

46: 8B-3; 46: 8B-12.1; 46: 8B-12.2

LEGISLATIVE HISTORY CHECKLIST

(Condominiums - Control of unit owners - Duration of management contracts)

WJSA 46:8B-3, 46:8B-12.1, 46:8B-12.2

LAWS OF 1979

CHAPTER 157

Bill No. A182

Sponsor(s) Kozloski, Flynn and Van Wagner

Date Introduced Pre-filed

Committee: Assembly Commerce, Industry and Professions

Senate County and Municipal Government

Amended during passage Yes Amendments during passage denoted by asterisks. XX

Date of Passage: Assembly January 11, 1979

Senate April 23, 1979

Date of approval July 19, 1979

Following statements are attached if available:

Sponsor statement	Yes	XX
Committee Statement: Assembly	Yes	XX
Senate	XXX	No
Fiscal Note	XXX	No
Veto message	XXX	No
Message on signing	YES XXX	XX

Following were printed:

Reports	XXX	No
Hearings	XXX	No

Do Not Remove From Librarian DEPOSITION COPY

med

9/1/78

000 1870

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 182

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen KOZLOSKI, FLYNN and VAN WAGNER

AN ACT to amend and supplement the "Condominium Act," approved January 7, 1970 (P. L. 1969, c. 257).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1969, c. 257 (C. 46:8B-3) is amended to
2 read as follows:

3 3. Definitions. The following words and phrases as used in this
4 act shall have the meanings set forth in this section unless the
5 context clearly indicates otherwise:

6 a. "Assigns" means any person to whom rights of a unit owner
7 have been validly transferred by lease, mortgage or otherwise.

8 b. "Association" means the entity responsible for the admin-
9 istration of a condominium, which entity may be incorporated or
10 unincorporated.

11 c. "Bylaws" means the governing regulations adopted under
12 this act for the administration and management of the property.

13 d. "Common elements" means:

14 (i) the land described in the master deed;

15 (ii) as to any improvement, the foundations, structural and
16 bearing parts, supports, main walls, roofs, basements, halls,
17 corridors, lobbies, stairways, elevators, entrances, exits and
18 other means of access, excluding any specifically reserved or
19 limited to a particular unit or group of units;

20 (iii) yards, gardens, walkways, parking areas and drive-
21 ways, excluding any specifically reserved or limited to a par-
22 ticular unit or group of units;

23 (iv) portions of the land or any improvement or appurte-
24 nance reserved exclusively for the management, operation or
25 maintenance of the common elements or of the condominium
26 property;

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

- 27 (v) installations of all central services and utilities;
28 (vi) all apparatus and installations existing or intended for
29 common use;
- 30 (vii) all other elements of any improvement necessary or
31 convenient to the existence, management, operation, mainte-
32 nance and safety of the condominium property or normally in
33 common use; and
- 34 (viii) such other elements and facilities as are designated
35 in the master deed as common elements.
- 36 e. "Common expenses" means expenses for which the unit
37 owners are proportionately liable, including but not limited to:
- 38 (i) all expenses of administration, maintenance, repair and
39 replacement of the common elements;
- 40 (ii) expenses agreed upon as common by all unit owners;
41 and
- 42 (iii) expenses declared common by provisions of this act or
43 by the master deed or by the bylaws.
- 44 f. "Common receipts" means:
- 45 (i) rent and other charges derived from leasing or licensing
46 the use of common elements;
- 47 (ii) funds collected from unit owners as common expenses
48 or otherwise; and
- 49 (iii) receipts designated as common by the provisions of
50 this act or by the master deed or the bylaws.
- 51 g. "Common surplus" means the excess of all common receipts
52 over all common expenses.
- 53 h. "Condominium" means the form of ownership of real prop-
54 erty under a master deed providing for ownership by one or more
55 owners of units of improvements together with an undivided in-
56 terest in common elements appurtenant to each such unit.
- 57 i. "Condominium property" means the land covered by the
58 master deed, whether or not contiguous and all improvements
59 thereon, all owned either in fee simple or under lease, and all ease-
60 ments, rights and appurtenances belonging thereto or intended for
61 the benefit thereof.
- 62 j. "*Developer*" means the person or persons who create a con-
63 dominium or ***[offer a condominium for sale or lease]*** *lease, sell*
64 *or offer to lease or sell a condominium or units of a condominium**
65 *in the ordinary course of business, but does not include an owner or*
65A *lessee of a unit who has acquired his unit for his own occupancy.*
- 66 **[j.]** k. "Limited common elements" means those common ele-
67 ments which are for the use of one or more specified units to the
68 exclusion of other units.

