



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2641

by Rep. Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/18

from Ch. 30, par. 318

Amends the Condominium Property Act. Provides that the bylaws of a condominium shall provide for the ratification and confirmation by the board of managers of actions taken by the board without a meeting in response to an emergency. Provides that the bylaws shall include specified procedural requirements relating to the ratification and confirmation.

LRB099 07614 HEP 27745 b

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 Condominium Property Act is amended by  
5 changing Section 18 as follows:

6 (765 ILCS 605/18) (from Ch. 30, par. 318)

7 Sec. 18. Contents of bylaws. The bylaws shall provide for  
8 at least the following:

9 (a)(1) The election from among the unit owners of a board  
10 of managers, the number of persons constituting such board, and  
11 that the terms of at least one-third of the members of the  
12 board shall expire annually and that all members of the board  
13 shall be elected at large. If there are multiple owners of a  
14 single unit, only one of the multiple owners shall be eligible  
15 to serve as a member of the board at any one time.

16 (2) the powers and duties of the board;

17 (3) the compensation, if any, of the members of the board;

18 (4) the method of removal from office of members of the  
19 board;

20 (5) that the board may engage the services of a manager or  
21 managing agent;

22 (6) that each unit owner shall receive, at least 30 days  
23 prior to the adoption thereof by the board of managers, a copy

1 of the proposed annual budget together with an indication of  
2 which portions are intended for reserves, capital expenditures  
3 or repairs or payment of real estate taxes;

4 (7) that the board of managers shall annually supply to all  
5 unit owners an itemized accounting of the common expenses for  
6 the preceding year actually incurred or paid, together with an  
7 indication of which portions were for reserves, capital  
8 expenditures or repairs or payment of real estate taxes and  
9 with a tabulation of the amounts collected pursuant to the  
10 budget or assessment, and showing the net excess or deficit of  
11 income over expenditures plus reserves;

12 (8) (i) that each unit owner shall receive notice, in the  
13 same manner as is provided in this Act for membership meetings,  
14 of any meeting of the board of managers concerning the adoption  
15 of the proposed annual budget and regular assessments pursuant  
16 thereto or to adopt a separate (special) assessment, (ii) that  
17 except as provided in subsection (iv) below, if an adopted  
18 budget or any separate assessment adopted by the board would  
19 result in the sum of all regular and separate assessments  
20 payable in the current fiscal year exceeding 115% of the sum of  
21 all regular and separate assessments payable during the  
22 preceding fiscal year, the board of managers, upon written  
23 petition by unit owners with 20 percent of the votes of the  
24 association delivered to the board within 14 days of the board  
25 action, shall call a meeting of the unit owners within 30 days  
26 of the date of delivery of the petition to consider the budget

1 or separate assessment; unless a majority of the total votes of  
2 the unit owners are cast at the meeting to reject the budget or  
3 separate assessment, it is ratified, (iii) that any common  
4 expense not set forth in the budget or any increase in  
5 assessments over the amount adopted in the budget shall be  
6 separately assessed against all unit owners, (iv) that separate  
7 assessments for expenditures relating to emergencies or  
8 mandated by law may be adopted by the board of managers without  
9 being subject to unit owner approval or the provisions of item  
10 (ii) above or item (v) below. As used herein, "emergency" means  
11 an immediate danger to the structural integrity of the common  
12 elements or to the life, health, safety or property of the unit  
13 owners, (v) that assessments for additions and alterations to  
14 the common elements or to association-owned property not  
15 included in the adopted annual budget, shall be separately  
16 assessed and are subject to approval of two-thirds of the total  
17 votes of all unit owners, (vi) that the board of managers may  
18 adopt separate assessments payable over more than one fiscal  
19 year. With respect to multi-year assessments not governed by  
20 items (iv) and (v), the entire amount of the multi-year  
21 assessment shall be deemed considered and authorized in the  
22 first fiscal year in which the assessment is approved;

23 (9) that meetings of the board of managers shall be open to  
24 any unit owner, except for the portion of any meeting held (i)  
25 to discuss litigation when an action against or on behalf of  
26 the particular association has been filed and is pending in a

1 court or administrative tribunal, or when the board of managers  
2 finds that such an action is probable or imminent, (ii) to  
3 consider information regarding appointment, employment or  
4 dismissal of an employee, or (iii) to discuss violations of  
5 rules and regulations of the association or a unit owner's  
6 unpaid share of common expenses; that any vote on these matters  
7 shall be taken at a meeting or portion thereof open to any unit  
8 owner; that any unit owner may record the proceedings at  
9 meetings or portions thereof required to be open by this Act by  
10 tape, film or other means; that the board may prescribe  
11 reasonable rules and regulations to govern the right to make  
12 such recordings, that notice of such meetings shall be mailed  
13 or delivered at least 48 hours prior thereto, unless a written  
14 waiver of such notice is signed by the person or persons  
15 entitled to such notice pursuant to the declaration, bylaws,  
16 other condominium instrument, or provision of law other than  
17 this subsection before the meeting is convened, and that copies  
18 of notices of meetings of the board of managers shall be posted  
19 in entranceways, elevators, or other conspicuous places in the  
20 condominium at least 48 hours prior to the meeting of the board  
21 of managers except where there is no common entranceway for 7  
22 or more units, the board of managers may designate one or more  
23 locations in the proximity of these units where the notices of  
24 meetings shall be posted;

25 (10) that the board shall meet at least 4 times annually;

26 (11) that no member of the board or officer shall be

1 elected for a term of more than 2 years, but that officers and  
2 board members may succeed themselves;

3 (12) the designation of an officer to mail and receive all  
4 notices and execute amendments to condominium instruments as  
5 provided for in this Act and in the condominium instruments;

6 (13) the method of filling vacancies on the board which  
7 shall include authority for the remaining members of the board  
8 to fill the vacancy by two-thirds vote until the next annual  
9 meeting of unit owners or for a period terminating no later  
10 than 30 days following the filing of a petition signed by unit  
11 owners holding 20% of the votes of the association requesting a  
12 meeting of the unit owners to fill the vacancy for the balance  
13 of the term, and that a meeting of the unit owners shall be  
14 called for purposes of filling a vacancy on the board no later  
15 than 30 days following the filing of a petition signed by unit  
16 owners holding 20% of the votes of the association requesting  
17 such a meeting, and the method of filling vacancies among the  
18 officers that shall include the authority for the members of  
19 the board to fill the vacancy for the unexpired portion of the  
20 term;

21 (14) what percentage of the board of managers, if other  
22 than a majority, shall constitute a quorum;

23 (15) provisions concerning notice of board meetings to  
24 members of the board;

25 (16) the board of managers may not enter into a contract  
26 with a current board member or with a corporation or

1 partnership in which a board member or a member of the board  
2 member's immediate family has 25% or more interest, unless  
3 notice of intent to enter the contract is given to unit owners  
4 within 20 days after a decision is made to enter into the  
5 contract and the unit owners are afforded an opportunity by  
6 filing a petition, signed by 20% of the unit owners, for an  
7 election to approve or disapprove the contract; such petition  
8 shall be filed within 20 days after such notice and such  
9 election shall be held within 30 days after filing the  
10 petition; for purposes of this subsection, a board member's  
11 immediate family means the board member's spouse, parents, and  
12 children;

13 (17) that the board of managers may disseminate to unit  
14 owners biographical and background information about  
15 candidates for election to the board if (i) reasonable efforts  
16 to identify all candidates are made and all candidates are  
17 given an opportunity to include biographical and background  
18 information in the information to be disseminated; and (ii) the  
19 board does not express a preference in favor of any candidate;

20 (18) any proxy distributed for board elections by the board  
21 of managers gives unit owners the opportunity to designate any  
22 person as the proxy holder, and gives the unit owner the  
23 opportunity to express a preference for any of the known  
24 candidates for the board or to write in a name;

25 (19) that special meetings of the board of managers can be  
26 called by the president or 25% of the members of the board; ~~and~~

1           (20) that the board of managers may establish and maintain  
2 a system of master metering of public utility services and  
3 collect payments in connection therewith, subject to the  
4 requirements of the Tenant Utility Payment Disclosure Act; ~~and.~~

