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RWH/CL

P.L. 2020, CHAPTER 100, *approved September 30, 2020*
Senate, No. 908 (*Second Reprint*)

1 AN ACT concerning association assessment ¹[and election
2 participation]¹ in planned real estate developments, and
3 supplementing P.L.1977, c.419 (C.45:22A-21 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. The Legislature finds and declares that:

9 a. Certain associations have interpreted that the provisions of
10 P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017,
11 may impose new responsibilities on certain property owners to pay
12 assessments and other charges to their associations; and

13 b. It is necessary and in the public interest for the Legislature to
14 clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose
15 new responsibilities on property owners to pay assessments and
16 other charges ²[nor did it convert a previously voluntary
17 association into a planned real estate development¹]².
18

19 2. a. An association in ¹[communities] a community¹
20 established prior to the ¹[passage] effective date¹ of the “Planned
21 Real Estate ¹[Financial] Development Full¹ Disclosure Act,”
22 (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), shall not be
23 permitted to require property owners to pay assessments and other
24 charges ²[unless otherwise provided by law,¹]² where ²[;¹]:

25 (1)¹]² the property owner’s title record does not impose such an
26 obligation ¹[unless otherwise provided by law]²]; or

27 (2) the property owner’s title record establishes such an
28 obligation, but it was previously only imposed on property owners
29 who voluntarily elected to join or become members of the
30 association, and not on all property owners¹.

31 b. In an association within a community established prior to the
32 effective date of PREDFDA, if the association seeks to require one
33 or more property owners to pay assessments and other charges
34 where the property owner’s title record is subject to the provisions
35 of paragraph (2) of subsection a. of this section, the association

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted March 5, 2020.

²Senate amendments adopted in accordance with Governor's recommendations August 27, 2020.

1 shall first obtain an order of the court of competent jurisdiction,
2 declaring the owners as members of the association and authorizing
3 the association to assess the members of the association.】 , unless
4 otherwise provided by law.²

5 ²~~【c.1】~~ b.² If ¹ , after July 13, 2017, ¹ an association has recorded
6 a lien ¹ against an owner's property¹ for non-payment ¹ ~~【on or after~~
7 July 13, 2017 that is based solely on the misinterpretation that
8 P.L.2017, c.106 imposed new responsibilities on property owners to
9 pay】 ² ~~【of】~~ that is based solely on the misinterpretation that
10 P.L.2017, c.106 imposed new responsibilities on property owners to
11 pay² an association's¹ assessments or other charges, ¹ ~~【pursuant to~~
12 P.L. , c. (C.) (pending before the Legislature as this bill) ~~】~~
13 ² ~~【in contravention of subsection b. of this section~~¹ ~~】~~ pursuant to
14 P.L. ,c. (C.) (pending before the Legislature as this bill)²,
15 the lien shall be null and void. The association shall promptly
16 discharge such lien of record and provide notice of this action to the
17 property owner. If an association fails to discharge such null and
18 void lien, the owner may bring an action to have the lien discharged
19 and, if successful, shall be entitled to petition the court for an award
20 of counsel fees.

21

22 3. This act shall take effect immediately and shall be
23 retroactive to July 13, 2017.

24

25

26

27

28 Clarifies association assessment payment requirements in
29 planned real estate developments.

SENATE, No. 908

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

Clarifies association assessment payment and election participation requirements in planned real estate developments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2020)

S908 SINGLETON, OROHO

2

1 AN ACT concerning association assessment and election
2 participation in planned real estate developments, and
3 supplementing P.L.1977, c.419 (C.45:22A-21 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. The Legislature finds and declares that:

9 a. Certain associations have interpreted that the provisions of
10 P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017,
11 may impose new responsibilities on certain property owners to pay
12 assessments and other charges to their associations; and

13 b. It is necessary and in the public interest for the Legislature to
14 clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose
15 new responsibilities on property owners to pay assessments and
16 other charges.
17

18 2. a. An association in communities established prior to the
19 passage of the “Planned Real Estate Financial Disclosure Act,”
20 (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), shall not be
21 permitted to require property owners to pay assessments and other
22 charges where the property owner’s title record does not impose
23 such an obligation, unless otherwise provided by law.

24 b. If an association has recorded a lien for non-payment on or
25 after July 13, 2017 that is based solely on the misinterpretation that
26 P.L.2017, c.106 imposed new responsibilities on property owners to
27 pay assessments or other charges, pursuant to P.L. , c. (C.)
28 (pending before the Legislature as this bill), the lien shall be null
29 and void. The association shall promptly discharge such lien of
30 record and provide notice of this action to the property owner. If an
31 association fails to discharge such null and void lien, the owner may
32 bring an action to have the lien discharged and, if successful, shall
33 be entitled to petition the court for an award of counsel fees.
34

35 3. This act shall take effect immediately and shall be retroactive
36 to July 13, 2017.
37

38
39 STATEMENT
40

41 This bill clarifies certain assessment payment and election
42 participation requirements in planned real estate developments.
43 Certain associations have interpreted that the provisions of
44 P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017,
45 may impose new responsibilities on certain property owners to pay
46 assessments and other charges to their associations. This bill is
47 meant to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not

S908 SINGLETON, OROHO

1 impose new responsibilities on property owners to pay such
2 assessments and other charges.

