

August 13, 2020

SENATE BILL NO. 908
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 908 (First Reprint) with my recommendations for reconsideration.

New Jersey's Planned Real Estate Development Full Disclosure Act ("PREDFDA") is designed to ensure that those buying into a real estate development in which owners share common elements or interests are on notice of the conditions, costs, and rules associated with living in this type of community. Although various forms of common interest communities have existed in New Jersey since as far back as the Civil War, including many of New Jersey's lake communities, these communities were largely unregulated until the PREDFDA was enacted in the late 1970's.

Recent amendments to the PREDFDA, P.L.2017, c.106, sought to grant association members living in planned real estate developments definitive voting rights in order to promote a more democratic process in the governance of planned communities. Senate Bill No. 908 (First Reprint), which would clarify the legislative intent and scope of P.L.2017, c.106, comes in response to an apparent misinterpretation of the 2017 law among certain lake association communities that pre-date the PREDFDA and have used the law to impose new dues and assessments on owners. The bill would preclude this unintended interpretation by specifying that, if an association did not have authority to compel payment of assessments or other charges prior to the effective date of P.L. 2017, c. 106, or chose not to enforce the collection of dues previously, then a property owner would not be required to pay assessments or dues to the association as a result of the 2017 law. In turn, the association would not be required to provide

the property owner with the association membership or voting rights outlined in the 2017 law.

I commend the bill's sponsors for their efforts to shield property owners from surprise assessments and compulsory fees. I certainly agree that the recent revisions to the PREDFDA should not be used to impose upon property owners additional financial responsibilities that they could not reasonably have anticipated. At the same time, however, the interests of these property owners must be carefully balanced against the interests of all other parties, including those property owners who have previously been contributing to their associations.

In an effort to strike a more appropriate balance among all interested parties, I am recommending modest revisions to safeguard the ability of lake associations to collect funds necessary to comply with critical environmental, health, and safety requirements, such as those outlined in the Safe Dam Act, the Stormwater Management Act, the Safe Drinking Water Act, and the Water Pollution Control Act, among others. These revisions will help ensure that associations are able to provide long-term operation and maintenance of dams, stormwater facilities, including stormwater inlets, storm sewers, stormwater basins, and stormwater outfalls owned and operated by the associations, without unfairly shifting the cost of upkeep to a smaller group of members and, potentially, State and local taxpayers.

Therefore, I herewith return Senate Bill No. 908 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Lines 16-17: Delete ", nor did it convert a previously voluntary association into a planned real estate development"

Page 2, Section 2, Line 24: Delete ", unless otherwise provided by law,"

- Page 2, Section 2, Lines 24-25: Delete ": (1)"
- Page 2, Section 2, Line 26: After "obligation" insert ", unless otherwise provided by law."
- Page 2 Section 2, Line 26: Delete "; or"
- Page 2, Section 2, Lines 27-38: Delete in their entirety
- Page 2, Section 2, Line 39: Delete "c." and insert "b."
- Page 2, Section 2, Line 40: After "non-payment" insert "that is based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay"
- Page 2, Section 2, Line 42: Delete "of"
- Page 2, Section 2, Line 43: After "charges," insert "pursuant to P.L. ,c. (C.) (pending before the Legislature as this bill)"
- Page 3, Section 2, Line 2: Delete "in contravention of subsection b. of this section"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor