

SENATE, No. 1951

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

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District 17 (Middlesex and Somerset)

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District 27 (Essex and Morris)

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SYNOPSIS

Concerns installation of electric vehicle charging stations in common interest communities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/27/2020)

1 **AN ACT** concerning the installation of electric vehicle charging
2 stations in common interest communities and supplementing
3 P.L.1993, c.30 (C.45:22A-43 et seq.).

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

7
8 1. a. (1) An association formed for the management of
9 common elements and facilities of a planned real estate
10 development, regardless of whether organized pursuant to section 1
11 of P.L.1993, c.30 (C.45:22A-43), shall not adopt or enforce a
12 restriction, covenant, bylaw, rule, regulation, master deed provision,
13 or provision of a governing document prohibiting or unreasonably
14 restricting the installation or use of an electric vehicle charging
15 station in a designated parking space.

16 (2) Any covenant, restriction, or condition contained in any
17 deed, contract, security instrument, or other instrument affecting the
18 transfer or sale of any interest in a planned real estate development,
19 and any provision of a master deed, bylaw, or other governing
20 document that either prohibits or unreasonably restricts the
21 installation or use of an electric vehicle charging station in a
22 designated parking space, or is in conflict with the provisions of
23 this section, is void and unenforceable.

24 (3) Notwithstanding any provisions of an association's
25 governing documents concerning the grant of exclusive or limited
26 use of any portion of a common element to a unit owner, the
27 executive board of an association shall grant exclusive or limited
28 use of any portion of a common element to a unit owner:

29 (a) to install and use an electric vehicle charging station in a
30 unit owner's designated parking space that meets the requirements
31 of this section, where the installation or use of the charging station
32 requires reasonable access through, or across, the common elements
33 for utility lines or meters; or

34 (b) to install and use an electric vehicle charging station through
35 a license granted by an association pursuant to subsection e. of this
36 section.

37 (4) Nothing in this section shall be construed to prohibit an
38 association from imposing reasonable restrictions on electric
39 vehicle charging stations.

40 b. An electric vehicle charging station shall meet applicable
41 health and safety standards and requirements imposed by State and
42 local authorities as well as all other applicable zoning, land use or
43 other ordinances, or land use permits.

44 c. If association approval is required for the installation or use
45 of an electric vehicle charging station, the application for approval
46 shall be processed and approved by the association in the same
47 manner as an application for approval of an architectural
48 modification to the property, and shall not be willfully avoided or

1 delayed. The approval or denial of an application shall be in
2 writing. If an application is not denied in writing within 60 days
3 from the date_of receipt of the application, the application shall be
4 deemed approved, unless that delay is the result of a reasonable
5 request for additional information. If an association reasonably
6 determines that the cumulative use of electricity on the premises
7 attributable to the installation and use of electric vehicle charging
8 stations requires the installation of additional infrastructure
9 improvements to provide the premises with a sufficient supply of
10 electricity, then the association may hold an application for
11 approval in abeyance until the upgrades are completed.

12 d. The following provisions shall apply to installations of
13 electric vehicle charging stations for the exclusive use of a unit
14 owner:

15 (1) if required by the governing documents or the association's
16 rules and regulations, the unit owner shall first obtain approval from
17 the association to install the electric vehicle charging station and the
18 association shall approve the installation if the provisions of this
19 section are met and the unit owner agrees in writing to:

20 (a) comply with the association's architectural standards for the
21 installation of the electric vehicle charging station;

22 (b) engage a licensed electrician to install all necessary electric
23 lines and electrical infrastructure in compliance with the
24 association's architectural standards;

25 (c) within 14 days of approval and prior to installation, obtain
26 and maintain at all times, while the electric vehicle charging station
27 is in place, insurance protecting the association and the other unit
28 owners from damage as a result of the existence and operation of
29 the electric vehicle charging station, and provide evidence of
30 insurance specifying that insurance covers the electric vehicle
31 charging station in the amount required under this section. Nothing
32 in this subparagraph shall be construed as impairing the right of an
33 association to require a unit owner to maintain homeowner's
34 insurance under the association's governing documents or rules and
35 regulations;

36 (d) pay for the electricity usage associated with the electric
37 vehicle charging station;

38 (e) pay for reasonable charges imposed by an association to
39 recover the costs of the review and approval of an application for
40 the installation or use of an electric vehicle charging station,
41 including, without limitation, reasonable engineering and legal fees.
42 An association may require that anticipated review charges be
43 placed in escrow in advance of commencing review of an
44 application for the installation or use of an electric vehicle charging
45 station;

