

No. 2013-37

AN ACT

HB 1122

Amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, in creation, alteration and termination of condominiums, further providing for contents of declaration for all condominiums, for contents of declaration for flexible condominiums and for amendment of declaration; in protection of purchasers, further providing for declarant's obligation to complete and restore; and, in creation, alteration and termination of planned communities, further providing for contents of declaration for all planned communities, for contents of declaration for flexible planned communities and for amendment of declaration.

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

Section 1. Sections 3205(12) and (13)(ii), 3206(2), 3219(a), 3414(c), 5205(13) and (14)(ii), 5206(2) and 5219(a)(3) of Title 68 of the Pennsylvania Consolidated Statutes are amended and sections 3205(13)(i) and 5205(14)(i) are carried without amendment to read:

§ 3205. Contents of declaration; all condominiums.

The declaration for a condominium must contain:

* * *

(12) If the declarant wishes to retain the special declarant right to cause section 3222 (relating to master associations) to become applicable to a condominium, then:

- (i) an explicit reservation of such right;
- (ii) a statement of the time limit[, **not exceeding seven years after the recordation of the declaration,**]¹ upon which the option reserved under subparagraph (i) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit; and]. *The time limit shall not exceed the later of:*

(A) ten years after the recording of the declaration; or

(B) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified by the municipal governing body pursuant to section 508(4)(v) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal; and

- (iii) the information required to be included in the declaration by the provisions of section 3222.

¹"limit, not exceeding seven years after the recordation of the declaration," in enrolled bill.

(13) If the declarant wishes to retain the special declarant right to merge or consolidate the condominium pursuant to section 3223 (relating to merger or consolidation of condominiums), then:

- (i) an explicit reservation of such right;
- (ii) a statement of the time limit[, **not exceeding seven years after the recording of the declaration,**] upon which any option reserved under subparagraph (i) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit[;]. *The time limit shall not exceed the later of:*

(A) ten years after the recording of the declaration; or

(B) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified by the municipal governing body pursuant to section 508(4)(v) of the Pennsylvania Municipalities Planning Code or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal;

* * *

§ 3206. Contents of declaration; flexible condominiums.

The declaration for a flexible condominium shall include, in addition to the matters specified in section 3205 (relating to contents of declaration; all condominiums):

* * *

(2) A statement of the time limit[, **not exceeding seven years after the recording of the declaration,**] upon which any option reserved under paragraph (1) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit. *The time limit shall not exceed the later of:*

(i) ten years after the recording of the declaration; or

(ii) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified by the municipal governing body pursuant to section 508(4)(v) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal.

* * *

§ 3219. Amendment of declaration.

(a) Number of votes required.—[Except in cases of amendments that may be executed by a declarant under section 3210(e) and (f) (relating to plats and plans), 3211(a) (relating to conversion and expansion of flexible condominiums) or 3212(a) (relating to withdrawal of withdrawable real estate); the association under subsection (f) or section 3107 (relating to eminent domain), 3207(d) (relating to leasehold condominiums), 3209(c) (relating to limited common elements) or 3215(a) (relating to subdivision or conversion of units); or certain unit

owners under section 3209(b) (relating to limited common elements), 3214(a) (relating to relocation of boundaries between adjoining units), 3215(b) (relating to subdivision or conversion of units) or 3220(b) (relating to termination of condominium), and except as limited by subsection (d) and section 3221 (relating to rights of secured lenders), the]

(1) *The declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least [67%]:*

(i) *sixty-seven percent of the votes in the association are allocated[, or];*

(ii) *any larger majority the declaration specifies[. The declaration may specify]; or*

(iii) *a smaller number [only] as specified in the declaration if all of the units are restricted exclusively to nonresidential use.*

(2) *Paragraph (1) is limited by subsection (d) and section 3221 (relating to rights of secured lenders).*

(3) *Paragraph (1) shall not apply to any of the following:*

(i) *Amendments executed by a declarant under:*

(A) *section 3210(e) and (f) (relating to plats and plans);*

(B) *section 3211(a) (relating to conversion and expansion of flexible condominiums); or*

(C) *section 3212(a) (relating to withdrawal of withdrawable real estate).*

(ii) *Amendments executed by the association under:*

(A) *subsection (f);*

(B) *section 3107 (relating to eminent domain);*

(C) *section 3207(d) (relating to leasehold condominiums);*

(D) *section 3209(c) (relating to limited common elements);*

or

(E) *3215(a) (relating to subdivision or conversion of units).*

(iii) *Amendments executed by certain unit owners under:*

(A) *section 3209(b);*

(B) *section 3214(a) (relating to relocation of boundaries between adjoining units);*

(C) *section 3215(b); or*

(D) *section 3220(b) (relating to termination of condominium).*

(iv) *Amendments executed by a declarant which conform the maximum time limit for exercising declarant options to the time limit authorized by sections 3205(12) and (13) (relating to contents of declaration; all condominiums) and 3206(2) (relating to contents of declaration; flexible condominiums).*

§ 3414. Declarant's obligation to complete and restore.

