

# ASSEMBLY, No. 358

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman SEAN T. KEAN**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Prohibits conflict of interests by governing board members or management employees of homeowners' associations.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning homeowners' associations and supplementing  
2 Title 46 of the Revised Statutes.

3

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

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7 1. a. No officer, board member or employee or member of the  
8 immediate family of an officer, board member or employee shall  
9 have an interest in a business organization or engage in any  
10 business, transaction, or professional activity, which is in  
11 substantial conflict with the proper discharge of duties to the  
12 association.

13 b. The association shall not, during the period in office of the  
14 officer or board member and for one year subsequent to that period:

15 (1) award a contract to an officer or board member, or to a  
16 member of the immediate family of an officer or board member, or  
17 to a business organization in which the officer or board member  
18 holds more than a 5 percent interest or is an employee of the  
19 business organization; or

20 (2) employ for compensation, an officer or board member or  
21 member of the immediate family of an officer or board member.

22 c. No officer or board member shall use or attempt to use that  
23 office to secure unwarranted privileges or advantages for the officer  
24 or others.

25 d. No officer or board member shall act in official capacity in  
26 any matter where the officer or board member, an immediate family  
27 member, or a business organization in which the officer or board  
28 member has more than a 5 percent interest, has a direct or indirect  
29 financial or personal involvement that might reasonably impair the  
30 objectivity or independence of judgment of the officer or board  
31 member, or is an employee of the business organization.

32 e. No officer or board member shall undertake any employment  
33 or service, whether compensated or not, which might reasonably be  
34 expected to prejudice the independence of judgment of the officer  
35 or board member in the discharge of duties to the association.

36 f. No officer or board member or employee, or member of the  
37 immediate family of an officer or board member, or business  
38 organization in which an officer or board member holds more than a  
39 5 percent interest or is employed by, shall solicit or accept any  
40 benefit offered for the purpose of influencing the officer or board  
41 member, directly or indirectly, in the discharge of duties to the  
42 association.

43 g. No officer or board member shall use, or allow to be used,  
44 the officer or board member's position, or any information received  
45 through it that is not generally available to all unit owners, to secure  
46 financial gain for the officer, board member, any member of the  
47 immediate family of the officer or board member, or any business  
48 organization with which the officer or board member is associated.

1 h. In awarding contracts to management companies and other  
2 service providers, the association shall:

3 (1) disqualify any contractor in which a sponsor holds an  
4 interest until three years after termination of sponsor control; and

5 (2) require that any contractor disclose the names of any  
6 association officer board member or managing employee, or  
7 member of the immediate family of an officer or board member,  
8 employed by the contractor or subcontractor.

9 i. At the request of a unit owner, the Department of  
10 Community Affairs shall investigate allegations of a violation of  
11 this section. If the department finds a violation by a board member  
12 or officer, it shall order the removal of the board member or officer,  
13 and may declare void any action of the board related to the  
14 violation. If the department finds a violation by a managing  
15 employee, it shall report the violation to the association.

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17 2. This act shall take effect immediately.

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20 STATEMENT

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22 This bill prohibits certain conflicts of interest officers or board  
23 members or employees hired to manage the common elements of a  
24 homeowners' association. In general, the bill prohibits self-dealing,  
25 and is patterned after the public conflicts of interest law. The bill  
26 prohibits the awarding of a contract to an entity in which a board  
27 member or member of the immediate family of an officer, board  
28 member or managing employee has a financial interest. The board  
29 may not contract with or engage in any business, transaction, or  
30 professional activity, which is in substantial conflict with the proper  
31 discharge of duties to the association or in which the officer holds  
32 or to a business organization in which the officer or board member  
33 holds more than a 5 percent interest or is employed. The bill also  
34 prohibits the employment for compensation of an officer or board  
35 member, or member of the immediate family of an officer or board  
36 member.

37 The bill prohibits an officer or board member to act in an official  
38 capacity in any matter where the officer or board member, an  
39 immediate family member, or a business organization in which the  
40 officer or board member has more than a 5 percent interest, has a  
41 direct or indirect financial or personal involvement that might  
42 reasonably impair the objectivity or independence of judgment of  
43 the officer or board member or is employed by the business  
44 organization.

45 The bill designates the Department of Community Affairs to  
46 investigate allegations of violations of the bill. If the department  
47 finds a violation by a board member or officer, it shall order the  
48 removal of the board member or officer, and may declare void any

1 action of the board related to the violation. If the department finds  
2 a violation by a managing employee, it is to report the violation to  
3 the association.

4 Homeowners' associations are required to be formed pursuant to  
5 State statutes. Many have large budgets, but there is currently no  
6 State oversight over their budgets or guidelines concerning the  
7 avoidance of conflicts of interests that may arise.