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IS 5/9/08

P.L. 2007, CHAPTER 165, *approved September 10, 2007*  
Assembly, No. 2822 (*Third Reprint*)

1 AN ACT concerning condominium associations, amending  
2 P.L.1969, c.257 and validating certain master deed and bylaws  
3 provisions.  
4

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

8 1. Section 15 of P.L.1969, c.257 (C.46:8B-15) is amended to  
9 read as follows:

10 15. Subject to the provisions of the master deed, the bylaws,  
11 rules and regulations and the provisions of this act or other  
12 applicable law, the association shall have the following powers:

13 (a) Whether or not incorporated, the association shall be an  
14 entity which shall act through its officers and may enter into  
15 contracts, bring suit and be sued. If the association is not  
16 incorporated, it may be deemed to be an entity existing pursuant to  
17 this act and a majority of the members of the governing board or of  
18 the association, as the case may be, shall constitute a quorum for the  
19 transaction of business. Process may be served upon the association  
20 by serving any officer of the association or by serving the agent  
21 designated for service of process. Service of process upon the  
22 association shall not constitute service of process upon any  
23 individual unit owner.

24 (b) The association shall have access to each unit from time to  
25 time during reasonable hours as may be necessary for the  
26 maintenance, repair or replacement of any common elements  
27 therein or accessible therefrom or for making emergency repairs  
28 necessary to prevent damage to common elements or to any other  
29 unit or units. The association may charge the unit owner for the  
30 repair of any common element damaged by the unit owner or his  
31 tenant.

32 (c) The association may purchase units in the condominium and  
33 otherwise acquire, hold, lease, mortgage and convey the same. It  
34 may also lease or license the use of common elements in a manner  
35 not inconsistent with the rights of unit owners.

36 (d) The association may acquire or enter into agreements  
37 whereby it acquires leaseholds, memberships or other possessory or  
38 use interests in lands or facilities including, but not limited to  
39 country clubs, golf courses, marinas and other recreational  
40 facilities, whether or not contiguous to the condominium property,  
41 intended to provide for the enjoyment, recreation or other use or

**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:

<sup>1</sup>Assembly AHO committee amendments adopted May 18, 2006.

<sup>2</sup>Senate SCU committee amendments adopted March 15, 2007.

<sup>3</sup>Senate floor amendments adopted June 18, 2007.

1 benefit of the unit owners. If fully described in the master deed or  
2 bylaws, the fees, costs and expenses of acquiring, maintaining,  
3 operating, repairing and replacing any such memberships, interests  
4 and facilities shall be common expenses. If not so described in the  
5 master deed or bylaws as originally recorded, no such membership  
6 interest or facility shall be acquired except pursuant to amendment  
7 of or supplement to the master deed or bylaws duly adopted as  
8 provided therein and in this act. In the absence of such amendment  
9 or supplement, if some but not all unit owners desire any such  
10 acquisition and agree to assume among themselves all costs of  
11 acquisition, maintenance, operation, repair and replacement thereof,  
12 the association may acquire or enter into an agreement to acquire  
13 the same as limited common elements appurtenant only to the units  
14 of those unit owners who have agreed to bear the costs and  
15 expenses thereof. Such costs and expenses shall be assessed against  
16 and collected from the agreeing unit owners in the proportions in  
17 which they share as among themselves in the common expenses in  
18 the absence of some other unanimous agreement among themselves.  
19 No other unit owner shall be charged with any such cost or expense;  
20 provided, however, that nothing herein shall preclude the extension  
21 of the interests in such limited common elements to additional unit  
22 owners by subsequent agreement with all those unit owners then  
23 having an interest in such limited common elements.

24 (e) The association may levy and collect assessments duly made  
25 by the association for a share of common expenses <sup>2</sup>[or otherwise]  
26 <sup>3</sup>[in maintaining or repairing the common property<sup>2</sup>] or otherwise<sup>3</sup>,  
27 including any other moneys duly owed the association, upon proper  
28 notice to the appropriate unit owner, together with interest thereon,  
29 late fees and reasonable attorneys' fees, if authorized by the master  
30 deed or bylaws.

