
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1795 Session of
2021

INTRODUCED BY R. BROWN, RADER, HELM, M. MACKENZIE AND CIRESI,
AUGUST 17, 2021

REFERRED TO COMMITTEE ON URBAN AFFAIRS, AUGUST 17, 2021

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in general provisions
3 relating to condominiums, further providing for definitions;
4 in management of the condominium, further providing for
5 executive board members and officers, for bylaws and for
6 meetings; in protection of purchasers, further providing for
7 effect of violations on rights of action; in general
8 provisions relating to cooperatives, further providing for
9 definitions; in creation, alteration and termination of
10 cooperatives, further providing for master associations; in
11 management of cooperatives, further providing for bylaws and
12 for meetings; in protection of cooperative interest
13 purchasers, further providing for effect of violations on
14 rights of action; in general provisions relating to planned
15 communities, further providing for definitions; in creation,
16 alteration and termination of planned communities, further
17 providing for master associations; in management of planned
18 community, further providing for bylaws and for meetings;
19 and, in protection of purchasers, further providing for
20 effect of violations on rights of action.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 3103 of Title 68 of the Pennsylvania
24 Consolidated Statutes is amended by adding a definition to read:

25 § 3103. Definitions.

26 The following words and phrases when used in this subpart and
27 in the declaration and bylaws shall have the meanings given to

1 them in this section unless specifically provided otherwise or
2 unless the context clearly indicates otherwise:

3 * * *

4 "Independent reviewer." A person who is selected by the
5 declarant or a majority of the unit owners of a condominium and
6 satisfies all of the following:

7 (1) Holds a certificate issued by the Commonwealth as a
8 certified public accountant, is licensed to practice law in
9 this Commonwealth or is a vote management system.

10 (2) Is not a unit owner, directly or indirectly.

11 (3) Has no family relationship with the declarant, a
12 unit owner or a condominium manager.

13 (4) Has no financial interest shared with the declarant,
14 a unit owner or a condominium manager.

15 (5) If compensated by the declarant, a director, the
16 association or a condominium manager, has disclosed the terms
17 of the compensation to all unit owners.

18 * * *

19 Section 2. Section 3303(d) and (e) of Title 68 are amended
20 and the section is amended by adding a subsection to read:

21 § 3303. Executive board members and officers.

22 * * *

23 (d) Election of members during transfer of declarant
24 control.--

25 (1) Not later than 60 days after conveyance of 25% of
26 the units to unit owners other than a declarant, not less
27 than 25% of the members of the executive board shall be
28 elected by unit owners other than the declarant.

29 (2) Not later than 60 days after conveyance of 50% of
30 the units to unit owners other than a declarant, not less

1 than 33 1/3% of the members of the executive board shall be
2 elected by unit owners other than the declarant.

3 (3) A vote by a unit owner must be submitted by the unit
4 owner to an independent reviewer who shall tally the results
5 of the election and certify the results to the declarant, the
6 executive board and unit owners. All votes by unit owners
7 under this paragraph shall be submitted to the independent
8 reviewer in either an electronic or a paper format. The
9 interchangeable submission of votes by unit owners in an
10 electronic and a paper format in the same election shall be
11 prohibited. All votes in the same community shall be
12 submitted in the same form for the same election. This
13 paragraph shall only apply to a condominium with at least 25
14 units.

15 (e) Election of members and officers following declarant
16 control.--

17 (1) Not later than the termination of any period of
18 declarant control, the unit owners shall elect an executive
19 board of at least three members at least a majority of whom
20 must be unit owners, except that the executive board may
21 consist of two members, both of whom must be unit owners, if
22 the condominium consists of two units. The executive board
23 shall elect the officers. The persons elected shall take
24 office upon election.

25 (2) In the event that the election of the executive
26 board by the unit owners fails to take place not later than
27 the termination of a period of declarant control as provided
28 in this section, then a special meeting of the unit owners
29 may be called for such purpose by any member of the executive
30 board elected by the unit owners or, if there is no such

1 member of the executive board, the unit owners entitled to
2 cast at least 10% of the votes in the association.

3 (3) A vote by a unit owner must be submitted by the unit
4 owner to an independent reviewer who shall tally the results
5 of the election and certify the results to the executive
6 board and unit owners. All votes by unit owners under this
7 paragraph shall be submitted to the independent reviewer in
8 either an electronic or a paper format. The interchangeable
9 submission of votes by unit owners in an electronic and a
10 paper format in the same election shall be prohibited. All
11 votes in the same community shall be submitted in the same
12 form for the same election. This paragraph shall only apply
13 to a condominium with at least 25 units.

14 * * *

15 (g) Penalties.--A person who attempts to interfere with the
16 votes or election process under subsection (d) or (e) is guilty
17 of a misdemeanor of the first degree and, upon conviction, shall
18 be sentenced to pay a fine not exceeding \$10,000 or to undergo
19 imprisonment of not more than five years, or both, in the
20 discretion of the court.

21 Section 3. Sections 3306(a)(6), 3308 and 3412 of Title 68
22 are amended to read:

23 § 3306. Bylaws.

24 (a) Mandatory provisions.--The bylaws of the association
25 must provide for:

26 * * *

27 (6) The method of amending the bylaws. The following
28 apply:

29 (i) The bylaws may be amended only by vote or
30 agreement of unit owners of units to which at least:

1 (A) sixty-seven percent of the votes in the
2 association is allocated as provided under section
3 3208 (relating to allocation of common element
4 interests, votes and common expense liabilities);

5 (B) any larger majority as specified in the
6 bylaws; or

7 (C) a smaller number as specified in the bylaws
8 if all of the units are restricted exclusively to
9 nonresidential use.

10 (ii) The vote may be taken only at a scheduled
11 meeting as provided under section 3308 (relating to
12 meetings) that was advertised seven days in advance to
13 the unit owners. Absentee voting shall be permitted to
14 unit owners provided that the ballots must be submitted
15 to an independent reviewer during a time period
16 consistent with the absentee voting provisions under
17 Article XIII of the act of June 3, 1937 (P.L.1333,
18 No.320), known as the Pennsylvania Election Code.

19 * * *

20 § 3308. Meetings.

21 (a) Association meetings.--The bylaws must require that
22 meetings of the association be held at least once each year and
23 provide for special meetings. The bylaws must specify which of
24 the association's officers, not less than ten nor more than 60
25 days in advance of any meeting, shall cause notice to be hand
26 delivered or sent prepaid by United States mail to the mailing
27 address of each unit or to any other mailing address designated
28 in writing by the unit owner. The notice of any meeting must
29 state the time and place of the meeting and the items on the
30 agenda, including the general nature of any proposed amendment

1 to the declaration or bylaws, any budget or assessment changes
2 and, where the declaration or bylaws require approval of unit
3 owners, any proposal to remove an executive board member or
4 officer.

5 (b) Election meetings.--The bylaws must require that a
6 special meeting of the association be held not later than seven
7 days before the election of an executive board member or officer
8 of the association to allow the unit owners to meet each
9 candidate for an executive board position or officer position. A
10 special meeting under this subsection may be held virtually or
11 in person. Each candidate for an executive board position or
12 officer position with the association shall have equal time to
13 address the unit owners during a special meeting under this
14 subsection.

15 § 3412. Effect of violations on rights of action.

16 (a) General rule.--If a declarant or any other person
17 subject to this subpart violates any provision thereof or any
18 provision of the declaration or bylaws[, any]:

19 (1) Any person or class of persons adversely affected by
20 the violation has a claim for appropriate relief.

21 (2) The violation shall constitute an unfair trade
22 practice as defined in and may be enforced by the Office of
23 Attorney General under the act of December 17, 1968
24 (P.L.1224, No.387), known as the Unfair Trade Practices and
25 Consumer Protection Law.

26 (b) Punitive damages.--Punitive damages may be awarded in
27 the case of a willful violation of the subpart and, if
28 appropriate, the prevailing party may be entitled to an award of
29 costs and reasonable attorney fees.

30 Section 4. Section 4103 of Title 68 is amended by adding a

1 definition to read:

2 § 4103. Definitions.

3 Subject to additional definitions contained in subsequent
4 provisions of this subpart which are applicable to specific
5 provisions of this subpart, the following words and phrases when
6 used in this subpart and in the declaration and bylaws shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 * * *

10 "Independent reviewer." A person who is selected by the
11 declarant or a majority of the proprietary lessees of a
12 cooperative and satisfies all of the following:

13 (1) Holds a certificate as a certified public accountant
14 issued by the Commonwealth, is licensed to practice law in
15 this Commonwealth or is a vote management system.

16 (2) Is not a proprietary lessee of the cooperative,
17 directly or indirectly.

18 (3) Has no family relationship with a proprietary lessee
19 of the cooperative or a cooperative manager.

20 (4) Has no financial interest shared with a proprietary
21 lessee of the cooperative or a cooperative manager.

22 (5) If compensated by the declarant, a director, the
23 association or a cooperative manager, has disclosed the terms
24 of the compensation to all proprietary lessees of the
25 cooperative.

26 * * *

27 Section 5. Section 4219 of Title 68 is amended by adding
28 subsections to read:

29 § 4219. Master associations.

30 * * *

1 (e.1) Independent reviewer.--The certificate of
2 incorporation or other instrument creating the master
3 association and the declaration of each cooperative, the powers
4 of which are assigned by the declaration or delegated to the
5 master association, shall provide that a vote by a proprietary
6 lessee in an election of the executive board of an association
7 must be submitted by the proprietary lessee to an independent
8 reviewer who shall tally the results of the election and certify
9 the results to the executive board and proprietary lessees. All
10 votes by proprietary lessees under this subsection shall be
11 submitted to the independent reviewer in either an electronic or
12 a paper format. The interchangeable submission of votes by
13 proprietary lessees in an electronic and a paper format in the
14 same election shall be prohibited. All votes in the same
15 community shall be submitted in the same form for the same
16 election. This subsection shall only apply to a cooperative with
17 at least 25 units.

18 * * *

19 (h) Penalties.--A person who attempts to interfere with the
20 votes or election process under subsection (e.1) is guilty of a
21 misdemeanor of the first degree and, upon conviction, shall be
22 sentenced to pay a fine not exceeding \$10,000 or to undergo
23 imprisonment of not more than five years, or both, in the
24 discretion of the court.

25 Section 6. Sections 4306(a)(6), 4308 and 4415 of Title 68
26 are amended to read:

27 § 4306. Bylaws.

28 (a) Mandatory provisions.--The bylaws of the association
29 must provide for:

30 * * *

1 (6) The method of amending the bylaws. The following
2 apply:

3 (i) The bylaws may be amended only by vote or
4 agreement of proprietary lessees of cooperative interests
5 to which at least 67% of the votes in the association are
6 allocated as provided under section 4207 (relating to
7 allocation of ownership interests, votes and common
8 expense liabilities) or any larger majority the
9 declaration specifies. The declaration may specify a
10 smaller number only if all of the units are restricted
11 exclusively to nonresidential use.

12 (ii) The vote may be taken only at a scheduled
13 meeting as provided under section 4308 (relating to
14 meetings) that was advertised seven days in advance to
15 the proprietary lessees. Absentee voting shall be
16 permitted to proprietary lessees provided that the
17 ballots must be submitted to an independent reviewer
18 during a time period consistent with the absentee voting
19 provisions under Article XIII of the act of June 3, 1937
20 (P.L.1333, No.320), known as the Pennsylvania Election
21 Code.

22 * * *

23 § 4308. Meetings.

24 (a) Association meetings.--A meeting of the association must
25 be held at least once each year. Special meetings of the
26 association may be called by the president, a majority of the
27 executive board or by 20%, or any lower percentage specified in
28 the bylaws, of the proprietary lessees. Not less than ten nor
29 more than 60 days in advance of any meeting, the secretary or
30 other officer specified in the bylaws shall cause notice to be

1 hand delivered or sent prepaid by United States mail to the
2 mailing address of each unit or to any other mailing address
3 designated in writing by the proprietary lessee. The notice of
4 any meeting must state the time and place of the meeting and the
5 items on the agenda, including the general nature of any
6 proposed amendment to the declaration or bylaws, any budget or
7 assessment changes and, where the declaration or bylaws require
8 approval of the proprietary lessees, any proposal to remove an
9 executive board member or officer.

10 (b) Election meetings.--The bylaws must require that a
11 special meeting of the association be held not later than seven
12 days before the election of an executive board member or officer
13 of the association to allow the proprietary lessees to meet each
14 candidate for an executive board position or officer position. A
15 special meeting under this subsection may be held virtually or
16 in person. Each candidate for an executive board position or
17 officer position with the association shall have equal time to
18 address the proprietary lessees during a special meeting under
19 this subsection.

20 § 4415. Effect of violations on rights of action.

21 (a) General rule.--If a declarant or any other person
22 subject to this subpart fails to comply with any provision of
23 this subpart or any provision of the declaration or bylaws[,
24 any]:

25 (1) Any person or class of persons adversely affected by
26 the failure to comply has a claim for appropriate relief.

27 (2) The violation shall constitute an unfair trade
28 practice as defined in and may be enforced by the Office of
29 Attorney General under the act of December 17, 1968

30 (P.L.1224, No.387), known as the Unfair Trade Practices and

1 Consumer Protection Law.

2 (b) Punitive damages.--Punitive damages may be awarded for a
3 willful failure to comply with this subpart. The court, in an
4 appropriate case, may award reasonable attorney fees.

5 Section 7. Section 5103 of Title 68 is amended by adding a
6 definition to read:

7 § 5103. Definitions.

8 The following words and phrases when used in this subpart and
9 in the declaration and bylaws shall have the meanings given to
10 them in this section unless specifically provided otherwise or
11 unless the context clearly indicates otherwise:

12 * * *

13 "Independent reviewer." A person who is selected by the
14 declarant or a majority of the unit owners of a planned
15 community and satisfies all of the following:

16 (1) Holds a certificate as a certified public accountant
17 issued by the Commonwealth, is licensed to practice law in
18 this Commonwealth or is a vote management system.

19 (2) Is not a unit owner of the planned community,
20 directly or indirectly.

21 (3) Has no family relationship with a unit owner of the
22 planned community or a planned community manager.

23 (4) Has no financial interest shared with a unit owner
24 of the planned community or a planned community manager.

25 (5) If compensated by the declarant, a director, the
26 association or a planned community manager, has disclosed the
27 terms of the compensation to all unit owners of the planned
28 community.

29 * * *

30 Section 8. Section 5222 of Title 68 is amended by adding

1 subsections to read:

2 § 5222. Master associations.

3 * * *

4 (e.1) Independent reviewer.--The instrument creating the
5 master association and the declaration of each planned community
6 of the organizational documents of other associations, the
7 powers of which are assigned pursuant to the declaration or
8 organizational documents or delegated to the master association,
9 shall also provide that a vote by a unit owner in an election of
10 the members of the master association governing body must be
11 submitted by the unit owner to an independent reviewer who shall
12 tally the results of the election and certify the results to the
13 executive board and unit owner. All votes by unit owners under
14 this subsection shall be submitted to the independent reviewer
15 in either an electronic or a paper format. The interchangeable
16 submission of votes by unit owners in an electronic and a paper
17 format in the same election shall be prohibited. All votes in
18 the same community shall be submitted in the same form for the
19 same election. This subsection shall only apply to a planned
20 community with at least 25 units.

21 * * *

22 (h) Penalties.--A person who attempts to interfere with the
23 votes or election process under subsection (e.1) is guilty of a
24 misdemeanor of the first degree and, upon conviction, shall be
25 sentenced to pay a fine not exceeding \$10,000 or to undergo
26 imprisonment of not more than five years, or both, in the
27 discretion of the court.

28 Section 9. Sections 5306(a) (6), 5308 and 5412 of Title 68
29 are amended to read:

30 § 5306. Bylaws.

1 (a) Mandatory provisions.--The bylaws of the association
2 shall provide for all of the following:

3 * * *

4 (6) The method of amending the bylaws. The following
5 apply:

6 (i) The bylaws may be amended only by vote or
7 agreement of unit owners of units to which at least:

8 (A) sixty-seven percent of votes in the
9 association are allocated as provided under section
10 5208 (relating to allocation of votes and common
11 expense liabilities);

12 (B) a larger percentage of the votes in the
13 association as specified in the bylaws; or

14 (C) a smaller percentage of the votes in the
15 association as specified in the bylaws if all units
16 are restricted exclusively to nonresidential use.

17 (ii) The vote may be taken only at a scheduled
18 meeting as provided under section 5308 (relating to
19 meetings) that was advertised seven days in advance to
20 the unit owners. Absentee voting shall be permitted to
21 unit owners provided that the ballots must be submitted
22 to an independent reviewer during a time period
23 consistent with the absentee voting provisions under
24 Article XIII of the act of June 3, 1937 (P.L.1333,
25 No.320), known as the Pennsylvania Election Code.

26 * * *

27 § 5308. Meetings.

28 (a) Association meetings.--The bylaws shall require that
29 meetings of the association be held at least once each year and
30 shall provide for special meetings. The bylaws shall specify

1 which of the association's officers, not less than ten nor more
2 than 60 days in advance of any meeting, shall cause notice to be
3 hand delivered or sent prepaid by United States mail to the
4 mailing address of each unit or to any other mailing address
5 designated in writing by the unit owner. The notice of any
6 meeting must state the time and place of the meeting and the
7 items on the agenda, including the general nature of any
8 proposed amendment to the declaration or bylaws; any budget or
9 assessment changes; and, where the declaration or bylaws require
10 approval of unit owners, any proposal to remove a director or
11 officer.

12 (b) Election meetings.--The bylaws shall require that a
13 special meeting of the association be held not later than seven
14 days before the election of an executive board member or officer
15 of the association to allow the unit owners to meet each
16 candidate for an executive board position or officer position. A
17 special meeting under this subsection may be held virtually or
18 in person. Each candidate for an executive board position or
19 officer position with the association shall have equal time to
20 address the unit owners during a special meeting under this
21 subsection.

22 § 5412. Effect of violations on rights of action.

23 (a) General rule.--If a declarant or any other person
24 subject to this subpart violates any provision of this subpart
25 or any provisions of the declaration or bylaws[, any]:

26 (1) Any person or class of persons adversely affected by
27 the violation has a claim for appropriate relief.

28 (2) The violation shall constitute an unfair trade
29 practice as defined in and may be enforced by the Office of
30 Attorney General under the act of December 17, 1968

1 (P.L.1224, No.387), known as the Unfair Trade Practices and
2 Consumer Protection Law.

3 (b) Punitive damages.--Punitive damages may be awarded in
4 the case of a willful violation of the subpart and, if
5 appropriate, the prevailing party may be entitled to an award of
6 costs and reasonable attorney fees.

7 Section 10. This act shall take effect in 60 days.