

What You Should Know about the “Radburn Bill”:

Mandatory Changes to Election and Voting Procedures in New Jersey Community Associations

On July 13, 2017, Governor Christie signed into law P.L. 2017, Ch. 106 (S-2492/A-4091), which makes significant changes to the Planned Real Estate Development Full Disclosure Act (“PREDFDA”), N.J.S.A. 45:22A-43 et seq., regarding procedures for board elections and voting.

Most of the newly enacted provisions will trump the current by-laws of every condominium association or homeowners association in New Jersey.

Provisions Effective as of July 13, 2017

- All owners are now considered members of the association and shall “have the right to nominate, run for, freely elect, and be elected to” the board that governs the association if they are in good standing.
- PREDFDA now defines “good standing” an association member who is current on payments of common expenses, late fees, interest, fines, legal fees, or other charges lawfully assessed.
- Members must also be considered in good standing: (1) if they are in full compliance with a settlement agreement with regard to past due assessment and other charges; or (2) if the member has a pending, unresolved dispute regarding these charges that has been initiated through a valid alternative to litigation or through court action.
- Members must be in good standing to either run for or be elected to the association board.
- It is permissible for by-laws to provide that only one (1) owner from each unit may serve on the association board at any given time even though each co-owner may be a member in good standing.
- Amendments to the by-laws may now be adopted by “an affirmative vote of a majority of the total authorized votes in an association” if an association’s current by-laws do not provide for amendment by vote of the members or only allow members to amend by a majority vote exceeding two-thirds.
- “Total authorized votes” shall mean the total number of units minus any members who are ineligible to vote because they are not in good standing.
- In addition, the new law can be interpreted to permit an association’s board to amend the by-laws without a vote of the association members: (1) if necessary to render the by-laws consistent with the State, federal or local law; or (2) if a ballot provided to the members to reject a proposed amendment fails to receive at least ten percent (10%) of the vote within thirty (30) days.

See other side please.

What You Should Know about the “Radburn Bill”:

Mandatory Changes to Election and Voting Procedures in New Jersey Community Associations

(continued from other side)

Election/Notice Provisions Effective as of October 1, 2017

- Board members shall not serve a single term of more than four (4) years, although board member may run for re-election for additional terms if allowable pursuant to the governing documents.
- However, board members may continue to serve for a period over and above their term until their successor is duly qualified and elected.
- An election must be conducted at least every two (2) years if the governing documents do not specify a specific time or interval.
- The association shall provide written notice to all association members of the right to nominate themselves or other association members in good standing for candidacy to serve on the association board.
- Such notice must be provided to all members no later than thirty (30) days prior to mailing the notice of election meeting.
- The period for submitting nominations shall not be less than fourteen (14) days from the mailing of the request for nominations.
- The association must provide all association members written notice of the election by personal delivery, mail, or electronic means no less than fourteen (14) days or more than sixty (60) days prior to the scheduled election. Notice may only be sent electronically if the governing documents permit electronic notices or the member agreed in writing to accept notice by electronic means.
- An association may use both proxies and absentee ballots (unless proxies are prohibited by the by-laws); however, an association cannot use proxies without also making absentee ballots available.
- Proxies must contain a prominent notice that the use of the proxy is voluntary and that it may be revoked at any time before the proxy holder casts a vote.
- All election ballots are required to list the names of all candidates nominated in alphabetical order by last name.
- Associations may utilize electronic voting when the board determines to allow voting by such means and when an association member consents to casting a vote electronically.

© All Rights Reserved. All written materials are property of HILL WALLACK LLP and may not be reproduced or distributed without express permission of HILL WALLACK LLP.

This document is intended to provide general information (not advice) about legal issues. Readers should not act upon this information without consulting with legal counsel. This document is not a confidential communication and is not intended to and does not create an attorney-client relationship.