31 <sup>2</sup>All funds collected by an association shall be maintained  
32 separately in the association's name. For investment purposes only,  
33 reserve funds may be commingled with operating funds of the  
34 association. Commingled operating and reserve funds shall be  
35 accounted for separately, and a commingled account shall not, at  
36 any time, be less than the amount identified as reserve funds. A  
37 manager or business entity managing a condominium, or an agent,  
38 employee, officer, or director of an association, shall not  
39 commingle any association funds with his or her funds or with the  
40 funds of any other condominium association or the funds of another  
41 association as defined in section 3 of P.L.1977, c.419 (C.45:22A-  
42 23).<sup>2</sup>

43 If authorized by the master deed or bylaws, the association may  
44 levy and collect a capital contribution, membership fee or other  
45 charge upon the <sup>1</sup>[resale or transfer] initial sale or subsequent  
46 resale<sup>1</sup> of <sup>1</sup>[units] a unit<sup>1</sup>, <sup>2</sup>which collection shall be earmarked<sup>2</sup>  
47 for the purpose of <sup>2</sup>[defraying] maintenance of or improvements to

1 common elements to defray<sup>2</sup> common expenses<sup>3</sup> or otherwise<sup>3</sup> <sup>2</sup>[or  
2 otherwise] <sup>2</sup> <sup>1</sup>provided that such charge shall not exceed <sup>2</sup>[18]  
3 nine<sup>2</sup> times the amount of the most recent monthly common  
4 expense assessment for that unit<sup>1</sup>.

5 (f) If authorized by the master deed or bylaws, the association  
6 may impose reasonable fines upon unit owners for failure to comply  
7 with provisions of the master deed, bylaws or rules and regulations,  
8 subject to the following provisions:

9 A fine for a violation or a continuing violation of the master  
10 deed, bylaws or rules and regulations shall not exceed the maximum  
11 monetary penalty permitted to be imposed for a violation or a  
12 continuing violation under section 19 of the "Hotel and Multiple  
13 Dwelling Law," P.L.1967, c.76 (C.55:13A-19).

14 On roads or streets with respect to which Title 39 of the Revised  
15 Statutes is in effect under section 1 of P.L.1945, c.284 (C.39:5A-1),  
16 an association may not impose fines for moving automobile  
17 violations.

18 A fine shall not be imposed unless the unit owner is given  
19 written notice of the action taken and of the alleged basis for the  
20 action, and is advised of the right to participate in a dispute  
21 resolution procedure in accordance with subsection (k) of section 14  
22 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not  
23 believe that the dispute resolution procedure has satisfactorily  
24 resolved the matter shall not be prevented from seeking a judicial  
25 remedy in a court of competent jurisdiction.

26 (g) Such other powers as may be set forth in the master deed or  
27 bylaws, if not prohibited by P.L.1969, c.257 (C.46:8B-1 et seq.) or  
28 any other law of this State.  
29 (cf: P.L.1996, c.79, s.3)

30  
31 2. (New section) Any master deed or bylaws provision  
32 providing for the imposition and collection of a capital contribution,  
33 membership fee or other charge upon the resale or transfer of units  
34 prior to the effective date of this act is hereby validated.

35  
36 3. This act shall take effect immediately.  
37  
38  
39  
40

41 \_\_\_\_\_  
42 Permits the charging of fee for capital contribution for purpose  
of defraying common expenses; validates certain bylaws.

# ASSEMBLY, No. 2822

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 9, 2006

**Sponsored by:**

**Assemblyman FREDERICK SCALERA**

**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Permits the charging of fee for capital contribution for purpose of defraying common expenses; validates certain bylaws.

**CURRENT VERSION OF TEXT**

As introduced.



