

[Fourth Reprint]

**SENATE, No. 2492**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED SEPTEMBER 8, 2016

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**SYNOPSIS**

Enhances resident voting participation rights in common interest communities.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on March 16, 2017.

(Sponsorship Updated As Of: 5/23/2017)

1 AN ACT concerning the governance of common interest community  
 2 associations, amending P.L.1977, c.419, and amending and  
 3 supplementing P.L.1993, c.30.

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

7  
 8 1. (New section) The Legislature finds and declares that:

9 a. In addition to living under State, county, and municipal  
 10 government, recent estimates conclude that over one million New  
 11 Jersey residents currently live under the governance of a common  
 12 interest community association, such as a condominium,  
 13 cooperative, or homeowners' association;

14 b. The owners and <sup>3</sup>**[tenants living in]** residents of<sup>3</sup> these  
 15 communities often benefit from minimized maintenance  
 16 responsibilities and greater assurances that neighboring properties  
 17 will follow a predictable development scheme;

18 c. Along with these benefits, living under a community  
 19 association also creates the necessity of paying assessments and  
 20 fees in addition to the State and local taxes that other State residents  
 21 pay, and requires compliance with property regulations that may be  
 22 more stringent than those required by municipal government alone;

23 d. Because of the significant influence community associations  
 24 have over the lives of their residents and because community  
 25 associations are creatures of State law, it is unfair and runs contrary  
 26 to American democratic values for these communities to be  
 27 governed by trustees who are not elected in a fair and open manner;

28 e. <sup>4</sup>**[A recent court decision has determined that, although the**  
 29 **statute governing election procedures in community associations,**  
 30 **The supplement to**<sup>4</sup> **"The Planned Real Estate Development Full**  
 31 **Disclosure Act" ("PREDFDA"), P.L.1977, c.419 (C.45:22A-21 et**  
 32 **seq.),** <sup>4</sup>**[as supplemented and amended by]** <sup>4</sup>**specifically,** <sup>4</sup>**P.L.1993,**  
 33 <sup>4</sup>**c.30 [(C.45:22A-43 et al.)]** <sup>4</sup>**(C.45:22A-43 et seq.)**<sup>4</sup> , <sup>4</sup>**[applies to**  
 34 **all community associations, regardless of their dates of**  
 35 **establishment, the statute has not previously given all unit owners**  
 36 **the right to nominate and vote for each executive board member**  
 37 **representing their respective communities]** **provided all owners and**  
 38 **residents in common interest residential communities with specific**  
 39 **rights and protections. These rights and protections exist regardless**  
 40 **of whether a developer established the community prior to the**  
 41 **effective date of PREDFDA. The supplement was not specific in**  
 42 **declaring that all unit owners were members of the association or in**

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SCU committee amendments adopted October 13, 2016.

<sup>2</sup>Assembly AHO committee amendments adopted December 5, 2016.

<sup>3</sup>Assembly floor amendments adopted February 15, 2017.

<sup>4</sup>Assembly floor amendments adopted March 16, 2017.

1 recognizing that, along with certain specific tenant residents, all  
 2 unit owners were entitled to participate fully in elections of  
 3 members of the executive board<sup>4</sup> ;

4 f.<sup>3</sup> <sup>4</sup>[Residents] Unit owners<sup>4</sup> living <sup>4</sup>[under] in<sup>4</sup> community  
 5 associations should have the right to <sup>4</sup>nominate candidates, run for,<sup>4</sup>  
 6 freely elect<sup>4</sup>, and be elected to<sup>4</sup> the <sup>4</sup>[members of the]<sup>4</sup> executive  
 7 boards that govern the communities <sup>4</sup>[, and to run for executive  
 8 board positions]<sup>4</sup> ; and

9 <sup>3</sup>[f.] g.<sup>3</sup> It is necessary and in the public interest for the  
 10 Legislature to enact legislation <sup>3</sup>[establishing] to amend  
 11 PREFDA in order to:

12 (1) Establish<sup>3</sup> <sup>4</sup>that all unit owners are members of the  
 13 association and provide<sup>4</sup> basic election participation rights for  
 14 <sup>4</sup>[the] certain<sup>4</sup> residents of common interest communities <sup>3</sup>,  
 15 including the right of resident owners in good standing to<sup>4</sup> [make]  
 16 nominate any unit owner in good standing as a candidate for any  
 17 position on the<sup>4</sup> executive board<sup>4</sup> [nominations]<sup>4</sup>, run,<sup>4</sup> [and]<sup>4</sup>  
 18 appear on the ballot,<sup>4</sup> [regardless of the] and be elected to any<sup>4</sup>  
 19 executive board position, in every executive board election, and for  
 20 those rights to apply regardless of the date of a community's  
 21 establishment; and

22 (2) Establish that, except under the very limited exceptions  
 23 provided, a person may not serve on an executive board unless  
 24 elected through a process consistent with the provisions of  
 25 PREFDA<sup>3</sup>.

26  
 27 2. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to  
 28 read as follows:

29 3. As used in this act unless the context clearly indicates  
 30 otherwise:

31 a. "Disposition" means any sales, contract, lease, assignment,  
 32 or other transaction concerning a planned real estate development.

33 b. "Developer" or "subdivider" means any person who disposes  
 34 or offers to dispose of any lot, parcel, unit, or interest in a planned  
 35 real estate development.

36 c. "Offer" means any inducement, solicitation, advertisement,  
 37 or attempt to encourage a person to acquire a unit, parcel, lot, or  
 38 interest in a planned real estate development.

39 d. "Purchaser" or "owner" means any person or persons who  
 40 acquires a legal or equitable interest in a unit, lot, or parcel in a  
 41 planned real estate development, and shall be deemed to include a  
 42 prospective purchaser or owner. <sup>3</sup>[Following termination of  
 43 developer control of the executive board, pursuant to paragraph (3)  
 44 of subsection a. of section 5 of P.L.1993, c.30 (C.45:22A-47), this  
 45 definition shall not be construed to create a voting right, or any  
 46 other right, for a prospective purchaser or prospective owner.]

47 However, as used in<sup>4</sup> [sections 1 through 6 of]<sup>4</sup> P.L.1993, c.30<sup>4</sup> [,

1 (C.45:22A-43 through C.45:22A-48 et al.) (C.45:22A-43 et seq.)<sup>4</sup> ,  
2 "owner" means any person owning a unit, or an "owner" <sup>4</sup>or holder  
3 of a "proprietary lease,"<sup>4</sup> as <sup>4</sup>those terms are<sup>4</sup> defined under  
4 <sup>4</sup>[subsection] subsections<sup>4</sup> i. <sup>4</sup>and k.<sup>4</sup> of section 3 of "The  
5 Cooperative Recording Act of New Jersey," P.L.1987, c.381  
6 (C.46:8D-3), if the development is a cooperative.<sup>3</sup>

7 e. "State" means the State of New Jersey.

