

LEGISLATIVE HISTORY CHECKLIST  
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(Condominiums--dispute resolution)

NJSA: 46:8B-14

LAWS OF: 1995

CHAPTER: 313

BILL NO: S816

SPONSOR(S): Ciesla and others

DATE INTRODUCED: March 10, 1994

COMMITTEE: ASSEMBLY Housing

SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage  
Third reprint enacted: denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: November 9, 1995

SENATE: February 9, 1995

DATE OF APPROVAL: January 5, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1994

By Senators CIESLA, Sinagra and Kosco

1 AN ACT concerning the management of condominium  
2 associations and amending P.L.1969, c.257.

3

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

6 1. Section 14 of P.L.1969, c.257 (C.46:8B-14) is amended to  
7 read as follows:

8 14. The association, acting through its officers or governing  
9 board, shall be responsible for the performance of the following  
10 duties, the costs of which shall be common expenses:

11 (a) The maintenance, repair, replacement, cleaning and  
12 sanitation of the common elements.

13 (b) The assessment and collection of funds for common  
14 expenses and the payment thereof.

15 (c) The adoption, distribution, amendment and enforcement of  
16 rules governing the use and operation of the condominium and the  
17 condominium property and the use of the common elements  
18 subject to the right of a majority of unit owners to change any  
19 such rules.

20 (d) The maintenance of insurance against loss by fire or other  
21 casualties normally covered under broad-form fire and extended  
22 coverage insurance policies as written in this State, covering all  
23 common elements and all structural portions of the condominium  
24 property and the application of the proceeds of any such  
25 insurance to restoration of such common-elements and structural  
26 portions if such restoration shall otherwise be required under the  
27 provisions of this act or the master deed or by-laws.

28 (e) The maintenance of insurance against liability for personal  
29 injury and death for accidents occurring within the common  
30 elements whether limited or general and the defense of any  
31 actions brought by reason of injury or death to person, or damage  
32 to property occurring within such common elements and not  
33 arising by reason of any act or negligence of any individual unit  
34 owner.

35 (f) The master deed or by-laws may require the association to  
36 protect blanket mortgages, or unit owners and their mortgagees,  
37 as their respective interest may appear, under the policies of  
38 insurance provided under clauses (d) and (e) of this section, or  
39 against such risks with respect to any or all units, and may permit  
40 the assessment and collection from a unit owner of specific  
41 charges for insurance coverage applicable to his unit.

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> Senate SCO committee amendments adopted September 12, 1994.

<sup>2</sup> Senate floor amendments adopted January 19, 1995.

<sup>3</sup> Assembly AHO committee amendments adopted March 9, 1995.

1 (g) The maintenance of accounting records, in accordance with  
2 generally accepted accounting principles, open to inspection at  
3 reasonable times by unit owners. Such records shall include:

4 (i) A record of all receipts and expenditures.

5 (ii) An account for each unit setting forth any shares of  
6 common expenses or other charges due, the due dates thereof,  
7 the present balance due, and any interest in common surplus.

8 (h) Nothing herein shall preclude any unit owner or other  
9 person having an insurable interest from obtaining insurance at  
10 his own expense and for his own benefit against any risk whether  
11 or not covered by insurance maintained by the association.

12 (i) Such other duties as may be set forth in the master deed or  
13 by-laws.

14 (j) An association shall exercise its powers and discharge its  
15 functions in a manner that protects and furthers the health,  
16 safety and general welfare of the residents of the community.

17 (k) An association shall provide a fair and efficient procedure  
18 for the resolution of <sup>3</sup>housing-related<sup>3</sup> disputes between  
19 individual unit owners and the association, and between unit  
20 owners, which shall be readily available as an alternative to  
21 litigation. <sup>1</sup>A person other than an officer of the association, a  
22 member of the governing board or a unit owner involved in the  
23 dispute shall be made available to resolve the dispute. A unit  
24 owner may notify the Commissioner of Community Affairs if an  
25 association does not comply with this subsection. The  
26 commissioner shall have the power to order the association to  
27 provide a fair and efficient procedure for the resolution of  
28 disputes <sup>2</sup>[and may remove from the governing board any officer  
29 responsible for noncompliance with this subsection]<sup>2,1</sup>

30 (cf: P.L.1969, c.257, s.14)

31 2. Section 16 of P.L.1969, c.257 (C.46:8B-16) is amended to  
32 read as follows:

33 16. (a) No unit owner, except as an officer of the association,  
34 shall have any authority to act for or bind the association. An  
35 association, however, may assert tort claims concerning the  
36 common elements and facilities of the development as if the  
37 claims were asserted directly by the unit owners individually.

38 (b) Failure to comply with the by-laws and the rules and  
39 regulations governing the details of the use and operation of the  
40 condominium, the condominium property and the common  
41 elements in effect from time to time and with the covenants,  
42 conditions and restrictions set forth in the master deed or in  
43 deeds of units shall be grounds for an action for the recovery of  
44 damages or for injunctive relief or both maintainable by the  
45 association or by any other unit owner or by any person who holds  
46 a blanket mortgage or a mortgage lien upon a unit and is  
47 aggrieved by any such noncompliance.

