

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

SENATE, No. 908

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Assembly Housing Committee reports favorably Senate Bill No. 908, with committee amendments.

As amended, this bill clarifies certain assessment payment requirements in planned real estate developments. Certain associations have interpreted that the provisions of P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017, may impose new responsibilities on certain property owners to pay assessments and other charges to their associations. This bill is meant to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose new responsibilities on property owners to pay such assessments and other charges. The bill also clarifies that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments.

The bill establishes that, except as otherwise provided by law, associations in common interest communities (“CICs”) that were established prior to the effective date of the “Planned Real Estate Full Disclosure Act,” (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), are not allowed to require a property owner to pay assessments and other charges, unless otherwise provided by law, if:

- (1) the property owner’s title record does not impose such an obligation; or
- (2) the property owner’s title record establishes such an obligation, but it was previously imposed exclusively on property owners who voluntarily elected to join or become members of the association.

The bill further addresses circumstances in which an association within a community established prior to the effective date of PREDFDA intends to require one or more property owners to pay assessments and other charges when the owner’s title record does impose such an obligation, but the obligation was previously imposed exclusively on owners who voluntarily elected to join or become members of the association. In such circumstances, the bill requires the association to first obtain a court order declaring the owners members of the association and authorizing the association to assess the members of the association before assessing payment.

Additionally, the bill establishes that, if after July 13, 2017, an association has recorded a lien for non-payment of assessments or other charges, in violation of the bill's provisions, then the lien will be null and void. The bill requires an association that has imposed such a lien to promptly discharge the lien of record and provide notice of this action to the property owner. Under the bill, if an association fails to discharge such a null and void lien, the owner may bring an action to have the lien discharged and, if successful, would be entitled to petition the court for an award of counsel fees.

The bill would take effect immediately and would be retroactive to July 13, 2017.

As amended and reported by the committee, this bill is identical to A2480 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments;
- prohibit an association, if established prior to the effective date of PREDFDA, from requiring a property owner to pay assessments and other charges if such obligations, though permitted by the owners' title records, were previously imposed only on owners who voluntarily elected to join the association, unless the association first obtains a court order authorizing the charges; and
- make technical changes.