8 f. "Commissioner" means the Commissioner of Community  
9 Affairs.

10 g. "Person" shall be defined as in R.S.1:1-2.

11 h. "Planned real estate development" or "development" means  
12 any real property situated within the State, whether contiguous or  
13 not, which consists of or will consist of, separately owned areas,  
14 irrespective of form, be it lots, parcels, units, or interest, and which  
15 are offered or disposed of pursuant to a common promotional plan,  
16 and providing for common or shared elements or interests in real  
17 property. This definition shall not apply to any form of  
18 timesharing.

19 This definition shall specifically include, but shall not be limited  
20 to, property subject to the "Condominium Act," P.L.1969, c.257  
21 (C.46:8B-1 et seq.), any form of homeowners' association, any  
22 housing cooperative or to any community trust or other trust device.

23 This definition shall be construed liberally to effectuate the  
24 purposes of this act.

25 i. "Common promotional plan" means any offer for the  
26 disposition of lots, parcels, units or interests of real property by a  
27 single person or group of persons acting in concert, where such lots,  
28 parcels, units or interests are contiguous, or are known, designated  
29 or advertised as a common entity or by a common name.

30 j. "Advertising" means and includes the publication or causing  
31 to be published of any information offering for disposition or for  
32 the purpose of causing or inducing any other person to purchase an  
33 interest in a planned real estate development, including the land  
34 sales contract to be used and any photographs or drawings or artist's  
35 representations of physical conditions or facilities on the property  
36 existing or to exist by means of any:

37 (1) Newspaper or periodical;

38 (2) Radio or television broadcast;

39 (3) Written or printed or photographic matter;

40 (4) Billboards or signs;

41 (5) Display of model houses or units;

42 (6) Material used in connection with the disposition or offer of  
43 the development by radio, television, telephone or any other  
44 electronic means; or

45 (7) Material used by developers or their agents to induce  
46 prospective purchasers to visit the development, particularly  
47 vacation certificates which require the holders of such certificates to  
48 attend or submit to a sales presentation by a developer or his agents.

1 "Advertising" does not mean and shall not be deemed to include:  
2 Stockholder communications such as annual reports and interim  
3 financial reports, proxy materials, registration statements, securities  
4 prospectuses, applications for listing securities on stock exchanges,  
5 and the like; all communications addressed to and relating to the  
6 account of any person who has previously executed a contract for  
7 the purchase of the subdivider's lands except when directed to the  
8 sale of additional lands.

9 k. "Non-binding reservation agreement" means an agreement  
10 between the developer and a purchaser and which may be canceled  
11 without penalty by either party upon written notice at any time prior  
12 to the formation of a contract for the disposition of any lot, parcel,  
13 unit or interest in a planned real estate development.

14 l. "Blanket encumbrance" means a trust deed, mortgage,  
15 judgment, or any other lien or encumbrance, including an option or  
16 contract to sell or a trust agreement, affecting a development or  
17 affecting more than one lot, unit, parcel, or interest therein, but does  
18 not include any lien or other encumbrance arising as the result of  
19 the imposition of any tax assessment by any public authority.

20 m. "Conversion" means any change with respect to a real estate  
21 development or subdivision, apartment complex or other entity  
22 concerned with the ownership, use or management of real property  
23 which would make such entity a planned real estate development.

24 n. "Association" means an association for the management of  
25 common elements and facilities, organized pursuant to section 1 of  
26 P.L.1993, c.30 (C.45:22A-43).

27 o. "Executive board" means the executive board of an  
28 association, as provided for in section 3 of P.L.1993, c.30  
29 (C.45:22A- 45).

30 p. "Unit" means any lot, parcel, unit or interest in a planned  
31 real estate development that is, or is intended to be, a separately  
32 owned area thereof.

33 q. "Association member" means the owner of a unit within a  
34 planned real estate development, or a unit's tenant <sup>2</sup>[or the  
35 developer]<sup>2</sup> to the extent that the <sup>4</sup>[bylaws] governing documents<sup>4</sup>  
36 <sup>2</sup>of the planned real estate development<sup>2</sup> permit tenant <sup>2</sup>[or  
37 developer]<sup>2</sup> membership in the association <sup>2</sup>, and the developer to  
38 the extent that the development contains unsold lots, parcels, units,  
39 or interests<sup>2</sup> pursuant to subsection <sup>4</sup>[b.] c.<sup>4</sup> of section 1 of  
40 P.L.1993, c.30 (C.45:22A-43). <sup>3</sup>This definition shall not be  
41 construed to provide the developer a different <sup>4</sup>[voting interest]  
42 transition obligation<sup>4</sup> than <sup>4</sup>[is permitted] that required<sup>4</sup> pursuant to  
43 section 5 of P.L.1993, c.30 (C.45:22A-47) <sup>4</sup>, or to require that the  
44 developer is allowed to vote in executive board elections<sup>4</sup> .<sup>3</sup>

45 r. "Good standing" means the status <sup>3</sup>[1.] =<sup>3</sup> solely with  
46 respect to eligibility to <sup>3</sup>(1)<sup>3</sup> vote in executive board elections <sup>2</sup>[or  
47 to] , (2) vote to<sup>2</sup> amend the bylaws <sup>3</sup>,<sup>3</sup> and <sup>3</sup>[eligibility to] (3)<sup>3</sup>

1 nominate or run for any membership position on the executive  
 2 board <sup>3</sup>[, <sup>1</sup> assigned to unit owners] – applicable to an association  
 3 member<sup>3</sup> who <sup>1</sup> [meet qualifications not more excessive than  
 4 compliance with the development's governing documents, and  
 5 who]<sup>1</sup> <sup>3</sup> [are] is<sup>3</sup> current on the payment of <sup>1</sup> [all fees lawfully  
 6 assigned to the unit] common expenses, late fees, interest on unpaid  
 7 assessments, legal fees, or other charges lawfully assessed, and  
 8 <sup>3</sup> [who have] which association member has<sup>3</sup> not failed to satisfy a  
 9 judgment for common expenses, late fees, interest on unpaid  
 10 assessments, legal fees, or other charges lawfully assessed<sup>1</sup> . <sup>3</sup> An  
 11 association member is in good standing if he is in full compliance  
 12 with a settlement agreement with respect to the payments of  
 13 assessments, legal fees or other charges lawfully assessed, or the  
 14 association member has a pending, unresolved dispute concerning  
 15 charges assessed which dispute has been initiated: through a valid  
 16 alternative to litigation pursuant to subsection c. of section 2 of  
 17 P.L.1993, c.30 (C.45:22A-44); through subsection (k) of section 14  
 18 of the "Condominium Act," P.L.1969, c.257 (C.46:8B-14); or  
 19 through a pertinent court action.<sup>3</sup>

20 s. "Voting-eligible tenant" means a tenant of a unit within a  
 21 planned real estate development <sup>2</sup> [that permits] in which <sup>4</sup>:

22 (1)<sup>4</sup> the <sup>3</sup> [bylaws of the development permit<sup>2</sup>] <sup>4</sup> [association  
 23 permits<sup>3</sup>] governing documents of the development permit<sup>4</sup> the  
 24 tenant's participation in executive board elections <sup>2</sup> [through its  
 25 bylaws]<sup>2</sup> , <sup>4</sup> [but shall not include a tenant whose right to vote is  
 26 derived solely] and

27 (2) either (a) the development has allowed tenant participation in  
 28 executive board elections as a standard practice prior to the  
 29 effective date of P.L. c. (C. ) (pending before the  
 30 Legislature as this bill), or (b) the owner has affirmatively  
 31 acknowledged the right of the tenant to vote through a provision of  
 32 a written lease agreement or separate document.