46 (2) an association may deny an application for the installation or
47 use of an electric vehicle charging station if the association

1 reasonably concludes that the electric vehicle charging station
2 constitutes a life-safety risk;

3 (3) if an association reasonably determines that the cumulative
4 use of electricity on the premises attributable to the installation and
5 use of electric vehicle charging stations requires the installation of
6 additional infrastructure improvements to provide the premises with
7 a sufficient supply of electricity, then the association may specially
8 assess the cost of those additional infrastructure improvements to
9 the unit owners who have installed electric vehicle charging
10 stations, and have applied to install electric vehicle charging
11 stations, in equal shares per electric vehicle charging station. An
12 association may require a unit owner to pay a special assessment
13 before the unit owner may install an electric vehicle charging
14 station;

15 (4) any monies that a unit owner owes an association under this
16 section shall be deemed special assessments, and the association
17 may collect those monies from the unit owner in the same manner
18 as the association's governing documents and applicable law
19 provides for the collection of delinquent common expenses, rent, or
20 other delinquent amounts, and unless any of the following
21 responsibilities are specifically abrogated as they relate to electric
22 vehicle charging stations, in whole or in part, under the governing
23 documents of the association, the unit owner and each successive
24 unit owner of the electric vehicle charging station shall be
25 responsible for the cost of the following items as if the items were
26 an assessment applicable to the unit owner:

27 (a) any damage to the electric vehicle charging station, the
28 parking space, a common element, a limited common element, the
29 property of other unit owners, or separate interests, which damage
30 results from the installation, maintenance, repair, removal, or
31 replacement of the charging station;

32 (b) any maintenance, repair, and replacement of an electric
33 vehicle charging station, and restoration of the area after removal of
34 the electric vehicle charging station;

35 (c) the electricity usage associated with the electric vehicle
36 charging station;

37 (d) all installation costs associated with electric vehicle charging
38 stations; and

39 (e) any costs associated with an application for the installation
40 or use of an electric vehicle charging station to satisfy applicable
41 health and safety standards and requirements imposed by State and
42 local authorities, including but not limited to applicable zoning,
43 land use, and other ordinance requirements;

44 (5) the unit owner, and each successive unit owner, of an
45 electric vehicle charging station shall be responsible for disclosing
46 to prospective buyers the existence of the unit owner's electric
47 vehicle charging station and the related responsibilities of the unit
48 owner under this section; and

1 (6) except as otherwise provided in this paragraph, a unit owner,
2 and each successive unit owner, of an electric vehicle charging
3 station shall, at all times, maintain a homeowner's liability coverage
4 policy in the amount of \$100,000 and shall name the association as
5 a certificate holder with the right to receive a notice of cancellation.
6 An association may require the unit owner of an electric vehicle
7 charging station to carry a homeowner's liability coverage policy in
8 excess of \$100,000 if the association's governing documents or
9 rules and regulations require all unit owners to carry a greater
10 amount. If a unit owner fails to procure or maintain insurance
11 required under this section, the association may procure insurance
12 on the unit owner's behalf and charge the unit owner the cost of the
13 insurance. The unit owner shall hold the association and the other
14 unit owners harmless from any and all claims, damages, liabilities,
15 costs and expenses, including reasonable attorney's fees, arising out
16 of or relating to any personal injuries, death, or damage to property
17 that were caused by, or contributed to by, the installation, removal
18 or use of the electric vehicle charging station.

19 e. The executive board of an association may license, for a
20 defined period of time, as set forth in the license, a common area
21 parking space for the exclusive use of a unit owner for the
22 installation of an electric vehicle charging station. The grant of any
23 such license shall be at the sole discretion of the board, but such
24 grant shall not be fraudulent, unconscionable, or self-dealing.

25 f. An association may install electric vehicle charging stations
26 in common element parking spaces for the use of all unit owners.
27 An association may adopt appropriate rules and regulations for the
28 use of common electric vehicle charging stations.

29 g. An association may create a parking space where one did not
30 previously exist to facilitate the installation of an electric vehicle
31 charging station. If an association creates a parking space to
32 accommodate an electric vehicle charging station for the exclusive
33 use of a unit owner, the unit owner shall be responsible for all costs
34 associated with creating the space including but not limited to land
35 use approvals, permits, reviews, easements, and construction costs.
36 If a new parking space to accommodate an electric vehicle charging
37 station for the exclusive use of a unit owner is to be located in a
38 common element or limited common element, the provisions of
39 subsection d. of this section shall apply.

