

CHAPTER 91  
FORMERLY  
HOUSE BILL NO. 156  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE  
RELATING TO THE DELAWARE UNIFORM COMMON INTEREST  
OWNERSHIP ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend § 81-103(4), Title 25 of the Delaware Code by adding the following phrase to the end thereof: “, including all ground lease rents due in a leasehold condominium”.

Section 2. Amend § 81-103(18), Title 25 of the Delaware Code by adding the following to the end thereof:

“References in this chapter to plats or plans as required by § 81-209 of this title shall mean the declaration plan.”.

Section 3. Amend § 81-103(22), Title 25 of the Delaware Code by adding the words “or bylaws” between the words “declaration” and “to”.

Section 4. Amend § 81-103(23), Title 25 of the Delaware Code by deleting the words “ that increases only as required to reflect the annual rate of inflation (utilizing the Index provided under § 81-115 of this title)”.

Section 5. Amend § 81-103(32), Title 25 of the Delaware Code by adding the words “, instrumentality” between the words “subdivision” and “or”.

Section 6. Amend § 81-103(37), Title 25 of the Delaware Code by adding the words “, when used as a noun,” between the words “‘Record’” and “means”.

Section 7. Amend § 81-103(39), Title 25 of the Delaware Code by deleting the words “appropriated to” and substituting therefor the words “appropriately addressed by”.

Section 8. Amend § 81-103(40), Title 25 of the Delaware Code by adding the words “or updated” after the word “performed” and by deleting the word “engineering” and by adding the words “by one or more independent engineering, architectural, or construction contractors or other qualified persons,” after the word “analysis,”.

Section 9. Amend § 81-103(45), Title 25 of the Delaware Code by deleting clause (viii) in its entirety and substituting the following therefor: “control any construction, design review or aesthetic standards committee or process;”.

Section 10. Amend § 81-103, Title 25 of the Delaware Code by adding new sections (50) and (51) as follows:

“(50) ‘Nonresidential purposes’ means use for a purpose other than a residential purpose.

(51) ‘Customary condominium assessment’ shall mean an assessment for periodic payments, payable no less frequently than quarterly, due the association for regular and usual operating and common area expenses pursuant to the association’s annual budget and shall not include amounts for reserves for contingencies, nor shall it include any late charges, penalties, interest or any fees or costs for the collection or enforcement of the assessment or any lien arising from the assessment.”.

Section 11. Amend § 81-104, Title 25 of the Delaware Code by adding the words “the effect of” between the words “Chapter,” and “its”.

Section 12. Amend § 81-107(d), Title 25 of the Delaware Code by adding the words “or order” between the words “decree” and “must”.

Section 13. Amend § 81-115, Title 25 of the Delaware Code by deleting it in its entirety and substituting therefor the following:

“§ 81-115. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).”.

Section 14. Amend § 81-116(a), Title 25 of the Delaware Code by adding the words "that are not excepted from this chapter by the provisions of this chapter" to the end of the first sentence.

Section 15. Amend § 81-117, Title 25 of the Delaware Code by adding the word "condominiums and" between the words "small" and "cooperatives" in the title, by adding the words "condominium or" between the words "If a" and "cooperative" in the first sentence, by adding the words "condominium or" between the words "such" and "cooperative" in the second sentence, by deleting the number “12” and inserting the number “20” in lieu thereof, and by adding the following new sentence at the end thereof: “The bylaws of any such cooperative, and any amendments thereto, shall be recorded.”.

Section 16. Amend § 81-118(a), Title 25 of the Delaware Code by deleting the words "that is not subject to any development right" therefrom, in subsection (a)(1) by deleting the number “12” and inserting the number “20” in lieu thereof and in subsection (a)(1) by adding the words "and is not subject to any development rights" after the word "units".

Section 17. Amend § 81-118(a)(2), Title 25 of the Delaware Code by adding the words "during the period of declarant control" between the words "declaration, that" and "the annual average", by deleting the number “\$300” and inserting the number “\$500” in lieu thereof, by deleting the words “as adjusted pursuant to § 81-115 of this title (Adjustment of dollar amounts)”, by adding the words ", as adjusted pursuant to subsection (b)(2) of this section," after the words "\$500", by inserting a hard return after the words ", as adjusted pursuant to subsection (b)(2) of this section,", by adding the words ", but to no other sections of this chapter" between the words "(Eminent domain)" and "unless" and by adding the following new sentence at the end thereof: “The bylaws of any such planned community, and any amendments thereto, shall be recorded.” Also amend § 81-118(a)(2), Title 25 of the Delaware Code by adding the following to the end of subsection (b) as follows: "; except that commencing with the July 1 next following the effective date of this chapter and each July 1 thereafter during the period of declarant control, the assessment specified in the declaration may be increased by an amount not in excess of 3 percent over the amount so calculated for the previous year".