33 This definition shall not be construed to affect voting<sup>4</sup> as an  
 34 agent of the <sup>3</sup> [unit]<sup>3</sup> owner through a proxy or power of attorney.  
 35 <sup>4</sup> Pursuant to subsection d. of this section, if the development is a  
 36 cooperative corporation, then, an "owner" or holder of a  
 37 "proprietary lease," as those terms are defined under subsections i.  
 38 and k. of section 3 of "The Cooperative Recording Act of New  
 39 Jersey," P.L.1987, c.381 (C.46:8D-3), is also an "owner," not a  
 40 tenant, for the purposes of P.L.1993, c.30 (C.45:22A-43 et seq.).<sup>4</sup>  
 41 (cf: P.L.2006, c.63, s.39)

42  
 43 <sup>3</sup>3. Section 22 of P.L.1977, c. 419 (C.45:22A-42) is amended to  
 44 read as follows:

45 22. **[This act]** The provisions of P.L.1977, c.419 (C.45:22A-21  
 46 et seq.), concerning the formation and registration of planned real

1 estate developments, shall not apply to any portion of a planned real  
 2 estate development which has on the effective date of **[this act]**  
 3 P.L.1977, c.419 (C.45:22A-21 et seq.):

- 4 a. Its building permit or permits; or  
 5 b. Final municipal approval of (1) its site plan or (2), in the case  
 6 of single or two-family homes or separate lots, its subdivision plat;  
 7 provided that the land is not valued, assessed and taxed as an  
 8 agricultural or horticultural use pursuant to the "Farmland  
 9 Assessment Act of 1964" , P.L.1964, c.48 (C.54:4-23.1 et seq.);  
 10 provided further that this section shall not be construed as applying  
 11 to conversions or Retirement Subdivisions or Communities as  
 12 defined in the Retirement Community Full Disclosure Act,  
 13 P.L.1969, c.215 (C.45:22A-1 et seq.).<sup>3</sup>  
 14 (cf: P.L.1977, c. 419, s. 22)

15  
 16 <sup>3</sup>**[3.] 4.**<sup>3</sup> Section 1 of P.L.1993, c.30 (C.45:22A-43) is amended  
 17 to read as follows:

18 1. a. A developer subject to the registration requirements of  
 19 section 6 of P.L.1977, c.419 (C.45:22A-26) shall organize or cause  
 20 to be organized an association whose obligation it shall be to  
 21 manage the common elements and facilities. The association shall  
 22 be formed on or before the filing of the master deed or declaration  
 23 of covenants and restrictions, and may be formed as a for-profit or  
 24 nonprofit corporation, unincorporated association, or any other form  
 25 permitted by law. <sup>3</sup>The application of P.L.1993, c.30 <sup>4</sup>**[**(C.45:22A-  
 26 43 et al.)**]** (C.45:22A-43 et seq.)<sup>4</sup> to the association of an existing  
 27 planned real estate development shall not be limited by:

28 (1) whether the developer has been subject to <sup>4</sup>, or exempted  
 29 from, <sup>4</sup> the registration requirements of section 6 of P.L.1977, c.419  
 30 (C.45:22A-26); <sup>4</sup>or<sup>4</sup>

31 (2) the development's date of establishment <sup>4</sup>; or

32 (3) the exemption for offers and dispositions of fewer than 100  
 33 lots, parcels, units or interests established under paragraph (7) of  
 34 subsection a. of section 5 of P.L.1977, c.419 (C.45:22A-25)]<sup>4</sup> .<sup>3</sup>

35 b. <sup>4</sup>Nothing in subsection a. of this section shall be construed to  
 36 require the registration of a planned real estate development that is  
 37 not otherwise required to register pursuant to section 6 of P.L.1977,  
 38 c.419 (C.45:22A-26).

39 c.<sup>4</sup> Membership in the association of a planned real estate  
 40 development shall be comprised <sup>3</sup>**[exclusively]**<sup>3</sup> of each <sup>3</sup>**[unit]**<sup>3</sup>  
 41 owner within the planned real estate development, and may include  
 42 the developer if the development contains unsold lots, parcels,  
 43 units, or interests. <sup>3</sup>**[If]**<sup>3</sup> <sup>2</sup>**[permitted by]**<sup>2</sup> <sup>3</sup>**[the association's**  
 44 bylaws]<sup>3</sup> <sup>2</sup>**[, a tenant may]** <sup>3</sup>**[specifically provide for the**  
 45 participation of the voting-eligible tenant, then the voting eligible  
 46 tenant shall<sup>2</sup> also be entitled to <sup>2</sup>participate in<sup>2</sup> association]<sup>3</sup>  
 47 <sup>2</sup>**[membership. However, a]** <sup>3</sup>**[matters]** An association may permit

1 tenant participation in executive board elections, tenant membership  
 2 in the association, or both<sup>3</sup>. A voting-eligible<sup>2</sup> tenant<sup>2</sup> [entitled to  
 3 association membership]<sup>2</sup> shall have only the same voting rights as  
 4 the owner of the<sup>2</sup> unit<sup>2</sup> [owners if the tenant is a voting-eligible  
 5 tenant] that the tenant leases, and such voting rights shall be in  
 6 place of and not in addition to the rights of the owner of the leased  
 7 unit<sup>2 3</sup>, except as permitted under paragraph (9) of subsection<sup>4</sup> [a.]  
 8 c.<sup>4</sup> of section 6 of P.L. , c. (C. ) (pending before the  
 9 Legislature as this bill)<sup>3</sup>. Pursuant to<sup>2</sup> paragraph<sup>3</sup> [(7)] (9)<sup>3</sup> of<sup>2</sup>  
 10 subsection<sup>2</sup> [e.]<sup>4</sup> [a.]<sup>2</sup> c.<sup>4</sup> of section<sup>3</sup> [5] 6<sup>3</sup> of P.L. , c. (C. )  
 11 (pending before the Legislature as this bill), the<sup>2</sup> [voting influence  
 12 of] votes associated with<sup>2</sup> a unit shall not be altered by the  
 13 number of association members, and] participation of<sup>2</sup> voting-  
 14 eligible tenants<sup>2</sup> [, who own or reside in the unit]<sup>2</sup>.  
 15 (cf: P.L.1993, c.30, s.1)

