

§1603-103. Executive board members and officers; declarant control

(a) Except as provided in the declaration, the bylaws, in subsection (b), or other provisions of this Act, the executive board may act in all instances on behalf of the association. The declarant is a fiduciary for the unit owners with respect to actions taken or omitted at his direction by officers and members of the executive board appointed by the declarant, and acting in those capacities, or elected by the members at a time when more than 50% of the voting rights are held by the declarant. [PL 1981, c. 699 (NEW).]

(b) The executive board may not act on behalf of the association to amend the declaration, section 1602-117, to terminate the condominium, section 1602-118, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members, subsection (e), but the executive board may fill vacancies in its membership for the unexpired portion of any term. [PL 1981, c. 699 (NEW).]

(c) Within 30 days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 10 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board. [PL 2015, c. 122, §1 (AMD).]

(d) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him may appoint and remove the officers and members of the executive board. Any period of declarant control extends from the date of the first conveyance of a unit to a person other than a declarant for a period not exceeding 7 years in the case of a condominium in which the declarant has reserved development rights, or 5 years in the case of any other condominium. Regardless of the period provided in the declaration, a period of declarant control terminates no later than 60 days after conveyance of 75% of the units to unit owners other than a declarant. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Within the above limits, the period of declarant control shall end no earlier than the later of: (1) Conveyance by the declarant of 50% of the units; (2) Termination of any right of declarant to appoint officers or members of the executive board; or (3) Termination of any right of declarant to approve or veto any actions of the association or the executive board. [PL 1983, c. 78, §2 (AMD).]

(e) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least 3 persons, at least a majority of whom must be unit owners or spouses of unit owners or, in the case of a unit owner which is a corporation, partnership, trust or estate, a designated agent thereof. The declaration may provide for staggered terms for the executive board. The executive board shall elect the officers. The executive board members and officers shall take office upon election. [PL 1981, c. 699 (NEW).]

(f) In determining whether the period of declarant control has terminated under subsection (d), the percentage of the units conveyed is presumed to be that percentage which would have been conveyed if all the units the declarant has built or reserved the right to build in the declaration were included in the condominium. [PL 1983, c. 78, §2 (AMD).]

(g) The executive board may make a special assessment, subject to the following ratification requirements.

(1) A special assessment must be ratified by unit owners in accordance with subsection (c), except that, if payment of any portion of the proposed special assessment is due after the end of the association's current budget year, ratification requires approval of a majority in interest of all unit owners.

(2) If the amount of the special assessment does not exceed 2 months' common charges and the board determines that the assessment is necessary to meet an emergency, the board may make the special assessment immediately in accordance with the terms of the board's vote, without ratification by unit owners. [PL 2015, c. 122, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 78, §2 (AMD). PL 2015, c. 122, §§1, 2 (AMD).

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