Section 18. Amend § 81-119, Title 25 of the Delaware Code by deleting the words “§ 81-124 and 81-125” from the first sentence thereof and substituting therefor the words “, and § 81-124”, by adding the words "that do not conflict with this chapter" at the end of the first sentence thereof, by deleting the words "this chapter shall not operate to unduly burden an existing association with the requirements of this chapter except to the extent that this chapter is adopted by the common interest community;" from clause (i) from the fourth sentence thereof and renumbering the clauses that follow, by adding the words "that do not conflict with this chapter" at the end of the renumbered clause (ii) which now ends with the words "such common interest community" and by adding the following new sentence at the end thereof:

“Without limiting the generality of any other provision of this chapter, and notwithstanding any other provision of this chapter, any condominium created under the Unit Property Act for which future expansions are provided under its declaration made pursuant to the Unit Property Act shall remain governed by the Unit Property Act and not this chapter with respect to all of such future sections, phases or other expansion rights.”.

Section 19. Amend § 81-120, Title 25 of the Delaware Code by deleting the date “October 31, 2008” and inserting the words “the effective date” in lieu thereof, by deleting the number “12” and inserting the number “20” in lieu thereof, by adding the words ", or the annual average common expense liability of each unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, does not exceed \$500, as adjusted pursuant to this section," between the words "development rights" and ", it", by adding the words ", but to no other sections of this chapter" between the words "(Eminent domain)" and "unless" and by adding the following two new sentences at the end thereof: “Commencing with the July 1 next following the effective date of this chapter and each July 1 thereafter, the \$500 maximum assessment specified in this section may be increased by an amount not in excess of 3 percent over the amount so calculated for the previous year. The bylaws of any such cooperative or planned community, and any amendments thereto, shall be recorded.”.

Section 20. Amend § 81-121(a), Title 25 of the Delaware Code by deleting the date “October 31, 2008” and inserting the words “the effective date” in lieu thereof.

Section 21. A new Section 81-127, Title 25 of the Delaware Code is added as follows:

“§ 81-127. Notice.

(a) Unless otherwise required or permitted by the declaration or bylaws, the following methods of giving notice suffice when notice is required: (i) hand delivered to the unit owner or other intended recipient; (ii) sent prepaid by United States mail to the mailing address of each unit or other intended recipient, unless that person has designated in writing a different mailing address in which case it shall be sent to the designated address; or (iii) sent by electronic means in the manner described in subsection (b).

(b) An association provides effective notice by electronic means if the unit owner gives the association prior written authorization to provide that notice, together with an electronic address.

(c) The ineffectiveness of a good faith effort to deliver notice by any authorized means does not invalidate action taken at a meeting or in lieu of a meeting.”.

Section 22. Amend § 81-201(b), Title 25 of the Delaware Code by adding the word “substantially” between the words “are” and “completed” and by adding the following to the end thereof:

“, or by the issuance by the appropriate governmental authority of a certificate of occupancy, or its equivalent, for the applicable unit.”.

Section 23. § 81-203(b), Title 25 of the Delaware Code is deleted in its entirety and the following substituted therefor:

“The rule against perpetuities does not apply to defeat any provision of the declaration, bylaws or rules.”.

Section 24. Amend § 81-203(c), Title 25 of the Delaware Code by deleting the following therefrom: “except to the extent the declaration is inconsistent with this chapter”.

Section 25. Amend § 81-205(a)(5), Title 25 of the Delaware Code by deleting the words “or planned community” therefrom.

Section 26. Amend § 81-205(a)(16), Title 25 of the Delaware Code by adding the words “and aesthetic standards” between the words “criteria” and “in”.

Section 27. Amend § 81-209(a), Title 25 of the Delaware Code by deleting the words “common interest communities except cooperatives” and substituting therefor the words “condominium and cooperatives” and by deleting the second and third sentences thereof in their entirety.

Section 28. Amend § 81-209(b)(3), Title 25 of the Delaware Code by adding the following after the words “each parcel”: “, but plats and plans need not designate or label which development rights are applicable to each parcel if that information is clearly delineated in the declaration”.

