N.J.S.A. 45:22A-21

45:22A-21. Short title; Planned Real Estate Development Full Disclosure Act

This act shall be known and may be cited as “The Planned Real Estate Development Full Disclosure Act.”

Credits

L.1977, c. 419, § 1, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-22

45:22A-22. Public policy

The Legislature in recognition of the increased popularity of various forms of real estate development in which owners share common facilities, units, parcels, lots, areas, or interests, and taking notice of the underlying complexities of these new and proliferating forms, deems it necessary in the interest of the public health, safety, and welfare, and in the effort to provide decent, safe and affordable housing, and to foster public understanding and trust, that dispositions in these developments be regulated by the State pursuant to the provisions of this act.

Credits

L.1977, c. 419, § 2, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-23

45:22A-23. Definitions

Effective: July 13, 2017

As used in this act unless the context clearly indicates otherwise:

a. “Disposition” means any sales, contract, lease, assignment, or other transaction concerning a planned real estate development.

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

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

d. “Purchaser” or “owner” means any person or persons who acquires a legal or equitable interest in a unit, lot, or parcel in a planned real estate development, and shall be deemed to include a prospective purchaser or owner. However, as used in P.L.1993, c. 30 (C.45:22A-43 et seq.), “owner” means any person owning a unit, or an “owner” or holder of a “proprietary lease,” as those terms are defined under subsections i. and k. of section 3 of “The Cooperative Recording Act of New Jersey,” P.L.1987, c. 381 (C.46:8D-3), if the development is a cooperative.

e. “State” means the State of New Jersey.

f. “Commissioner” means the Commissioner of Community Affairs.

g. “Person” shall be defined as in R.S.1:1-2.

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

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

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

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

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

(1) Newspaper or periodical;

(2) Radio or television broadcast;

(3) Written or printed or photographic matter;

(4) Billboards or signs;

(5) Display of model houses or units;

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

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

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

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

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

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

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

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

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

q. “Association member” means the owner of a unit within a planned real estate development, or a unit’s tenant to the extent that the governing documents of the planned real estate development permit tenant membership in the association, and the developer to the extent that the development contains unsold lots, parcels, units, or interests pursuant to subsection c. of section 1 of P.L.1993, c. 30 (C.45:22A-43). This definition shall not be construed to provide the developer a different transition obligation than that required pursuant to section 5 of P.L.1993, c. 30 (C.45:22A-47), or to require that the developer is allowed to vote in executive board elections.

r. “Good standing” means the status--solely with respect to eligibility to (1) vote in executive board elections, (2) vote to amend the bylaws, and (3) nominate or run for any membership position on the executive board--applicable to an association member who is current on the payment of common expenses, late fees, interest on unpaid assessments, legal fees, or other charges lawfully assessed, and which association member has not failed to satisfy a judgment for common expenses, late fees, interest on unpaid assessments, legal fees, or other charges lawfully assessed. An association member is in good standing if he is in full compliance with a settlement agreement with respect to the payments of assessments, legal fees or other charges lawfully assessed, or the association member has a pending, unresolved dispute concerning charges assessed which dispute has been initiated: through a valid alternative to litigation pursuant to subsection c. of section 2 of P.L.1993, c. 30 (C.45:22A-44); through subsection (k) of section 14 of the “Condominium Act,” P.L.1969, c. 257 (C.46:8B-14); or through a pertinent court action.

s. “Voting-eligible tenant” means a tenant of a unit within a planned real estate development in which:

(1) the governing documents of the development permit the tenant’s participation in executive board elections, and

(2) either (a) the development has allowed tenant participation in executive board elections as a standard practice prior to the effective date of P.L.2017, c. 106 (C.45:22A-45.1 et al.), or (b) the owner has affirmatively acknowledged the right of the tenant to vote through a provision of a written lease agreement or separate document.

This definition shall not be construed to affect voting as an agent of the owner through a proxy or power of attorney. Pursuant to subsection d. of this section, if the development is a cooperative corporation, then, an “owner” or holder of a “proprietary lease,” as those terms are defined under subsections i. and k. of section 3 of “The Cooperative Recording Act of New Jersey,” P.L.1987, c. 381 (C.46:8D-3), is also an “owner,” not a tenant, for the purposes of P.L.1993, c. 30 (C.45:22A-43 et seq.).

Credits

L.1977, c. 419, § 3, eff. Nov. 22, 1978. Amended by L.1993, c. 30, § 7, eff. July 29, 1993; L.2006, c. 63, § 39, eff. Oct. 31, 2006; L.2017, c. 106, § 2, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-24

45:22A-24. Administration of act

This act shall be administered by the Division of Housing and Development in the State Department of Community Affairs, hereinafter referred to as the "agency."

Credits

L.1977, c. 419, § 4, eff. Nov. 22, 1978. Amended by L.1993, c. 258, § 9, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-25

45:22A-25. Exemptions from law

Effective: October 31, 2006

a. Unless the method of disposition is adopted for purposes of evasion, the provision of this act shall not apply to offers or dispositions:

(1) By an owner for his own account in a single or isolated transaction;

(2) Wholly for industrial, commercial, or other nonresidential purposes;

(3) Pursuant to court order;

(4) By the United States, by this State or any of its agencies or political subdivisions;

(5) Of real property located without the State;

(6) Of cemetery lots or interests;

(7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums and cooperatives, this exemption shall not apply, irrespective of the number of lots, parcels, units, or interests offered or disposed of;

(8) Of developments where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space;

(9) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant.

b. The agency may from time to time, pursuant to its rules and regulations, exempt from any of the provisions of this act any development, or any lots, units, parcels, or interests in a development, if it finds that the enforcement of this act with respect to such, is not necessary in the public interest or required for the protection of purchasers by reason of the small amount of the purchase price involved, the limited character of the offering, or the limited nature of the common or shared elements.

Credits

L.1977, c. 419, § 5, eff. Nov. 22, 1978. Amended by L.2006, c. 63, § 40, eff. Oct. 31, 2006.

N.J.S.A. 45:22A-26

45:22A-26. Registration of development; delivery to purchaser of current public offering statement; right to cancel contract after execution; notice

a. Unless otherwise exempted:

(1) No developer may offer or dispose of any interest in a planned real estate development, prior to the registration of such development with the agency.

(2) No developer may dispose of any lot, parcel, unit, or interest in a planned real estate development, unless he: delivers to the purchaser a current public offering statement, on or before the contract date of such disposition.

b. Any contract or agreement for the purchase of any parcel, lot, unit, or interest in a planned real estate development may be canceled without cause by the purchaser by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed such contract or agreement. Every such contract or agreement shall contain, in writing, the following notice in 10-point bold type or larger, directly above the space provided for the signature of the purchaser:

> "NOTICE TO THE PURCHASER: you have the right to cancel this contract by sending or delivering written notice of cancellation to the developer by midnight of the seventh calendar day following the day on which it was executed. Such cancellation is without penalty, and any deposit made by you shall be promptly refunded in its entirety."

c. Notice as required in subsection b. shall, in addition to all other requirements, be conspicuously located and simply stated in the public offering statement.

d. The developer shall make copies of the public offering statement freely available to prospective purchasers prior to the contract date of disposition.

Credits

L.1977, c. 419, § 6, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-27

45:22A-27. Application for registration; contents and filing; disclosure to interested parties; additional property; report of material changes; fee; engineering study; certification of compliance and list of violations; investigation of significant discrepancies

a. The application for registration of the development shall be filed as prescribed by the agency's rules and shall contain the following documents and information:

(1) An irrevocable appointment of the agency to receive service of any lawful process in any noncriminal proceeding arising under this act against the developer or his agents;

(2) The states or other jurisdictions, including the federal government, in which an application for registration or similar documents have been filed, and any adverse order, judgment or decree entered in connection with the development by the regulatory authorities in each jurisdiction or by any court;

(3) The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status, or performing similar management functions; the extent and nature of his interest in the applicant or the development as of a specified date within 30 days of the filing of the application;

(4) Copies of its articles of incorporation, with all amendments thereto, if the developer is a corporation; copies of all instruments by which the trust is created or declared, if the developer is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and if the purported holder of legal title is a person other than the developer, copies of the above documents from such person;

(5) A legal description of the lands offered for registration, together with a map showing the subdivision proposed or made, and the dimensions of the lots, parcels, units, or interests, as available, and the relation of such lands to existing streets, roads, and other improvements;

(6) Copies of the deed or other instrument establishing title to the subdivision in the developer, and a statement in a form acceptable to the agency of the condition of the title to the land comprising the development, including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, or by other evidence of title acceptable to the agency;