A2822 SCALERA

2

1 AN ACT concerning condominium associations, amending  
2 P.L.1969, c.257 and validating certain master deed and bylaws  
3 provisions.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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9 read as follows:

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11 rules and regulations and the provisions of this act or other  
12 applicable law, the association shall have the following powers:

13 (a) Whether or not incorporated, the association shall be an  
14 entity which shall act through its officers and may enter into  
15 contracts, bring suit and be sued. If the association is not  
16 incorporated, it may be deemed to be an entity existing pursuant to  
17 this act and a majority of the members of the governing board or of  
18 the association, as the case may be, shall constitute a quorum for the  
19 transaction of business. Process may be served upon the association  
20 by serving any officer of the association or by serving the agent  
21 designated for service of process. Service of process upon the  
22 association shall not constitute service of process upon any  
23 individual unit owner.

24 (b) The association shall have access to each unit from time to  
25 time during reasonable hours as may be necessary for the  
26 maintenance, repair or replacement of any common elements  
27 therein or accessible therefrom or for making emergency repairs  
28 necessary to prevent damage to common elements or to any other  
29 unit or units. The association may charge the unit owner for the  
30 repair of any common element damaged by the unit owner or his  
31 tenant.

32 (c) The association may purchase units in the condominium and  
33 otherwise acquire, hold, lease, mortgage and convey the same. It  
34 may also lease or license the use of common elements in a manner  
35 not inconsistent with the rights of unit owners.

36 (d) The association may acquire or enter into agreements  
37 whereby it acquires leaseholds, memberships or other possessory or  
38 use interests in lands or facilities including, but not limited to  
39 country clubs, golf courses, marinas and other recreational  
40 facilities, whether or not contiguous to the condominium property,  
41 intended to provide for the enjoyment, recreation or other use or  
42 benefit of the unit owners. If fully described in the master deed or  
43 bylaws, the fees, costs and expenses of acquiring, maintaining,  
44 operating, repairing and replacing any such memberships, interests  
45 and facilities shall be common expenses. If not so described in the

**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.**

1 master deed or bylaws as originally recorded, no such membership  
2 interest or facility shall be acquired except pursuant to amendment  
3 of or supplement to the master deed or bylaws duly adopted as  
4 provided therein and in this act. In the absence of such amendment  
5 or supplement, if some but not all unit owners desire any such  
6 acquisition and agree to assume among themselves all costs of  
7 acquisition, maintenance, operation, repair and replacement thereof,  
8 the association may acquire or enter into an agreement to acquire  
9 the same as limited common elements appurtenant only to the units  
10 of those unit owners who have agreed to bear the costs and  
11 expenses thereof. Such costs and expenses shall be assessed against  
12 and collected from the agreeing unit owners in the proportions in  
13 which they share as among themselves in the common expenses in  
14 the absence of some other unanimous agreement among themselves.  
15 No other unit owner shall be charged with any such cost or expense;  
16 provided, however, that nothing herein shall preclude the extension  
17 of the interests in such limited common elements to additional unit  
18 owners by subsequent agreement with all those unit owners then  
19 having an interest in such limited common elements.

20 (e) The association may levy and collect assessments duly made  
21 by the association for a share of common expenses or otherwise,  
22 including any other moneys duly owed the association, upon proper  
23 notice to the appropriate unit owner, together with interest thereon,  
24 late fees and reasonable attorneys' fees, if authorized by the master  
25 deed or bylaws.

26 If authorized by the master deed or bylaws, the association may  
27 levy and collect a capital contribution, membership fee or other  
28 charge upon the resale or transfer of units, for the purpose of  
29 defraying common expenses, or otherwise.

30 (f) If authorized by the master deed or bylaws, the association  
31 may impose reasonable fines upon unit owners for failure to comply  
32 with provisions of the master deed, bylaws or rules and regulations,  
33 subject to the following provisions:

34 A fine for a violation or a continuing violation of the master  
35 deed, bylaws or rules and regulations shall not exceed the maximum  
36 monetary penalty permitted to be imposed for a violation or a  
37 continuing violation under section 19 of the "Hotel and Multiple  
38 Dwelling Law," P.L.1967, c.76 (C.55:13A-19).

39 On roads or streets with respect to which Title 39 of the Revised  
40 Statutes is in effect under section 1 of P.L.1945, c.284 (C.39:5A-1),  
41 an association may not impose fines for moving automobile  
42 violations.

