

ASSEMBLY, No. 1213

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Revises time period at which unit owners assume control of homeowners' associations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the control of homeowners' associations and
2 amending P.L.1979, c.157 and P.L.1993, c.30.

3

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

6

7 1. Section 2 of P.L.1979, c.157 (C.46:8B-12.1) is amended to
8 read as follows:

9 2. a. When unit owners other than the developer own 25% or
10 more of the units in a condominium that will be operated ultimately
11 by an association, the unit owners other than the developer shall be
12 entitled to elect not less than 25% of the members of the governing
13 board or other form of administration of the association. Unit
14 owners other than the developer shall be entitled to elect not less
15 than 40% of the members of the governing board or other form of
16 administration upon the conveyance of 50% of the units in a
17 condominium. Unit owners other than the developer shall be
18 entitled to elect all of the members of the governing board or other
19 form of administration upon the conveyance of 75% of the units **[in**
20 **a condominium]** within a single condominium structure, or two
21 years after the substantial completion of a single condominium
22 structure, whichever occurs first. However, when some of the units
23 of a condominium have been conveyed to purchasers and none of
24 the others are being constructed or offered for sale by the developer
25 in the ordinary course of business, the unit owners other than the
26 developer shall be entitled to elect all of the members of the
27 governing board or other form of administration.

28 Notwithstanding any of the provisions of subsection a of this
29 section, the developer shall be entitled to elect at least one member
30 of the governing board or other form of administration of an
31 association as long as the developer holds for sale in the ordinary
32 course of business one or more units in a condominium operated by
33 the association.

34 b. Within 30 days after the unit owners other than the
35 developer are entitled to elect a member or members of the
36 governing board or other form of administration of an association,
37 the association shall call, and give not less than 20 days' nor more
38 than 30 days' notice of, a meeting of the unit owners to elect the
39 members of the governing board or other form of administration.
40 The meeting may be called and the notice given by any unit owner
41 if the association fails to do so.

42 c. If a developer holds one or more units for sale in the
43 ordinary course of business, none of the following actions may be
44 taken without approval in writing by the developer:

45 (1) Assessment of the developer as a unit owner for capital

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 improvements.

2 (2) Any action by the association that would be detrimental to
3 the sales of units by the developer. However, an increase in
4 assessments for common expenses without discrimination against
5 the developer shall not be deemed to be detrimental to the sales of
6 units.

7 d. Prior to, or not more than 60 days after, the time that unit
8 owners other than the developer elect a majority of the members of
9 the governing board or other form of administration of an
10 association, the developer shall relinquish control of the
11 association, and the unit owners shall accept control.
12 Simultaneously, the developer shall deliver to the association all
13 property of the unit owners and of the association held or controlled
14 by the developer, including, but not limited to, the following items,
15 if applicable, as to each condominium operated by the association:

16 (1) A photocopy of the master deed and all amendments thereto,
17 certified by affidavit of the developer, or an officer or agent of the
18 developer, as being a complete copy of the actual master deed.

19 (2) A certified copy of the association's articles of incorporation,
20 or if not incorporated, then copies of the documents creating the
21 association.

22 (3) A copy of the bylaws.

23 (4) The minute books, including all minutes, and other books
24 and records of the association, if any.

25 (5) Any house rules and regulations which have been
26 promulgated.

27 (6) Resignations of officers and members of the governing
28 board or other form of administration who are required to resign
29 because the developer is required to relinquish control of the
30 association.

31 (7) An accounting for all association funds, including capital
32 accounts and contributions.

33 (8) Association funds or control thereof.

34 (9) All tangible personal property that is property of the
35 association, represented by the developer to be part of the common
36 elements or ostensibly part of the common elements, and an
37 inventory of that property.

38 (10) A copy of the plans and specifications utilized in the
39 construction or remodeling of improvements and the supplying of
40 equipment to the condominium and in the construction and
41 installation of all mechanical components serving the
42 improvements and the site, with a certificate in affidavit form of the
43 developer, his agent, or an architect or engineer authorized to
44 practice in this State that such plans and specifications represent, to
45 the best of their knowledge and belief, the actual plans and
46 specifications utilized in the construction and improvement of the
47 condominium property and for the construction and installation of
48 the mechanical components serving the improvements. If the

1 condominium property has been declared a condominium more than
2 3 years after the completion of construction or remodeling of the
3 improvements, the requirements of this paragraph shall not apply.

4 (11) Insurance policies.

5 (12) Copies of any certificates of occupancy which may have
6 been issued for the condominium property.

7 (13) Any other permits issued by governmental bodies
8 applicable to the condominium property in force or issued within 1
9 year prior to the date the unit owners other than the developer take
10 control of the association.

11 (14) All written warranties of the contractor, subcontractors,
12 suppliers, and manufacturers, if any, that are still effective.

13 (15) A roster of unit owners and their addresses and telephone
14 numbers, if known, as shown on the developer's records.

15 (16) Leases of the common elements and other leases to which
16 the association is a party.

17 (17) Employment contracts, management contracts,
18 maintenance contracts, contracts for the supply of equipment or
19 materials, and service contracts in which the association is one of
20 the contracting parties and maintenance contracts and service
21 contracts in which the association or the unit owners have an
22 obligation or responsibility, directly or indirectly to pay some or all
23 of the fee or charge of the person or persons performing the service.

24 (18) All other contracts to which the association is a party.

25 (cf: P.L.1979, c.157, s.2)

26

27 2. Section 5 of P.L.1993, c.30 (C.45:22A-47) is amended to
28 read as follows:

29 5. a. Irrespective of the time set for developer control of the
30 association provided in the master deed, declaration of covenants
31 and restrictions, or other instruments of creation, control of the
32 association shall be surrendered to the owners in the following
33 manner:

34 (1) Sixty days after conveyance of 25 percent of the lots,
35 parcels, units or interests, not fewer than 25 percent of the members
36 of the executive board shall be elected by the owners.

37 (2) Sixty days after conveyance of 50 percent of the lots,
38 parcels, units or interests, not fewer than 40 percent of the members
39 of the executive board shall be elected by the owners.

40 (3) Sixty days after conveyance of 75 percent of the lots,
41 parcels, units or interests within a single structure, or two years
42 after substantial completion of a single condominium structure,
43 whichever occurs first, the developer's control of the executive
44 board shall terminate, at which time the owners shall elect the entire
45 executive board; except that the developer may retain the selection
46 of one executive board member so long as there are any units
47 remaining unsold in the regular course of business.

1 developer may control a homeowners' association. Under current
2 law, once 75% of the units in a condominium or planned unit
3 development are sold by the developer, the homeowners'
4 association is governed by unit owners, and not the developer.
5 However, in many cases, a developer will cease construction of
6 additional units of housing in order to maintain control of the
7 homeowners' association. The provisions of this bill are intended
8 to address this issue.

9 The bill would amend section 2 of P.L.1979, c.157 (C.46:8B-
10 12.1), which supplements the "Condominium Act," P.L.1969,
11 c.257 (C.46:8B-1 et seq.), to clarify that the control by the owners
12 shall occur 60 days after the conveyance of 75 percent of the lots,
13 parcels, units or interests within a single structure, or two years
14 after substantial completion of a single condominium structure,
15 whichever occurs first.

16 The bill would also amend the "Planned Real Estate
17 Development Full Disclosure Act," P.L.1993, c.30 (C.45:22A-43 et
18 seq.), to clarify that the control by the owners shall occur 60 days
19 after the conveyance of 75 percent of the lots, parcels, units, or
20 interests within a single structure, or two years after substantial
21 completion of a single condominium structure, whichever occurs
22 first.