

# Legislative Update



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In the aftermath of Superstorm Sandy on October 29, 2012, legislation was proposed to respond to the special care needs of those living in planned communities, especially in age-restricted communities, where residents are a minimum of either 55 or 62 years of age. These residents are seen to require greater protections in power outage conditions. The bills require the installation of standby emergency generators and the use of common areas, such as clubhouses, as shelters during emergent conditions.

## **Standby Emergency Generators and Common Area Use**

Three bills were introduced on January 16, 2014, and are still pending as we approach the three year anniversary of Superstorm Sandy.

**Assembly Bill No. 864** requires newly-constructed multiple dwelling with 25 or more residential units to install standby generators to provide electricity in case of emergency. Subject properties will be required to be equipped with a standby emergency power generator ability to provide electricity to a common use area for the operation of medical equipment, including, but not limited to, portable oxygen units and motorized wheelchairs, in case of an emergency.

**Assembly Bill No. 1382** creates a program for installing standby emergency power generators in new senior housing. The bill applies to any newly-constructed residential multiple dwelling in which at least 90 percent of the units will be occupied by seniors, and

for which an application for a construction permit has not been declared complete by the enforcing agency before the effective date of the law. “Seniors” are defined under the bill as persons age 62 or older.

**Assembly Bill No. 1501** requires retirement subdivisions and retirement communities to install electrical generators to provide electricity to common use area to be used as shelters in case of an emergency. This is the only bill that requires the facilities in existing communities to be retro-fit by the installation of the generators, as well as newly-constructed retirement subdivisions and communities to be equipped with standby emergency power generators.

This bill creates the requirement for an existing retirement subdivision or community as defined under the “Retirement Community Full Disclosure Act,” to be retro-fitted with a standby emergency power generator to provide electricity to a common use area, such as a community room or clubhouse, to be used as a shelter in case of emergency. Funding sources by means of grants and low-interest loans will be crucial for compliance so that funds are available to retro-fit existing facilities.

In reviewing Assembly Bill No. 1501, I note that the Retirement Community Full Disclosure Act was superseded in 1978 by the Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-1, et seq.

All three bills generally require the standby emergency power generators to be subject

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to weekly inspection, monthly testing, and servicing. Associations should anticipate bearing the related costs for the maintenance, repair and replacement responsibilities, if any of these bills become law.

## **CAI-NJ Membership Alert! Maintenance of Vacant and Abandoned Properties**

The Legislative Action Committee has worked hard on several bills to give relief to communities affected by owners delinquent in the payment of common expense assessments and, most likely, in the payment of their mortgages, subjecting the property to foreclosures. The mortgage foreclosure process is slow, provided that the lender actually decides to proceed with the foreclosure.

On August 15, 2014, an important law was passed to aid communities suffering from the deterioration caused by abandoned properties under foreclosure. N.J.S.A. 40:48-2.12s empowers the governing body of any municipality to adopt ordinances to regulate the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential properties on which a summons and complaint in an action to foreclose has been filed.

The ordinance adopted under this law shall not only provide for the upkeep of the property but, if the foreclosing creditor is not located within New Jersey, the creditor shall appoint an in-State representative or agent to act for the creditor. Every association has experienced the frustration of not being able to locate or make contact with the

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holder of a mortgage being foreclosed.

This law only requires creditors to maintain the exterior of vacant and abandoned residential property under foreclosure. Senate Bill No. 2702 was introduced on February 5, 2015, to extend the scope of the law to the interior of vacant and abandoned dwellings. Because of the nature of attached dwellings, or dwellings in close proximity, serious maintenance problems are created by the spread mold, vermin, and life safety and fire hazards. The bill would place squarely on the creditor the financial burden, which might have been borne by either the municipality or the association had it decided to

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abate violations within dwellings to protect other residents.

Both the current law authorizing ordinances to repair the exteriors of dwellings, and Senate Bill No. 2702 to cover the interiors of dwellings have “teeth”. Municipal ordinances may provide for a fine of \$1,500 for each day a maintenance violation concerning the interior of a vacant and abandoned residential property under foreclosure goes uncorrected following a 30-day window to correct, or a 10-day window to correct in the case of an imminent threat to public health and safety. An out-of-State creditor violating the requirement to appoint an in-State representative or agent under the ordinance shall be subject to a fine of \$2,500 for each day of the violation.

CAI-NJ strongly encourages its members to contact their municipal officials to advocate for the adoption of an ordinance compelling the maintenance of the exterior of properties under foreclosure. Municipalities already have ordinances requiring homeowners to comply with property maintenance codes. I cannot imagine there being a single municipality in this State which would not want to extend its ordinance to hold foreclosing mortgagees responsible for the upkeep of properties under foreclosure. ■

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