43 A fine shall not be imposed unless the unit owner is given  
44 written notice of the action taken and of the alleged basis for the  
45 action, and is advised of the right to participate in a dispute  
46 resolution procedure in accordance with subsection (k) of section 14  
47 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not  
48 believe that the dispute resolution procedure has satisfactorily



A2822 SCALERA

1 resolved the matter shall not be prevented from seeking a judicial  
2 remedy in a court of competent jurisdiction.

3 (g) Such other powers as may be set forth in the master deed or  
4 bylaws, if not prohibited by P.L.1969, c.257 (C.46:8B-1 et seq.) or  
5 any other law of this State.

6 (cf: P.L.1996, c.79, s.3)

7

8 2. (New section) Any master deed or bylaws provision  
9 providing for the imposition and collection of a capital contribution,  
10 membership fee or other charge upon the resale or transfer of units  
11 prior to the effective date of this act is hereby validated.

12

13 3. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill permits a condominium association, if authorized by the  
19 master deed or bylaws, to levy and collect a capital contribution,  
20 membership fee or other charge upon the resale or transfer of units,  
21 for the purpose of defraying common expenses or otherwise. The  
22 bill provides for the validation of an associations' master deed or  
23 bylaws if such documents contained a provision authorizing the  
24 levy and collection of a capital contribution or membership fee  
25 prior to the effective date of the bill.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2822**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 18, 2006

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2822 with committee amendments.

This bill, as amended by the committee, permits a condominium association, if authorized by the master deed or bylaws, to levy and collect a capital contribution, membership fee or other charge upon the initial sale, resale or transfer of units, for the purpose of defraying common expenses or otherwise. The amount which may be charged is capped at 18 times the monthly common expense assessment. The bill provides for the validation of an associations' master deed or bylaws if such documents contained a provision authorizing the levy and collection of a capital contribution or membership fee prior to the effective date of the bill.

Committee amendments

The committee amended the bill to add a cap to the amount that may be charged as a capital contribution or entrance fee. In addition, initial sales are included under the bill's provisions.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 2822**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 15, 2007

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Assembly Bill No. 2822(1R).

This bill, as amended by the committee, permits a condominium association, if authorized by the master deed or bylaws, to levy and collect a capital contribution, membership fee or other charge upon the initial sale or subsequent resale of a unit, for the purpose of defraying common expenses if earmarked for that purpose. The amount which may be charged is capped at nine times the monthly common expense assessment for that unit. The bill provides for the validation of an associations' master deed or bylaws if such documents contained a provision authorizing the levy and collection of a capital contribution or membership fee prior to the effective date of the bill.

The bill, as amended, also provides that funds collected by an association must be maintained separately in the association's name. An association could only commingle reserve funds with other funds if done for the purposes of investment. Property managers or board members of an association could not commingle association funds with their own private funds at any time, and could not commingle the funds of different communities.

The committee amended the bill to decrease the amount which could be charged by a condominium association under the bill as a capital contribution, membership fee or other charge upon the initial sale or subsequent resale for the purpose of defraying common expenses, from 18 times the monthly common expense assessment, to nine times the monthly common expense assessment. The amendments also limit the commingling of reserve funds by an association with other funds, unless it is done for the purposes of investment. The amendments also provide that property managers or board members of an association may not commingle association funds with their own private funds at any time, and may not commingle the funds of different communities.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 2822**

with Senate Floor Amendments  
(Proposed By Senator RICE)

ADOPTED: JUNE 18, 2007

These floor amendments delete language which erroneously would have limited the purposes for which a homeowner association may collect common expense assessments as well as entrance fees from the owners in a condominium community. The committee amendments were intended to pertain solely to the collection of entrance fees by new purchasers into such a community, which fees, when collected, must be earmarked for the purpose of maintenance of or improvements to common elements to defray common expenses or otherwise, and may not exceed nine times the amount of the most recent monthly common expense assessment for the particular unit being purchased.

