

CHAPTER 165

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

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

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

C.46:8B-15 Powers of association.

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

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

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

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

(d) The association may acquire or enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including, but not limited to country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the condominium property, intended to provide for the enjoyment, recreation or other use or benefit of the unit owners. If fully described in the master deed or bylaws, the fees, costs and expenses of acquiring, maintaining, operating, repairing and replacing any such memberships, interests and facilities shall be common expenses. If not so described in the master deed or bylaws as originally recorded, no such membership interest or facility shall be acquired except pursuant to amendment of or supplement to the master deed or bylaws duly adopted as provided therein and in this act. In the absence of such amendment or supplement, if some but not all unit owners desire any such acquisition and agree to assume among themselves all costs of acquisition, maintenance, operation, repair and replacement thereof, the association may acquire or enter into an agreement to acquire the same as limited common elements appurtenant only to the units of those unit owners who have agreed to bear the costs and expenses thereof. Such costs and expenses shall be assessed against and collected from the agreeing unit owners in the proportions in which they share as among themselves in the common expenses in the absence of some other unanimous agreement among themselves. No other unit owner shall be charged with any such cost or expense; provided, however, that nothing herein shall preclude the extension of the interests

in such limited common elements to additional unit owners by subsequent agreement with all those unit owners then having an interest in such limited common elements.

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

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

If authorized by the master deed or bylaws, the association may levy and collect a capital contribution, membership fee or other charge upon the initial sale or subsequent resale of a unit, which collection shall be earmarked for the purpose of maintenance of or improvements to common elements to defray common expenses or otherwise, provided that such charge shall not exceed nine times the amount of the most recent monthly common expense assessment for that unit.

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved September 10, 2007.