(7) Copies of the instrument which will be delivered to a purchaser to evidence his interest in the development, and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) Copies of any management agreements, service contracts, or other contracts or agreements affecting the use, maintenance or access of all or a part of the development;

(9) A statement of the zoning and other government regulations affecting the use of the development including the site plans and building permits and their status, and also of any existing tax and existing or proposed special taxes or assessments which affect the development; and a statement of the existing use of adjoining lands;

(10) A statement that the lots, parcels, units or interests in the development will be offered to the public, and that responses to applications will be made without regard to marital status, sex, race, creed, or national origin;

(11) A statement of the present condition of access to the development, the existence of any unusual conditions relating to noise or safety, which affect the development and are known to the developer, the availability of sewage disposal facilities and other public utilities including water, electricity, gas, and telephone facilities in the development to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(12) In the case of any conversion an engineering survey shall be required, which shall include mechanical, structural, electrical and engineering reports to disclose the condition of the building;

(13) In the case of any development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

(14) A narrative description of the promotional plan for the disposition of the lots, parcels, units or interests in the development, together with copies of all advertising material which has been prepared for public distribution, and an indication of their means of communication;

(15) The proposed public offering statement;

(16) A current financial statement, which shall include such information concerning the developer as the agency deems to be pertinent, including but not limited to, a profit and loss statement certified by an independent public accountant and information concerning any adjudication of bankruptcy during the last five years against the developer, or any principal owning more than 10% of the interest in the development at the time of filing, provided, however, that this shall not extend to limited partners, or others whose interests are solely those of investors;

(17) Copies of instruments creating easements or other restrictions;

(18) A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other requirements of governmental agencies having jurisdiction over the premises;

(19) Such other information, documentation, or certification as the agency deems necessary in furtherance of the protective purposes of this act.

b. The information contained in any application for registration and copies thereof, shall be made available to interested parties at a reasonable charge and under such regulations as the agency may prescribe.

c. A developer may register additional property pursuant to the same common promotional plan as those previously registered by submitting another application, providing such additional information as may be necessary to register the additional lots, parcels, units or interests, which shall be known as a consolidated filing.

d. The developer shall immediately report any material changes in the information contained in an application for registration. The term “material changes” shall be further defined by the agency in its regulations.

e. The application shall be accompanied by a fee in an amount equal to $500.00 plus $35.00 per lot, parcel, unit, or interest contained in the application, which fees may be used by the agency to partially defray the cost of rendering services under the act. If the fees are insufficient to defray the cost of rendering services under P.L.1977, c. 419 (C. 45:22A-21 et seq.), the agency shall, by regulation, establish a revised fee schedule. The revised fee schedule shall assure that the fees collected reasonably cover but do not exceed the expenses and administration of implementing P.L.1977, c. 419 (C. 45:22A-21 et seq.).

f. (1) An engineering study required pursuant to paragraph (12) of subsection a. of this section shall be conducted, and the results thereof certified, by a person licensed in this State as a professional engineer pursuant to P.L.1938, c. 342 (C. 45:8-27 et seq.).

(2) The engineer who prepares the survey shall certify to the agency whether, in his judgment, the building is in compliance with the code standards adopted under the “Hotel and Multiple Dwelling Law,” P.L.1967, c. 76 (C. 55:13A-1 et seq.) and the “Uniform Fire Safety Act,” P.L.1983, c. 383 (C. 52:27D-192 et seq.) and shall list all outstanding violations then existing in accordance with his observation and judgment. The engineer shall be immune from tort liability with regard to such certification and list in the same manner and to the same extent as if he were a public employee protected by the “New Jersey Tort Claims Act,” N.J.S. 59:1-1 et seq.

(3) If the agency finds there is a significant discrepancy between the engineering survey submitted by the applicant and an engineering survey submitted by any tenant or tenants currently residing in the building, the agency shall investigate the matter in order to determine the true state of facts prior to approving the application. The agency may use its own staff or contract with independent professionals, and may conduct hearings in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.). Any cost to the agency of hiring independent professionals shall be borne by the applicant developer at the discretion of the agency.

Credits

L.1977, c. 419, § 7, eff. Nov. 22, 1978. Amended by L.1983, c. 265, § 1, eff. July 13, 1983; L.1991, c. 509, § 21, eff. June 1, 1992.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-28

45:22A-28. Public offering statement; form; contents; use as advertisement

a. A public offering statement shall disclose fully and accurately the characteristics of the development and the lots, parcels, units, or interests therein offered, and shall make known to prospective purchasers all unusual or material circumstances or features affecting the development. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and regulations and shall include the following:

(1) The name and principal address of the developer;

(2) A general narrative description of the development stating the total number of lots, units, parcels, or interests in the offering, and the total number of such interests planned to be sold, leased or otherwise transferred;

(3) Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the development, with a brief and simple narrative statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the developer and the managing agent or firm;

(4)(a) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting such lands and each unit, lot, parcel, or interest, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect such lands; and

(b) In the case of a conversion subject to the provisions of the "Tenant Protection Act of 1992," P.L.1991, c. 509 (C. 2A:18-61.40 et al.), the information required pursuant to section 14 of P.L.1991, c. 509 (C. 2A:18-61.53);

(5)(a) Relevant community information, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, size, date of completion, and responsibility for construction and maintenance of existing and proposed amenities which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) A copy of the proposed budget for the operation and maintenance of the common or shared elements or interests;

(7) Additional information required by the agency to assure full and fair disclosure to prospective purchasers.

b. The public offering statement shall not be used for any promotional purposes before registration of the development and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the development or dispositions therein. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement, unless the agency requires or permits it.

c. The agency may require the developer to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of a planned real estate development may be made after registration without the approval of the agency. A public offering statement shall not be current unless all amendments have been incorporated.

d. The public offering statement shall, to the extent possible, combine simplicity and accuracy of information, in order to facilitate purchaser understanding of the totality of rights, privileges, obligations and restrictions, comprehended under the proposed plan of development. In reviewing such public offering statement, the agency shall pay close attention to the requirements of this subsection, and shall use its discretion to require revision of a public offering statement which is unnecessarily complex, confusing, or is illegible by reason of type size or otherwise.

Credits

L.1977, c. 419, § 8, eff. Nov. 22, 1978. Amended by L.1991, c. 509, § 22, eff. June 1, 1992.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-29

45:22A-29. Investigation of application

Upon receipt of an application for registration in proper form, the agency shall forthwith initiate an investigation to determine that:

a. The developer can convey or cause to be conveyed the units offered for disposition if the purchaser complies with the terms of the offer;

b. There is reasonable assurance that all proposed improvements can be completed as represented;

c. The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the agency in its rules and afford full and fair disclosure;

d. The developer has not, or if a corporation, its officers and principals have not, been convicted of a crime involving any aspect of the real estate sales business in this State, United States, or any other state or foreign country within the past 10 years; and that the developer has not been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving real property dispositions the seriousness of which in the opinion of the agency warrants the denial of registration; and

e. The public offering statement requirements of this act have been satisfied.

Credits

L.1977, c. 419, § 9, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-30

45:22A-30. Registration; notice of filing of application; acceptance or rejection

a. Upon receipt of the application for registration in proper form, and accompanied by proper fee, the agency shall, within 10 business days, issue a notice of filing to the applicant. Within 90 days from the date of the notice of filing, the agency shall enter an order registering the development or rejecting the registration. If no order of rejection is entered within 90 days from the date of notice of filing, the development shall be deemed registered unless the applicant has consented in writing to a delay.

b. If the agency affirmatively determines that the requirements of section 9 of this act[1] have been met, it shall enter an order registering the development.

c. If the agency determines upon inquiry and examination that any of the requirements of section 9 of this act have not been met, the agency shall notify the applicant that the application for registration must be corrected in such particulars, within 30 days, as designated by the agency. If the requirements are not met within the time allowed, the agency may enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective until 20 days after the lapse of the aforesaid specified period during which 20-day period the applicant may petition for reconsideration and shall be entitled to a hearing. Such order of rejection shall not take effect, in any event, until such time as the hearing, once requested, has been given to the applicant.

Credits

L.1977, c. 419, § 10, eff. Nov. 22, 1978.

Footnotes

[1] N.J.S.A. § 45:22A-29.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-31

45:22A-31. Annual report by developer

Within 30 days after each anniversary date of the order registering the development, and while the developer retains any interest therein, he shall file with the agency an annual report reflecting any material changes in information contained in the original application for registration, in a form designated by the agency.