5           (21) that the board may ratify and confirm actions of the  
6 members of the board taken in response to an emergency, as that  
7 term is defined in subdivision (a)(8)(iv) of this Section, if  
8 it had the right to authorize the actions in advance; that the  
9 board may not ratify and confirm any actions done in violation  
10 of this Act, other laws, or the condominium instruments, except  
11 that the board may subsequently ratify and confirm emergency  
12 actions authorized by one or more board members, regardless of  
13 whether a quorum of the board was present to vote to authorize  
14 the actions or proper prior notice of board action otherwise  
15 required by this Act, other laws, or the condominium  
16 instruments was given; that the board shall give notice to the  
17 unit owners of: (i) the occurrence of the emergency event  
18 within 2 business days after the emergency event, and (ii) the  
19 general description of the actions taken to address the event  
20 within 7 days after the emergency event; that a board vote to  
21 ratify and confirm the emergency actions must be held within 30  
22 days after the emergency event, at either a regular or special  
23 board meeting; that the notice of the meeting shall  
24 specifically state that a vote of the board will be held at the  
25 meeting to ratify and confirm the emergency actions taken.

26           (b)(1) What percentage of the unit owners, if other than



1 20%, shall constitute a quorum provided that, for condominiums  
2 with 20 or more units, the percentage of unit owners  
3 constituting a quorum shall be 20% unless the unit owners  
4 holding a majority of the percentage interest in the  
5 association provide for a higher percentage, provided that in  
6 voting on amendments to the association's bylaws, a unit owner  
7 who is in arrears on the unit owner's regular or separate  
8 assessments for 60 days or more, shall not be counted for  
9 purposes of determining if a quorum is present, but that unit  
10 owner retains the right to vote on amendments to the  
11 association's bylaws;

12 (2) that the association shall have one class of  
13 membership;

14 (3) that the members shall hold an annual meeting, one of  
15 the purposes of which shall be to elect members of the board of  
16 managers;

17 (4) the method of calling meetings of the unit owners;

18 (5) that special meetings of the members can be called by  
19 the president, board of managers, or by 20% of unit owners;

20 (6) that written notice of any membership meeting shall be  
21 mailed or delivered giving members no less than 10 and no more  
22 than 30 days notice of the time, place and purpose of such  
23 meeting except that notice may be sent, to the extent the  
24 condominium instruments or rules adopted thereunder expressly  
25 so provide, by electronic transmission consented to by the unit  
26 owner to whom the notice is given, provided the director and

1 officer or his agent certifies in writing to the delivery by  
2 electronic transmission;

3 (7) that voting shall be on a percentage basis, and that  
4 the percentage vote to which each unit is entitled is the  
5 percentage interest of the undivided ownership of the common  
6 elements appurtenant thereto, provided that the bylaws may  
7 provide for approval by unit owners in connection with matters  
8 where the requisite approval on a percentage basis is not  
9 specified in this Act, on the basis of one vote per unit;

10 (8) that, where there is more than one owner of a unit, if  
11 only one of the multiple owners is present at a meeting of the  
12 association, he is entitled to cast all the votes allocated to  
13 that unit, if more than one of the multiple owners are present,  
14 the votes allocated to that unit may be cast only in accordance  
15 with the agreement of a majority in interest of the multiple  
16 owners, unless the declaration expressly provides otherwise,  
17 that there is majority agreement if any one of the multiple  
18 owners cast the votes allocated to that unit without protest  
19 being made promptly to the person presiding over the meeting by  
20 any of the other owners of the unit;

21 (9) (A) except as provided in subparagraph (B) of this  
22 paragraph (9) in connection with board elections, that a unit  
23 owner may vote by proxy executed in writing by the unit owner  
24 or by his duly authorized attorney in fact; that the proxy must  
25 bear the date of execution and, unless the condominium  
26 instruments or the written proxy itself provide otherwise, is

1 invalid after 11 months from the date of its execution; to the  
2 extent the condominium instruments or rules adopted thereunder  
3 expressly so provide, a vote or proxy may be submitted by  
4 electronic transmission, provided that any such electronic  
5 transmission shall either set forth or be submitted with  
6 information from which it can be determined that the electronic  
7 transmission was authorized by the unit owner or the unit  
8 owner's proxy;

