

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Common Interest Community Association Act is
5 amended by changing Section 1-20 as follows:

6 (765 ILCS 160/1-20)

7 Sec. 1-20. Amendments to the declaration, bylaws, or
8 operating agreement.

9 (a) The administration of every property shall be governed
10 by the declaration and bylaws or operating agreement, which may
11 either be embodied in the declaration or in a separate
12 instrument, a true copy of which shall be appended to and
13 recorded with the declaration. No modification or amendment of
14 the declaration, bylaws, or operating agreement shall be valid
15 unless the same is set forth in an amendment thereof and such
16 amendment is duly recorded. An amendment of the declaration,
17 bylaws, or operating agreement shall be deemed effective upon
18 recordation, unless the amendment sets forth a different
19 effective date.

20 (b) Unless otherwise provided by this Act, amendments to
21 community instruments authorized to be recorded shall be
22 executed and recorded by the president of the board or such
23 other officer authorized by the common interest community

1 association or the community instruments.

2 (c) If an association that currently permits leasing amends
3 its declaration, bylaws, or rules and regulations to prohibit
4 leasing, nothing in this Act or the declarations, bylaws, rules
5 and regulations of an association shall prohibit a unit owner
6 incorporated under 26 USC 501(c)(3) which is leasing a unit at
7 the time of the prohibition from continuing to do so until such
8 time that the unit owner voluntarily sells the unit; and no
9 special fine, fee, dues, or penalty shall be assessed against
10 the unit owner for leasing its unit.

11 (d) No action to incorporate a common interest community as
12 a municipality shall commence until an instrument agreeing to
13 incorporation has been signed by two-thirds of the members.

14 (e) If the community instruments require approval of any
15 mortgagee or lienholder of record and the mortgagee or
16 lienholder of record receives a request to approve or consent
17 to the amendment to the community instruments, the mortgagee or
18 lienholder of record is deemed to have approved or consented to
19 the request unless the mortgagee or lienholder of record
20 delivers a negative response to the requesting party within 60
21 days after the mailing of the request. A request to approve or
22 consent to an amendment to the community instruments that is
23 required to be sent to a mortgagee or lienholder of record
24 shall be sent by certified mail.

25 (Source: P.A. 99-41, eff. 7-14-15.)

1 Section 10. The Condominium Property Act is amended by
2 changing Section 27 as follows:

3 (765 ILCS 605/27) (from Ch. 30, par. 327)

4 Sec. 27. Amendments.

5 (a) If there is any unit owner other than the developer,
6 and unless otherwise provided in this Act, the condominium
7 instruments shall be amended only as follows:

8 (i) upon the affirmative vote of 2/3 of those voting or
9 upon the majority specified by the condominium
10 instruments, provided that in no event shall the
11 condominium instruments require more than a three-quarters
12 vote of all unit owners; and

13 (ii) with the approval of, or notice to, any mortgagees
14 or other lienholders of record, if required under the
15 provisions of the condominium instruments. If the
16 condominium instruments require approval of any mortgagee
17 or lienholder of record and the mortgagee or lienholder of
18 record receives a request to approve or consent to the
19 amendment to the condominium instruments, the mortgagee or
20 lienholder of record is deemed to have approved or
21 consented to the request unless the mortgagee or lienholder
22 of record delivers a negative response to the requesting
23 party within 60 days after the mailing of the request. A
24 request to approve or consent to an amendment to the
25 condominium instruments that is required to be sent to a

1 mortgagee or lienholder of record shall be sent by
2 certified mail.

3 (b) (1) If there is an omission, error, or inconsistency in
4 a condominium instrument, such that a provision of a
5 condominium instrument does not conform to this Act or to
6 another applicable statute, the association may correct the
7 omission, error, or inconsistency to conform the condominium
8 instrument to this Act or to another applicable statute by an
9 amendment adopted by vote of two-thirds of the Board of
10 Managers, without a unit owner vote. A provision in a
11 condominium instrument requiring or allowing unit owners,
12 mortgagees, or other lienholders of record to vote to approve
13 an amendment to a condominium instrument, or for the mortgagees
14 or other lienholders of record to be given notice of an
15 amendment to a condominium instrument, is not applicable to an
16 amendment to the extent that the amendment corrects an
17 omission, error, or inconsistency to conform the condominium
18 instrument to this Act or to another applicable statute.