16  
 17 <sup>3</sup>[4.] <sup>5.</sup><sup>3</sup> Section 3 of P.L.1993, c.30 (C.45:22A-45) is  
 18 amended to read as follows:

19 3. a. The form of administration of an association organized  
 20 pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43) shall provide  
 21 for the election of an executive board, elected by the association  
 22 members<sup>3,3</sup> and voting-eligible tenants<sup>3</sup> where applicable<sup>3</sup>, and  
 23 responsible to the members of the association pursuant to section 4  
 24 of P.L.1993, c.30 (C.45:22A-46), through which the powers of the  
 25 association shall be exercised and its functions performed.

26 b. Subject to the master deed, declaration of covenants and  
 27 restrictions, bylaws or other instruments of creation, subsection d.  
 28 of this section, and the laws of the State, the executive board may  
 29 act in all instances on behalf of the association.

30 c. The members of the executive board appointed by the  
 31 developer shall be liable as fiduciaries to the owners for their acts  
 32 or omissions.

33 d. During control of the executive board by the developer,  
 34 copies of the annual audit of association funds shall be available for  
 35 inspection by owners or their authorized representative at the  
 36 project site.

37 (cf: P.L.1993, c.30, s.3)

38  
 39 <sup>3</sup>[5.] <sup>6.</sup><sup>3</sup> (New section) a. <sup>2</sup>[Notice of the right to nominate  
 40 candidates for election to the executive board shall be mailed, hand-  
 41 delivered or, where permitted by the bylaws, electronically  
 42 delivered to each association member and each voting-eligible  
 43 tenant at least 30 days prior to the meeting at which an election of  
 44 the members of the executive board will be conducted.

45 b. Each position on the executive board shall be up for election  
 46 every four years, except that the bylaws may provide for more  
 47 frequent elections.



1 c. If the bylaws permit tenant participation in executive board  
2 elections, then a tenant may exercise the voting rights of a unit  
3 owner with whom he has contracted a leasehold interest.

4 d. (1) Subject to the exceptions under subsection g. of this  
5 section, a resident-owner in good standing shall have the authority  
6 to:

7 (a) nominate himself or any other resident-owner in good  
8 standing to run for any membership position on the executive board  
9 in an election at least 21 days subsequent to the nomination; and

10 (b) run for any membership position on the executive board  
11 after obtaining a nomination at least 21 days prior to the election.

12 (2) In the case of a person nominated by someone other than  
13 themselves, if the nominated person accepts the nomination in  
14 writing within seven days of being nominated and the number of  
15 candidates is less than the number of executive board positions  
16 open for election, the 21-day requirement stated in paragraph (1) of  
17 this subsection shall not apply.

18 (3) The bylaws may extend the right to nominate and run for  
19 positions on the executive board provided pursuant to paragraph (1)  
20 of this subsection, to all unit owners, all tenants, or others.

21 (4) Subject to the exceptions provided in subsection g. of this  
22 section, all association members and voting-eligible tenants shall  
23 have the authority to vote in each election for each position of  
24 membership on the executive board. The bylaws may limit voting  
25 eligibility under this paragraph to association members in good  
26 standing.

27 e. Unless the bylaws provide for the voting interest of each unit  
28 to be proportional to the unit's value or size, each unit conveyed to  
29 an owner shall be entitled to one vote regardless of the number of  
30 association members, and voting-eligible tenants, who own or  
31 reside in a unit] <sup>4</sup>[No] <sup>4</sup> <sup>3</sup>[bylaw, rule or other governing document  
32 provision of an] <sup>3</sup> <sup>4</sup>[association may <sup>3</sup>restrict the right to participate  
33 in elections to the executive board, by<sup>3</sup> :]

34 An association shall hold executive board elections in  
35 accordance with the provisions of its governing documents,  
36 including validly-adopted executive board rules, that do not conflict  
37 with the provisions of this section. If such documents do not set a  
38 specific time or interval, the elections shall be held at two year  
39 intervals. If an association has not held an election in compliance  
40 with its governing documents in two or more years, it shall hold an  
41 election within 90 days of the submission to any current executive  
42 board member of a petition signed by 25 or more percent of  
43 association members in good standing, but in no event less than the  
44 number of association members required to meet the quorum  
45 requirements set forth in the governing documents. If an  
46 association has no executive board members and association  
47 members fail to act on petition or by majority, any association  
48 member or group thereof, at common expense and, upon written

1 notice to all owners, may petition a court of competent jurisdiction  
2 for authority to act temporarily in the interests of the association  
3 and to organize and hold an election within 90 days of the date of  
4 the court order. Any proxies used by an association must contain a  
5 prominent notice that use of the proxy is voluntary on the part of  
6 the granting owner, that it can be revoked at any time before the  
7 proxy holder casts a vote, and that absentee ballots are available.  
8 An association may not use proxies for an executive board member  
9 election without also making absentee ballots available.

10 b. An association of a development with fewer than 50 units  
11 shall ensure an executive board election system that includes: (1)  
12 the provision of election notice, (2) the provision of the ability to  
13 nominate and vote for any association member in good standing, (3)  
14 the provision of an opportunity to review any candidacy  
15 qualifications such that the owner is permitted to be a candidate for  
16 election to the board, (4) the provision of ready access to  
17 information on when and how to vote, and (5) the counting of  
18 ballots and verification of eligibility to vote, all of which shall be  
19 conducted in a non-fraudulent manner. Such association shall also  
20 be subject to the requirements of paragraphs (9) and (10) of  
21 subsection c. of this section.

22 c. In order to ensure open and fair executive board elections, the  
23 following provisions of this subsection shall apply to all  
24 associations of developments with 50 or more units, except for  
25 paragraphs (9) and (10), which shall apply to associations of all  
26 developments.<sup>4</sup>

27 (1) <sup>3</sup>Provide <sup>4</sup>Providing<sup>3</sup> An association shall not provide<sup>4</sup>  
28 for a term of <sup>3</sup>a an executive board member to be for more than 4  
29 years, provided that nothing <sup>3</sup>will shall<sup>3</sup> prevent <sup>3</sup>a an  
30 executive<sup>3</sup> board member from continuing to serve until his or her  
31 successor is duly qualified and elected <sup>4</sup>[:] .<sup>4</sup>

32 (2) <sup>3</sup>Prohibit <sup>4</sup>Prohibiting<sup>3</sup> An association shall not prohibit<sup>4</sup>  
33 a <sup>4</sup>voting-eligible<sup>4</sup> tenant <sup>4</sup>, where applicable,<sup>4</sup> from casting a vote  
34 allocated to a unit if the bylaws otherwise permit tenant  
35 participation in an election of <sup>3</sup>executive<sup>3</sup> board members <sup>4</sup>[:] nor  
36 prohibit an individual acting pursuant to a valid power of attorney  
37 or proxy from casting a vote.<sup>4</sup>

38 (3) <sup>3</sup>Provide for less than 14 nor more than 60 days' written  
39 notice of the meeting at which an election of board members is  
40 scheduled, which notice will be personally delivered, mailed by  
41 U.S. Mail, or electronically transmitted where an owner has agreed  
42 to accept notice by electronic means;

43 (4) Prohibit a unit owner <sup>4</sup>Failing to An association shall<sup>4</sup>  
44 provide written notice to all association members no later than 30  
45 days prior to the date for the mailing of the notice of the meeting set  
46 forth in paragraph (5) of this subsection that informs association  
47 members of the right to nominate themselves or other association

1 members in good standing <sup>4</sup>[as a candidate for] for candidacy to  
2 serve on <sup>4</sup>the executive board <sup>4</sup>[:] .<sup>4</sup>

3 (4) <sup>4</sup>[Prohibiting an association member <sup>3</sup>in good standing.] An  
4 association, <sup>4</sup>subject to the exceptions under subsection <sup>2</sup>[c.] <sup>4</sup>[d.]  
5 f. <sup>4</sup>of this section, <sup>4</sup>shall not prohibit an association member in good  
6 standing <sup>4</sup>from nominating <sup>3</sup>[themselves] himself <sup>3</sup> <sup>4</sup>or herself, <sup>4</sup>or  
7 any other <sup>3</sup>[unit owner] association member <sup>3</sup>in good standing as a  
8 candidate for any membership position on the executive board, so  
9 long as the nomination is made prior to the <sup>4</sup>[preparation and] <sup>4</sup>  
10 mailing of ballots or proxies to the <sup>3</sup>association <sup>3</sup>members, which  
11 mailing <sup>3</sup>shall occur no earlier than: (a) the day following the  
12 expiration of the time period within which candidates must be  
13 nominated, or (b) where no expiration date is set forth for  
14 nomination of candidates, then the business day prior to the mailing  
15 of the notice <sup>3</sup>of the election, <sup>3</sup>required pursuant to paragraph  
16 [3] (5) <sup>3</sup>of this subsection <sup>3</sup>. This paragraph shall not be  
17 implemented in a manner that results in the denial of a realistic  
18 opportunity for a unit owner to nominate a candidate] <sup>3</sup> <sup>4</sup>[:] . The  
19 period for submitting nominations shall not be less than 14 days  
20 from the mailing of the request for nominations. <sup>4</sup>

21 (5) <sup>3</sup>[Prohibit] <sup>4</sup>[Providing for] An association shall provide  
22 association members written notice of an election by personal  
23 delivery, mail, or electronic means, no <sup>4</sup>less than 14 nor more than  
24 60 <sup>4</sup>[days' written notice of] days prior to <sup>4</sup>the meeting at which an  
25 election of executive board members is scheduled <sup>4</sup>[, which notice  
26 shall be personally delivered, mailed, or electronically transmitted,  
27 if an association member has agreed to accept notice by electronic  
28 means] <sup>4</sup> . This notice shall include a proxy ballot <sup>4</sup>[or] and an  
29 absentee ballot, unless prohibited by the bylaws, <sup>4</sup>[with] which  
30 ballots shall list in alphabetical order by last name <sup>4</sup>the names of all  
31 candidates nominated pursuant to paragraph (4) of this subsection  
32 <sup>4</sup>[, provided that where electronic balloting is to be used, the names  
33 of all candidates nominated pursuant to paragraph (4) of this  
34 subsection shall appear on the electronic ballot] <sup>4</sup> . In the case of  
35 mailing, the notice shall be effective when deposited in the mailbox  
36 with proper postage <sup>4</sup>[:] . The notice may only be sent by  
37 electronic means if either (a) the affected association member, or  
38 voting-eligible tenant where applicable, has agreed in writing to  
39 accept notice by electronic means; or (b) the governing documents  
40 permit electronic notices, provided another form of voting by  
41 absentee balloting or proxy voting is available. <sup>4</sup>

42 (6) <sup>4</sup>[Using] An association shall use <sup>4</sup>ballots, whether paper  
43 ballots or electronic ballots, that <sup>4</sup>[do not] <sup>4</sup>contain the names of all  
44 persons nominated as a candidate for the executive board <sup>4</sup>[:] .<sup>4</sup>

1       (7) <sup>4</sup>~~Prohibiting~~<sup>2</sup> An association shall not prohibit<sup>4</sup> any <sup>3</sup>unit  
 2 owner] association member<sup>3</sup> in good standing, <sup>4</sup>or voting-eligible  
 3 tenant where applicable, <sup>4</sup> subject to the exceptions under subsection  
 4 <sup>3</sup>[c.] <sup>4</sup>[d.]<sup>3</sup> f.<sup>4</sup> of this section <sup>3</sup>and any limitation on the number of  
 5 votes per unit permitted under paragraph (9) of this subsection<sup>3</sup> ,  
 6 from voting for any nominated candidate in an executive board  
 7 election <sup>4</sup>[;] .<sup>4</sup>

8       <sup>3</sup>~~(6) Prevent~~ (8) <sup>4</sup>~~Preventing~~<sup>3</sup> An association shall not  
 9 prevent<sup>4</sup> voting for <sup>3</sup>[a] an executive<sup>3</sup> board member by electronic  
 10 means where the executive board determines to employ voting in  
 11 such manner and an <sup>3</sup>[owner] association member<sup>3</sup> <sup>4</sup>, or voting-  
 12 eligible tenant where applicable, <sup>4</sup> consents to casting a vote in such  
 13 manner <sup>4</sup>[;] .<sup>4</sup> <sup>3</sup>[or

14       (7) ~~Provide~~ (9) <sup>4</sup>~~Providing~~<sup>3</sup> An association shall not provide<sup>4</sup>  
 15 for an allocation of votes other than one vote for each unit, <sup>3</sup>or such  
 16 larger number of equal votes per unit as may be set forth in the  
 17 governing documents of the association,<sup>3</sup> except <sup>3</sup>(a)<sup>3</sup> where the  
 18 bylaws or other governing document provide for the voting interest  
 19 to be proportional to a unit's value or size<sup>2</sup> <sup>3</sup>, (b) where the  
 20 governing documents permit more than one vote to be cast by each  
 21 unit on an equal basis or a basis consistent with each unit's value or  
 22 size, or (c) where the governing documents do not set forth the  
 23 number of votes that may be cast by each unit, then in accordance  
 24 with a rule adopted by the executive board that allows more than  
 25 one vote to be cast by each unit, provided such rule assigns an equal  
 26 number of votes to each unit <sup>4</sup>[; or] .<sup>4</sup>

27       (10) <sup>4</sup>~~Establishing election~~ Election<sup>4</sup> procedures <sup>4</sup>[that] shall  
 28 not be established or administered in any way to<sup>4</sup> prohibit  
 29 participation by the residents of low or moderate income housing  
 30 units<sup>3</sup>.

31       <sup>2</sup>~~[f.] <sup>4</sup>[b.]<sup>2</sup> d.~~<sup>4</sup> Initial executive board elections in condominium  
 32 associations, governed under the "Condominium Act," P.L.1969,  
 33 c.257 (C.46:8B-1 et seq.), shall follow the notice timeline under  
 34 subsection b. of section 2 of P.L.1979, c.157 (C.46:8B-12.1), and  
 35 shall not be subject to <sup>2</sup>[the notice requirements under subsections  
 36 a. and d. of]<sup>2</sup> this section.

37       <sup>2</sup>~~[g.] <sup>4</sup>[c.]<sup>2</sup> e.~~<sup>4</sup> Whether or not formed as a nonprofit  
 38 corporation, associations <sup>4</sup>of developments of 50 or more units<sup>4</sup>  
 39 shall conform to the requirements of the "New Jersey Nonprofit  
 40 Corporation Act," P.L.1983, c.127 (N.J.S.15A:1-1 et seq.) regarding  
 41 the counting of ballots.

42       <sup>4</sup>~~[d.]<sup>3</sup> f.~~<sup>4</sup> (1) It shall be permissible <sup>2</sup>for the bylaws of the  
 43 association to provide<sup>2</sup>:

44       (a) for the association members <sup>3</sup>,<sup>3</sup> and voting-eligible tenants  
 45 <sup>3</sup>where applicable,<sup>3</sup> of a planned real estate development with units  
 46 of different use types to nominate and vote for some members of the

1 executive board and, pursuant to the mixed-use development's  
2 governing documents, have other members of the executive board  
3 nominated and elected by association members and voting-eligible  
4 tenants of units of a different use type;

5 (b) for the association members <sup>3,3</sup> and voting-eligible tenants  
6 <sup>3</sup>where applicable<sup>3</sup> of a planned real estate development to  
7 nominate and vote only for some members of the executive board  
8 based upon a distribution that allocates votes with approximate  
9 proportionality to the number, value, or size of units located in  
10 certain geographical areas within the development;

11 (c) <sup>2</sup>**to limit** for a limitation on<sup>2</sup> the number of executive board  
12 members nominated and elected by only certain association  
13 members, and voting-eligible tenants <sup>3</sup>where applicable<sup>3</sup>, if that  
14 limit is based upon a classification intended to further the election  
15 of one or more executive board members by the association  
16 members, and voting-eligible tenants <sup>3</sup>where applicable<sup>3</sup>, of  
17 affordable housing units that represent a minority of the units in a  
18 planned real estate development; <sup>3</sup>**and**<sup>3</sup>

19 (d) for the association members, and voting-eligible tenants  
20 <sup>3</sup>where applicable<sup>3</sup>, of a planned real estate development to  
21 nominate and vote for some members of the executive board and,  
22 pursuant to the governing documents, have other members of the  
23 executive board nominated and elected by the association members,  
24 and voting-eligible tenants <sup>3</sup>where applicable<sup>3</sup>, of one or more  
25 separate developments, so long as each development's voting  
26 weight is approximately proportional, based on the number, value,  
27 or size of the units; <sup>3</sup>and

28 (e) that <sup>4</sup>, except for executive board members serving as  
29 representatives of the developer during the period prior to surrender  
30 of control to the owners pursuant to section 5 of P.L.1993, c.30  
31 (C.45:22A-47),<sup>4</sup> not more than one owner, entity-owner  
32 representative, or voting-eligible tenant where applicable, from a  
33 single unit may serve on the governing board simultaneously;<sup>3</sup>

34 (2) The executive board of an umbrella or master association  
35 that does not directly contain units need not be elected by  
36 individuals who are association members, and voting-eligible  
37 tenants <sup>3</sup>where applicable<sup>3</sup>, with units within the geographical area  
38 of the umbrella or master association, provided the members of the  
39 executive board serve as executive board members of another  
40 planned real estate development executive board, and have been  
41 nominated and elected by the association members, and voting-  
42 eligible tenants <sup>3</sup>where applicable<sup>3</sup>, with units in that planned real  
43 estate development, in compliance with this section.

44 (3) <sup>3</sup>**The requirements of this section do not apply to members**  
45 of the executive board that may be appointed by the developer  
46 pursuant to section 5 of P.L.1993, c.30 (C.45:22A-47)] **Except with**  
47 regard to a planned real estate development containing fewer than

1 <sup>4</sup>[10] 50<sup>4</sup> units, and any appointment by the developer permitted  
2 pursuant to section 5 of P.L.1993, c.30 (C.45:22A-47), an  
3 association shall:

4 (a) not allow a person to take an executive board position  
5 through appointment, provided that nothing herein shall prevent the  
6 executive board members of an association from filling a vacancy in  
7 the executive board created by resignation, death, failure to  
8 maintain any reasonable qualification, including maintaining good  
9 standing, to be an executive board member or by removal following  
10 a vote in favor of removal open to all association members in  
11 accordance with the terms of the bylaws; and

12 (b) ensure that, in order to serve on the executive board, a person  
13 shall be elected through a process that does not conflict with the  
14 provisions of this section<sup>3</sup>.

15  
16 <sup>3</sup>[6.] 7.<sup>3</sup> Section 4 of P.L.1993, c.30 (C.45:22A-46) is amended  
17 to read as follows:

18 4. The bylaws of the association, which shall initially be  
19 recorded with the master deed shall include, in addition to any other  
20 lawful provisions, the following:

21 a. A requirement that all meetings of the executive board,  
22 except conference or working sessions at which no binding votes  
23 are to be taken, shall be open to attendance by all <sup>3</sup>[unit owners]  
24 association members<sup>3</sup> , and voting-eligible tenants where  
25 applicable, and adequate notice of any such meeting shall be given  
26 to all <sup>3</sup>[unit owners] association members<sup>3</sup> , and voting-eligible  
27 tenants where applicable, in such manner as the bylaws shall  
28 prescribe; except that the executive board may exclude or restrict  
29 attendance at those meetings, or portions of meetings, dealing with  
30 (1) any matter the disclosure of which would constitute an  
31 unwarranted invasion of individual privacy; (2) any pending or  
32 anticipated litigation or contract negotiations; (3) any matters  
33 falling within the attorney-client privilege, to the extent that  
34 confidentiality is required in order for the attorney to exercise his  
35 ethical duties as a lawyer, or (4) any matter involving the  
36 employment, promotion, discipline or dismissal of a specific officer  
37 or employee of the association. At each meeting required under this  
38 subsection to be open to all <sup>3</sup>[unit owners] association members<sup>3</sup> ,  
39 and voting-eligible tenants where applicable, the participation of  
40 unit <sup>3</sup>[unit owners] association members<sup>3</sup> , and voting-eligible  
41 tenants where applicable, in the proceedings or the provision of a  
42 public comment session shall be at the discretion of the executive  
43 board, minutes of the proceedings shall be taken, and copies of  
44 those minutes shall be made available to all <sup>3</sup>[unit owners]  
45 association members<sup>3</sup> , and voting-eligible tenants where  
46 applicable, before the next open meeting.

1       b. The method of calling meetings of <sup>3</sup>[unit owners]  
2 association members<sup>3</sup> , and voting-eligible tenants where  
3 applicable, the percentage of <sup>3</sup>[unit owners] association members<sup>3</sup> ,  
4 and voting-eligible tenants where applicable, or voting rights  
5 required to make decisions and to constitute a quorum. The bylaws  
6 may, nevertheless, provide that <sup>3</sup>[unit owners] an individual  
7 association member<sup>3</sup> , and <sup>3</sup>a<sup>3</sup> voting-eligible <sup>3</sup>[tenants] tenant<sup>3</sup>  
8 where applicable, may waive notice of meetings <sup>3</sup>in writing,<sup>3</sup> or  
9 may act by written agreement without meetings.

10       c. The manner of collecting from <sup>3</sup>[unit]<sup>3</sup> owners their  
11 respective shares of common expenses and the method of  
12 distribution to the <sup>3</sup>[unit]<sup>3</sup> owners of their respective shares of  
13 common surplus or such other application of common surplus as  
14 may be duly authorized by the bylaws.

15       d. (1) The method by which the bylaws may be amended,  
16 provided that no amendment shall be effective until recorded in the  
17 same office as the then existing bylaws. The bylaws may also  
18 provide a method for the adoption, amendment and enforcement of  
19 reasonable administrative rules and regulations relating to the  
20 operation, use, maintenance and enjoyment of the units and of the  
21 common elements, including limited common elements.

22       (2) If association bylaws provide for no method of their  
23 amendment by a vote of the association members <sup>3</sup>open to all  
24 association members<sup>3</sup> , or only allow association members to amend  
25 the bylaws through a majority vote exceeding a two-thirds majority,  
26 then the <sup>2</sup>association<sup>2</sup> members may amend the bylaws by an  
27 affirmative vote of <sup>2</sup>[two-thirds] a majority<sup>2</sup> of the total authorized  
28 votes in the association. If the bylaws do not provide for a method  
29 by which the <sup>2</sup>association<sup>2</sup> members may call a meeting of the  
30 <sup>2</sup>association<sup>2</sup> members to conduct a vote to amend the bylaws or do  
31 not contain provisions concerning the subject matter of  
32 subparagraphs (a) through (f) of this paragraph, then a vote  
33 concerning an amendment to the bylaws shall be conducted as  
34 follows:

35       (a) fifteen percent of the <sup>2</sup>association<sup>2</sup> members may request a  
36 meeting of the association's membership by executing a document  
37 requesting that a special meeting of the <sup>2</sup>association<sup>2</sup> membership  
38 be held, or if the annual meeting of the <sup>2</sup>association<sup>2</sup> membership  
39 <sup>3</sup>[will] is scheduled to<sup>3</sup> occur within 60 days of the date of the  
40 request, then the amendment vote shall be held at the annual  
41 meeting;

42       (b) if the vote <sup>3</sup>[will not] is not scheduled to<sup>3</sup> take place at the  
43 annual meeting of the association, the executive board shall  
44 schedule the special meeting of the <sup>2</sup>association<sup>2</sup> membership to  
45 occur within 60 days of the receipt of the request <sup>4</sup>[, which] .  
46 Notice of the meeting shall be provided to the association members

1 and voting-eligible tenants, where applicable, at least 14 days prior  
2 to the date of the meeting. The<sup>4</sup> special meeting shall be held  
3 <sup>3</sup>[between the hours of 7:00 p.m. and 8:00 p.m., except that if such  
4 day is a Sunday, the meeting shall be held on the next day  
5 thereafter] at a <sup>4</sup>reasonable<sup>4</sup> time <sup>4</sup>[when] that is likely to permit<sup>4</sup>  
6 most association members <sup>4</sup>[are able]<sup>4</sup> to attend<sup>3</sup>;

7 (c) the language of the <sup>1</sup>proposed<sup>1</sup> amendment shall be  
8 <sup>1</sup>[submitted to the association and shall be placed in appropriate  
9 form for distribution to the membership, which] unambiguous and  
10 consistent with applicable law and with the provisions of the bylaws  
11 that are not proposed to be amended, and if not in such condition  
12 shall be revised to satisfy that requirement. Upon satisfaction of  
13 this requirement, the<sup>1</sup> amendment shall be mailed, hand-delivered  
14 or, if the bylaws permit, electronically delivered, together with the  
15 notice of the meeting to the <sup>2</sup>association<sup>2</sup> membership at least 10  
16 days prior to the meeting;

17 (d) if permitted by the association's bylaws, the notice of the  
18 meeting shall include a proxy ballot or absentee ballot with  
19 instructions for the return of same, which instructions shall permit  
20 facsimile or electronic mail delivery of the proxy ballot or absentee  
21 ballot to the association and shall not require receipt of the proxy or  
22 absentee ballot more than one business day prior to the meeting;

23 (e) if a sufficient number of ballots or proxies are not received  
24 at the special or annual meeting to conclusively determine that the  
25 proposed amendment has been approved or rejected, the meeting  
26 shall be adjourned for a period of 30 days, or such longer period as  
27 approved by the <sup>2</sup>association<sup>2</sup> membership by approval of a motion  
28 to extend the vote concerning the amendment, but in no event for  
29 longer than 11 months from when the notice of the meeting was  
30 sent, and all proxies or ballots received prior to the extended date  
31 shall remain valid if otherwise valid under the terms of the bylaws;  
32 and

33 (f) <sup>2</sup>[if the] when an<sup>2</sup> amendment is approved, <sup>2</sup>a copy of the  
34 approved amendment shall be provided to all association members,  
35 and<sup>2</sup> the association shall promptly record the <sup>2</sup>[same] amendment<sup>2</sup>  
36 in the county recording office where the bylaws were recorded.