In the event that the agency determines that such annual report is no longer necessary for the protection of the public interest, or when the annual report reveals that the developer no longer retains any interest, and no longer has contractual, bonded or other obligations in the development, the agency shall issue an order terminating the responsibilities of the developer under this act.

Credits

L.1977, c. 419, § 11, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-32

45:22A-32. Powers of agency

a. The agency may:

(1) Accept registrations filed in this State, in other states or with the Federal Government;

(2) Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

(3) Accept grants in aid from any governmental or other source;

(4) Cooperate with similar agencies in this State or in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

(5) Grant exemptions pursuant to its rules and regulations;

(6) Make necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate this act or any rule or order hereunder, or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder;

(7) Require or permit any person to file a statement in writing, under oath or otherwise, as the agency determines, as to all the facts and circumstances concerning the matter to be investigated;

(8) For the purpose of any investigation or proceeding under this act, the agency or any officer designated by rule, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(9) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the agency may apply to the Superior Court for an order compelling compliance.

Credits

L.1977, c. 419, § 12, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-33

45:22A-33. Cease and desist orders; grounds

a. If the agency determines after notice and hearing that a person has:

(1) Violated any provision of this act;

(2) Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of a unit;

(3) Made any substantial change in the plan of disposition and development of the subdivision subsequent to the order of registration without obtaining prior written approval from the agency;

(4) Disposed of any units, lots, parcels, or interests in a planned real estate development which have not been registered with the agency, or;

(5) Violated any lawful order or rule of the agency; it may issue an order requiring the person to cease and desist from the unlawful practice or to take such other affirmative action as in the judgment of the agency will carry out the purposes of this act.

b. If the agency makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing shall be held within 10 days of such request to determine whether or not it becomes permanent. Such temporary cease and desist order shall be forwarded by certified mail.

Credits

L.1977, c. 419, § 13, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-34

45:22A-34. Revocation of registration; grounds; notice and hearing; findings of fact; in lieu cease and desist order

a. A registration may be revoked after notice and hearing upon a written finding of fact that the developer has:

(1) Failed to comply with the terms of a cease and desist order;

(2) Been convicted in any court subsequent to the filing of the application for registration for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, dishonest dealing, or other like offense;

(3) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of purchasers;

(4) Failed faithfully to perform any stipulation or agreement made with the agency as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) Advertised his lands or responded to applications for his lands in a manner which was discriminatory on the basis of marital status, sex, race, creed, or national origin;

(6) Willfully violated any provision of this act or of a rule adopted thereunder;

(7) Made intentional misrepresentation or concealed material facts in an application for registration filed for registration.

b. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

c. If the agency finds, after notice and hearing, that the developer has been guilty of a violation for which revocation could be ordered, it may in lieu thereof issue a cease and desist order. Revocation of registration may be utilized only as a remedy of last resort.

Credits

L.1977, c. 419, § 14, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

45:22A-35. Rules and regulations; injunctions or temporary restraining orders; intervention in suits by agency

a. The agency shall adopt, amend, or repeal such rules and regulations as are reasonably necessary for the enforcement of the provisions of this act in accordance with the provisions of the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.). The rules may provide for, but are not limited to: provisions for advertising standards to insure full and fair disclosure; disclosure provisions relating to conversions; provisions relating to nonbinding reservation agreements; provisions for adequate bonding or access to some escrow or trust fund not otherwise required by the municipal governing body to be located within this State, so as to insure compliance with the provisions of this act, and to compensate purchasers for failure of the registrant to perform in accordance with the terms of any contract or public statement; provisions that require a registrant to deposit purchaser down payments, security deposits or other funds in an escrow account, or with an attorney licensed to practice law in this State, until such time as the agency by its rules and regulations deems it appropriate to permit such funds to be released; provisions to insure that all contracts between developer and purchaser are fair and reasonable; provisions that the developer must give a fair and reasonable warranty on construction of any improvements; provisions that the budget for the operation and maintenance of the common or shared elements or interests shall provide for adequate reserves for depreciation and replacement of the improvements; provisions for operating procedures; and such other rules and regulations as are necessary and proper to effectuate the purposes of this act, and taking into account and providing for, the broad range of development plans and devises, management mechanisms, and methods of ownership, permitted under the provisions of this act.

b. If it appears that a person has engaged, or is about to engage, in an act or practice constituting a violation of a provision of this act, or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the Superior Court to enjoin the acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver may be appointed. The agency shall not be required to post a bond in any court proceeding.

c. The agency may intervene in a suit involving any planned real estate development. In any such suit, by or against the developer, the developer shall promptly furnish the agency with notice of the suit and copies of all pleadings.

Credits

L.1977, c. 419, § 15, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

45:22A-36. Submission to jurisdiction by application; service of process; conduct prohibited by act; authorization of agency to receive service

a. For purposes of this act, an application for registration submitted to the agency shall be deemed a submission by the applicant to the jurisdiction of the New Jersey courts.

b. In addition to the methods of service of process provided for in the rules governing the New Jersey courts, service may be made by delivering a copy of the process to the office of the agency, but such service shall not be effective unless the plaintiff, which may be the agency in a proceeding instituted by it:

(1) Forthwith sends a copy of the process and of the pleading by certified mail to the defendant or respondent at his last known address, and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, or within such further time as the court allows.

c. If any person, including any nonresident of this State, engages in conduct prohibited by this act or any rule or order hereunder, and does not file a consent to the service of process, and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the agency to receive service of process in any noncriminal proceeding against him or his successor which grows out of that conduct and which is brought under this act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection b.

Credits

L.1977, c. 419, § 16, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-37

45:22A-37. Untruth, omission or misleading statement by developer; liability; persons liable; invalidity of agreement by purchaser to waive compliance with act

a. Any developer disposing of real property subject to this act, who shall violate any of the provisions of section 6 hereof,[1] or who in disposing of such property makes an untrue statement of material fact or omits a material fact from any application for registration, or amendment thereto, or from any public offering statement, or who makes a misleading statement with regard to such disposition, shall be liable to the purchaser for double damages suffered, and court costs expended, including reasonable attorney's fees, unless in the case of an untruth, omission, or misleading statement such developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know and in the exercise of reasonable care could not have known of the untruth, omission, or misleading statement.

b. The court may, in addition to remedies provided herein, frame such other relief as may be appropriate under the circumstances. If the purchaser shall fail in establishing a cause of action, and the court further determines that the action was wholly without merit, the court may award attorney's fees to the developer.

c. Every person who directly or indirectly controls a development or developer liable under subsection a., every general partner, officer, or director of a developer, and every person occupying a similar status or performing a similar function, shall also be liable jointly and severally with and to the same extent as such developer, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

d. A person may not recover under this section in actions commenced more than 6 years after his first payment of money to the developer in the contested transaction.

e. Any stipulation or provision purporting to bind any purchaser acquiring a parcel, lot, unit, or interest, in any development subject to the provisions of this act, or any rule, regulation, or order promulgated thereunder, to a waiver of compliance with said provisions, shall be void.

Credits

L.1977, c. 419, § 17, eff. Nov. 22, 1978.

Footnotes

1 N.J.S.A. § 45:22A-26.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-38

45:22A-38. Violations; fine; levy and collection

a. Any person who violates any provision of this act or of a rule adopted under it or any person who in an application for registration filed for registration makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than $250.00, nor more than $50,000.00 per violation.

b. The commissioner, through the agency, may levy and collect the penalties set forth in subsection a. hereof after affording the person alleged to be in violation of this act an opportunity to appear before the commissioner or his designee and to be heard personally or through counsel on the alleged violations and a finding by the commissioner that said person is guilty of the violation. When a penalty so levied by the commissioner has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by and in the name of the commissioner in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.).

c. The agency may in the interest of justice compromise any civil penalty, if in its determination the gravity of the offense or offenses does not warrant the assessment of the full fine.

Credits

L.1977, c. 419, § 18, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-39

45:22A-39. Application of act to lands situated in this state

The provisions of this act shall apply to lands situated in this State whether promoted or advertised within or without the State.

Credits

L.1977, c. 419, § 19, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-40

45:22A-40. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

Credits

L.1977, c. 419, § 20, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-41

45:22A-41. Retirement subdivision or community; application of this act

Any retirement subdivision or community as defined in the Retirement Community Full Disclosure Act, P.L.1969, c. 215 (C. 45:22A-1 et seq.) shall, after the effective date of this act, be deemed for all purposes to be subject to the provisions of this act alone, provided, however, that any portion or section of such retirement community or subdivision registered with the Division of Housing and Urban Renewal prior to the effective date of this act shall remain under the jurisdiction of the Retirement Community Full Disclosure Act.

Credits

L.1977, c. 419, § 21, eff. Nov. 22, 1978.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-42

45:22A-42. Inapplicability of formation and registration provisions to planned real estate developments at certain stage of progress on Nov. 22, 1978

Effective: July 13, 2017

The provisions of P.L.1977, c. 419 (C.45:22A-21 et seq.), concerning the formation and registration of planned real estate developments, shall not apply to any portion of a planned real estate development which has on the effective date of P.L.1977, c. 419 (C.45:22A-21 et seq.):

a. Its building permit or permits; or

b. Final municipal approval of (1) its site plan or (2), in the case of single or two-family homes or separate lots, its subdivision plat; provided that the land is not valued, assessed and taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.); provided further that this section shall not be construed as applying to conversions or Retirement Subdivisions or Communities as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c. 215 (C.45:22A-1 et seq.).

Credits

L.1977, c. 419, § 22, eff. Nov. 22, 1978. Amended by L.2017, c. 106, § 3, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-43

45:22A-43. Developer to organize association to manage common elements and facilities; membership; voting-eligible tenants

Effective: July 13, 2017

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

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

(2) the development's date of establishment.

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

c. Membership in the association of a planned real estate development shall be comprised of each owner within the planned real estate development, and may include the developer if the development contains unsold lots, parcels, units, or interests. An association may permit tenant participation in executive board elections, tenant membership in the association, or both. A voting-eligible tenant shall have only the same voting rights as the owner of the unit that the tenant leases, and such voting rights shall be in place of and not in addition to the rights of the owner of the leased unit, except as permitted under paragraph (9) of subsection c. of section 6 of P.L.2017, c. 106 (C.45:22A-45.2). Pursuant to paragraph (9) of subsection c. of section 6 of P.L.2017, c. 106 (C.45:22A-45.2), the votes associated with a unit shall not be altered by the participation of voting-eligible tenants.

Credits

L.1993, c. 30, § 1, eff. July 29, 1993. Amended by L.2017, c. 106, § 4, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-44

45:22A-44. Powers and duties of associations

a. Subject to the master deed, declaration of covenants and restrictions or other instruments of creation, the association may do all that it is legally entitled to do under the laws applicable to its form of organization.

b. The association shall exercise its powers and discharge its functions in a manner that protects and furthers the health, safety and general welfare of the residents of the community.

c. The association shall provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation.

d. The association may assert tort claims concerning the common elements and facilities of the development as if the claims were asserted directly by the unit owners individually.

Credits

L.1993, c. 30, § 2, eff. July 29, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-45

45:22A-45. Election of executive board

Effective: July 13, 2017

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

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

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

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

Credits

L.1993, c. 30, § 3, eff. July 29, 1993. Amended by L.2017, c. 106, § 5, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

45:22A-45.1. Legislative findings and declarations relating to common interest community association resident voting participation rights

Effective: July 13, 2017

The Legislature finds and declares that:

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

b. The owners and residents of these communities often benefit from minimized maintenance responsibilities and greater assurances that neighboring properties will follow a predictable development scheme;

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

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

e. The supplement to "The Planned Real Estate Development Full Disclosure Act" ("PREDFDA"), P.L.1977, c. 419 (C.45:22A-21 et seq.), specifically, P.L.1993, c. 30 (C.45:22A-43 et seq.), provided all owners and residents in common interest residential communities with specific rights and protections. These rights and protections exist regardless of whether a developer established the community prior to the effective date of PREDFDA. The supplement was not specific in declaring that all unit owners were members of the association or in recognizing that, along with certain specific tenant residents, all unit owners were entitled to participate fully in elections of members of the executive board;

f. Unit owners living in community associations should have the right to nominate candidates, run for, freely elect, and be elected to the executive boards that govern the communities; and

g. It is necessary and in the public interest for the Legislature to enact legislation to amend PREDFDA in order to:

(1) Establish that all unit owners are members of the association and provide basic election participation rights for certain residents of common interest communities, including the right of resident owners in good standing to nominate any unit owner in good standing as a candidate for any position on the executive board, run, appear on the ballot, and be elected to any executive board position, in every executive board election, and for those rights to apply regardless of the date of a community's establishment; and

(2) Establish that, except under the very limited exceptions provided, a person may not serve on an executive board unless elected through a process consistent with the provisions of PREDFDA.

Credits

L.2017, c. 106, § 1, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-45.2

45:22A-45.2. Executive board elections; requirements

Effective: July 13, 2017

a. An association shall hold executive board elections in accordance with the provisions of its governing documents, including validly-adopted executive board rules, that do not conflict with the provisions of this section. If such documents do not set a specific time or interval, the elections shall be held at two-year intervals. If an association has not held an election in compliance with its governing documents in two or more years, it shall hold an election within 90 days of the submission to any current executive board member of a petition signed by 25 or more percent of association members in good standing, but in no event less than the number of association members required to meet the quorum requirements set forth in the governing documents. If an association has no executive board members and association members fail to act on petition or by majority, any association member or group thereof, at common expense and, upon written notice to all owners, may petition a court of competent jurisdiction for authority to act temporarily in the interests of the association and to organize and hold an election within 90 days of the date of the court order. Any proxies used by an association must contain a prominent notice that use of the proxy is voluntary on the part of the granting owner, that it can be revoked at any time before the proxy holder casts a vote, and that absentee ballots are available. An association may not use proxies for an executive board member election without also making absentee ballots available.

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

c. In order to ensure open and fair executive board elections, the following provisions of this subsection shall apply to all associations of developments with 50 or more units, except for paragraphs (9) and (10), which shall apply to associations of all developments.

(1) An association shall not provide for a term of an executive board member to be for more than 4 years, provided that nothing shall prevent an executive board member from continuing to serve until his or her successor is duly qualified and elected.

(2) An association shall not prohibit a voting-eligible tenant, where applicable, from casting a vote allocated to a unit if the bylaws otherwise permit tenant participation in an election of executive board members nor prohibit an individual acting pursuant to a valid power of attorney or proxy from casting a vote.

(3) An association shall provide written notice to all association members no later than 30 days prior to the date for the mailing of the notice of the meeting set forth in paragraph (5) of this subsection that informs association members of the right to nominate themselves or other association members in good standing for candidacy to serve on the executive board.

(4) An association, subject to the exceptions under subsection f. of this section, shall not prohibit an association member in good standing from nominating himself or herself, or any other association member in good standing as a candidate for any membership position on the executive board, so long as the nomination is made prior to the mailing of ballots or proxies to the association members, which mailing shall occur no earlier than: (a) the day following the expiration of the time period within which candidates must be nominated, or (b) where no expiration date is set forth for nomination of candidates, then the business day prior to the mailing of the notice of the election, required pursuant to paragraph (5) of this subsection. The period for submitting nominations shall not be less than 14 days from the mailing of the request for nominations.

(5) An association shall provide association members written notice of an election by personal delivery, mail, or electronic means, no less than 14 nor more than 60 days prior to the meeting at which an election of executive board members is scheduled. This notice shall include a proxy ballot and an absentee ballot, unless prohibited by the bylaws, which ballots shall list in alphabetical order by last name the names of all candidates nominated pursuant to paragraph (4) of this subsection. In the case of mailing, the notice shall be effective when deposited in the mailbox with proper postage. The notice may only be sent by electronic means if either (a) the affected association member, or voting-eligible tenant where applicable, has agreed

in writing to accept notice by electronic means; or (b) the governing documents permit electronic notices, provided another form of voting by absentee balloting or proxy voting is available.

(6) An association shall use ballots, whether paper ballots or electronic ballots, that contain the names of all persons nominated as a candidate for the executive board.

(7) An association shall not prohibit any association member in good standing, or voting-eligible tenant where applicable, subject to the exceptions under subsection f. of this section and any limitation on the number of votes per unit permitted under paragraph (9) of this subsection, from voting for any nominated candidate in an executive board election.

(8) An association shall not prevent voting for an executive board member by electronic means where the executive board determines to employ voting in such manner and an association member, or voting-eligible tenant where applicable, consents to casting a vote in such manner.

