

46: 8B-26

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 46: 8B-26 (Condominium-percentage of owner approval required for termination)

**LAWS OF:** 1985 **CHAPTER:** 3

**Bill No:** S2141

**Sponsor(s):** Russo

**Date Introduced:** Sept. 13, 1984

**Committee:** **Assembly:** Commerce and Industry

**Senate:** Judiciary

**Amended during passage:** No

**Date of Passage:** **Assembly:** Dec. 17, 1984

**Senate:** November 19, 1984

**Date of Approval:** January 8, 1985

**Following statements are attached if available:**

**Sponsor statement:** Yes (Below)

**Committee statement:** **Assembly** Yes

**Senate** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** Yes

**Following were printed:**

**Reports:** No

**Hearings:** No

**Sponsor's statement:**

This bill will bring New Jersey law with regard to the percentage of ownership needed to terminate a condominium into conformity with the applicable provision of the Uniform Condominium Act as drafted by the National Conference of Commissioners on Uniform State Laws.

**Attached:** Uniform Condominium Act (relevant section) as mentioned in statements

SENATE, No. 2141

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 13, 1984

By Senator RUSSO

Referred to Committee on Judiciary

AN ACT concerning condominium properties and amending 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 26 of P. L. 1969, c. 257 (C. 46:8B-26) is amended to  
2 read as follows:

3 26. Any condominium property may be removed from the pro-  
4 visions of this act *by agreement of unit owners of units to which*  
5 *at least 80% of the votes in the association are allocated, or any*  
6 *larger percentage that the master deed or any amendment thereto*  
7 *specifies. Termination shall be effective upon the filing of a deed of*  
8 *revocation duly executed by [all] unit owners of units to which at*  
9 *least 80% of the votes in the association are allocated, or any larger*  
10 *percentage that the master deed or any amendment thereto specifies*  
11 *or the sole owner of the property [and the holders of all mortgages*  
12 *or other liens affecting all units] and recorded in the same office*  
13 *as the master deed.*

1 2. This act shall take effect immediately and shall apply to all  
2 condominiums heretofore or hereafter created pursuant to P. L.  
3 1969, c. 257 (C. 46.8B-1 et seq.).

STATEMENT

This bill will bring New Jersey law with regard to the percentage of ownership needed to terminate a condominium into conformity with the applicable provision of the Uniform Condominium Act as drafted by the National Conference of Commissioners on Uniform State Laws.

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

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 2141**

---

**STATE OF NEW JERSEY**

---

DATED: DECEMBER 13, 1984

Presently, in order to terminate a condominium association a deed of revocation must be executed by all unit owners or the sole owner of the property and the holders of all mortgages or other liens affecting all units. This bill provides that a condominium association may be terminated by the filing of the deed of revocation executed by the unit owners of units representating at least 80% of the votes in the association or the sole owner of the property. This would bring New Jersey law into conformity with the Uniform Condominium Act drafted by the National Conference of Commissioners on Uniform State Laws.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 2141**

**STATE OF NEW JERSEY**

DATED: OCTOBER 22, 1984

Presently, in order to terminate a condominium association a deed of revocation must be executed by all unit owners or the sole owner of the property and the holders of all mortgages or other liens affecting all units. This bill provides that a condominium association may be terminated by the filing of the deed of revocation executed by the unit owners of units representing at least 80% of the votes in the association or the sole owner of the property. This would bring New Jersey law into conformity with the Uniform Condominium Act drafted by the National Conference of Commissioners on Uniform State Laws.



# OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: PAUL WOLCOTT  
609-292-8956

TRENTON, N.J. 08625

Release: THURS., JAN. 10,

Governor Thomas H. Kean has signed the following bills:

S-2141, sponsored by State Senator John F. Russo, D-Ocean, which amends the law governing condominium ownership to provide that a condominium association may be terminated by the filing of a deed of revocation executed by the owners of units representing 80 percent of the votes of the association.

Previously, the law required 100 percent agreement by owners. The amendment reflects recommendations of the National Conference of Commissioners on Uniform State Laws. It is intended, in part, to ensure that one owner may not refuse to agree to a termination in order to receive inflated and unfair financial benefit before agreeing to vote for termination.

S-2139, sponsored by State Senator Richard J. Codey, D-Essex, which appropriates \$13 million to the Department of Human Services. \$11 million of the funds will be used for the development of approximately 60 group homes serving 360 mentally retarded clients in community facilities. The other \$2 million will go for sewage treatment plant improvements at the Woodbine Developmental Center.

S-826, sponsored by Senate President Carmen A. Orechio, D-Essex, which establishes a Crime Prevention Advisory Committee to the Police Training Commission and creates a crime prevention resource center.

# # # #

UNIFORM CONDOMINIUM ACT (1980) § 2-118

entirely non-residential condominium, a smaller percentage might be appropriate.

In addition to that basic rule, subsection (a) lists those other instances where the declaration may be amended by the declarant alone without association approval, or by the association acting through its board of directors.

2. Section 1-104 does not permit the declarant to use any device, such as powers of attorney executed by pur-

chasers at closings, to circumvent subsection (d)'s requirement of unanimous consent. This section does not supplant any requirements of common law or of other statutes with respect to conveyancing if title to real property is to be affected.

3. Subsection (e) describes the mechanics by which amendments recorded by the association are filed, and resolves a number of matters often neglected by bylaws.

Library References

Condominium  $\Rightarrow$  3.

C.J.S. Estates § 148.

§ 2-118. [Termination of Condominium]

(a) Except in the case of a taking of all the units by eminent domain (Section 1-107), a condominium may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to non-residential uses.

(b) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every [county] in which a portion of the condominium is situated, and is effective only upon recordation.

(c) In the case of a condominium containing only units having horizontal boundaries described in the declaration, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.

(d) In the case of a condominium containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale.

(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate in the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (h). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for

## § 2-118 UNIFORM CONDOMINIUM ACT (1980)

all assessments and other obligations imposed on unit owners by this Act or the declaration.

(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries described in the declaration, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.

(g) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear. Following termination, creditors of the association holding liens on the units, which were [recorded] [docketed] [(insert other procedures required under state law to perfect a lien on real estate as a result of a judgment)] before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(h) The respective interests of unit owners referred to in subsections (e), (f) and (g) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.

(i) Except as provided in subsection (j), foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the condominium.

(j) If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium.

### Commissioners' Comment

1. While few condominiums have yet been terminated under present state law, a number of problems are certain to arise upon termination which have