3 The bill establishes that, except as otherwise provided by law,
4 associations in common interest communities (“CICs”) that were
5 established prior to the effective date of the “Planned Real Estate
6 Financial Disclosure Act,” (“PREDFDA”), P.L.1977, c.419
7 (C.45:22A-21 et seq.), are not allowed to require a property owner
8 to pay assessments and other charges, if the property owner’s title
9 record does not impose such an obligation. Additionally, the bill
10 establishes that, if an association has recorded a lien for non-
11 payment on or after July 13, 2017, and the lien is based solely on
12 the misinterpretation that P.L.2017, c.106 imposed new
13 responsibilities on property owners to pay assessments or other
14 charges, then the lien will be null and void. The bill requires an
15 association that has imposed such a lien to promptly discharge the
16 lien of record and provide notice of this action to the property
17 owner. Under the bill, if an association fails to discharge such a
18 null and void lien, the owner may bring an action to have the lien
19 discharged and, if successful, would be entitled to petition the court
20 for an award of counsel fees.

21 The bill would take effect immediately and would be retroactive
22 to July 13, 2017.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

SENATE, No. 908

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Assembly Housing Committee reports favorably Senate Bill No. 908, with committee amendments.

As amended, this bill clarifies certain assessment payment requirements in planned real estate developments. Certain associations have interpreted that the provisions of P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017, may impose new responsibilities on certain property owners to pay assessments and other charges to their associations. This bill is meant to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose new responsibilities on property owners to pay such assessments and other charges. The bill also clarifies that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments.

The bill establishes that, except as otherwise provided by law, associations in common interest communities (“CICs”) that were established prior to the effective date of the “Planned Real Estate Full Disclosure Act,” (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), are not allowed to require a property owner to pay assessments and other charges, unless otherwise provided by law, if:

- (1) the property owner’s title record does not impose such an obligation; or
- (2) the property owner’s title record establishes such an obligation, but it was previously imposed exclusively on property owners who voluntarily elected to join or become members of the association.

The bill further addresses circumstances in which an association within a community established prior to the effective date of PREDFDA intends to require one or more property owners to pay assessments and other charges when the owner’s title record does impose such an obligation, but the obligation was previously imposed exclusively on owners who voluntarily elected to join or become members of the association. In such circumstances, the bill requires the association to first obtain a court order declaring the owners members of the association and authorizing the association to assess the members of the association before assessing payment.

Additionally, the bill establishes that, if after July 13, 2017, an association has recorded a lien for non-payment of assessments or other charges, in violation of the bill's provisions, then the lien will be null and void. The bill requires an association that has imposed such a lien to promptly discharge the lien of record and provide notice of this action to the property owner. Under the bill, if an association fails to discharge such a null and void lien, the owner may bring an action to have the lien discharged and, if successful, would be entitled to petition the court for an award of counsel fees.

The bill would take effect immediately and would be retroactive to July 13, 2017.

As amended and reported by the committee, this bill is identical to A2480 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments;
- prohibit an association, if established prior to the effective date of PREDFDA, from requiring a property owner to pay assessments and other charges if such obligations, though permitted by the owners' title records, were previously imposed only on owners who voluntarily elected to join the association, unless the association first obtains a court order authorizing the charges; and
- make technical changes.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 908

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 908.

This bill clarifies certain assessment payment and election participation requirements in planned real estate developments. Certain associations have interpreted that the provisions of P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017, may impose new responsibilities on certain property owners to pay assessments and other charges to their associations. This bill clarifies that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose new responsibilities on property owners to pay such assessments and other charges.

The bill establishes that, except as otherwise provided by law, associations in common interest communities (“CICs”) that were established prior to the effective date of the “Planned Real Estate Financial Disclosure Act,” (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), are not allowed to require a property owner to pay assessments and other charges, if the property owner’s title record does not impose such an obligation. Additionally, the bill establishes that, if an association has recorded a lien for non-payment on or after July 13, 2017, and the lien is based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay assessments or other charges, then the lien would be null and void. The bill requires an association that has imposed such a lien to promptly discharge the lien of record and provide notice of this action to the property owner. Under the bill, if an association fails to discharge such a null and void lien, the owner may bring an action to have the lien discharged and, if successful, would be entitled to petition the court for an award of counsel fees.