(9) An association shall not provide for an allocation of votes other than one vote for each unit, or such larger number of equal votes per unit as may be set forth in the governing documents of the association, except (a) where the bylaws or other governing document provide for the voting interest to be proportional to a unit's value or size, (b) where the governing documents permit more than one vote to be cast by each unit on an equal basis or a basis consistent with each unit's value or size, or (c) where the governing documents do not set forth the number of votes that may be cast by each unit, then in accordance with a rule adopted by the executive board that allows more than one vote to be cast by each unit, provided such rule assigns an equal number of votes to each unit.

(10) Election procedures shall not be established or administered in any way to prohibit participation by the residents of low or moderate income housing units.

d. Initial executive board elections in condominium associations, governed under the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.), shall follow the notice timeline under subsection b. of section 2 of P.L.1979, c. 157 (C.46:8B-12.1), and shall not be subject to this section.

e. Whether or not formed as a nonprofit corporation, associations of developments of 50 or more units shall conform to the requirements of the "New Jersey Nonprofit Corporation Act," P.L.1983, c. 127 (N.J.S.15A:1-1 et seq.) regarding the counting of ballots.

f. (1) It shall be permissible for the bylaws of the association to provide:

(a) for the association members, and voting-eligible tenants where applicable, of a planned real estate development with units of different use types to nominate and vote for some members of the executive board and, pursuant to the mixed-use development's governing documents, have other members of the executive board nominated and elected by association members and voting-eligible tenants of units of a different use type;

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

(c) for a limitation on the number of executive board members nominated and elected by only certain association members, and voting-eligible tenants where applicable, if that limit is based upon a classification intended to further the election of one or more executive board members by the association members, and voting-eligible tenants where applicable, of affordable housing units that represent a minority of the units in a planned real estate development;

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

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

(2) The executive board of an umbrella or master association that does not directly contain units need not be elected by individuals who are association members, and voting-eligible tenants where applicable, with units within the geographical area of the umbrella or master association, provided the members of the executive board serve as executive board members of another planned real estate development executive board, and have been nominated and elected by the association members, and voting-eligible tenants where applicable, with units in that planned real estate development, in compliance with this section.

(3) Except with regard to a planned real estate development containing fewer than 50 units, and any appointment by the developer permitted pursuant to section 5 of P.L.1993, c. 30 (C.45:22A-47), an association shall:

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

(b) ensure that, in order to serve on the executive board, a person shall be elected through a process that does not conflict with the provisions of this section.

Credits

L.2017, c. 106, § 6, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46

45:22A-46. Bylaws of association; required provisions

Effective: July 13, 2017

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

a. A requirement that all meetings of the executive board, except conference or working sessions at which no binding votes are to be taken, shall be open to attendance by all association members, and voting-eligible tenants where applicable, and adequate notice of any such meeting shall be given to all association members, and voting-eligible tenants where applicable, in such manner as the bylaws shall prescribe; except that the executive board may exclude or restrict attendance at those meetings, or portions of meetings, dealing with (1) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; (2) any pending or anticipated litigation or contract negotiations; (3) any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer, or (4) any matter involving the employment, promotion, discipline or dismissal of a specific officer or employee of the association. At each meeting required under this subsection to be open to all association members, and voting-eligible tenants where applicable, the participation of unit association members, and voting-eligible tenants where applicable, in the proceedings or the provision of a public comment session shall be at the discretion of the executive board, minutes of the proceedings shall be taken, and copies of those minutes shall be made available to all association members, and voting-eligible tenants where applicable, before the next open meeting.

b. The method of calling meetings of association members, and voting-eligible tenants where applicable, the percentage of association members, and voting-eligible tenants where applicable, or voting rights required to make decisions and to constitute a quorum. The bylaws may, nevertheless, provide that an individual association member, and a voting-eligible tenant where applicable, may waive notice of meetings in writing, or may act by written agreement without meetings.

c. The manner of collecting from owners their respective shares of common expenses and the method of distribution to the owners of their respective shares of common surplus or such other application of common surplus as may be duly authorized by the bylaws.

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

(2) If association bylaws provide for no method of their amendment by a vote of the association members open to all association members, or only allow association members to amend the bylaws through a majority vote exceeding a two-thirds majority, then the association members may amend the bylaws by an affirmative vote of a majority of the total authorized votes in the association. If the bylaws do not provide for a method by which the association members may call a meeting of the association members to conduct a vote to amend the bylaws or do not contain provisions concerning the subject matter of subparagraphs (a) through (f) of this paragraph, then a vote concerning an amendment to the bylaws shall be conducted as follows:

(a) fifteen percent of the association members may request a meeting of the association's membership by executing a document requesting that a special meeting of the association membership be held, or if the annual meeting of the association membership is scheduled to occur within 60 days of the date of the request, then the amendment vote shall be held at the annual meeting;

(b) if the vote is not scheduled to take place at the annual meeting of the association, the executive board shall schedule the special meeting of the association membership to occur within 60 days of the receipt of the request. Notice of the meeting shall be provided to the association members and voting-eligible tenants, where applicable, at least 14 days prior to the date of the meeting. The special meeting shall be held at a reasonable time that is likely to permit most association members to attend;

(c) the language of the proposed amendment shall be unambiguous and consistent with applicable law and with the provisions of the bylaws that are not proposed to be amended, and if not in such condition shall be revised to satisfy that requirement. Upon satisfaction of this requirement, the amendment shall be mailed, hand-delivered or, if the bylaws permit, electronically delivered, together with the notice of the meeting to the association membership at least 10 days prior to the meeting;

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

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

(f) when an amendment is approved, a copy of the approved amendment shall be provided to all association members, and the association shall promptly record the amendment in the county recording office where the bylaws were recorded.

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

(4) For the purposes of paragraph (2) of this subsection, the number of total authorized votes in the association shall be based on the whole number of units owned by someone entitled to association membership after subtracting those association members who are ineligible to vote because they are not in good standing.

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

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

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

Credits

L.1993, c. 30, § 4, eff. July 29, 1993. Amended by L.2017, c. 106, § 7, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.1

45:22A-46.1. Legislative findings and declarations; age-restricted communities

Effective: September 6, 2008

The Legislature finds and declares:

a. Age-restricted communities are one of the fastest growing types of developments in the nation and in the State;

b. Age-restrictions violate federal laws against discrimination in housing, unless certain exceptions are met for age-restricted communities as authorized by federal law;

c. Homeowners' associations which manage the property in age-restricted communities currently have no methods by which to ensure that the exceptions to federal anti-discrimination provisions will be maintained upon the resales of units in such communities; and

d. It is necessary and in the public interest for the Legislature to create a method of ensuring compliance by age-restricted communities with federal law.

Credits

L.2008, c. 71, § 1, eff. Sept. 6, 2008.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.2

45:22A-46.2. Certification of compliance with housing for older persons under federal law at time of sale

Effective: September 6, 2008

Notwithstanding any law or governing document to the contrary, the purchaser or grantee by operation of law of a dwelling unit in an age-restricted community shall be required to certify, prior to the resale or transfer by operation of law of a dwelling unit within the community, that the dwelling unit will be occupied by a person of an age that ensures compliance with the "housing for older persons" exception from the federal "Fair Housing Amendments Act of 1988," Pub.L. 100-430 (42 U.S.C. ss.3601 et seq.) for that community as set forth in section 100.301 of Title 24, Code of Federal Regulations. The certification shall be on such form as may be prescribed by the Commissioner of Community Affairs, but shall not exceed one page in length. A copy of the certification shall be provided to the purchaser for recording. For the purpose of P.L.2008, c. 71 (C.45:22A-46.1 et al.), "resale" shall mean any sale of a dwelling unit within an age-restricted community, other than the initial sale of the unit made by the developer to a purchaser.

Credits

L.2008, c. 71, § 2, eff. Sept. 6, 2008.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.3

45:22A-46.3. Legislative findings and declarations; conversion of age-restricted developments to converted developments

Effective: January 17, 2014

The Legislature finds and declares that:

a. While the cost of housing in New Jersey has declined under currently eroding economic conditions, the cost of both renting and homeownership remains unaffordable to a large percentage of New Jersey residents, including those who make vital contributions to their communities such as teachers, nurses, police officers, firefighters, and the general workforce population;

b. In recognition of this crisis, Governor Jon S. Corzine has committed to producing and preserving 100,000 units of affordable housing for low-, moderate- and middle-income families and individuals over the next 10 years;

c. According to the 2000 U.S. Census, 55 percent of these families are one and two person households, many of which are unable to find homes and apartments designed to meet their needs;

d. While no policy is singularly responsible for current housing conditions, zoning practices have resulted in a lack of land approved for housing which meets the needs of households requiring smaller housing units;

e. The shortage of affordably priced workforce housing has been exacerbated in recent years by a municipal preference for age-restricted housing which has resulted in an oversupply of age-restricted housing approvals and an inability among the majority of New Jersey's workforce to live near their jobs;

f. (Deleted by amendment, P.L.2013, c. 253.)

g. Although the maximum municipal percentage of affordable fair share housing which may be met by age-restricted units in a municipality has been reduced from 50 percent to 25 percent under the recently adopted rules of the Council on Affordable Housing, a mechanism is needed to permit an age-restricted development to change to a converted development to meet this rule, and to meet demographic needs; and

h. Under currently deteriorating national economic conditions, it is appropriate to take immediate action at this time to create the opportunity to increase the production and supply of workforce housing through the conversion of the over-supplied age-restricted market to meet the needs of New Jersey's residents who require smaller, more reasonably priced homes.

