

NEWS & INSIGHTS

Pennsylvania Enacts Significant Changes to Condominium, Cooperative and Planned Community (HOA) Laws

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Act 115 impacts meetings, voting and bylaw requirements

Residents, board members and community managers in Pennsylvania condominium and homeowners associations, as well as developers that create these communities, will need to change how their associations operate, thanks to

new legislation adopted in the closing days of the 2021 - 2022 legislative session. The General Assembly recently adopted House Bill 1795, now known as Act 115, which reforms voting procedures and installs new governing requirements for Pennsylvania's common interest communities — condominiums, cooperatives and planned communities (also known as HOAs). While these changes do not take effect until May, communities and developers should start planning to implement these new requirements now.

One of the most requested changes to the common interest community governing laws has been the authorization of virtual meetings and the delivery of notices electronically. The three governing laws have been at best unclear on the use of those procedures. During the pandemic, many communities struggled with how to hold meetings, let alone conduct votes and distribute notices. Under Act 115, an association may now hold virtual meetings, and deliver electronic notices of those meetings, without further changes to the bylaws. An association can require that notices be delivered electronically if the bylaws so provide. These needed changes will permit associations to operate virtually, which in many instances is much more convenient and economical than having to rent a venue and bring residents to the meeting.

Act 115 also reforms the election process for executive board members. For any contested executive board elections, the candidates will have the right to require a pre-election meeting where they can meet with and interact with the unit owners. Furthermore, the law requires that communities with 500 or more units use an independent election reviewer to monitor and tally the vote. While this requirement is mandatory for large communities, it may be opted into by any community with a 51% vote of the unit owners.

In addition to changing how executive board members are elected, the Act provides clear procedures governing the removal of board members. Under the new provisions, an executive board member can be removed by a 2/3 vote of the members present at a meeting, provided notice of the intention to vote to remove an executive board member is included in the meeting notice.

Finally, Act 115 clarifies how the bylaws for an association may be amended. Previously, the common interest community acts left it up to the governing documents to provide how the bylaws were to be amended. Act 115 now sets forth clear guidelines for how bylaws are to be amended, requiring that adequate notice be provided and 51% of the votes in the entire community consent to the amendment.

In light of the significant changes included in Act 115, anyone associated with condominiums, cooperatives or planned communities (HOAs) should examine their governing documents and determine if amendments will be required to be in compliance with the changes to the law. Developers of new communities in particular need to ensure that their public offering statements comply with the new provisions. Please reach out to a member of Saxton & Stump's Real Estate team to help guide you in this.

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