**Template Bylaw to Require Unit Owners in Common Interest Communities to Name the Homeowners’ Association a Third-Party to Receive**

**Notice of Termination of Service Under**

**HB 177 of the 148th General Assembly.**

**Introduction**

On September 3, 2015, the Governor signed into law a bill aimed at helping common interest communities, including condominiums, cooperatives, and deed restricted subdivisions.

When a homeowner fails to pay a utility bill, the utility has a right to turn off service including water or electricity. That can result in major damage to a home and other property. For example, if electricity is cut off during the winter and a home remains unheated, water lines can freeze, burst, and flood the property. That may cause tremendous damage to the home and to connected homes. This law requires utility companies to have a “third party notification system.” It allows a customer to name a person who will also receive notice before the utility cuts off service.

The law allows common interest communities, to adopt bylaws *requiring* homeowners to name the HOA to receive notice before cutting off utility service. The HOA can notify the homeowner, or make other arrangements depending on your bylaws.

Finally, this law requires the Common Interest Community Ombudsperson to prepare a sample bylaw that an HOA can use to require homeowners to name the HOA as a third-party to receive notice before the utility cuts off service.

Each community may choose whether to *require* unit owners to name the association as a third-party to receive notice of a utility shutoff. A community should edit this sample to conform to the language used in its governing documents, and decide if the notice will be required or is optional. As with any bylaw, the community must follow the process stated in its bylaws for adopting new bylaws.

**Draft Bylaw:**

**Designation of Association to Receive Notice of Termination of Utility Service.**

Every Unit Owner must [or “may’] name the Association as a third party to receive notice that the utility intends to end service at the same time the utility sends notice to the unit owner. Utility service means gas, water, wastewater, or electricity for use or consumption in any dwelling unit. Every unit owner must sign the following statement, which the Association will complete and deliver to the utility company.

[**To:** [name, address, and of Utility company]

**Regarding:** [Unit Owners’ Names, address with unit #, community name, city, state, zip code]

**Account Number**: [Unit Owner’s account number for the utility]

I/we, the undersigned are the owners of the property stated above.

We designate [name and address of homeowners’ Association]­­­­­­­­­­­­­­­­­­­­­­­­­ as a third-party to be notified before you terminate utility service at the above address, under the third-party notification program you created pursuant to 26 *Del. C.* §117 (b). This notification shall be in addition to any other person or entity I have named, or will name.

This notification is to remain in effect until changed by me or my successor.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

Print Name:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: Date

Print Name:

**By the Association:**

On behalf of [name homeowners’ Association], we acknowledge our willingness to receive prior notice of termination of utility service as a third-party, on behalf of your customer, our association member identified above, but we shall not be held in any way liable to any utility by acceptance of this third-party status.

Send Prior Notice Of Termination of Utility service to us as third party designee, to:

[Name and address of association or property manager]

The Board of this Association authorized me to sign this document.

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Signature Date

Print Name:

Title:

{Seal}