Credits

L.2009, c. 82, § 1, eff. July 2, 2009. Amended by L.2013, c. 253, § 36, eff. Jan. 17, 2014.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-46.4

45:22A-46.4. Definitions

Effective: July 2, 2009

As used in P.L.2009, c. 82 (C.45:22A-46.3 et seq.):

"Affordable" means a sales price or rent which meets the criteria for low income or moderate income housing, as defined in section 4 of P.L.1985, c. 222 (C.52:27D-304).

"Approving board" means the municipal or regional planning board, zoning board of adjustment, or joint land use board that issued the initial site plan or subdivision approvals for the given age-restricted development.

"Age-restricted development" means a community that complies with the "housing for older persons" exception from the federal "Fair Housing Amendments Act of 1988," Pub.L.100-430 (42 U.S.C. ss.3601 et seq.) for that community as set forth in section 100.301 of Title 24, Code of Federal Regulations.

"Attached housing" means housing units that share a common wall.

"Converted development" means a proposed age-restricted development that will be marketed instead with no age restrictions.

"Department" means the Department of Community Affairs.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Floor area ratio" means the floor area of all buildings and structures on a lot divided by the lot area.

"Fair share plan" means the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the housing element, and includes the draft ordinances necessary to implement that plan in accordance with section 10 of P.L.1985, c. 222 (C.52:27D-310) and the regulations adopted by the Council on Affordable Housing to effectuate that section.

"Final approval" has the same meaning as defined in the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.).

“Municipality” means any city, borough, town, township, or village.

“Non-restricted status” means the status of an age-restricted development that has received approval to become a converted development.

“Preliminary approval” has the same meaning as defined in the “Municipal Land Use Law,” P.L.1975, c. 291 (C.40:55D-1 et seq.).

“Residential Site Improvement Standards” means the technical site standards promulgated by the Commissioner of Community Affairs pursuant to the authority of P.L.1993, c. 32 (C.40:55D-40.1 et seq.).

Credits

L.2009, c. 82, § 2, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.5

45:22A-46.5. Pre-conditions for approval; impact upon municipal fair share affordable housing obligations

Effective: July 2, 2009

a. During the period of time set forth in section 9 of P.L.2009, c. 82 (C.45:22A-46.11), any age-restricted development shall be eligible to be changed to a converted development, pending approving board approval, provided that the development meets all of the following conditions:

(1) preliminary or final approval for construction of the development has been granted prior to the effective date of P.L.2009, c. 82 (C.45:22A-46.3 et seq.);

(2) the developer of the age-restricted development is not holding a deposit for, or has not conveyed, any dwelling unit within the development;

(3) the developer of the age-restricted development agrees that 20 percent of the units in the development will be provided as affordable units in accordance with regulations promulgated by the Council on Affordable Housing pursuant to the “Fair Housing Act,” P.L.1985, c. 222 (C.52:27D-301 et al.).

b. Any housing unit which is provided under the provisions of P.L.2009, c. 82 (C.45:22A-46.3 et seq.), and which is affordable to households of low-and moderate income, shall automatically become part of a municipal fair share plan, if applicable, and as such shall be eligible for credits to meet the municipality’s obligation for affordable housing pursuant to the “Fair Housing Act,” P.L.1985, c. 222 (C.52:27D-301 et al.).

c. No affordable housing units complying with applicable Council on Affordable Housing standards or market-rate housing units associated with such a converted development shall be construed as generating any fair share affordable housing obligation for a municipality.

Credits

L.2009, c. 82, § 3, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

45:22A-46.6. Application for an amended approval to construct a converted development; procedural requirements

Effective: April 22, 2010

a. A developer seeking to change an age-restricted development approval to a converted development approval shall file an application with the approving board seeking an amendment to the previously granted approvals requesting the authority to develop the land as a converted development. At such time, the developer shall also file a copy of said notice with the municipal clerk of the municipality in which the development is located and the developer shall provide notice prior to a hearing on the application in the manner prescribed by section 7.1 of P.L.1975, c. 291 (C.40:55D-12).

(1) No application for an amended approval seeking the authority to construct a converted development shall be considered a "use variance" or other "'d' variance" application pursuant to subsection d. of section 57 of P.L.1975, c. 291 (C.40:55D-70). Both planning boards that initially granted approvals for the age-restricted development and zoning boards of adjustment that initially granted approvals for the age-restricted development shall have the legal authority to grant amended approvals for a converted development without the need to seek relief pursuant to subsection d. of section 57 of P.L.1975, c. 291 (C.40:55D-70), it being the intent of this act that such converted developments are to be considered permitted uses in the zoning district in which they are located.

b. Applications seeking amended approval for a converted development shall include documentation that all of the following site improvement and infrastructure requirements have been met:

(1) the site meets the Residential Site Improvement Standards parking requirement for the residential land uses in a converted development as established pursuant to N.J.A.C.5:21-4.14 through -4.16;

(2) the recreation improvements and other amenities to be constructed on the site have been revised, as needed, to meet the needs of a converted development;

(3) the water supply system is adequate, as determined pursuant to N.J.A.C.5:21-5.1, to meet the needs of a converted development;

(4) the capacity of the sanitary sewer system is adequate to meet the projected flow requirements of a converted development pursuant to N.J.A.C.7:14A-23.3;

(5) if additional water supply or sewer capacity is needed and the developer is unable to obtain additional supply or capacity, the number of dwelling units in the development has been reduced accordingly;

(6) if additional parking is needed, and the developer is unable to provide the required parking, the number of dwelling units in the development has been reduced accordingly; and

(7) if additional parking is provided and increases the amount of impervious cover by more than one percent, the storm water system calculations and improvements have been revised accordingly, except that solar panels shall not be included in any calculation of impervious surface or impervious cover. As used in this paragraph, "solar panel" means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

c. If the approving board determines that the requirements of P.L.2009, c. 82 (C.45:22A-46.3 et seq.) have been satisfied, and the conversion can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance, the application for the conversion shall be approved.

Credits

L.2009, c. 82, § 4, eff. July 2, 2009. Amended by L.2010, c. 4, § 11, eff. April 22, 2010.

N.J.S.A. 45:22A-46.7

45:22A-46.7. Compliance with State building code

Effective: July 2, 2009

A unit in a converted development shall conform to all requirements imposed pursuant to the "State Uniform Construction Code Act," P.L.1975, c. 217 (C.52:27D-119 et seq.). It shall also conform to any requirements for, and limitations on, size and square footage imposed pursuant to a preliminary approval. However, any floor plans of the dwelling units may be revised without requiring any further approving board approval or review.

Credits

L.2009, c. 82, § 5, eff. July 2, 2009.

N.J.S.A. 45:22A-46.8

45:22A-46.8. Revisions to subdivision or site plans

Effective: July 2, 2009

a. In the case of an age-restricted development which is being changed to a converted development, the layout of a subdivision or site plan approved pursuant to the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.) may be reasonably revised to accommodate additional parking, different recreation improvements and other amenities, infrastructure enhancements, a needed reduction in the number of units, height requirements, revision to dwelling footprints that do not modify square footage of the development or the individual dwellings, or a needed change to construct the affordable units as attached housing.

b. In order to construct the affordable units as attached housing, to meet accessibility requirements, or provide them as rental units, the affordable units may be constructed in one section of the development with a separate management entity if such a management entity is required due to the nature of the development.

c. The size, height, floor area ratio, number of bedrooms and total square footage of buildings established as part of a preliminary or final approval for an age-restricted development shall not be increased, but may be decreased for a converted development, except that the number of bedrooms for the affordable units only may be increased within the footprint to meet the bedroom distribution requirements as established in the Uniform Housing Affordability Controls.

