August 23, 2019

**SENATE BILL NO. 3661**
**(Second Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3661 (Second Reprint) with my recommendations for reconsideration.

Although various forms of common interest communities have existed in New Jersey since as far back as the Civil War, they were largely unregulated until the late 1970s when the Planned Real Estate Development Full Disclosure Act ("PREDFDA") was signed into law. The PREDFDA was 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.

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. 3661 (Second 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 planned communities that have used the law to impose new dues and assessments on owners. The bill would prohibit this 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, 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 am concerned, however, that the bill could undermine a lake association's ability to collect the 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.

This would significantly hinder an association's ability 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 and unfairly shift the cost of upkeep to a smaller group of members, and, potentially, State and local taxpayers. My recommended revisions protect against this outcome by further clarifying that the bill will not impact any existing obligations, whether in a recorded document, statute or common law.

Therefore, I herewith return Senate Bill No. 3661 (Second Reprint) and recommend that it be amended as follows:

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| Page 2, Title, Line 2: | After "developments," insert "and" |
| Page 2, Title, Lines 3-4: | Delete ", and amending various parts of the statutory law" |
| Page 2, Section 1, Lines 10-14: | Delete in their entirety |
| Page 2, Section 1, Line 15: | Delete "b." and insert "a." |
| Page 2, Section 1, Line 15: | Delete "further" |
| Page 2, Section 1, Line 20: | Delete "c." and insert "b." |
| Page 2, Section 1, Line 21: | Delete ":" |
| Page 2, Section 1, Line 22: | Delete "(1)" |
| Page 2, Section 1, Line 23: | Delete "compulsory" and insert "assessments and other" |
| Page 2, Section 1, Line 24: | Delete "; and" and insert "." |
| Page 2, Section 1, Lines 25-27: | Delete in their entirety |

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| Page 2, Section 2, Lines 29-44: | Delete in their entirety |
| Page 3, Section 2, Lines 1-48: | Delete in their entirety |
| Page 4, Section 2, Lines 1-49: | Delete in their entirety |
| Page 5, Section 2, Lines 1-48: | Delete in their entirety |
| Page 6, Section 2, Lines 1-17: | Delete in their entirety |
| Page 6, Section 3, Lines 19-48: | Delete in their entirety |
| Page 7, Section 3, Lines 1-8: | Delete in their entirety |
| Page 7, Section 4, Lines 10-36: | Delete in their entirety |
| Page 7, Section 5, Lines 38-47: | Delete in their entirety |
| Page 8, Section 5, Lines 1-44: | Delete in their entirety |
| Page 8, Section 6, Line 46: | Delete “6.” and insert “2. a. An association in communities established prior to the passage of the Planned Real Estate Financial Disclosure Act, (“PREDFDA”), P.L.1977, c.419 (C.45:22A-21 et seq.), shall not be permitted to require property owners to pay assessments and other charges where the property owner’s title record does not impose such an obligation, unless otherwise provided by law. b.” |
| Page 8, Section 6, Line 47: | Delete “of a compulsory charge” |
| Page 8, Section 6, Line 47: | Delete “not” |
| Page 8, Section 6, Line 48: | Delete “authorized” and insert “based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay assessments or other charges” |
| Page 9, Section 6, Line 1: | Delete “due to the non-payer status of the unit owner,” |
| Page 9, Section 6, line 2: | After “void.” Insert “The association shall promptly discharge such lien of record and provide notice of this action to the property owner. If an association fails to discharge such null and void lien, the owner may bring an action to have the lien discharged and, if successful, shall be entitled to petition the court for an award of counsel fees.” |

Page 9, Section 7, Lines 4-11: Delete in their entirety

Page 9, Section 8, Line 13: Delete “8.” and insert “3.”

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor