 Planned Real Estate Development Full Disclosure Act," P.L.1977,
30 c.419 (C.45:22A-21 et seq.) within 30 days following the date on
31 which written notice of the results of the election is given to
32 members of the association. Pending the outcome of any such
33 challenge, the persons declared to be elected by the committee,
34 individual, or organization responsible for conducting the election
35 shall serve as de facto officers or trustees, as the case may be.

36 e. Ballots, envelopes, registration records, eligibility lists,
37 proofs of mailing, and other voting materials shall be subject to
38 inspection by all unit owners at the time of the election and shall be
39 sealed after the election and kept unopened, in the custody of a
40 licensed certified public accountant or the organization that
41 conducted the election, for not less than 30 days following the
42 election, or until such later time as any challenge to the election
43 brought within that 30-day period has been resolved and the
44 documents are no longer required. Voting materials and procedures
45 shall at all times be subject to inspection and review by the agency
46 administering "The Planned Real Estate Development Full
47 Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). The

1 parties to any dispute shall be allowed the opportunity to be present
2 or to be represented at any such inspection and review.

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4 3. This act shall take effect immediately.

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STATEMENT

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9 This bill sets standards for election and recall of executive board
10 members of homeowners' associations, which are formed to
11 manage commonly-owned elements in condominiums, cooperatives,
12 and certain planned communities with common elements. The bill
13 would limit the size of executive boards of such communities
14 comprised of less than 11 homes, to three members. The bill would
15 also provide a default size of five members for the executive board
16 of all other communities unless the bylaws provide otherwise. The
17 bill requires that associations permit owners to vote anonymously
18 for executive board members, and establishes fair election
19 procedures. Violations of these procedures could be appealed to the
20 State entity having oversight of planned communities, which
21 currently is the Department of Community Affairs. The bill also
22 establishes standard procedures for recall votes of executive board
23 officers or trustees, and provides that any member of the executive
24 board may be recalled and removed from office, with or without
25 cause, by the vote of, or agreement in writing by, a majority of the
26 executive board members present and eligible to vote at a meeting
27 called for that purpose, provided that any vote to recall shall be
28 initiated only upon a petition of at least five percent of all
29 association members. The bill provides that a special meeting of
30 the association membership to vote for the recall of a member or
31 members of the executive board may be called by 10 percent of the
32 members giving notice of the meeting as required for a meeting of
33 members.