Credits

L.2009, c. 82, § 6, eff. July 2, 2009.

N.J.S.A. 45:22A-46.9

45:22A-46.9. Time for board approval; written notice; fees

Effective: July 2, 2009

a. Within 30 days after the submission of an amended application pursuant to this act, the approving board shall advise the applicant in writing whether the amended application is complete, with completeness to be determined based upon whether the applicant has submitted documentation addressing the issues described in section 4 of P.L.2009, c. 82 (C.45:22A-46. 6). If no such writing asserting incompleteness for any such reason is provided to the applicant within the 30-day period, the application shall be deemed complete for purposes of review by the approving board.

b. The approving board shall render a decision on an application for a converted development within 60 days of a determination of application completeness, unless the time frame is extended by the applicant. If no such decision is rendered by the approving board within the time period, including extensions, the application shall be deemed approved and the applicant shall in such a case follow the procedures set forth in section 5 of P.L.1985, c. 516 (C.40:55D-10.4).

c. Applicants seeking approval for a converted development pursuant to P.L.2009, c. 82 (C.45:22A-46.3 et seq.) shall not be charged application fees, although reasonable escrow fees may be charged pursuant to section 13 of P.L.1991, c. 256 (C.40:55D-53.2).

Credits

L.2009, c. 82, § 7, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.10

45:22A-46.10. Filings with the municipal engineer for review; fees

Effective: July 2, 2009

After a development has been officially changed to a non-restricted development, the developer shall file a copy of the revised preliminary subdivision or site plan approval with the municipal engineer for review and a determination that all site information is complete. Such information shall be used as the base document for the calculation of any required inspection escrow accounts, and performance and maintenance guaranties in accordance with section 41 of P.L.1975, c. 291 (C.40:55D-53). Any reasonable costs for the review of the revised plans may be charged to the escrow account that the developer posted with the municipality.

Credits

L.2009, c. 82, § 8, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.11

45:22A-46.11. Time to submit application; extension of time

Effective: July 2, 2009

An application for approval to change a development from age-restricted to non-restricted status, pursuant to section 4 of P.L.2009, c. 82 (C.45:22A-46.6), may be submitted to the approving board at anytime before the first day of the 25th month next following the effective date of P.L.2009, c. 82 (C.45:22A-46.3 et seq.); provided, however, that the approving board may extend this time period by an additional 24 months if it finds, at the end of the initial period, that poor economic conditions continue to adversely affect the real estate market in New Jersey.

Credits

L.2009, c. 82, § 9, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.12

45:22A-46.12. Approvals deemed vested in accordance with other State laws

Effective: July 2, 2009

All development approvals for a development that changes from age-restricted to non-restricted status pursuant to P.L.2009, c. 82 (C.45:22A-46.3 et seq.) shall be deemed vested in accordance with the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.), and extended as permitted under the "Permit Extension Act of 2008," P.L.2008, c. 78 (C.40:55D-136.1 et seq.). In the case of a prior approval that was not extended as permitted under the "Permit Extension Act of 2008," the period of vesting and protection shall not be less than 24 months from the date of approval of the application to change to a non-restricted status.

Credits

L.2009, c. 82, § 10, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.13

45:22A-46.13. Resolution of approval; denial and appeal

Effective: July 2, 2009

a. An approving board shall issue a resolution memorializing its decision on an application for a converted development within the time period set forth in subsection g. of section 6 of P.L.1975, c. 291 (C.40:55D-10). In the event that an approving board denies an application for a converted development or approves an application subject to conditions deemed unsatisfactory to the applicant, the applicant may appeal that determination to the court in a summary manner. Such an appeal shall be filed within 30 days of the applicant's receipt of the resolution issued by the approving board. The notice of appeal

shall include the plans and reports, if any, submitted by the applicant to the approving board in support of the request for approval of a converted development, a copy of the transcript of the hearing before the approving board, and any other items that comprise the record before the approving board.

b. In deciding an appeal, the court shall consider the reasonableness of the decision of the approving board. Upon finding that the conversion should have been approved the court may make an order instructing the board to approve the converted development, along with any reasonable conditions of approval deemed necessary by the court.

Credits

L.2009, c. 82, § 11, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.14

45:22A-46.14. Preference for occupancy

Effective: July 2, 2009

Notwithstanding any law, rule or regulation to the contrary, a municipality that has received substantive certification from the council shall be permitted to give preference for occupancy for up to 50 percent of all available affordable housing units in a converted development to those households having members who work or reside in the municipality.

Credits

L.2009, c. 82, § 12, eff. July 2, 2009.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-46.15

45:22A-46.15. Waiver of certain affirmative marketing requirements under regulations promulgated to effectuate the Fair Housing Act

Effective: July 2, 2009

Under any rental or purchase program implemented to prevent the homelessness of persons who have experienced or may experience the foreclosure and loss of their personal residence, or any program which addresses the needs of low and moderate income households residing within the municipality including, but not limited to, State, federal or local programs, if the persons benefitting from the program are otherwise income qualified to occupy such housing under federal or State law, then affirmative marketing requirements under regulations promulgated to effectuate the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) shall be waived to permit such persons to occupy, rent or purchase the housing units which they may have previously occupied or owned.

Credits

L.2009, c. 82, § 13, eff. July 2, 2009.

N.J.S.A. 45:22A-46.16

45:22A-46.16. Credit against the fair share obligation of a municipality

Effective: July 2, 2009

For the purpose of determining credits to be granted against the fair share obligation of a municipality under the requirements of P.L.1985, c. 222 (C.52:27D-301 et al.) and the regulations promulgated to effectuate that act, a housing unit financed in whole or in part through the allocation of federal Low-Income Housing Tax Credits shall be eligible to be credited if the requirements of federal law pursuant to 26 U.S.C. s.42 have been met for that unit. In the event the federal requirements have been met, the provisions of the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency shall not be applied to inhibit or prevent the crediting of the housing unit against the municipal fair share obligation.

Credits

L.2009, c. 82, § 14, eff. July 2, 2009.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-47

45:22A-47. Procedure for transfer of control of association to the owners

Effective: July 13, 2017

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

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

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

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

b. The percentages specified in subsection a. of this section shall be calculated upon the basis of the whole number of units entitled to membership in the association. The bylaws of the association shall specify the number or proportion of votes of all units conveyed to owners that shall be required for the election of executive board members. Unless the bylaws provide for an alternate approach to allocating votes pursuant to paragraph (9) of subsection c. of section 6 of P.L.2017, c. 106 (C.45:22A-45.2), each unit conveyed to an owner shall be entitled to one vote regardless of the number of association members, and voting-eligible tenants where applicable, residing in a unit. A developer may surrender control of the executive

board of the association before the time specified in subsection a. of this section, if the association members, and voting-eligible tenants where applicable, agree by a majority vote to assume control.

c. Upon assumption by the owners of control of the executive board of the association, the developer shall deliver to the association all items and documents pertinent to the association, such as, but not limited to, a copy of the master deed, declaration of covenants and restrictions, documents of creation of the association, bylaws, minute book including all minutes, any rules and regulations, association funds and an accounting therefor, all personal property, insurance policies, government permits, a membership roster and all contracts and agreements relative to the association within 60 days of that transition date, established pursuant to this section.

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

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

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

Credits

L.1993, c. 30, § 5, eff. July 29, 1993. Amended by L.2017, c. 106, § 8, eff. July 13, 2017.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-48

45:22A-48. Guidelines

The Commissioner of Community Affairs shall cause to be prepared and distributed, for the use and guidance of associations, executive boards and administrators, explanatory materials and guidelines to assist them in achieving proper and timely compliance with the requirements of P.L.1993, c. 30 (C.45:22A-43 et al.). Such guidelines may include the text of model bylaw provisions suggested or recommended for adoption. Failure or refusal of an association or executive board to make proper amendment or supplementation of its bylaws prior to the effective date of P.L.1993, c. 30 (C.45:22A-43 et al.) shall not, however, affect their obligation of compliance therewith on and after that effective date.