48 (c) A unit owner shall have no personal liability for any  
49 damages caused by the association or in connection with the use  
50 of the common elements. A unit owner shall be liable for injuries  
51 or damages resulting from an accident in his own unit in the same  
52 manner and to the same extent as the owner of any other real  
53 estate.

54 (d) A unit owner may notify the Commissioner of Community

1 Affairs upon the failure of an association to comply with requests  
2 made under subsection (g) of section 14 of P.L.1969, c.257  
3 (C.46:8B-14) by unit owners to inspect at reasonable times the  
4 accounting records of the association. Upon investigation, the  
5 commissioner shall have the power to order the compliance of the  
6 association with such a request <sup>2</sup>[, and may remove from the  
7 governing board of an association those officers responsible for  
8 failing to comply with such a request]<sup>2</sup>.  
9 (cf: P.L.1969, c.257, s.16)

10 3. This act shall take effect immediately.

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15 Provides condo owners with alternate dispute resolution,  
16 disclosure enforcement.

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SPONSOR'S STATEMENT

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This bill would provide that a condominium association, regardless of the date of formation, 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. The bill also provides that an association provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which is to be readily available as an alternative to litigation.

These provisions already apply to condominiums formed after July 29, 1993, the effective date of P.L.1993, c.30. That act was applicable to newly-forming planned real estate developments, which were required by the act to be formed pursuant to its provisions. This bill would extend these provisions to all condominium associations.

In addition, the bill also provides that a unit owner may notify the Commissioner of Community Affairs upon the failure of an association to comply with requests made under subsection (g) of section 14 of P.L.1969, c.257 (C. 46:8B-14) to inspect at reasonable times the accounting records of the association. Upon investigation, the commissioner shall have the power to order the compliance of the association with such a request, and may remove from the governing board of an association those officers responsible for failing to comply with such a request.

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Provides condo owners with alternate dispute resolution, disclosure enforcement.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 816**

with committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 12, 1994

The Senate Community Affairs Committee reports favorably Senate Bill No. 816 with committee amendments.

This bill, as amended by the committee, would provide that a condominium association, regardless of the date of formation, must 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. The bill would also require an association to provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which is to be readily available as an alternative to litigation.

In addition, the bill would provide that a unit owner may notify the Commissioner of Community Affairs upon the failure of an association to comply with requests made under subsection (g) of section 14 of P.L.1969, c.257 (C.46:8B-14) to inspect at reasonable times the accounting records of the association. Upon investigation, the commissioner would have the power to order the compliance of the association with such a request, and may remove from the governing board of an association those officers responsible for failing to comply with such a request.

The committee amended the bill to clarify the meaning of "a fair and efficient procedure for the resolution of disputes." The amendments specify that a person other than an officer of the association, a member of the governing board or a unit owner involved in the dispute shall be made available to resolve the dispute. The amendments also allow a unit owner to notify the Commissioner of Community Affairs if an association does not provide an alternate dispute resolution procedure as outlined in the bill. Finally, the amendments empower the commissioner to order an association to provide a fair and efficient procedure for the resolution of disputes and to remove from the governing board any officer responsible for noncompliance.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 816

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 1995

The Assembly Housing Committee favorably reports Senate Bill No. 816 (2R) with committee amendments.

This bill would provide that a condominium association, regardless of the date of formation, must 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. The bill would also require an association to provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which is to be readily available as an alternative to litigation. The committee amended the bill to clarify that such disputes be limited to those that are housing-related.

These provisions already apply to condominiums formed after July 29, 1993, the effective date of P.L.1993, c.30. That act was applicable to newly-forming planned real estate developments, which were required by the act to be formed pursuant to its provisions. This bill would extend these provisions to all condominium associations.

In addition, the bill would provide that a unit owner may notify the Commissioner of Community Affairs upon the failure of an association to comply with requests made under subsection (g) of section 14 of P.L.1969, c.257 (C.46:8B-14) to inspect at reasonable times the accounting records of the association. Upon investigation, the commissioner would have the power to order the compliance of the association with such a request.

The bill clarifies the meaning of "a fair and efficient procedure for the resolution of disputes." The bill specifies that a person other than an officer of the association, a member of the governing board or a unit owner involved in the dispute shall be made available to resolve the dispute. The bill also allows a unit owner to notify the Commissioner of Community Affairs if an association does not provide an alternate dispute resolution procedure as outlined in the bill. Finally, the bill empowers the commissioner to order an association to provide a fair and efficient procedure for the resolution of disputes.

The authority granted in an earlier version of the bill to the commissioner to remove from the governing board of an association an officer responsible for failing to comply with requests of unit owners to inspect the accounting records of the association was deleted in a Senate floor amendment.

This bill is identical to Assembly Bill No. 2065, with committee amendments, which was also released by the committee today.