9 (B) that if a rule adopted at least 120 days before a board  
10 election or the declaration or bylaws provide for balloting as  
11 set forth in this subsection, unit owners may not vote by proxy  
12 in board elections, but may vote only (i) by submitting an  
13 association-issued ballot in person at the election meeting or  
14 (ii) by submitting an association-issued ballot to the  
15 association or its designated agent by mail or other means of  
16 delivery specified in the declaration, bylaws, or rule; that  
17 the ballots shall be mailed or otherwise distributed to unit  
18 owners not less than 10 and not more than 30 days before the  
19 election meeting, and the board shall give unit owners not less  
20 than 21 days' prior written notice of the deadline for  
21 inclusion of a candidate's name on the ballots; that the  
22 deadline shall be no more than 7 days before the ballots are  
23 mailed or otherwise distributed to unit owners; that every such  
24 ballot must include the names of all candidates who have given  
25 the board or its authorized agent timely written notice of  
26 their candidacy and must give the person casting the ballot the

1 opportunity to cast votes for candidates whose names do not  
2 appear on the ballot; that a ballot received by the association  
3 or its designated agent after the close of voting shall not be  
4 counted; that a unit owner who submits a ballot by mail or  
5 other means of delivery specified in the declaration, bylaws,  
6 or rule may request and cast a ballot in person at the election  
7 meeting, and thereby void any ballot previously submitted by  
8 that unit owner;

9 (B-5) that if a rule adopted at least 120 days before a  
10 board election or the declaration or bylaws provide for  
11 balloting as set forth in this subparagraph, unit owners may  
12 not vote by proxy in board elections, but may vote only (i) by  
13 submitting an association-issued ballot in person at the  
14 election meeting; or (ii) by any acceptable technological means  
15 as defined in Section 2 of this Act; instructions regarding the  
16 use of electronic means for voting shall be distributed to all  
17 unit owners not less than 10 and not more than 30 days before  
18 the election meeting, and the board shall give unit owners not  
19 less than 21 days' prior written notice of the deadline for  
20 inclusion of a candidate's name on the ballots; the deadline  
21 shall be no more than 7 days before the instructions for voting  
22 using electronic or acceptable technological means is  
23 distributed to unit owners; every instruction notice must  
24 include the names of all candidates who have given the board or  
25 its authorized agent timely written notice of their candidacy  
26 and must give the person voting through electronic or

1 acceptable technological means the opportunity to cast votes  
2 for candidates whose names do not appear on the ballot; a unit  
3 owner who submits a vote using electronic or acceptable  
4 technological means may request and cast a ballot in person at  
5 the election meeting, thereby voiding any vote previously  
6 submitted by that unit owner;

7 (C) that if a written petition by unit owners with at least  
8 20% of the votes of the association is delivered to the board  
9 within 14 days after the board's approval of a rule adopted  
10 pursuant to subparagraph (B) or subparagraph (B-5) of this  
11 paragraph (9), the board shall call a meeting of the unit  
12 owners within 30 days after the date of delivery of the  
13 petition; that unless a majority of the total votes of the unit  
14 owners are cast at the meeting to reject the rule, the rule is  
15 ratified;

16 (D) that votes cast by ballot under subparagraph (B) or  
17 electronic or acceptable technological means under  
18 subparagraph (B-5) of this paragraph (9) are valid for the  
19 purpose of establishing a quorum;

20 (10) that the association may, upon adoption of the  
21 appropriate rules by the board of managers, conduct elections  
22 by secret ballot whereby the voting ballot is marked only with  
23 the percentage interest for the unit and the vote itself,  
24 provided that the board further adopt rules to verify the  
25 status of the unit owner issuing a proxy or casting a ballot;  
26 and further, that a candidate for election to the board of

1 managers or such candidate's representative shall have the  
2 right to be present at the counting of ballots at such  
3 election;

4 (11) that in the event of a resale of a condominium unit  
5 the purchaser of a unit from a seller other than the developer  
6 pursuant to an installment contract for purchase shall during  
7 such times as he or she resides in the unit be counted toward a  
8 quorum for purposes of election of members of the board of  
9 managers at any meeting of the unit owners called for purposes  
10 of electing members of the board, shall have the right to vote  
11 for the election of members of the board of managers and to be  
12 elected to and serve on the board of managers unless the seller  
13 expressly retains in writing any or all of such rights. In no  
14 event may the seller and purchaser both be counted toward a  
15 quorum, be permitted to vote for a particular office or be  
16 elected and serve on the board. Satisfactory evidence of the  
17 installment contact shall be made available to the association  
18 or its agents. For purposes of this subsection, "installment  
19 contact" shall have the same meaning as set forth in Section 1  
20 (e) of "An Act relating to installment contracts to sell  
21 dwelling structures", approved August 11, 1967, as amended;