(c) Substantial completion prerequisite to conveyance.—A unit which is part of or constitutes a structure shall not be conveyed *to a person other than a successor to any special declarant rights* unless all structural

components and common element mechanical systems of the structure containing or constituting such unit or units are substantially completed to the extent required of declarant so as to permit the use of such unit or units and any limited common elements appurtenant thereto for their intended use. Such substantial completion shall be evidenced by a recorded certification of completion executed by an independent registered surveyor, architect or professional engineer with regard to any such structure.

* * *

§ 5205. Contents of declaration; all planned communities.

The declaration for a planned community must contain:

* * *

(13) If the declarant wishes to retain the special declarant right to cause section 5222 (relating to master associations) to become applicable to a planned community, then:

(i) an explicit reservation of such right;

(ii) a statement of the time limit[, **not exceeding seven years after the recording of the declaration,**] upon which the option reserved under subparagraph (i) will lapse, together with and a statement of any circumstances that will terminate the option before the expiration of the time limit[; **and**]. *The time limit shall not exceed the later of:*

(A) ten years after the recording of the declaration; or

(B) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified by the municipal governing body pursuant to section 508(4)(v) of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal; and

(iii) the information required to be included in the declaration by the provisions of section 5222.

(14) If the declarant wishes to retain the special declarant right to merge or consolidate the planned community pursuant to section 5223 (relating to merger or consolidation of planned community), then all of the following:

(i) An explicit reservation of such right.

(ii) A statement of the time limit[, **not exceeding seven years after the recording of the declaration,**] upon which any option reserved under subparagraph (i) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit[.]. *The time limit shall not exceed the later of:*

(A) ten years after the recording of the declaration; or

(B) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified

by the municipal governing body pursuant to section 508(4)(v) of the Pennsylvania Municipalities Planning Code or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal.

* * *

§ 5206. Contents of declaration for flexible planned communities.

The declaration for a flexible planned community shall include, in addition to the matters specified in section 5205 (relating to contents of declaration; all planned communities), all of the following:

* * *

(2) A statement of the time limit[, **not exceeding seven years after the recording of the declaration,**] upon which any option reserved under paragraph (1) will lapse, together with a statement of circumstances that will terminate the option before the expiration of the time limit. *The time limit shall not exceed the later of:*

(i) ten years after the recording of the declaration; or

(ii) in the case of a preliminary plat calling for the installation of improvements in sections, 120 days after municipal approval or denial of each particular section's final plat which was filed prior to the deadline approved or modified by the municipal governing body pursuant to section 508(4)(v) of the act of July 31, 1968 (P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code, or, in the event of an appeal from the municipal approval or denial of such final plat, 120 days after a final judgment on appeal.

* * *

§ 5219. Amendment of declaration.

(a) Number of votes required.—

* * *

(3) Paragraph (1) shall not apply to any of the following:

(i) Amendments executed by a declarant under:

(A) section 5210(e) or (f) (relating to plats and plans);

(B) section 5211(a) (relating to conversion and expansion of flexible planned communities); or

(C) section 5212(a) (relating to withdrawal of withdrawable real estate).

(ii) Amendments executed by the association under:

(A) subsection (f);

(B) section 5107 (relating to eminent domain);

(C) section 5207(d) (relating to leasehold planned communities);

(D) section 5209 (relating to limited common elements); or

(E) section 5215 (relating to subdivision or conversion of units).

(iii) Amendments executed by certain unit owners under:

(A) section 5209(b);

(B) section 5214(a) (relating to relocation of boundaries between units);

(C) section 5215; or

(D) section 5220(b) (relating to termination of planned community).

(iv) Amendments executed by a declarant which conform the maximum time limit for exercising declarant options to the time limit authorized by sections 5205(13) and (14) (relating to contents of declaration; all planned communities) and 5206(2) (relating to contents of declaration for flexible planned communities).

* * *

Section 2. This act shall apply as follows:

(1) The amendment of 68 Pa.C.S. §§ 3205(12) and (13)(ii), 3206(2), 5205(13) and (14)(ii) and 5206(2) shall apply to all condominiums and planned communities, respectively, created by declarations recorded less than seven years prior to the effective date of this act.

(2) The amendment of the following provisions shall not affect any other provision of Title 68:

(i) 68 Pa.C.S. § 3205(12) and (13)(ii).

(ii) 68 Pa.C.S. § 3206(2).

(iii) 68 Pa.C.S. § 3219(a).

(iv) 68 Pa.C.S. § 5205(13) and (14)(ii).

(v) 68 Pa.C.S. § 5206(2).

(vi) 68 Pa.C.S. § 5219(a)(3).

Section 3. This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 2013

TOM CORBETT