69 **[k.] l.** "Majority" or "majority of the unit owners" means
 70 the owners of more than 50% of the aggregate in interest of the
 71 undivided ownership of the common elements as specified in the
 72 master deed. If a different percentage of unit owners is required
 73 to be determined under this act or under the master deed or bylaws
 74 for any purpose, such different percentage of owners shall mean
 75 the owners of an equal percentage of the aggregate in interest of
 76 the undivided ownership of the common elements as so specified.

77 **[l.] m.** "Master deed" means the master deed recorded under
 78 the terms of section 8 of this act, as such master deed may be
 79 amended or supplemented from time to time, being the instrument
 80 by which the owner in fee simple or lessee of the property submits
 81 it to the provisions of this chapter.

82 **[m.] n.** "Person" means an individual, firm, corporation, part-
 83 nership, association, trust or other legal entity, or any combination
 84 thereof.

85 **[n.] o.** "Unit" means a part of the condominium property de-
 86 signed or intended for any type of independent use, having a direct
 87 exit to a public street or way or to a common element or common
 88 elements leading to a public street or way or to an easement or
 89 right of way leading to a public street or way, and includes the
 90 proportionate undivided interest in the common elements and in
 91 any limited common elements assigned thereto in the master deed
 92 or any amendment thereof.

93 **[o.] p.** "Unit deed" means a deed of conveyance of a unit in
 94 recordable form.

95 **[p.] q.** "Unit owner" means the person or persons owning a
 96 unit in fee simple.

1 2. (New section) a. ***[**When unit owners other than the developer
 2 own 15% or more of the units in a condominium that will be op-
 3 erated ultimately by an association, the unit owners other than
 4 the developer shall be entitled to elect not less than one-third of
 5 the members of the board of administration of the association.
 6 Unit owners other than the developer are entitled to elect not less
 7 than a majority of the members of the board of administration of
 8 an association:

9 (1) Three years after 50% of the units that will be operated
 10 ultimately by the association have been conveyed to purchasers;

11 (2) Three months after 90% of the units that will be operated
 12 ultimately by the association have been conveyed to purchasers;

13 (3) When all the units that will be operated ultimately by the
 14 association have been completed, some of them have been conveyed
 15 to purchasers, and none of the others are being offered for sale
 16 by the developer in the ordinary course of business; or...

17 (4) When some of the units have been conveyed to purchasers
 18 and none of the others are being constructed or offered for sale
 19 by the developer in the ordinary course of business,
 20 whichever occurs first. The developer is entitled to elect at least
 21 one member of the governing body of an association as long as
 22 the developer holds for sale in the ordinary course of business
 23 any unit in a condominium operated by the association.】* *When*
 23A *unit owners other than the developer own 25% or more of the units*
 23B *in a condominium that will be operated ultimately by an associa-*
 23C *tion, the unit owners other than the developer shall be entitled to*
 23D *elect not less than 25% of the members of the governing board or*
 23E *other form of administration of the association. Unit owners other*
 23F *than the developer shall be entitled to elect not less than 40% of*
 23G *the members of the governing board or other form of administra-*
 23H *tion upon the conveyance of 50% of the units in a condominium.*
 23I *Unit owners other than the developer shall be entitled to elect all*
 23J *of the members of the governing board or other form of administra-*
 23K *tion upon the conveyance of 75% of the units in a condominium.*
 23L *However, when some of the units of a condominium have been*
 23M *conveyed to purchasers and none of the others are being con-*
 23N *structed or offered for sale by the developer in the ordinary course*
 23O *of business, the unit owners other than the developer shall be*
 23P *entitled to elect all of the members of the governing board or other*
 23Q *form of administration.*
 23R *Notwithstanding any of the provisions of subsection a of this*
 23S *section, the developer shall be entitled to elect at least one member*
 23T *of the governing board or other form of administration of an*
 23U *association as long as the developer holds for sale in the ordinary*
 23V *course of business one or more units in a condominium operated*
 23W *by the association.**

24 b. Within ***[60]*** *30* days after the unit owners other than the
 25 developer are entitled to elect a member or members of the gov-
 26 erning ***[body]*** *board or other form of administration* of an
 27 association, the association shall call, and give not less than ***[30]***
 28 *20* days' ***[or]*** *nor* more than ***[40]*** *30* days' notice of, a
 29 meeting of the unit owners to elect the members of the ***[board of**
 30 **administration]*** *governing board or other form of administra-
 30A *tion**. The meeting may be called and the notice given by any unit
 30B owner if the association fails to do so.