The bill would take effect immediately and be retroactive to July 13, 2017.

ASSEMBLY, No. 2480

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblywoman HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Space

SYNOPSIS

Clarifies association assessment payment and election participation requirements in planned real estate developments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

A2480 MURPHY, WIRTHS

2

1 AN ACT concerning association assessment and election
2 participation in planned real estate developments, and
3 supplementing P.L.1977, c.419 (C.45:22A-21 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. The Legislature finds and declares that:

9 a. Certain associations have interpreted that the provisions of
10 P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017,
11 may impose new responsibilities on certain property owners to pay
12 assessments and other charges to their associations; and

13 b. It is necessary and in the public interest for the Legislature to
14 clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose
15 new responsibilities on property owners to pay assessments and
16 other charges.
17

18 2. a. An association in communities established prior to the
19 passage of the "Planned Real Estate Financial Disclosure Act,"
20 ("PREDFDA"), P.L.1977, c.419 (C.45:22A-21 et seq.), shall not be
21 permitted to require property owners to pay assessments and other
22 charges where the property owner's title record does not impose
23 such an obligation, unless otherwise provided by law.

24 b. If an association has recorded a lien for non-payment on or
25 after July 13, 2017 that is based solely on the misinterpretation that
26 P.L.2017, c.106 imposed new responsibilities on property owners to
27 pay assessments or other charges, pursuant to P.L. , c. (C.)
28 (pending before the Legislature as this bill), the lien shall be null
29 and void. The association shall promptly discharge such lien of
30 record and provide notice of this action to the property owner. If an
31 association fails to discharge such null and void lien, the owner may
32 bring an action to have the lien discharged and, if successful, shall
33 be entitled to petition the court for an award of counsel fees.
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46 assessments and other charges to their associations. This bill is
47 meant to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not

A2480 MURPHY, WIRTHS

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1 impose new responsibilities on property owners to pay such
2 assessments and other charges.

3 The bill establishes that, except as otherwise provided by law,
4 associations in common interest communities (“CICs”) that were
5 established prior to the effective date of the “Planned Real Estate
6 Financial Disclosure Act,” (“PREDFDA”), P.L.1977, c.419
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9 record does not impose such an obligation. Additionally, the bill
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18 null and void lien, the owner may bring an action to have the lien
19 discharged and, if successful, would be entitled to petition the court
20 for an award of counsel fees.

21 The bill would take effect immediately and would be retroactive
22 to July 13, 2017.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2480

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Assembly Housing Committee reports favorably Assembly Bill No. 2480, with committee amendments.

As amended, this bill clarifies certain assessment payment requirements in planned real estate developments. Certain associations have interpreted that the provisions of P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017, may impose new responsibilities on certain property owners to pay assessments and other charges to their associations. This bill is meant to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose new responsibilities on property owners to pay such assessments and other charges. The bill also clarifies that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments.

The bill establishes that, except as otherwise provided by law, associations in common interest communities (“CICs”) that were established prior to the effective date of the “Planned Real Estate Full Disclosure Act,” (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), are not allowed to require a property owner to pay assessments and other charges, unless otherwise provided by law, if:

- (1) the property owner’s title record does not impose such an obligation; or
- (2) the property owner’s title record establishes such an obligation, but it was previously imposed exclusively on property owners who voluntarily elected to join or become members of the association.

The bill further addresses circumstances in which an association within a community established prior to the effective date of PREDFDA intends to require one or more property owners to pay assessments and other charges when the owner’s title record does impose such an obligation, but the obligation was previously imposed exclusively on owners who voluntarily elected to join or become members of the association. In such circumstances, the bill requires the association to first obtain a court order declaring the owners members of the association and authorizing the association to assess the members of the association before assessing payment.

Additionally, the bill establishes that, if after July 13, 2017, an association has recorded a lien for non-payment of assessments or other charges, in violation of the bill's provisions, then the lien will be null and void. The bill requires an association that has imposed such a lien to promptly discharge the lien of record and provide notice of this action to the property owner. Under the bill, if an association fails to discharge such a null and void lien, the owner may bring an action to have the lien discharged and, if successful, would be entitled to petition the court for an award of counsel fees.

The bill would take effect immediately and would be retroactive to July 13, 2017.

As amended and reported by the committee, this bill is identical to S908 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not convert previously voluntary associations into planned real estate developments;
- prohibit an association, if established prior to the effective date of PREDFDA, from requiring a property owner to pay assessments and other charges if such obligations, though permitted by the owners' title records, were previously imposed only on owners who voluntarily elected to join the association, unless the association first obtains a court order authorizing the charges; and
- make technical changes.

SENATE BILL NO. 908
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 908 (First Reprint) with my recommendations for reconsideration.

