

SENATE BILL NO. 2261
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 2261 (First Reprint) without my approval.

Senate Bill No. 2261 (First Reprint) would codify Articles 1 and 2 of the Uniform Common Interest Ownership Act ("UCIOA"), a five-article model statute aimed at providing a comprehensive source of law for the creation, management, and termination of common interest communities such as condominiums, cooperatives, and planned real estate developments. Article 1 contains definitions and general provisions, while Article 2 governs the creation, alteration, and termination of common interest communities. In addition to adopting both articles, the bill would repeal many provisions of the Condominium Act, N.J.S.A. 46:8B-1, et seq., and nearly all of the Cooperative Recording Act of New Jersey, N.J.S.A. 46:8D-1, et seq. The bill also contains provisions intended to clarify that the bill would generally apply only prospectively.

I commend the bill's sponsors for seeking to harmonize New Jersey law when it comes to the creation, management, and termination of common interest communities - an increasingly popular form of residential ownership in New Jersey. Currently, different sources of law touch on different types and aspects of common interest communities. The Condominium Act, mentioned above, is the most comprehensive of these laws, with provisions addressing the creation and termination of condominiums, as well as the powers of condominium associations. Although new cooperatives are rare, the Cooperative Recording Act provides a mechanism for the creation of unique cooperative ownership plans and contains provisions regarding transfer of cooperative shares

and revocation of cooperative property. The Planned Real Estate Development Full Disclosure Act ("PREDFDA"), N.J.S.A. 45:22A-21 et seq., covers certain aspects of the disposition of lots, parcels, or units in a planned real estate development, applicable to property subject to the Condominium Act, housing cooperatives, and homeowners' associations and other common interest communities of at least 100 units. Recent amendments to the PREDFDA also cover membership and voting rights in planned real estate development associations. P.L.2017, c.106. Case law, local practice, and association bylaws fill the gaps.

Given the relatively piecemeal nature of the law covering common interest communities, the desire for uniformity and cohesion is understandable. Nevertheless, I am concerned that Senate Bill No. 2261 (First Reprint) will not achieve this outcome. As mentioned, the bill would codify only Articles 1 and 2 of the UCIOA. The bill does not include or otherwise account for Articles 3, 4, and 5, critical components of UCIOA concerning the management of common interest communities, protection of purchasers, and administration and registration of common interest communities. Furthermore, although the bill repeals nearly all of the Cooperative Recording Act, it only repeals some provisions of the Condominium Act, and it leaves the PREDFDA unchanged except to the extent it conflicts with the bill. Similarly, the bill provides that background principles of law and equity would continue to apply unless inconsistent with the bill's provisions.

Rather than streamlining and simplifying New Jersey's statutes in this area, enacting Senate Bill No. 2261 (First Reprint) would add yet another incomplete source of law to the body of law applicable to common interest communities. Moreover, I am advised by the Chief of the Bureau of Homeowner

Protection in the Department of Community Affairs that the current system, while imperfect, is at least familiar to practitioners who have come to rely on the various statutes in the decades they have been in place. Against that background, I am concerned that the bill would create confusion for community associations, their residents, developers, and their attorneys, who would be required to consult yet another set of rules and guidelines and determine whether new and old provisions conflict.

Although I cannot endorse the approach taken by this bill, I look forward to the opportunity to collaborate with my colleagues in the Legislature regarding potential solutions to streamline and improve the statutes governing common interest communities and the more than one million New Jersey residents who live in them. Such solutions could narrowly target the most pressing legal issues facing these communities or comprehensively address all aspects of the law, as the full UCIOA seeks to do.

Accordingly, I herewith return Senate Bill No. 2261 (First Reprint) without my approval.

[seal]

Respectfully,
/s/ Philip D. Murphy
Governor

Attest:

/s/ Parimal Garg
Chief Counsel to the Governor