Credits

L.1993, c. 30, § 6, eff. Jan. 29, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-48.1

45:22A-48.1. Homeowners' associations; rules or bylaws prohibiting the display of U.S. flags, yellow ribbons or signs supporting U.S. troops not allowed; authority to remove flags, ribbons or signs

Effective: January 8, 2004

a. A homeowners' association formed to manage the elements of property owned in common by all members of a community, whether it be an association managing a condominium, a private community, including retirement communities, or a cooperative housing development, shall not adopt or enforce a rule or bylaw limiting or prohibiting the display of the flag of the United States of America or yellow ribbons and signs supporting United States troops, or charge a fee for any such display, except as provided in subsection b. of this section. Any such rule or bylaw adopted by a homeowners' association in violation of this section shall be null and void.

b. A homeowners' association may direct removal of an American flag or yellow ribbons and signs supporting United States troops when the display threatens public safety, restricts necessary maintenance activities, interferes with the property rights of another, or is conducted in a manner inconsistent with the rules and customs deemed the proper manner to display the flag, such as the federal flag Code, 4 U.S.C. s.1 et seq., or any other applicable law or guideline.

Credits

L.2003, c. 209, § 2, eff. Jan. 8, 2004.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-48.2

45:22A-48.2. Association rules, covenants and bylaws; requirements relating to the installation and maintenance of solar collectors

Effective: August 21, 2007

a. An association formed for the management of commonly-owned elements and facilities, regardless of whether organized pursuant to section 1 of P.L.1993, c. 30 (C.45:22A-43), shall not adopt or enforce a restriction, covenant, bylaw, rule or regulation prohibiting the installation of solar collectors on certain roofs of dwelling units, as follows:

A roof of a single-family dwelling unit which is solely owned by an individual or individuals, and which is not designated as a common element or common property in the governing documents of an association; and

A roof of a townhouse dwelling unit, which for the purposes of this subsection means any single-family dwelling unit constructed with attached walls to another such unit on at least one side, which unit extends from the foundation to the roof, and has at least two sides which are unattached to any other building, and the repair of the roof for the townhouse dwelling unit is designated as the responsibility of the owner and not the association in the governing documents.

b. An association may adopt rules to regulate the installation and maintenance of solar collectors on those roofs as specified in subsection a. of this section, in accordance with subsection c. of this section, and as follows:

(1) The qualifications, certification and insurance requirements of personnel or contractors who may install the solar collectors;

(2) The location where solar collectors may be placed on roofs;

(3) The concealment of solar collectors' supportive structures, fixtures and piping;

(4) The color harmonization of solar collectors with the colors of structures or landscaping in the development; and

(5) The aggregate size or coverage or total number of solar collectors, provided that the provisions of paragraph (2) of subsection c. below are met.

c. (1) An association shall not adopt and shall not enforce any rule related to the installation or maintenance of solar collectors, if compliance with a rule or rules would increase the solar collectors' installation or maintenance costs by an amount which is estimated to be greater than 10 percent of the total cost of the initial installation of the solar collectors, including the costs of labor and equipment.

(2) An association shall not adopt and shall not enforce any rule related to the installation or maintenance of solar collectors, if compliance with such rules inhibits the solar collectors from functioning at their intended maximum efficiency.

d. The Commissioner of Community Affairs shall enforce the provisions of P.L.2007, c. 153 (C.45:22A-48.2) in accordance with the authority granted under section 18 of P.L.1977, c. 419 (C.45:22A-38).

e. The provisions of P.L.2007, c. 153 (C.45:22A-48.2) shall not apply to associations that are under the control of the developer as provided under section 5 of P.L.1993, c. 30 (C.45:22A-47).

Credits

L.2007, c. 153, § 1, eff. Aug. 21, 2007.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-48.3

45:22A-48.3. Internet posting of information on disability accommodation rights for owners and occupants of common interest communities

Effective: May 15, 2014

The Division on Civil Rights in the Department of Law and Public Safety, in consultation with the Department of Community Affairs, shall post information on its Internet website explaining disability accommodation rights under the "Law Against Discrimination," P.L.1945, c. 169 (C.10:5-1 et seq.) for owners and occupants of condominiums, cooperatives, and other common interest communities governed by a homeowners' association or similar entity. The Internet posting shall include, but not be limited to, the owners' and occupants' rights to reasonable modifications of individual units and common areas, and shall explain the obligations of governing associations and boards in evaluating and approving requests for modifications of the premises. The Internet posting shall also provide clear information on how to file a complaint alleging violations of the "Law Against Discrimination" and the potential remedies available.

The Department of Community Affairs shall post the same information on its Internet website.

Credits

L.2014, c. 6, § 1, eff. May 15, 2014.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-49

45:22A-49. Definitions

As used in sections 2 through 8 of this act:[1]

“Agency” means the Division of Housing and Development in the Department of Community Affairs.

“Proprietary campground facility” means any real property designed and used for the purpose of camping and associated recreational uses under a condominium or cooperative form of ownership.

Credits

L.1993, c. 258, § 1, eff. Aug. 16, 1993.

Footnotes

1 N.J.S.A. §§ 45:22A-50 to 45:22A-56.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-50

45:22A-50. Administration of a proprietary campground facility; discharge of duties

The association or corporation responsible for the administration of a proprietary campground facility shall discharge its duties in accordance with the application for registration, public offering statement and by-laws approved by the agency and with all applicable statutes, rules and ordinances.

Credits

L.1993, c. 258, § 2, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-51

45:22A-51. Limitations on use of facility; penalties

All unit owners and proprietary lessees in a proprietary campground facility shall comply with all lawful requirements set forth in the master deed or certificate of incorporation, by-laws and public offering statement of the condominium or cooperative and with all State, county and municipal laws, rules and ordinances applicable to the maintenance and operation of the proprietary campground facility. Every master deed or certificate of incorporation for a proprietary campground facility shall prohibit the use of the property for purposes of domicile or permanent residency, unless otherwise permitted by municipal ordinance. Any unit owner or proprietary lessee who, after receipt of notice to cease and desist from the

association or corporation responsible for the administration of the facility, shall continue to violate, or allow any other person to violate, any lawful requirement set forth in the master deed or certificate of incorporation, by-laws or public offering statement, or any applicable law, rule or ordinance, in contravention of this section, shall be subject to eviction and termination of contractual rights in a summary proceeding in the Special Civil Part of the Law Division of the Superior Court.

Credits

L.1993, c. 258, § 3, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-52

45:22A-52. Minimum health and safety standards; annual inspections

The agency shall adopt, after consultation with the State Commissioner of Health and the Public Health Council and in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), minimum health and safety standards for proprietary campground facilities. The agency shall inspect each proprietary campground facility annually in order to ensure compliance with these minimum health and safety standards and shall establish and charge fees sufficient to cover the costs of the inspection program.

Credits

L.1993, c. 258, § 4, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-53

45:22A-53. Violations; penalties

Any person, including any individual, corporation or association, who shall fail to comply with the requirements of this act shall be subject to the issuance by the agency of a cease and desist order under section 13 of P.L.1977, c. 419 (C. 45:22A-33), to injunctive relief and appointment of a receiver under section 15 of P.L.1977, c. 419 (C. 45:22A-35) and to civil penalties under section 18 of P.L.1977, c. 419 (C. 45:22A-38); provided, however, that the minimum penalty that may be assessed under this act shall be $50 per violation.

Credits

L.1993, c. 258, § 5, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document

N.J.S.A. 45:22A-54

45:22A-54. Hearings

Any person aggrieved by any order issued by the agency under this act shall be entitled to a hearing before the Commissioner of Community Affairs pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.). The application for such hearing must be filed with the agency within 10 business days of the receipt by the applicant of notice of the order complained of.

Credits

L.1993, c. 258, § 6, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-55

45:22A-55. Delegation of authority to enforce minimum health and safety standards to municipal and county governments

The agency may delegate authority to enforce the minimum health and safety standards established under section 4 of this act[1] to municipal and county governments. Such enforcement shall be subject to the supervision and control of the agency and in accordance with such rules as it may establish. Nothing in this act shall be construed to preclude the right of any municipality, health agency or the Pinelands Commission in the Pinelands area to adopt and enforce ordinances or regulations more restrictive than this act or any rules promulgated hereunder.

Credits

L.1993, c. 258, § 7, eff. Aug. 16, 1993.

Footnotes

1 N.J.S.A. § 45:22A-52.

Current with laws through L.2019, c. 35

N.J.S.A. 45:22A-56

45:22A-56. Agreements with school districts

Nothing in this act shall be construed as precluding any unit owner, proprietary lessee or other occupant in a proprietary campground facility, who does not have a residence in the school district in which the proprietary campground facility is located, from entering into a voluntary agreement with the school district, or with any other school district, on a tuition-paying basis and subject to acceptance of such terms and conditions as may be mutually agreed upon.

Credits

L.1993, c. 258, § 8, eff. Aug. 16, 1993.

Current with laws through L.2019, c. 35

End of Document