SENATE BILL 231

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Harold Pope, Jr. And Joy Garratt

AN ACT

RELATING TO HOMEOWNER ASSOCIATIONS; REQUIRING THAT NO LESS THAN SEVENTY-FIVE PERCENT OF THE BOARD OF A HOMEOWNER ASSOCIATION BE ELECTED BY LOT OWNERS AFTER SEVENTY-FIVE PERCENT OF LOTS ARE NO LONGER OWNED BY THE DECLARANT; REMOVING EXCEPTIONS FOR MASTER PLANNED COMMUNITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 47-16-8 NMSA 1978 (being Laws 2013, Chapter 122, Section 8) is amended to read:

"47-16-8. DECLARANT CONTROL OF BOARD.--

A. Subject to the provisions of this section, the declaration shall provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the board.

.219352.1
B. Regardless of the period provided in the declaration, the period of declarant control shall terminate no later than the earlier of:

(1) sixty days after conveyance of seventy-five percent of the lots that are part of the development and any additional lots that may be added to the development to lot owners other than a declarant;

(2) two years after all declarants have ceased to offer lots for sale in the ordinary course of business;

(3) two years after a development right to add new lots was last exercised; or

(4) the day that the declarant or the declarant's designee, after giving written notice to the association, records an instrument voluntarily terminating all rights to declarant control.

[C. Subsection B of this section does not apply to a master planned community.

D.] C. A declarant may voluntarily terminate the right to appoint and remove officers and members of the board before termination of the period of declarant control, but in that event, the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board, as described in a recorded instrument executed by the declarant, be approved by the declarant or the declarant's designee before they become effective.
D. Not later than sixty days after conveyance of twenty-five percent of the lots that are part of the development, and any additional lots that may be added to the development, to lot owners other than a declarant, at least one member and not less than twenty-five percent of the members of the board shall be elected by lot owners.

E. Not later than sixty days after conveyance of fifty percent of the lots that are part of the development, and any additional lot that may be added to the development, to lot owners other than the declarant, no less than thirty-three percent of the members of the board shall be elected by lot owners other than the declarant.

F. On or after January 1, 2022, not later than sixty days after conveyance of seventy-five percent of the lots that are part of the development, and any additional lot that may be added to the development, to lot owners other than the declarant, no less than seventy-five percent of the members of the board shall be elected by lot owners other than the declarant.

G. Not later than the termination of a period of declarant control, the lot owners shall elect a board of at least three members, at least a majority of whom shall be lot owners. The board shall elect the officers. The board members and officers shall take office upon election.

H. No amendment to the declaration that would
limit, prohibit or eliminate the exercise of a development
right shall be effective without the concurrence of the
declarant.

   I. A declarant shall not utilize cumulative or
class voting for the purpose of evading any limitation imposed
on declarants by the Homeowner Association Act, nor shall lots
constitute a class because they are owned by a declarant."

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