Section 29. Amend § 81-209(b), Title 25 of the Delaware Code by deleting subsection (11) in its entirety.

Section 30. Amend § 81-213(a), Title 25 of the Delaware Code by adding the words "In a condominium or cooperative" to the beginning of the first sentence, by adding the words “other than this chapter” between the words “law” and “, upon” in the second sentence and by adding the words "in a condominium or cooperative" between the words "a unit" and ", the association" in the second sentence.

Section 31. Amend § 81-213(b), Title 25 of the Delaware Code by adding the following after the words “subdivided unit”: “or on any other basis the declaration requires”.

Section 32. § 81-216(b), Title 25 of the Delaware Code is deleted in its entirety and the following substituted therefor:

“(b) Subject to §§ 81-302(a)(6) and 81-312 of this title, the unit owners have an easement in the common elements for purposes of access to their units.

(c) Subject to the declaration and the rules, the unit owners have an easement to use the common elements and all real estate that must become common elements for the purposes for which they were intended.”.

Section 33. Amend § 81-217(a), Title 25 of the Delaware Code by deleting the last sentence thereof in its entirety and by deleting the words “or any larger majority the declaration specifies” and inserting the following in lieu thereof: “unless the declaration specifies a different percentage for all amendments or for specific subjects of amendment. If

the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without the approval.”.

Section 34. Amend § 81-217(i), Title 25 of the Delaware Code by adding the following new sentence to the end thereof:

“Notwithstanding this section, no amendment to the declaration that affects the priority of a holder’s security interest or the ability of that holder to foreclose its security interest may be adopted without that holder’s consent in a record if the declaration requires that consent as a condition to the effectiveness of the amendment.”.

Section 35. Amend § 81-217(j)(i), Title 25 of the Delaware Code by adding the words “to conform the declaration or bylaws to be consistent with the provisions of this chapter or” between the words “plat,” and “to correct”.

Section 36. Amend § 81-217, Title 25 of the Delaware Code by adding new subsections (k) and (l) as follows:

“(k) During the time that the declarant has an interest, the declaration, bylaws or plat may be amended by declarant in order to achieve compliance with the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, Veterans Administration or other governmental agency or their successors.

(l) During the time that the declarant has an interest, the declaration, bylaws or plat may be amended by declarant to conform the same to be consistent with the provisions required or allowed by this Chapter.”.

Section 37. Amend Subchapter II, Title 25 of the Delaware Code by adding the following new § 81-225 as follows:

“§ 81-225. Termination Following Catastrophe.

If substantially all the units in a common interest community have been destroyed or are uninhabitable and the available methods for giving notice for a meeting of unit owners to consider termination under § 81-218 of this title will not likely result in receipt of the notice, the executive board or any other interested person may commence an action in the Court of Chancery of the State of Delaware seeking to terminate the common interest community. During the pendency of the action, the court may enter whatever orders it considers appropriate, including appointment of a receiver. After a hearing, the court may terminate the common interest community or reduce its size and may enter into any other order the court considers to be in the best interest of the unit owners and persons holding an interest in the common interest community.”.

Section 38. Amend § 81-302(a)(4), Title 25 of the Delaware Code by inserting the words “, arbitration, mediation” between the words “litigation” and “or”.

Section 39. Amend § 81-302(b)(2), Title 25 of the Delaware Code by inserting the words “arbitration, mediation or administrative proceedings” between the words “litigation” and “against”.

Section 40. Amend § 81-302(d), Title 25 of the Delaware Code by deleting the words “granted under” and inserting the words “referred to in” in lieu thereof.

Section 41. Amend § 81-303(c), Title 25 of the Delaware Code in clause (v) by adding the words “in a common interest community that is subject to this chapter” between the words “units” and “, seven years” and in clause (vi) by adding the words “in a common

interest community that is subject to this chapter” between the words “unit” and “, seven years”.

Section 42. Amend § 81-303(d), Title 25 of the Delaware Code by deleting the number “331/i3” and inserting the number “33 1/3” in lieu thereof.

Section 43. Amend § 81-303(f), Title 25 of the Delaware Code by deleting the words “Such appointed members” and inserting the words “After the period of declarant control, such appointed members” in lieu thereof and in clause (i) by adding the word “percent” between the words “33” and “of”.

