

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3367

STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 3367.

This bill would establish standards to encourage the installation and use of electric vehicle (EV) charging stations in common interest communities.

Specifically, the bill prohibits common interest communities from adopting rules that prohibit or unreasonably restrict the installation or use of EV charging stations in the designated parking space of a unit owner. The bill would limit an association's ability to enforce covenants or other restrictions that unreasonably prevent installation of electric charging stations and would provide that restrictions in a deed or other document that unreasonably prevent the installation of electric charging stations would be void and unenforceable. Under the bill, common interest communities may, however, impose "reasonable restrictions" on the installation and use of EV charging stations, provided that the restrictions do not significantly increase the cost of the charging station or significantly decrease the efficiency or performance of the charging station.

In addition, if the approval of an association is required for the installation of an EV charging station, the bill requires the application to be processed and approved in the same manner as that of an architectural modification. The bill also provides that if an application is not denied in writing within 60 days of the receipt of the application, the application would be deemed approved, unless the delay is due to a reasonable request for additional information.

The bill also authorizes the executive board of a common interest community to grant the exclusive use of a common area parking space by a unit owner for the purposes of installing an EV charging station at the sole discretion of the board as long as the grant is not fraudulent.

The bill provides that in all instances, if an association's governing documents, rules, or regulations, require a unit owner to obtain association approval to install an EV charging station, the unit owner must seek association approval. An association must approve the installation of an EV charging station if the unit owner complies with all provisions of this bill and the unit owner agrees in writing to:

- comply with the association's architectural standards for the installation of the electric vehicle charging station;
- engage a licensed contractor to install the EV charging station, including all necessary improvements and signage;
- engage a licensed electrician to install all necessary electric lines and electrical infrastructure in compliance with the association's architectural standards;
- obtain, maintain, and provide evidence of insurance protecting the association and the other unit owners from damage as a result of the EV charging station
- pay for the electricity usage associated with the electric vehicle charging station; and
- pay for reasonable charges imposed by the association to recover the costs of the review and approval of an application for the installation or use of an EV charging station, including, reasonable engineering and legal fees. An association may require an applicant to place anticipated review charges in escrow before commencing review of an application.

The bill provides that an association may deny an application for the installation or use of an EV charging station if the association reasonably concludes that the EV charging station constitutes a life-safety risk.

If an association reasonably determines that the amount of electricity attributable to EV charging stations requires the installation of additional infrastructure, then the association may require the unit owners who have installed, or applied to install EV charging stations, to equally cover the cost of the additional infrastructure.

The bill provides that any monies owed to an association by a unit owner are deemed special assessments which can be collected by the association in the manner the association's governing documents and applicable law provides for the collection of delinquent common expenses, rent, or other delinquent amounts.

The bill also provides that, unless any of the following responsibilities, as they relate to EV charging stations, are abrogated a unit owner who installs an EV charging station, and each successive unit owner entitled to use an EV charging station, shall be responsible for the cost of the following items:

- any damage to the EV charging station, the parking space, a common element, a limited common element, the property of other unit owners, or separate interests, which damage results from the installation, maintenance, repair, removal, or replacement of the charging station;
- any maintenance, repair, and replacement of an EV charging station, and restoration of the area after removal of the EV charging station;
- the electricity usage associated with the EV charging station;

- all installation costs associated with the EV charging station; and
- any costs associated with an application for the installation or use of an EV charging station to satisfy applicable health and safety standards and requirements imposed by State and local authorities, including but not limited to applicable zoning, land use, and other ordinance requirements.

The bill imposes upon the unit owner, and each successive unit owner, of an EV charging station the responsibility for disclosing to prospective buyers the existence of the unit owner's EV charging station and the related responsibilities of the unit owner of a charging station.

The bill requires a unit owner, and each successive unit owner, of an EV charging station to maintain a homeowner's liability coverage policy in the amount of \$100,000 and to name the association as a certificate holder with the right to receive a notice of cancellation. However, an association may require the unit owner of an EV charging station to carry a homeowner's liability coverage policy in excess of \$100,000 if the association's governing documents or rules and regulations require all unit owners to carry a greater amount. An association may procure insurance on a unit owner's behalf and charge the unit owner the cost of the insurance if the unit owner fails to procure or maintain required insurance.

The bill authorizes the executive board of an association, in its sole discretion, to license a common area parking space for the exclusive use of a unit owner to install an EV charging station, so long as the grant is not fraudulent, unconscionable, or self-dealing.

The bill authorizes an association to install EV charging stations in common element parking spaces for the use of all unit owners, and to adopt appropriate rules and regulations for the use of common EV charging stations.

Finally, the bill authorizes an association to create a parking space where one did not previously exist to facilitate the installation of an EV charging station. If a new parking space would be located in a common element or limited common element, many of the provisions of the bill would not apply. However, if an association elects to create a new parking space to accommodate an EV charging station for the exclusive use of a unit owner, the unit owner would be responsible for all costs associated with creating the parking space, including but not limited to, land use approvals, permits, reviews, easements, and construction costs.