

New Bill Clarifies Statute of Limitations For Community Association Transition Litigation Matters

Article By:

Andrew J. Podolski

On Tuesday, January 18, 2022, Governor Murphy signed into law Senate Bill 396, which automatically tolls (i.e. pauses) the 6-year Statute of Limitations for construction defect claims by condominium and/or homeowner associations and cooperative corporations until the first election when unit owners take majority control of the association board (“Transition”). Although not black letter law, Transition had historically been recognized as the milestone when the Statute of Limitations began to run for construction defect claims.

In 2017, however, the New Jersey Supreme Court in the case of *Palisades at Fort Lee Condo. Ass’n, Inc. v. 100 Old Palisade, LLC*, 230 N.J. 427 (2017) upset this tradition by holding that the Statute of Limitations begins to run upon substantial completion of a community’s construction and cannot be tolled until the time when unit owners take control of the association board. This ruling was surprising given that Transition often does not occur until multiple years after substantial completion, and no sponsor/developer would ever realistically sue itself for construction defects while holding majority control of the board. However, today’s new legislation amends the Statute of Limitations to provide: “The period of time for the filing of a claim by a condominium association, cooperative corporation, or other planned real estate development association against a developer or any person acting through, on behalf of or at the behest of the developer . . . shall be tolled until an election is held and the owners comprise a majority of the board....”

This law takes effect immediately and applies to construction defect matters currently in litigation. However, it does not apply to prior matters that have already been dismissed based on the Statute of Limitations. Significantly, this law also does not affect the separate Statute of Repose, which provides that all construction defect claims must be brought within **ten (10) years** of substantial completion. The Statute of Repose cannot be tolled or extended under any circumstance.

COPYRIGHT © 2025, STARK & STARK

National Law Review, Volume XII, Number 18

Source URL: <https://natlawreview.com/article/new-bill-clarifies-statute-limitations-community-association-transition-litigation>