40 h. The Commissioner of Community Affairs shall enforce the
41 provisions of this bill in accordance with the authority granted
42 under section 18 of P.L.1977, c.419 (C.45:22A-38).

43 i. As used in this section:

44 "Designated parking space" means a parking space that is
45 specifically designated for use by a particular unit owner, including,
46 but not limited to, a garage, a deeded parking space, and a parking
47 space in a limited common element that is restricted for use by one
48 or more unit owners;

1 “Electric vehicle charging station” means a station that is
2 designed in compliance with the State Uniform Construction Code,
3 adopted pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.), that
4 delivers electricity from a source outside an electric vehicle into
5 one or more electric vehicles, and that is capable of providing, at a
6 minimum, Level 2 charging. An electric vehicle charging station
7 may include several charge points simultaneously connecting
8 several electric vehicles to the station and any related equipment
9 needed to facilitate charging plug-in electric vehicles;

10 “Reasonable restriction” means a restriction that does not
11 significantly increase the cost of an electric vehicle charging station
12 or significantly decrease its efficiency or specified performance;
13 and

14 “Unit owner” means the record owner of a residential dwelling
15 unit located within an association, or, in the case of a cooperative
16 housing corporation, a shareholder of record owning the shares
17 appurtenant to an individual dwelling unit. This act shall not apply
18 to the owners of commercial units, space, or interest located within
19 an association.

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21 2. This act shall take effect immediately.
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24 STATEMENT

25
26 This bill establishes standards to encourage the installation and
27 use of electric vehicle (EV) charging stations in common interest
28 communities.

29 Specifically, the bill prohibits common interest communities
30 from adopting rules that prohibit or unreasonably restrict the
31 installation or use of EV charging stations in the designated parking
32 space of a unit owner. Under the bill, common interest
33 communities may, however, impose “reasonable restrictions” on the
34 installation and use of EV charging stations, provided that the
35 restrictions do not significantly increase the cost of the charging
36 station or significantly decrease the efficiency or performance of
37 the charging station.

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

46 The bill also authorizes the executive board of a common interest
47 community to grant the exclusive use of a common area parking
48 space by a unit owner for the purposes of installing an EV charging

1 station at the sole discretion of the board as long as the grant is not
2 fraudulent.

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

- 10 • comply with the association's architectural standards for the
11 installation of the electric vehicle charging station;
- 12 • engage a licensed contractor to install the EV charging
13 station, including all necessary improvements and signage;
- 14 • engage a licensed electrician to install all necessary electric
15 lines and electrical infrastructure in compliance with the
16 association's architectural standards;
- 17 • obtain, maintain, and provide evidence of insurance
18 protecting the association and the other unit owners from
19 damage as a result of the EV charging station
- 20 • pay for the electricity usage associated with the electric
21 vehicle charging station; and
- 22 • pay for reasonable charges imposed by the association to
23 recover the costs of the review and approval of an
24 application for the installation or use of an EV charging
25 station, including, reasonable engineering and legal fees. An
26 association may require an applicant to place anticipated
27 review charges in escrow before commencing review of an
28 application.

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

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

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

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

- 1 • any damage to the EV charging station, the parking space, a
2 common element, a limited common element, the property of
3 other unit owners, or separate interests, which damage
4 results from the installation, maintenance, repair, removal,
5 or replacement of the charging station;
- 6 • any maintenance, repair, and replacement of an EV charging
7 station, and restoration of the area after removal of the EV
8 charging station;
- 9 • the electricity usage associated with the EV charging station;
- 10 • all installation costs associated with the EV charging station;
11 and
- 12 • any costs associated with an application for the installation
13 or use of an EV charging station to satisfy applicable health
14 and safety standards and requirements imposed by State and
15 local authorities, including but not limited to applicable
16 zoning, land use, and other ordinance requirements.

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

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

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

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

42 Finally, the bill authorizes an association to create a parking
43 space where one did not previously exist to facilitate the installation
44 of an EV charging station. If a new parking space would be located
45 in a common element or limited common element, many of the
46 provisions of the bill would not apply. However, if an association
47 elects to create a new parking space to accommodate an EV
48 charging station for the exclusive use of a unit owner, the unit

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- 1 owner would be responsible for all costs associated with creating
- 2 the parking space, including but not limited to, land use approvals,
- 3 permits, reviews, easements, and construction costs.