# Condo Insights

## *#79 – The New Jersey Condo Act*

The New Jersey Condominium Act (NJSA 46:8B-1 et seq.) is the state law that creates the legal framework for condominium creation, governance, and management, covering everything from master deed requirements and owner rights to association powers (like levying fines, enforcing rules) and responsibilities (like maintaining common areas) for condos formed after 1970, working alongside other laws like the Nonprofit Corporation Act and recent updates for mandatory structural inspections.

It is regarded as the core regulatory guide for most condominium communities in the state, supplementing them with court decisions and other laws like the Planned Real Estate Development Full Disclosure Act (PREDFDA). It details how condominiums are formed, requiring a Master Deed to describe units, common elements and other important aspects of the association, including ownership percentages. It defines how associations operate, including board roles, meetings, voting rights, and the transition from developer to owner control. The Act mandates that associations manage common elements, maintain property, enforce rules, and protect residents' welfare. The Act also establishes unit owners' rights and responsibilities, including financial obligations and participation in decision-making

In essence, the New Jersey Condominium Act ensures a structured, regulated environment for condo living, balancing the needs of unit owners, boards, and developers.

Under the NJ Condominium Act and related laws, the [New Jersey Department of Community Affairs (DCA)] serves as the primary administrative regulatory body, overseeing developer registrations, enforcing 5-year safety inspections for buildings with 3+ units, and regulating association procedures regarding meetings, elections, and owner access to records. However, the day-to-day governance of condominiums falls to the association's elected board members.

Other applicable regulations may include the New Jersey Nonprofit Corporation Act if your association is structured as a nonprofit. Boards are advised to work closely with qualified legal counsel and property management professionals to review New Jersey condominium and homeowners' association rules and regulations and governing documents. These legal standards affect how boards are elected, how funds are managed, and how decisions are made within the association.

Condo owners in New Jersey are typically granted several rights under the NJ Condominium Act. For example, the Act mandates that all unit owners are members of the association and have the right to vote on major community matters. It also requires associations to maintain and provide access to certain financial records, conduct fair elections including anonymous voting, hold open board meetings and conduct business in a transparent manner. Associations must keep minutes of meetings and make them available to owners upon request. Owners also have the right to receive proper meeting notices and notices whenever rule changes or assessments are proposed.

The Act requires that every condominium association be governed by a board of trustees or directors elected by the unit owners. It establishes that all unit owners are members of the association and have the right to vote, and it generally calls for associations to adopt bylaws that specify the number, qualifications, and terms of board members. However, the Act itself leaves many procedural details — such as how nominations, ballots, and notices should be handled — to the association's governing documents or later regulation.

To fill in those gaps, the New Jersey Department of Community Affairs adopted new regulations effective May 18, 2020, commonly referred to as the Radburn Regulations. These rules implement legislative amendments to the PREDFDA. They include advance written notice of open board seats and upcoming elections; a clear, accessible nomination process allowing eligible owners to nominate themselves or others; secret (anonymous) ballot voting for contested elections; and prohibitions on excessive or unreasonable candidacy restrictions in governing documents. The goal of these rules is to promote transparency and protect the rights of owners to participate in their association's governance. Boards must follow both the NJ Condominium Act and the Radburn rules, and many rely on professional management to coordinate timely, compliant elections each year. Consult your association's legal counsel to determine how these laws apply to your community.

The NJ Condominium Act requires that meetings of the governing board (except for limited executive sessions) be open to attendance by all unit owners, with adequate notice and minutes made available. In addition, most associations in New Jersey must comply with open meeting rules established by the DCA under PREDFDA, which further detail notice periods, minute-keeping, and permissible executive-session topics. Executive sessions may still be held on sensitive matters such as legal advice, personnel decisions, or contract negotiations. Associations may reduce the chance of procedural errors by reviewing their meeting practices with legal counsel and their management partner to help align them with current regulations.

The NJ Condominium Act imposes several financial obligations on both the association and the individual unit owners. The association is required to adopt an annual budget, which must include common expenses like maintenance, insurance and reserve funding.

Unit owners, in turn, are obligated to pay their share of assessments. If payments are missed, associations may have the authority to take steps to recover unpaid amounts, typically as outlined in the governing documents and within the bounds of the law.

In cases where your association's bylaws or other governing documents conflict with the Act, the state law will generally take precedence. This means that provisions in your governing documents that contradict the NJ Condominium Act may not be enforceable. Associations should periodically review their governing documents with qualified legal counsel and their professional property management partner to support compliance with New Jersey laws.

Professional property management companies can play a key role in helping boards comply with the NJ Condominium Act. From organizing elections to maintaining financial records and coordinating inspections, experienced managers can help translate legal requirements into daily practices.

The New Jersey Condominium Act is the rulebook that protects all condominium owners.


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