Section 44. Amend § 81-306(a), Title 25 of the Delaware Code in subsection (a)(3) by deleting the word “offices” and inserting the word “officers” in lieu thereof and in subsection (a)(6) by deleting the word “annual” between the words “an” and “independent”, by adding the words “to be performed no less frequently than once every 3 years and for each intervening year a review (instead of a full audit) by an independent accountant which need not be conducted by a certified public accounting firm” between the words “association” and “, provided” and by adding the words “by an independent accountant” between the words “full audit)” and “which need”.

Section 45. Amend § 81-308, Title 25 of the Delaware Code by deleting the reference to “§ 81-322” and substituting a reference to “§ 81-127”, by adding to the fourth sentence the words “or must state the website address where the agenda is located as provided in this section” between the words “agenda,” and “including”, by adding the following as a new fifth sentence: “The agenda may be posted on the website of the association, in lieu of being included in the notice, provided that the association shall, by any means described in § 81-127 of this title, furnish to any unit owner who so requests a copy of the agenda prior to the meeting.”, and by adding the following new sentences to the end thereof, as follows:

“If the association does not notify unit owners of a special meeting within thirty (30) days after the requisite number or percentage of unit owners requested the secretary to do so, the requesting members may directly notify all the unit owners of that meeting. Only matters described in the meeting notice required by this section may be considered at a special meeting.”.

Section 46. Amend § 81-308A(b), Title 25 of the Delaware Code by deleting the reference to “§ 81-322” and substituting a reference to “§ 81-127”.

Section 47. Amend § 81-308A(g), Title 25 of the Delaware Code by adding the words “by the court” between the words “voidable” and “but” and by deleting the first sentence thereof in its entirety and inserting the following in lieu thereof:

“Notwithstanding compliance with this section, an action by the executive board is valid unless set aside by a court in an action brought pursuant to § 81-417 of this title. A challenge to the validity of an action of the executive board for failure to comply with this section may not be brought more than 60 days after the minutes of the executive board of the meeting at which the action was taken are approved or after the record of that action is distributed to unit owners.”.

Section 48. Amend § 81-313(a), Title 25 of the Delaware Code by deleting the “.” at the end of subsection (a)(2) and inserting “; and” in lieu thereof and by adding the following new subsection (3) as follows:

“(3) fidelity insurance.”

Section 49. Amend § 81-313(h), Title 25 of the Delaware Code by deleting the word “promptly” in the first sentence thereof and insert the following in lieu thereof: “as soon as practicable”.

Section 50. Delete § 81-315(a), Title 25 of the Delaware Code in its entirety and substitute the following therefor:

“(a) (1) Until the association is validly established pursuant to this chapter and makes a common expense assessment, the declarant shall pay all common expenses together, in the case of a condominium or cooperative, with all sums necessary to fully fund the repair and replacement reserve until the association makes its first assessment.

(2) After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association. In the case of a condominium or cooperative, the budget shall include as a line item a payment into the repair and replacement reserve sufficient to achieve the level of funding noted in the reserve study, or maintain said reserve at such level. The minimum percentage of the annual budget of a condominium or cooperative that must be assigned to the repair and replacement reserve will depend upon how many of the following components and systems are to be maintained, repaired and replaced by the executive board: (i) one or more hallways, (ii) one or more stairwells, (iii) one or more management or administrative offices, (iv) one or more roofs, (v) one or more windows, (vi) one or more exterior walls, (vii) one or more elevators, (viii) one or more HVAC systems, (ix) one or more swimming pools, (x) one or more exercise facilities, (xi) one or more clubhouses, (xii) one or more parking garages (but not including surface parking lots), (xiii) one or more masonry bridges used by motor vehicles, (xiv) one or more bulkheads, and (xv) one or more docks. In the event that the executive board is responsible for the maintenance, repair and replacement of 4 or more of the above-described systems or components, the minimum percentage of the annual budget that must be assigned to the repair and replacement reserve is 15%; if the responsibility extends to only 3 of the above-described systems and components, the minimum percentage is 10%; and if the responsibility extends to only 2 or fewer of the above-described systems and components, the minimum percentage is 5%. In the event that the association’s accountant certifies that the funds in the repair and replacement reserve are in excess of the sum required to constitute a fully funded repair and replacement reserve, the executive board shall refund or credit the surplus of the excess sum to the unit owners. In the event that the association does not have a current reserve study as required by this Chapter, the minimum percentages of the association’s budget to be assigned to the repair and replacement reserve shall be the percentages prescribed in this paragraph (a)(2) of this section.”.

Section 51. § 81-316(b), Title 25 of the Delaware Code is deleted in its entirety and the following substituted therefor:

“Except as otherwise provided in the declaration, a lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) a first or second security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, the first or second security interest encumbering only the

unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit or cooperative. The lien shall have priority over the security interests described in subparagraph (ii) above for an amount not to exceed the aggregate customary common expense assessment against such unit for six months as determined by the periodic budget adopted by the association pursuant to § 81-315(a) of this title; provided that for the lien to have priority over the security interests described in paragraph (ii) above, an association with assessments shall have recorded in the county or counties in which the common interest community is located a document which contains the name of the association, the address, a contact telephone number, a contact email address and a web-site address, if any. In addition, the association shall have recorded at any time, but not less than thirty (30) days prior to the Sheriff's sale of a unit in its common interest community for which common expense assessments are due, a statement of lien which shall include a description of such unit, the name of the record owner, the amount due and the date due, the amount paid for recording the statement of lien and the amount required to be paid for filing a termination thereof upon payment, and the signature and notarized statement of an officer of the association that the amount described in the statement of lien is correct and due and owing. Upon payment of the amount due in subparagraph (ii) above, the payer shall be entitled to a recordable termination of lien for the amount paid. The liens recorded pursuant to this subparagraph shall expire on the first day of the 60th month after recording. This subsection does not affect the priority of mechanics' or materialmen's liens, nor the priority of liens for other assessments made by the association. The lien under this subsection is not subject to the provisions of homestead or other exemptions.”.

Section 52. Amend § 81-316(k)(3)(ii), Title 25 of the Delaware Code by deleting the “;” after the word “sale” and inserting “,” in lieu thereof.

Section 53. § 81-317(a)(1), Title 25 of the Delaware Code is deleted in its entirety and the following substituted therefor:

"Except as provided in paragraph (a)(2) of this section, a judgment for money against the association if recorded or docketed, is not a lien on the common elements, but is a lien in favor of the judgment lien holder only against all units owned by the association and other real property owned by the association. No property of a unit owner is subject to the claims of creditors of the association.”.

Section 54. Amend § 81-318(c)(3), Title 25 of the Delaware Code by adding the following at the end thereof “, arbitration, mediation or other administrative proceedings”.

Section 55. Amend § 81-318(c)(4), Title 25 of the Delaware Code by adding the word “federal,” between the words “involving” and “state”.

Section 56. Amend § 81-318, Title 25 of the Delaware Code by adding the following new subsections (g) and (h) as follows:

“(g) An association is not obligated to compile or synthesize information.

(h) Information provided pursuant to this section may not be used for commercial purposes.”.

Section 57. Amend § 81-321(a)(4), Title 25 of the Delaware Code by deleting the word “Association” and inserting the word “executive” in lieu thereof.



Section 58. § 81-322, Title 25 of the Delaware Code is deleted in its entirety and reserved for future use.

Section 59. Amend § 81-324(a), Title 25 of the Delaware Code by deleting the words “for consideration by the unit owners” from the end of the first sentence thereof and by deleting in its entirety the second sentence thereof and inserting in lieu thereof the following: “In a condominium or cooperative, the proposed budget shall include a line item for any required funding of a repair and replacement reserve.”.

Section 60. Amend § 81-324(a), Title 25 of the Delaware Code in the third sentence thereof by adding the words “after the period of declarant control” between the words “budget” and “, the executive board”.

Section 61. A new Section 81-326, Title 25 of the Delaware Code is added as follows:

“§ 81-326. Delaware Corporations.

Any association that is a Delaware corporation shall also be subject to the Title 8 of this Code, which shall govern and control to the extent not inconsistent with this chapter.”.

Section 62. § 81-403(a)(5)(i), Title 25 of the Delaware Code is deleted in its entirety and the following substituted therefor: “A statement of the amount, or a statement that there is no amount, included in the budget for the repair and replacement reserve;”.

Section 63. Amend § 81-403(a)(5)(iii), Title 25 of the Delaware Code by deleting the word “assessment”.

Section 64. Amend § 81-403(a)(5)(iv), Title 25 of the Delaware Code by deleting the word “monthly”.

Section 65. § 81-403(a)(11), Title 25 of the Delaware Code is deleted in its entirety.

Section 66. Amend § 81-403(b), Title 25 of the Delaware Code by deleting the number “12” and substituting the number “20” therefor.

