
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 319 Session of
2013

INTRODUCED BY O'NEILL, CALTAGIRONE, CARROLL, DEAN, FREEMAN,
HARHART, KORTZ, MCCARTER, MILLER, MILNE, MOUL, MUNDY, MURT,
PASHINSKI, PETRI, READSHAW AND WATSON, JANUARY 29, 2013

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 29, 2013

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in management of planned
3 community, further providing for association records; and
4 providing for meetings of unit owners' associations.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5316 of Title 68 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 5316. Association records.

10 (a) Financial records.--The association shall keep financial
11 records sufficiently detailed to enable the association to
12 comply with section 5407 (relating to resales of units). [All
13 financial and other records shall be made reasonably available
14 for examination by any unit owner and authorized agents.]

15 (b) Annual financial statements.--Within 180 days after the
16 close of its fiscal year, the association in any planned
17 community having more than 12 units or subject to any rights
18 under section 5215 (relating to subdivision or conversion of

1 units) or 5211 (relating to conversion and expansion of flexible
2 planned communities) shall prepare annual financial statements
3 consisting of at least a balance sheet and a statement of
4 revenues and expenses for the association. The cost of preparing
5 the financial statements shall be a common expense. Each unit
6 owner shall be entitled to receive from the association, within
7 30 days after submitting a written request to the association, a
8 copy of the annual financial statements and, if such financial
9 statements are audited, reviewed or compiled by an independent
10 certified public accountant or independent public accountant, a
11 copy of the independent accountant's report on the financial
12 statements. The association may charge a fee not to exceed the
13 cost of producing copies of records other than the financial
14 statement.

15 (b.1) Access to association records.--

16 (1) All association records shall be accessible for
17 inspection and duplication by a unit owner or an authorized
18 agent of the unit owner in accordance with this section.

19 (2) An association may fulfill verbal requests for
20 access to an association record. In the event that the
21 requesting unit owner wishes to pursue relief under
22 subsection (c), the unit owner shall initiate the relief with
23 a written request.

24 (3) An association record may not be used for commercial
25 purposes.

26 (4) If an association determines that any portion of a
27 record in its possession is not an association record, the
28 association's response to a request for access to the record
29 shall grant access to the portion of the record that is an
30 association record and deny access to the portion of the

1 record that is not an association record. If the information
2 that is not subject to access is an integral part of the
3 association record and cannot be separated, the association
4 shall redact from the record the information that is not
5 subject to access.

6 (5) Upon receipt of a written request for access to an
7 association record, an association shall make a good faith
8 effort to determine if the record requested is an association
9 record under this section and to respond as promptly as
10 possible under the circumstances existing at the time of the
11 request but shall not exceed 15 business days from the date
12 the written request is received by the association. If the
13 agency fails to send a response within 15 business days, the
14 written request for access shall be deemed denied. Upon
15 receipt of a written request for access, an association shall
16 send written notice to the requester within 15 business days
17 of the association's receipt of the request for access if the
18 association determines that one of the following applies:

19 (i) The request for access requires redaction of an
20 association record in accordance with paragraph (4).

21 (ii) A timely response to the request for access
22 cannot be accomplished due to bona fide and specified
23 manpower limitations.

24 (iii) A legal review is necessary to determine
25 whether the record is an association record subject to
26 access under this section.

27 The notice shall include a statement notifying the requester
28 that the request for access is being reviewed, the reason for
29 the review and a reasonable date that a response is expected
30 to be provided, which date shall be no later than 30 business

1 days following the association's receipt of the request for
2 access.

3 (6) An association may impose and collect reasonable
4 fees, reflecting the actual costs of materials and labor, for
5 duplication of association records.

6 (c) Filing of complaints.--If an association subject to
7 subsection (a) fails to provide a copy of the annual financial
8 statements and, if applicable, the report of an independent
9 accountant as required under subsection (b) to the requesting
10 unit owner [within 30 days of the unit owner's written request
11 or] prior to the deadline established in subsection (b.1)(5), if
12 the financial records of the association which substantiate an
13 association's financial statements, or any other requested
14 association records are not made [reasonably] available by any
15 association for examination by any unit owner and authorized
16 agents[,] prior to the deadline established in subsection (b.1)
17 (5), or if the association denies access to an association
18 record under subsection (b.1)(5), the unit owner may file a
19 complaint with the Bureau of Consumer Protection in the Office
20 of Attorney General.

21 (d) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Association record." The term includes financial records,
25 annual financial statements, bylaws, rules, regulations and
26 budgets adopted by the association, board-approved minutes of
27 meetings, contracts entered into by the association, insurance
28 policies, declarations and amendments to the declaration. The
29 term does not include personnel records, an individual's medical
30 records, records relating to business transactions that are

1 currently in negotiation, privileged communications with legal
2 counsel, complaints against a unit owner, records of executive
3 board meetings or information which, if disclosed, would
4 constitute an invasion of privacy under Federal or State law.

5 Section 2. Title 68 is amended by adding a section to read:
6 § 5321. Meetings of unit owners' associations.

7 (a) Bylaws.--The bylaws of any unit owners' association
8 shall, in addition to the provisions of section 5308 (relating
9 to meetings), provide that:

10 (1) A meeting of the association, executive board or any
11 committee, commission or other entity that is a subdivision
12 of the executive board, except an executive board meeting
13 under paragraph (4), shall be open to unit owners, and an
14 appropriate officer of the association shall provide notice
15 as follows:

16 (i) Notice of an association meeting shall be
17 provided under section 5308.

18 (ii) Notice of any other meeting, except an
19 executive board meeting under paragraph (4) or emergency
20 meeting under paragraph (5), shall be provided as
21 specified in the bylaws and shall, at a minimum:

22 (A) Include the time and place of the meeting
23 and the items on the agenda.

24 (B) Be posted at either the main entrance to the
25 substantial planned community or at a central
26 location within the substantial planned community
27 designated for such purposes. All official action
28 shall be taken at a meeting under this paragraph or
29 an emergency meeting under paragraph (5).

30 (2) Except during an executive board meeting under

1 paragraph (4), written minutes shall be kept of any
2 association meeting, including the time and date of the
3 meeting, the number of unit owners in attendance, the
4 substance of all official actions taken at the meeting and a
5 record of votes on official action by individual executive
6 board members or officers.

7 (3) Unit owners shall be provided at any meeting, except
8 an executive board meeting under paragraph (4), with a
9 reasonable opportunity to comment on matters of concern,
10 deliberation or official action that are or may be under
11 consideration at that meeting.

12 (4) (i) The executive board may exclude unit owners
13 from an executive board meeting. An executive board
14 meeting shall only be convened during an open meeting
15 under paragraph (1) or (5) upon an affirmative vote of a
16 majority of the members of the executive board in
17 attendance at the opening meeting.

18 (ii) An executive board meeting may be held for any
19 of the following reasons, which reason shall be announced
20 at the open meeting prior to the executive board meeting:

21 (A) To discuss any matter involving the
22 employment, termination of employment, terms and
23 conditions of employment, evaluation of performance,
24 promotion or discipline of any specific prospective
25 employee or current employee employed by the
26 association, or former employee, provided, however,
27 that the individual employee whose rights could be
28 adversely affected may request in writing that the
29 matter or matters be discussed at an open meeting.

30 (B) To consider the purchase or lease of real

1 property up to the time an option to purchase or
2 lease the real property is obtained or up to the time
3 an agreement to purchase or lease the property is
4 obtained if the agreement is obtained directly
5 without an option.

6 (C) To consult with its attorney or other
7 professional advisor regarding any information or
8 strategy in connection with litigation or with an
9 issue on which an identifiable complaint is expected
10 to be filed.

11 (D) To review and discuss business that, if
12 conducted in public, would violate a lawful privilege
13 or lead to the disclosure of information or
14 confidentiality protected by law.

15 (iii) Official action on discussion held at an
16 executive board meeting shall be taken at an open meeting
17 and no executive board meeting shall be used as a
18 subterfuge to defeat the purposes of paragraph (1) or
19 (5).

20 (iv) The provisions of this paragraph shall not
21 apply to any meeting involving the appointment or
22 selection of any person to fill a vacancy in the
23 executive board.

24 (5) (i) The executive board may call an emergency
25 meeting for the purpose of dealing with a real or
26 potential emergency involving a clear and present danger
27 to life or property.

28 (ii) An emergency meeting shall be open to unit
29 owners and shall be subject to the requirements of
30 paragraphs (2) and (3).

1 (iii) The bylaws shall specify which member of the
2 association's executive board shall provide notice of any
3 emergency meeting and shall further specify the means and
4 methods of providing the notice, including, but not
5 limited to, posting the notice at either the main
6 entrance to the substantial planned community or at a
7 central location within the substantial planned community
8 designated for such purposes.

9 (b) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection:

12 "Meeting." A prearranged gathering held for the purpose of
13 deliberating association business or taking official action of:

14 (1) an association, which is attended or participated in
15 by a quorum of unit owners;

16 (2) an executive board, which is attended or
17 participated in by a quorum of the executive board; or

18 (3) any committee, commission or other entity that is a
19 subdivision of the executive board of the association, which
20 is attended or participated in by a quorum of the committee,
21 commission or entity.

22 "Official action." Any of the following:

23 (1) The establishment of policy by an association.

24 (2) A decision on association business made by an
25 association.

26 (3) A vote taken by an association, executive board or
27 any committee, commission or other entity that is a
28 subdivision of the executive board of an association on any
29 proposal, resolution, rule, regulation or report.

30 Section 3. This act shall take effect in 60 days.