37 (3) Paragraph (2) of this subsection shall not be construed to  
38 require a vote to be held on an amendment to the bylaws that has  
39 been voted on in the preceding 12 months of the initial meeting  
40 request, made pursuant to subparagraph (a) of paragraph (2) of this  
41 subsection.

42 (4) For the purposes of paragraph (2) of this subsection, the  
43 number of total authorized votes in the association shall be based on  
44 the whole number of units owned by someone entitled to  
45 <sup>2</sup>association<sup>2</sup> membership <sup>3</sup>[in the association]<sup>3</sup> after subtracting  
46 those <sup>3</sup>[owners] association members who are<sup>3</sup> ineligible to vote  
47 because they are not in good standing.



1       <sup>3</sup>(5) An executive board shall not amend the bylaws of an  
2 association without a vote of the association members open to all  
3 association members, as provided in the association's bylaws, or  
4 where the bylaws provide for no method of their amendment by a  
5 vote of the association members, or only allow association members  
6 to amend the bylaws through a majority vote exceeding a two-thirds  
7 majority, then an association shall only amend the bylaws pursuant  
8 to paragraph (2) of this subsection, except an executive board may  
9 amend the bylaws under the following circumstances:

10       (a) to the extent necessary to render the bylaws consistent with  
11 State, federal or local law; or

12       (b) after providing notice to all association members of the  
13 proposed amendment, which notice shall include a ballot to reject  
14 the proposed amendment. Other than an amendment to render the  
15 bylaws consistent with State, federal, or local law, if at least 10  
16 percent of association members vote to reject the amendment within  
17 30 days of its mailing, the amendment shall be deemed defeated.<sup>3</sup>

18 (cf: P.L.1993, c.30, s.4)

19

20       <sup>3</sup>[7.] 8.<sup>3</sup> Section 5 of P.L.1993, c.30 (C.45:22A-47) is amended  
21 to read as follows:

22       5. a. Irrespective of the time set for developer control of the  
23 association provided in the master deed, declaration of covenants  
24 and restrictions, or other instruments of creation, control of the  
25 association shall be surrendered to the owners in the following  
26 manner:

27       (1) Sixty days after conveyance of 25 percent of the lots,  
28 parcels, units or interests, not fewer than 25 percent of the members  
29 of the executive board shall be elected by the owners <sup>3,3</sup> and voting-  
30 eligible tenants <sup>3</sup> where applicable<sup>3</sup>.

31       (2) Sixty days after conveyance of 50 percent of the lots,  
32 parcels, units or interests, not fewer than 40 percent of the members  
33 of the executive board shall be elected by the owners <sup>3,3</sup> and voting-  
34 eligible tenants <sup>3</sup> where applicable<sup>3</sup>.

35       (3) Sixty days after conveyance of 75 percent of the lots,  
36 parcels, units or interests, the developer's control of the executive  
37 board shall terminate, at which time the owners <sup>3,3</sup> and voting-  
38 eligible tenants <sup>3</sup> where applicable<sup>3</sup> shall elect the entire executive  
39 board; except that the developer may retain the selection of one  
40 executive board member so long as there are any units remaining  
41 unsold in the regular course of business.

42       b. The percentages specified in subsection a. of this section  
43 shall be calculated upon the basis of the whole number of units  
44 entitled to membership in the association. The bylaws of the  
45 association shall specify the number or proportion of votes of all  
46 units conveyed to owners that shall be required for the election of  
47 <sup>3</sup>executive<sup>3</sup> board members. Unless the bylaws provide

1 **【otherwise】** for <sup>3</sup>**【the voting interest of each unit to be proportional**  
 2 **to the unit's value or size】** an alternate approach to allocating votes  
 3 pursuant to paragraph (9) of subsection <sup>4</sup>**【a.】 c.<sup>4</sup>** of section 6 of  
 4 P.L. , c. (C. ) (pending before the Legislature as this  
 5 bill)<sup>3</sup> , each unit conveyed to an owner shall be entitled to one vote  
 6 regardless of the number of association members, and voting-  
 7 eligible tenants <sup>3</sup>where applicable<sup>3</sup> , residing in a unit. A developer  
 8 may surrender control of the executive board of the association  
 9 before the time specified in subsection a. of this section, if the  
 10 **【owners】** association members, and voting-eligible tenants <sup>3</sup>where  
 11 applicable<sup>3</sup> , agree by a majority vote to assume control.

12 c. Upon assumption by the owners of control of the executive  
 13 board of the association, the developer shall <sup>4</sup>**【forthwith】**<sup>4</sup> deliver  
 14 to the association all items and documents pertinent to the  
 15 association, such as, but not limited to, a copy of the master deed,  
 16 declaration of covenants and restrictions, documents of creation of  
 17 the association, bylaws, minute book including all minutes, any  
 18 rules and regulations, association funds and an accounting therefor,  
 19 all personal property, insurance policies, government permits, a  
 20 membership roster and all contracts and agreements relative to the  
 21 association <sup>3</sup>within 60 days of <sup>4</sup>**【the turnover】** that transition<sup>4</sup> date<sup>3</sup>  
 22 <sup>4</sup>, established pursuant to this section<sup>4</sup>.

23 d. The association when controlled by the owners <sup>3,3</sup> and  
 24 voting-eligible tenants <sup>3</sup>where applicable,<sup>3</sup> shall not take any action  
 25 that would be detrimental to the sale of units by the developer, and  
 26 shall continue the same level of maintenance, operation and  
 27 services as immediately prior to their assumption of control, until  
 28 the last unit is sold.

29 e. From the time of conveyance of 75 percent of the lots,  
 30 parcels, units, or interests, until the last lot, parcel, unit, or interest  
 31 in the development is conveyed in the ordinary course of business,  
 32 the master deed, bylaws or declaration of covenants and restrictions  
 33 shall not require that more than 75 percent of the votes entitled to  
 34 be cast thereon be cast in the affirmative for a change in the bylaws  
 35 or regulations of the association.

36 f. The developer shall not be permitted to cast any votes  
 37 allocated to unsold lots, parcels, units, or interests, in order to  
 38 amend the master deed, bylaws, or any other document, for the  
 39 purpose of changing the permitted use of a lot, parcel, unit, or  
 40 interest, or for the purpose of reducing the common elements or  
 41 facilities.

42 (cf: P.L.1993, c.30, s.5)

43  
 44 <sup>3</sup>**【8.】** <sup>9.3</sup> This act shall take effect immediately <sup>4</sup>**【. <sup>2</sup>However,】** ,  
 45 except that<sup>4</sup> paragraphs (1) through (9) of subsection <sup>4</sup>**【a.】 c.<sup>4</sup>** of  
 46 section 6 concerning notice, nominations, ballot content, voting,  
 47 and vote distribution in executive board elections shall remain

- 1 inoperative until the first day of the third month next following
- 2 enactment and shall be applicable to each executive board election
- 3 on or after that date.<sup>3</sup>