# SENATE, No. 2188

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED SEPTEMBER 18, 2006

**Sponsored by:**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

**Senator Bucco**

**SYNOPSIS**

Permits the charging of fee for capital contribution for purpose of defraying common expenses; validates certain bylaws.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/26/2006)**

S2188 RICE, SARLO

2

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30 repair of any common element damaged by the unit owner or his  
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40 facilities, whether or not contiguous to the condominium property,  
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12 and collected from the agreeing unit owners in the proportions in  
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20 (e) The association may levy and collect assessments duly made  
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26 If authorized by the master deed or bylaws, the association may  
27 levy and collect a capital contribution, membership fee or other  
28 charge upon the initial sale or subsequent resale of a unit, for the  
29 purpose of defraying common expenses, or otherwise provided that  
30 such charge shall not exceed 18 times the amount of the most recent  
31 monthly common expense assessment for that unit.

32 (f) If authorized by the master deed or bylaws, the association  
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48 resolution procedure in accordance with subsection (k) of section 14  
49 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not

1 believe that the dispute resolution procedure has satisfactorily  
2 resolved the matter shall not be prevented from seeking a judicial  
3 remedy in a court of competent jurisdiction.

4 (g) Such other powers as may be set forth in the master deed or  
5 bylaws, if not prohibited by P.L.1969, c.257 (C.46:8B-1 et seq.) or  
6 any other law of this State.

7 (cf: P.L.1996, c.79, s.3)

8

9 2. (New section) Any master deed or bylaws provision  
10 providing for the imposition and collection of a capital contribution,  
11 membership fee or other charge upon the initial sale or subsequent  
12 resale of a unit prior to the effective date of this act is hereby  
13 validated.

14

15 3. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill permits a condominium association, if authorized by the  
21 master deed or bylaws, to levy and collect a capital contribution,  
22 membership fee or other charge upon the initial sale, resale or  
23 transfer of units, for the purpose of defraying common expenses or  
24 otherwise. The amount which may be charged is capped at 18 times  
25 the monthly common expense assessment. The bill provides for the  
26 validation of an associations' master deed or bylaws if such  
27 documents contained a provision authorizing the levy and collection  
28 of a capital contribution or membership fee prior to the effective  
29 date of the bill.



# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2188**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 15, 2007

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2188.

This bill, as amended by the committee, permits a condominium association, if authorized by the master deed or bylaws, to levy and collect a capital contribution, membership fee or other charge upon the initial sale or subsequent resale of a unit, for the purpose of defraying common expenses if earmarked for that purpose. The amount which may be charged is capped at nine times the monthly common expense assessment for that unit. The bill provides for the validation of an associations' master deed or bylaws if such documents contained a provision authorizing the levy and collection of a capital contribution or membership fee prior to the effective date of the bill.

The bill, as amended, also provides that funds collected by an association must be maintained separately in the association's name. An association could only commingle reserve funds with other funds if done for the purposes of investment. Property managers or board members of an association could not commingle association funds with their own private funds at any time, and could not commingle the funds of different communities.

The committee amended the bill to decrease the amount which could be charged by a condominium association under the bill as a capital contribution, membership fee or other charge upon the initial sale or subsequent resale for the purpose of defraying common expenses, from 18 times the monthly common expense assessment, to nine times the monthly common expense assessment. The amendments also limit the commingling of reserve funds by an association with other funds, unless it is done for the purposes of investment. The amendments also provide that property managers or board members of an association may not commingle association funds with their own private funds at any time, and may not commingle the funds of different communities.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2188**

with Senate Floor Amendments  
(Proposed By Senator RICE)

ADOPTED: JUNE 18, 2007

These floor amendments delete language which erroneously would have limited the purposes for which a homeowner association may collect common expense assessments as well as entrance fees from the owners in a condominium community. The committee amendments were intended to pertain solely to the collection of entrance fees by new purchasers into such a community, which fees, when collected, must be earmarked for the purpose of maintenance of or improvements to common elements to defray common expenses or otherwise, and may not exceed nine times the amount of the most recent monthly common expense assessment for the particular unit being purchased.