22 (12) the method by which matters subject to the approval of  
23 unit owners set forth in this Act, or in the condominium  
24 instruments, will be submitted to the unit owners at special  
25 membership meetings called for such purposes; and

26 (13) that matters subject to the affirmative vote of not

1 less than 2/3 of the votes of unit owners at a meeting duly  
2 called for that purpose, shall include, but not be limited to:

3 (i) merger or consolidation of the association;

4 (ii) sale, lease, exchange, or other disposition  
5 (excluding the mortgage or pledge) of all, or substantially  
6 all of the property and assets of the association; and

7 (iii) the purchase or sale of land or of units on  
8 behalf of all unit owners.

9 (c) Election of a president from among the board of  
10 managers, who shall preside over the meetings of the board of  
11 managers and of the unit owners.

12 (d) Election of a secretary from among the board of  
13 managers, who shall keep the minutes of all meetings of the  
14 board of managers and of the unit owners and who shall, in  
15 general, perform all the duties incident to the office of  
16 secretary.

17 (e) Election of a treasurer from among the board of  
18 managers, who shall keep the financial records and books of  
19 account.

20 (f) Maintenance, repair and replacement of the common  
21 elements and payments therefor, including the method of  
22 approving payment vouchers.

23 (g) An association with 30 or more units shall obtain and  
24 maintain fidelity insurance covering persons who control or  
25 disburse funds of the association for the maximum amount of  
26 coverage available to protect funds in the custody or control

1 of the association plus the association reserve fund. All  
2 management companies which are responsible for the funds held  
3 or administered by the association shall maintain and furnish  
4 to the association a fidelity bond for the maximum amount of  
5 coverage available to protect funds in the custody of the  
6 management company at any time. The association shall bear the  
7 cost of the fidelity insurance and fidelity bond, unless  
8 otherwise provided by contract between the association and a  
9 management company. The association shall be the direct obligee  
10 of any such fidelity bond. A management company holding reserve  
11 funds of an association shall at all times maintain a separate  
12 account for each association, provided, however, that for  
13 investment purposes, the Board of Managers of an association  
14 may authorize a management company to maintain the  
15 association's reserve funds in a single interest bearing  
16 account with similar funds of other associations. The  
17 management company shall at all times maintain records  
18 identifying all moneys of each association in such investment  
19 account. The management company may hold all operating funds of  
20 associations which it manages in a single operating account but  
21 shall at all times maintain records identifying all moneys of  
22 each association in such operating account. Such operating and  
23 reserve funds held by the management company for the  
24 association shall not be subject to attachment by any creditor  
25 of the management company.

26 For the purpose of this subsection a management company



1 shall be defined as a person, partnership, corporation, or  
2 other legal entity entitled to transact business on behalf of  
3 others, acting on behalf of or as an agent for a unit owner,  
4 unit owners or association of unit owners for the purpose of  
5 carrying out the duties, responsibilities, and other  
6 obligations necessary for the day to day operation and  
7 management of any property subject to this Act. For purposes of  
8 this subsection, the term "fiduciary insurance coverage" shall  
9 be defined as both a fidelity bond and directors and officers  
10 liability coverage, the fidelity bond in the full amount of  
11 association funds and association reserves that will be in the  
12 custody of the association, and the directors and officers  
13 liability coverage at a level as shall be determined to be  
14 reasonable by the board of managers, if not otherwise  
15 established by the declaration or by laws.

16 Until one year after the effective date of this amendatory  
17 Act of 1985, if a condominium association has reserves plus  
18 assessments in excess of \$250,000 and cannot reasonably obtain  
19 100% fidelity bond coverage for such amount, then it must  
20 obtain a fidelity bond coverage of \$250,000.

21 (h) Method of estimating the amount of the annual budget,  
22 and the manner of assessing and collecting from the unit owners  
23 their respective shares of such estimated expenses, and of any  
24 other expenses lawfully agreed upon.

