



Rep. Jim Sacia

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LRB098 05732 HEP 42371 a

1 AMENDMENT TO HOUSE BILL 1773

2 AMENDMENT NO. _____. Amend House Bill 1773 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Common Interest Community Association Act
5 is amended by changing Sections 1-25, 1-30, and 1-55 as
6 follows:

7 (765 ILCS 160/1-25)

8 Sec. 1-25. Board of managers, board of directors, duties,
9 elections, and voting.

10 (a) Elections shall be held in accordance with the
11 community instruments, provided that an election shall be held
12 no less frequently than once every 24 months, for the board of
13 managers or board of directors from among the membership of a
14 common interest community association.

15 (b) (Blank).

16 (c) The members of the board shall serve without

1 compensation, unless the community instruments indicate
2 otherwise.

3 (d) No member of the board or officer shall be elected for
4 a term of more than 4 years, but officers and board members may
5 succeed themselves.

6 (e) If there is a vacancy on the board, the remaining
7 members of the board may fill the vacancy by a two-thirds vote
8 of the remaining board members until the next annual meeting of
9 the membership or until members holding 20% of the votes of the
10 association request a meeting of the members to fill the
11 vacancy for the balance of the term. A meeting of the members
12 shall be called for purposes of filling a vacancy on the board
13 no later than 30 days following the filing of a petition signed
14 by membership holding 20% of the votes of the association
15 requesting such a meeting.

16 (f) There shall be an election of a:

17 (1) president from among the members of the board, who
18 shall preside over the meetings of the board and of the
19 membership;

20 (2) secretary from among the members of the board, who
21 shall keep the minutes of all meetings of the board and of
22 the membership and who shall, in general, perform all the
23 duties incident to the office of secretary; and

24 (3) treasurer from among the members of the board, who
25 shall keep the financial records and books of account.

26 (g) If no election is held to elect board members within

1 the time period specified in the bylaws, or within a reasonable
2 amount of time thereafter not to exceed 90 days, then 20% of
3 the members may bring an action to compel compliance with the
4 election requirements specified in the bylaws. If the court
5 finds that an election was not held to elect members of the
6 board within the required period due to the bad faith acts or
7 omissions of the board of managers or the board of directors,
8 the members shall be entitled to recover their reasonable
9 attorney's fees and costs from the association. If the relevant
10 notice requirements have been met and an election is not held
11 solely due to a lack of a quorum, then this subsection (g) does
12 not apply.

13 (h) Where there is more than one owner of a unit and there
14 is only one member vote associated with that unit, if only one
15 of the multiple owners is present at a meeting of the
16 membership, he or she is entitled to cast the member vote
17 associated with that unit.

18 (h-5) A member may vote:

19 (1) by proxy executed in writing by the member or by
20 his or her duly authorized attorney in fact, provided,
21 however, that the proxy bears the date of execution. Unless
22 the community instruments or the written proxy itself
23 provide otherwise, proxies will not be valid for more than
24 11 months after the date of its execution; or

25 (2) by submitting an association-issued ballot in
26 person at the election meeting; or

1 (3) by submitting an association-issued ballot to the
2 association or its designated agent by mail or other means
3 of delivery specified in the declaration or bylaws.

4 (i) The association may, upon adoption of the appropriate
5 rules by the board, conduct elections by secret ballot,
6 distributed by the association, whereby the voting ballot is
7 marked only with the voting interest for the member and the
8 vote itself, provided that the association shall further adopt
9 rules to verify the status of the member casting a ballot ~~and~~
10 ~~provided further that proxies shall not be allowed.~~ A candidate
11 for election to the board or such candidate's representative
12 shall have the right to be present at the counting of ballots
13 at such election.

14 (j) Upon proof of purchase, the purchaser of a unit from a
15 seller other than the developer pursuant to an installment
16 contract for purchase shall, during such times as he or she
17 resides in the unit, be counted toward a quorum for purposes of
18 election of members of the board at any meeting of the
19 membership called for purposes of electing members of the
20 board, shall have the right to vote for the members of the
21 board of the common interest community association and to be
22 elected to and serve on the board unless the seller expressly
23 retains in writing any or all of such rights.

24 (Source: P.A. 96-1400, eff. 7-29-10; 97-605, eff. 8-26-11;
25 97-1090, eff. 8-24-12.)

1 (765 ILCS 160/1-30)

2 Sec. 1-30. Board duties and obligations; records.

3 (a) The board shall meet at least 3 ~~4~~ times annually.

4 (b) A ~~member of the board of the~~ common interest community
5 association may not enter into a contract with a current board
6 member, or with a corporation or partnership in which a board
7 member or a member of his or her immediate family has 25% or
8 more interest, unless notice of intent to enter into the
9 contract is given to members within 20 days after a decision is
10 made to enter into the contract and the members are afforded an
11 opportunity by filing a petition, signed by 20% of the
12 membership, for an election to approve or disapprove the
13 contract; such petition shall be filed within 20 days after
14 such notice and such election shall be held within 30 days
15 after filing the petition. For purposes of this subsection, a
16 board member's immediate family means the board member's
17 spouse, parents, and children.