New Jersey's Planned Real Estate Development Full Disclosure Act ("PREDFDA") is designed to ensure that those buying into a real estate development in which owners share common elements or interests are on notice of the conditions, costs, and rules associated with living in this type of community. Although various forms of common interest communities have existed in New Jersey since as far back as the Civil War, including many of New Jersey's lake communities, these communities were largely unregulated until the PREDFDA was enacted in the late 1970's.

Recent amendments to the PREDFDA, P.L.2017, c.106, sought to grant association members living in planned real estate developments definitive voting rights in order to promote a more democratic process in the governance of planned communities. Senate Bill No. 908 (First Reprint), which would clarify the legislative intent and scope of P.L.2017, c.106, comes in response to an apparent misinterpretation of the 2017 law among certain lake association communities that pre-date the PREDFDA and have used the law to impose new dues and assessments on owners. The bill would preclude this unintended interpretation by specifying that, if an association did not have authority to compel payment of assessments or other charges prior to the effective date of P.L. 2017, c. 106, or chose not to enforce the collection of dues previously, then a property owner would not be required to pay assessments or dues to the association as a result of the 2017 law. In turn, the association would not be required to provide

the property owner with the association membership or voting rights outlined in the 2017 law.

I commend the bill's sponsors for their efforts to shield property owners from surprise assessments and compulsory fees. I certainly agree that the recent revisions to the PREDFDA should not be used to impose upon property owners additional financial responsibilities that they could not reasonably have anticipated. At the same time, however, the interests of these property owners must be carefully balanced against the interests of all other parties, including those property owners who have previously been contributing to their associations.

In an effort to strike a more appropriate balance among all interested parties, I am recommending modest revisions to safeguard the ability of lake associations to collect funds necessary to comply with critical environmental, health, and safety requirements, such as those outlined in the Safe Dam Act, the Stormwater Management Act, the Safe Drinking Water Act, and the Water Pollution Control Act, among others. These revisions will help ensure that associations are able to provide long-term operation and maintenance of dams, stormwater facilities, including stormwater inlets, storm sewers, stormwater basins, and stormwater outfalls owned and operated by the associations, without unfairly shifting the cost of upkeep to a smaller group of members and, potentially, State and local taxpayers.

Therefore, I herewith return Senate Bill No. 908 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Section 1, Lines 16-17:</u>	Delete ", nor did it convert a previously voluntary association into a planned real estate development"
<u>Page 2, Section 2, Line 24:</u>	Delete ", unless otherwise provided by law,"
<u>Page 2, Section 2, Lines 24-25:</u>	Delete ": (1)"

Page 2, Section 2, Line 26: After "obligation" insert ", unless otherwise provided by law."

Page 2 Section 2, Line 26: Delete "; or"

Page 2, Section 2, Lines 27-38: Delete in their entirety

Page 2, Section 2, Line 39: Delete "c." and insert "b."

Page 2, Section 2, Line 40: After "non-payment" insert "that is based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay"

Page 2, Section 2, Line 42: Delete "of"

Page 2, Section 2, Line 43: After "charges," insert "pursuant to P.L. ,c. (C.) (pending before the Legislature as this bill)"

Page 3, Section 2, Line 2: Delete "in contravention of subsection b. of this section"

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor

SENATE BILL NO. 908
(First Reprint)

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<u>Page 2, Section 2, Line 24:</u>	Delete ", unless otherwise provided by law,"
<u>Page 2, Section 2, Lines 24-25:</u>	Delete ": (1)"

Page 2, Section 2, Line 26: After "obligation" insert ", unless otherwise provided by law."

Page 2 Section 2, Line 26: Delete "; or"

Page 2, Section 2, Lines 27-38: Delete in their entirety

Page 2, Section 2, Line 39: Delete "c." and insert "b."

Page 2, Section 2, Line 40: After "non-payment" insert "that is based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay"

Page 2, Section 2, Line 42: Delete "of"

Page 2, Section 2, Line 43: After "charges," insert "pursuant to P.L. ,c. (C.) (pending before the Legislature as this bill)"

Page 3, Section 2, Line 2: Delete "in contravention of subsection b. of this section"

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor

Governor Murphy Takes Action on Legislation

09/30/2020

TRENTON – Today, Governor Phil Murphy signed the following bills and resolutions into law:

S-908 wGR/A-2480 (Singleton, Oroho/Murphy, Wirths, Schepisi) – Clarifies association assessment payment requirements in planned real estate developments.

S-2436 wGR/A-4012 (Gopal, Greenstein/Mukherji, Benson, Houghtaling) – Authorizes pharmacists to order and cause to be administered test for coronavirus disease 2019 (COVID-19) or COVID-19 antibodies; requires health benefits and Medicaid coverage for tests.

SJR-57/AJR-39 (Gopal, Oroho, Greenstein/Houghtaling, Downey, Wirths) – Designates first week of October of each year as Manufacturing Week.