25 (i) That upon 10 days notice to the manager or board of  
26 managers and payment of a reasonable fee, any unit owner shall

1 be furnished a statement of his account setting forth the  
2 amount of any unpaid assessments or other charges due and owing  
3 from such owner.

4 (j) Designation and removal of personnel necessary for the  
5 maintenance, repair and replacement of the common elements.

6 (k) Such restrictions on and requirements respecting the  
7 use and maintenance of the units and the use of the common  
8 elements, not set forth in the declaration, as are designed to  
9 prevent unreasonable interference with the use of their  
10 respective units and of the common elements by the several unit  
11 owners.

12 (l) Method of adopting and of amending administrative rules  
13 and regulations governing the operation and use of the common  
14 elements.

15 (m) The percentage of votes required to modify or amend the  
16 bylaws, but each one of the particulars set forth in this  
17 section shall always be embodied in the bylaws.

18 (n) (i) The provisions of this Act, the declaration, bylaws,  
19 other condominium instruments, and rules and regulations that  
20 relate to the use of the individual unit or the common elements  
21 shall be applicable to any person leasing a unit and shall be  
22 deemed to be incorporated in any lease executed or renewed on  
23 or after the effective date of this amendatory Act of 1984.

24 (ii) With regard to any lease entered into subsequent to the  
25 effective date of this amendatory Act of 1989, the unit owner  
26 leasing the unit shall deliver a copy of the signed lease to

1 the board or if the lease is oral, a memorandum of the lease,  
2 not later than the date of occupancy or 10 days after the lease  
3 is signed, whichever occurs first. In addition to any other  
4 remedies, by filing an action jointly against the tenant and  
5 the unit owner, an association may seek to enjoin a tenant from  
6 occupying a unit or seek to evict a tenant under the provisions  
7 of Article IX of the Code of Civil Procedure for failure of the  
8 lessor-owner to comply with the leasing requirements  
9 prescribed by this Section or by the declaration, bylaws, and  
10 rules and regulations. The board of managers may proceed  
11 directly against a tenant, at law or in equity, or under the  
12 provisions of Article IX of the Code of Civil Procedure, for  
13 any other breach by tenant of any covenants, rules, regulations  
14 or bylaws.

15 (o) The association shall have no authority to forbear the  
16 payment of assessments by any unit owner.

17 (p) That when 30% or fewer of the units, by number, possess  
18 over 50% in the aggregate of the votes in the association, any  
19 percentage vote of members specified herein or in the  
20 condominium instruments shall require the specified percentage  
21 by number of units rather than by percentage of interest in the  
22 common elements allocated to units that would otherwise be  
23 applicable and garage units or storage units, or both, shall  
24 have, in total, no more votes than their aggregate percentage  
25 of ownership in the common elements; this shall mean that if  
26 garage units or storage units, or both, are to be given a vote,

1 or portion of a vote, that the association must add the total  
2 number of votes cast of garage units, storage units, or both,  
3 and divide the total by the number of garage units, storage  
4 units, or both, and multiply by the aggregate percentage of  
5 ownership of garage units and storage units to determine the  
6 vote, or portion of a vote, that garage units or storage units,  
7 or both, have. For purposes of this subsection (p), when making  
8 a determination of whether 30% or fewer of the units, by  
9 number, possess over 50% in the aggregate of the votes in the  
10 association, a unit shall not include a garage unit or a  
11 storage unit.

12 (q) That a unit owner may not assign, delegate, transfer,  
13 surrender, or avoid the duties, responsibilities, and  
14 liabilities of a unit owner under this Act, the condominium  
15 instruments, or the rules and regulations of the Association;  
16 and that such an attempted assignment, delegation, transfer,  
17 surrender, or avoidance shall be deemed void.

18 The provisions of this Section are applicable to all  
19 condominium instruments recorded under this Act. Any portion of  
20 a condominium instrument which contains provisions contrary to  
21 these provisions shall be void as against public policy and  
22 ineffective. Any such instrument which fails to contain the  
23 provisions required by this Section shall be deemed to  
24 incorporate such provisions by operation of law.

25 (Source: P.A. 98-1042, eff. 1-1-15.)