31 c. If a developer holds *one or more* units for sale in the
 32 ordinary course of business, none of the following actions may be
 33 taken without approval in writing by the developer:

34 (1) Assessment of the developer as a unit owner for capital
 35 improvements.

36 (2) Any action by the association that would be detrimental to
37 the sales of units by the developer. However, an increase in as-
38 sessments for common expenses without discrimination against
39 the developer shall not be deemed to be detrimental to the sales
40 of units.

41 d. Prior to, or not more than 60 days after, the time that unit
42 owners other than the developer elect a majority of the members
43 of the ***[board of administration]*** **governing board or other form*
44 *of administration** of an association, the developer shall relinquish
45 control of the association, and the unit owners shall accept control.
46 Simultaneously, the developer shall deliver to the association all
47 property of the unit owners and of the association held or con-
48 trolled by the developer, including, but not limited to, the following
49 items, if applicable, as to each condominium operated by the
49A association:

50 (1) A photocopy of the master deed and all amendments thereto,
51 certified by affidavit of the developer, or an officer or agent of the
52 developer, as being a complete copy of the actual master deed.

53 (2) A certified copy of the association's articles of incorporation,
54 or if not incorporated, then copies of the documents creating the
55 association.

56 (3) A copy of the bylaws.

57 (4) The minute books, including all minutes, and other books
58 and records of the association, if any.

59 (5) Any house rules and regulations which have been promul-
60 gated.

61 (6) Resignations of officers and members of the ***[board of ad-
62 ministration]*** **governing board or other form of administration**
63 who are required to resign because the developer is required to
63A relinquish control of the association.

64 (7) An accounting for all association funds, including capital
65 accounts and contributions.

66 (8) Association funds or control thereof.

67 (9) All tangible personal property that is property of the as-
68 sociation, represented by the developer to be part of the common
69 elements or ostensibly part of the common elements, and an in-
70 ventory of that property.

71 (10) A copy of the plans and specifications utilized in the con-
72 struction or remodeling of improvements and the supplying of
73 equipment to the condominium and in the construction and installa-
74 tion of all mechanical components serving the improvements and
75 the site, with a certificate in affidavit form of the developer, his
76 agent, or an architect or engineer authorized to practice in this

77 State that such plans and specifications represent, to the best of
 78 their knowledge and belief, the actual plans and specifications
 79 utilized in the construction and improvement of the condominium
 80 property and for the construction and installation of the mechanical
 81 components serving the improvements. If the condominium prop-
 82 erty has been declared a condominium more than 3 years after the
 83 completion of construction or remodeling of the improvements,
 84 the requirements of this paragraph shall not apply.

85 (11) Insurance policies.

86 (12) Copies of any certificates of occupancy which may have
 87 been issued for the condominium property.

88 (13) Any other permits issued by governmental bodies applica-
 89 ble to the condominium property in force or issued within 1 year
 90 prior to the date the unit owners other than the developer take
 91 control of the association.

92 (14) All written warranties of the contractor, subcontractors,
 93 suppliers, and manufacturers, if any, that are still effective.

94 (15) A roster of unit owners and their addresses and telephone
 95 numbers, if known, as shown on the developer's records.

96 (16) Leases of the common elements and other leases to which
 97 the association is a party.

98 (17) Employment contracts ***[or]***, *management contracts,*
 99 *maintenance contracts, contracts for the supply of equipment or*
 100 *materials, and* service contracts in which the association is one
 101 of the contracting parties ***[or]*** *and maintenance contracts and*
 102 service contracts in which the association or the unit owners have
 102A an obligation or responsibility, directly or indirectly to pay some
 102B or all of the fee or charge of the person or persons performing
 102C the service.

103 (18) All other contracts to which the association is a party.

1 3. (New section) Any management ***[or]***, *employment*,
 2 *service or maintenance* contract **[,]** or *contract for the supply*
 3 *of equipment or material* ***[lease of recreational or parking areas**
 4 **or facilities]**, which is directly or indirectly made by or on behalf
 5 of the association, prior to the unit owners ***[being entitled to elect**
 6 **a majority]** *having elected at least 75%* of the members of the
 7 governing ***[body]** *board or other form of administration* of
 8 the association, shall not be entered into for a period in excess of
 9 2 years. Any such contract or lease may not be renewed or ***[ex-**
 10 **tendedd]** *extended* for periods in excess of 2 years and at the
 11 end of any 2-year period, the association may terminate any further
 12 renewals or extensions thereof.