Section 67. Amend § 81-405, Title 25 of the Delaware Code by renumbering said section as § 81-405(a) and the following new subsection (b) is added thereto:

“(b) Any common interest community that is in time shares shall also be governed by Chapter 28 of Title 6 of this Code, to the extent applicable.”.

Section 68. Amend § 81-408(a), Title 25 of the Delaware Code by adding the words “for a condominium or cooperative” between the words “of this title” and “shall provide” in the first sentence thereof, by adding the word “such” between the words “Unless” and “a” in the second sentence thereof, and by deleting the words “more than 15 days” from the second sentence thereof.

Section 69. Amend § 81-408(b), Title 25 of the Delaware Code by deleting the words “by hand delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to the offeror’s agent for service of process” and substituting therefor the words “by notice to the offeror”.

Section 70. § 81-408(c), Title 25 of the Delaware Code is deleted in its entirety and subsection (d) is re-designated as subsection (c).

Section 71. § 81-409(a), Title 25 of the Delaware Code is amended by adding the following to the end thereof:

“the following, to be correct to within 90 days prior to the date the certificate of the unit owner is furnished to the purchaser”.

Section 72. § 81-409(a)(18), Title 25 of the Delaware Code is deleted in its entirety.

Section 73. Amend § 81-409(a)(19), Title 25 of the Delaware Code by adding the following to the end thereof:

“or, if none, for the most recent executive board meeting for which minutes are available.”

Section 74. Amend § 81-409(b), Title 25 of the Delaware Code by deleting subsection (b) in its entirety and substituting the following therefor:

“The association, within 10 days after a request by a unit owner, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. If the unit owner has requested the information from the association and the association fails to provide any portion of the requested information or if the unit owner, after reasonable investigation, has no information on any particular item to be included in the certificate, or if the requested information does not exist, the unit owner shall include a statement to that effect in the certificate from the unit owner. A unit owner providing a certificate pursuant to subsection (a) of this section is not liable to the purchaser for any erroneous information provided by the association and included in the certificate and is not liable to the purchaser under this section if the owner had, after reasonable investigation, reasonable grounds to believe, and did believe, at the time the information was provided to the purchaser, that the statements were true and there was no omission to state a material fact necessary to make the statements made not misleading, in light of the circumstances under which the statements were made. The association may require that such certificate and information be furnished in an electronic format. Except as provided in this subsection, the association may charge a fee for providing such certificate and related information. Such fee shall not exceed \$200 for each certificate, except that if the association agrees to furnish a certificate and related information in a paper copy format, it may charge an additional cost not to exceed \$50.00 for each such certificate. If the association fails to provide the requested certificate within the 10 day period, the association may not charge any fee for providing that certificate.”.

Section 75. § 81-409(c), Title 25 of the Delaware Code is deleted in its entirety and substituting the following therefor:

"In the event that a unit for which a certificate is required pursuant to subsection (a) of this section is subject to more than one association, the unit owner must include in the certificate the information required by subsection (a) of this section for each association governing that unit, but the unit owner does not have to duplicate the information for any particular association if it is already included with respect to any one of the associations."

Section 76. Amend § 81-411(a)(1), Title 25 of the Delaware Code by deleting the words “Before conveying a unit, shall record or furnish to the purchaser releases of” and substituting therefor the following: “Shall have the subject property released from”.

Section 77. Amend § 81-412(a), Title 25 of the Delaware Code by deleting the words “hand delivered to the unit or mailed by prepaid United States mail to the tenant and

subtenant at the address of the unit or any other mailing address provided by a tenant” and substituting the words “given as required in § 81-127 of this title”.

Section 78. Amend § 81-421, Title 25 of the Delaware Code by adding the following to the end thereof: “, or if the amendment is required by, or to achieve compliance with the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, Veterans Administration or other governmental agency or their successors.”.

Section 79. Amend § 81-103(9), Title 25 of the Delaware Code by adding the following to the end thereof: ", related to common elements, other units or other real estate described in the declaration.".

Section 80. This Act shall become effective 90 days after its enactment.

Section 81. Amend § 81-118(a)(2) by striking “all units” and substituting “each unit” in place thereof.

Section 82. This Act further extends the effective date of Chapter 81, Title 25 of the Delaware Code in its entirety such that the entire Chapter shall become effective contemporaneously and consistent with the effective date of House Bill No. 156.

Approved July 02, 2009