19 (2) If through a scrivener's error, a unit has not been
20 designated as owning an appropriate undivided share of the
21 common elements or does not bear an appropriate share of the
22 common expenses or that all the common expenses or all of the
23 common elements in the condominium have not been distributed in
24 the declaration, so that the sum total of the shares of common
25 elements which have been distributed or the sum total of the
26 shares of the common expenses fail to equal 100%, or if it

1 appears that more than 100% of the common elements or common
2 expenses have been distributed, the error may be corrected by
3 operation of law by filing an amendment to the declaration
4 approved by vote of two-thirds of the members of the Board of
5 Managers or a majority vote of the unit owners at a meeting
6 called for this purpose which proportionately adjusts all
7 percentage interests so that the total is equal to 100% unless
8 the condominium instruments specifically provide for a
9 different procedure or different percentage vote by the owners
10 of the units and the owners of mortgages thereon affected by
11 modification being made in the undivided interest in the common
12 elements, the number of votes in the unit owners association or
13 the liability for common expenses appertaining to the unit.

14 (3) If an omission or error or a scrivener's error in the
15 declaration, bylaws or other condominium instrument is
16 corrected by vote of two-thirds of the members of the Board of
17 Managers pursuant to the authority established in subsections
18 (b) (1) or (b) (2) of this Section ~~27 of this Act~~, the Board upon
19 written petition by unit owners with 20 percent of the votes of
20 the association filed within 30 days of the Board action shall
21 call a meeting of the unit owners within 30 days of the filing
22 of the petition to consider the Board action. Unless a majority
23 of the votes of the unit owners of the association are cast at
24 the meeting to reject the action, it is ratified whether or not
25 a quorum is present.

26 (4) The procedures for amendments set forth in this

1 subsection (b) cannot be used if such an amendment would
2 materially or adversely affect property rights of the unit
3 owners unless the affected unit owners consent in writing. This
4 Section does not restrict the powers of the association to
5 otherwise amend the declaration, bylaws, or other condominium
6 instruments, but authorizes a simple process of amendment
7 requiring a lesser vote for the purpose of correcting defects,
8 errors, or omissions when the property rights of the unit
9 owners are not materially or adversely affected.

10 (5) If there is an omission or error in the declaration,
11 bylaws, or other condominium instruments, which may not be
12 corrected by an amendment procedure set forth in paragraphs (1)
13 and (2) of this subsection (b) ~~of Section 27~~ in the declaration
14 then the Circuit Court in the County in which the condominium
15 is located shall have jurisdiction to hear a petition of one or
16 more of the unit owners thereon or of the association, to
17 correct the error or omission, and the action may be a class
18 action. The court may require that one or more methods of
19 correcting the error or omission be submitted to the unit
20 owners to determine the most acceptable correction. All unit
21 owners in the association must be joined as parties to the
22 action. Service of process on owners may be by publication, but
23 the plaintiff shall furnish all unit owners not personally
24 served with process with copies of the petition and final
25 judgment of the court by certified mail return receipt
26 requested, at their last known address.

1 (6) Nothing contained in this Section shall be construed to
2 invalidate any provision of a condominium instrument
3 authorizing the developer to amend a condominium instrument
4 prior to the latest date on which the initial membership
5 meeting of the unit owners must be held, whether or not ~~not~~ it
6 has actually been held, to bring the instrument into compliance
7 with the legal requirements of the Federal National Mortgage
8 Association, the Federal Home Loan Mortgage Corporation, the
9 Federal Housing Administration, the United States Veterans
10 Administration or their respective successors and assigns.

11 (Source: P.A. 98-282, eff. 1-1-14; 99-472, eff. 6-1-16; revised
12 9-1-16.)