18 (c) The bylaws shall provide for the maintenance, repair,
19 and replacement of the common areas and payments therefor,
20 including the method of approving payment vouchers.

21 (d) (Blank).

22 (e) The association may engage the services of a manager or
23 management company.

24 (f) The association shall have one class of membership
25 unless the declaration or bylaws provide otherwise; however,
26 this subsection (f) shall not be construed to limit the

1 operation of subsection (c) of Section 1-20 of this Act.

2 (g) The board shall have the power, after notice and an
3 opportunity to be heard, to levy and collect reasonable fines
4 from members or unit owners for violations of the declaration,
5 bylaws, and rules and regulations of the common interest
6 community association.

7 (h) Other than attorney's fees and court or arbitration
8 costs, no fees pertaining to the collection of a member's or
9 unit owner's financial obligation to the association,
10 including fees charged by a manager or managing agent, shall be
11 added to and deemed a part of a member's or unit owner's
12 respective share of the common expenses unless: (i) the
13 managing agent fees relate to the costs to collect common
14 expenses for the association; (ii) the fees are set forth in a
15 contract between the managing agent and the association; and
16 (iii) the authority to add the management fees to a member's or
17 unit owner's respective share of the common expenses is
18 specifically stated in the declaration or bylaws of the
19 association.

20 (i) Board records.

21 (1) The board shall maintain the following records of
22 the association and make them available for examination and
23 copying at convenient hours of weekdays by any member or
24 unit owner in a common interest community subject to the
25 authority of the board, their mortgagees, and their duly
26 authorized agents or attorneys:

1 (i) Copies of the recorded declaration, other
2 community instruments, other duly recorded covenants
3 and bylaws and any amendments, articles of
4 incorporation, annual reports, and any rules and
5 regulations adopted by the board shall be available.
6 Prior to the organization of the board, the developer
7 shall maintain and make available the records set forth
8 in this paragraph (i) for examination and copying.

9 (ii) Detailed and accurate records in
10 chronological order of the receipts and expenditures
11 affecting the common areas, specifying and itemizing
12 the maintenance and repair expenses of the common areas
13 and any other expenses incurred, and copies of all
14 contracts, leases, or other agreements entered into by
15 the board shall be maintained.

16 (iii) The minutes of all meetings of the board
17 which shall be maintained for not less than 7 years.

18 (iv) With a written statement of a proper purpose,
19 ballots and proxies related thereto, if any, for any
20 election held for the board and for any other matters
21 voted on by the members, which shall be maintained for
22 not less than one year.

23 (v) With a written statement of a proper purpose,
24 such other records of the board as are available for
25 inspection by members of a not-for-profit corporation
26 pursuant to Section 107.75 of the General Not For

1 Profit Corporation Act of 1986 shall be maintained.

2 (vi) With respect to units owned by a land trust, a
3 living trust, or other legal entity, the trustee,
4 officer, or manager of the entity may designate, in
5 writing, a person to cast votes on behalf of the member
6 or unit owner and a designation shall remain in effect
7 until a subsequent document is filed with the
8 association.

9 (2) Where a request for records under this subsection
10 is made in writing to the board or its agent, failure to
11 provide the requested record or to respond within 30 days
12 shall be deemed a denial by the board.

13 (3) A reasonable fee may be charged by the board for
14 the cost of retrieving and copying records properly
15 requested.

16 (4) If the board fails to provide records properly
17 requested under paragraph (1) of this subsection (i) within
18 the time period provided in that paragraph (1), the member
19 may seek appropriate relief and shall be entitled to an
20 award of reasonable attorney's fees and costs if the member
21 prevails and the court finds that such failure is due to
22 the acts or omissions of the board of managers or the board
23 of directors.

24 (j) The board shall have standing and capacity to act in a
25 representative capacity in relation to matters involving the
26 common areas or more than one unit, on behalf of the members or

1 unit owners as their interests may appear.

2 (Source: P.A. 96-1400, eff. 7-29-10; 97-605, eff. 8-26-11;
3 97-1090, eff. 8-24-12.)

4 (765 ILCS 160/1-55)

5 Sec. 1-55. Fidelity insurance. An association with 30 or
6 more units shall obtain and maintain fidelity insurance
7 covering persons who control or disburse funds of the
8 association for the ~~maximum~~ amount of coverage that is
9 commercially available or reasonably required to protect funds
10 in the custody or control of the association. All management
11 companies which are responsible for the funds held or
12 administered by the association shall maintain and furnish to
13 the association a fidelity bond for the ~~maximum~~ amount of
14 coverage that is commercially available or reasonably required
15 to protect funds in the custody of the management company at
16 any time. The association shall bear the cost of the fidelity
17 insurance and fidelity bond, unless otherwise provided by
18 contract between the association and a management company.

19 (Source: P.A. 96-1400, eff. 7-29-10; 97-605, eff. 8-26-11.)".