1 4. This act shall take effect immediately.

98 (17) Employment contracts or service contracts in which the
 99 association is one of the contracting parties or service contracts
 100 in which the association or the unit owners have an obligation or
 101 responsibility, directly or indirectly to pay some or all of the fee
 102 or charge of the person or persons performing the service.

103 (18) All other contracts to which the association is a party.

1 3. (New section) Any management or employment contract, or
 2 lease of recreational or parking areas or facilities, which is di-
 3 rectly or indirectly made by or on behalf of the association, prior
 4 to the unit owners being entitled to elect a majority of the mem-
 5 bers of the governing body of the association, shall not be entered
 6 into for a period in excess of 2 years. Any such contract or lease
 7 may not be renewed or extendedd for periods in excess of 2 years
 8 and at the end of any 2-year period, the association may terminate
 9 any further renewals or extensions thereof.

1 4. This act shall take effect immediately.

Sponsors STATEMENT

Management of condominium common areas and recreational facilities is the function of the condominium association, control of which often remains in the hands of the condominium developer long after the condominium complex has been started and many individual units have been sold. This situation allows developers to enter into long-term management and other service-related contracts unfavorable to the unit owners which are binding on the association even after control of that association passes to the unit owners. In order to improve the rights of condominium owners in this regard, this bill would specify when control of the condominium association must pass to the unit owners and prohibit management contracts of longer than 2 years duration prior to such passage.

A182 (1979)

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 182
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 1978

This bill specifies when the control of the governing board of a condominium must pass to the unit owners and limits the duration of management and service contracts of a condominium to two years if the unit owners have not elected at least 75% of the governing board.

The committee amended section 2 of the bill to provide that the unit owners would be entitled to elect at least 25% of the membership of the governing board of a condominium when they own 25% of the units; at least 40% of the membership of the governing board when they own 50% of the units; and all of the membership of the governing board when they own 75% of the units. If the developer stops construction of the condominium or discontinues the sale of the remaining units, the unit owners would be entitled to elect all of the members of the governing board. As long as the developer has one or more units for sale in the ordinary course of business, the developer would be entitled to elect at least one board member. Elections would have to be held within 60 days. The provisions of this section conform to and are not in conflict with the regulations on the administration and control of real estate developments that were promulgated by the Department of Community Affairs pursuant to "The Planned Real Estate Development Full Disclosure Act" (P. L. 1977, c. 419).

The committee amended section 3 to add service and maintenance contracts and contracts for the supply of equipment or material to the management and employment contracts already limited to a two year duration under the bill. Leases on recreational and parking areas or facilities were deleted from this section because they are adequately provided for in Assembly Bill No. 176 which was released from committee at the same time as this bill.

7. 19. 1979

Governor's Statement

-- that he has served three years as an apprentice dispenser and during that time completed the requisite number of school hours of Board-approved courses in ophthalmic science.

Under prior law, candidates could only qualify for licensure by serving a minimum of four years as an apprentice ophthalmic dispenser.

The bill also sets forth the requirements for a three-year apprenticeship, and empowers the Board to require all dispensers to take Board-approved refresher courses in the profession or maintain proficiency in some other Board-approved manner in order to qualify for license renewal.

S-3231, also sponsored by Senator Badell, which authorizes the Commissioner of Banking to permit state-chartered banks to charge the same interest rate as federally chartered banks on non-mortgage loans of less than \$50,000.

A-182, sponsored by Assemblyman Walter Kozloski (D-Monmouth), which amends the Condominium Act of 1970 regarding the election of members of the governing boards of condominium associations.

The bill specifies the time at which control of the governing board of the associations must pass to the unit owners and limits the duration of the management and service contracts to two years if the unit owners have not elected 75 per cent of the members of the governing board.

Under the measure, unit owners will be entitled to elect at least 25 per cent of the members of the association board if they own 25 per cent of the units, at least 40 per cent of the members if they own 50 per cent of the units, and all the members when they own at least 75 per cent of the units.

However, as long as the developer has one or more units for sale in the ordinary course of business, he will be entitled to elect one member of the board.

Under prior law, a developer was able to maintain control of a condominium association long after the complex had been started and many units sold.