SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Harold Pope

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.

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1   B.   Regardless of the period provided in the

2   declaration, the period of declarant control shall terminate no

3   later than the earlier of:

4   (1)   sixty days after conveyance of seventy-

5   five percent of the lots that are part of the development and

6   any additional lots that may be added to the development to lot

7   owners other than a declarant;

8   (2)   two years after all declarants have ceased

9   to offer lots for sale in the ordinary course of business;

10   (3)   two years after a development right to add

11   new lots was last exercised; or

12   (4)   the day that the declarant or the

13   declarant's designee, after giving written notice to the

14   association, records an instrument voluntarily terminating all

15   rights to declarant control.

16   [C.   Subsection B of this section does not apply to

17   a master planned community.

18   D.] C.   A declarant may voluntarily terminate the

19   right to appoint and remove officers and members of the board

20   before termination of the period of declarant control, but in

21   that event, the declarant may require, for the duration of the

22   period of declarant control, that specified actions of the

23   association or board, as described in a recorded instrument

24   executed by the declarant, be approved by the declarant or the

25   declarant's designee before they become effective.

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underscored material = new
[bracketed material] = delete

1   [E.] D. Not later than sixty days after conveyance

2 of twenty-five percent of the lots that are part of the

3 development, and any additional lots that may be added to the

4 development, to lot owners other than a declarant, at least one

5 member and not less than twenty-five percent of the members of

6 the board shall be elected by lot owners.

7   [F.] E. Not later than sixty days after conveyance

8 of fifty percent of the lots that are part of the development,

9 and any additional lot that may be added to the development, to

10 lot owners other than the declarant, no less than thirty-three

11 percent of the members of the board shall be elected by lot

12 owners other than the declarant.

13   F. On or after January 1, 2023, not later than

14 sixty days after conveyance of seventy-five percent of the lots

15 that are part of the development, and any additional lot that

16 may be added to the development, to lot owners other than the

17 declarant, no less than seventy-five percent of the members of

18 the board shall be elected by lot owners other than the

19 declarant.

20   G. Not later than the termination of a period of

21 declarant control, the lot owners shall elect a board of at

22 least three members, at least a majority of whom shall be lot

23 owners. The board shall elect the officers. The board members

24 and officers shall take office upon election.

25   H. No amendment to the declaration that would

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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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