



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2643

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

765 ILCS 605/27

from Ch. 30, par. 327

Amends the Condominium Property Act. Provides that the condominium instruments may be amended with the approval of, or notice to, any mortgagee or other lienholder of record, if required under the provisions of the instruments (instead of "with the approval of any mortgagees required under the provisions of the condominium instruments"). Provides that if there is an error in an instrument such that the instrument does not conform to the Act or other law, the association may correct the instrument by an amendment adopted by two-thirds of the Board of Managers, without a unit owner vote. Deletes language allowing such corrections to be adopted by a majority vote of the unit owners at a special meeting, unless the instruments provide for greater percentages or different procedures. Provides that a provision in a condominium instrument requiring or allowing unit owners, mortgagees, or other lienholders of record to vote to approve an amendment to a condominium instrument, or for the mortgagees or other lienholders of record to be given notice of an amendment to a condominium instrument, is not applicable to an amendment to the extent that the amendment corrects an omission, error, or inconsistency to conform the condominium instrument to the law.

LRB099 07616 HEP 27747 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 27 as follows:

6 (765 ILCS 605/27) (from Ch. 30, par. 327)

7 Sec. 27. Amendments.

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

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

16 (ii) with the approval of, or notice to, any mortgagees
17 or other lienholders of record, if required under the
18 provisions of the condominium instruments.

19 (b) (1) If there is an omission, error, or inconsistency in
20 a condominium instrument, such that a provision of a
21 condominium instrument does not conform to this Act or to
22 another applicable statute, the association may correct the
23 omission, error, or inconsistency to conform the condominium

1 instrument to this Act or to another applicable statute by an
2 amendment adopted by vote of two-thirds of the Board of
3 Managers, without a unit owner vote. A provision in a
4 condominium instrument requiring or allowing unit owners,
5 mortgagees, or other lienholders of record to vote to approve
6 an amendment to a condominium instrument, or for the mortgagees
7 or other lienholders of record to be given notice of an
8 amendment to a condominium instrument, is not applicable to an
9 amendment to the extent that the amendment corrects an
10 omission, error, or inconsistency to conform the condominium
11 instrument to this Act or to another applicable statute ~~or~~
12 ~~error in the declaration, bylaws or other condominium~~
13 ~~instrument, the association may correct the error or omission~~
14 ~~by an amendment to the declaration, bylaws, or other~~
15 ~~condominium instrument in such respects as may be required to~~
16 ~~conform to this Act, and any other applicable statute or to the~~
17 ~~declaration by vote of two thirds of the members of the Board~~
18 ~~of Managers or by a majority vote of the unit owners at a~~
19 ~~meeting called for this purpose, unless the Act or the~~
20 ~~condominium instruments specifically provide for greater~~
21 ~~percentages or different procedures.~~

22 (2) If through a scrivener's error, a unit has not been
23 designated as owning an appropriate undivided share of the
24 common elements or does not bear an appropriate share of the
25 common expenses or that all the common expenses or all of the
26 common elements in the condominium have not been distributed in

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

17 (3) If an omission or error or a scrivener's error in the
18 declaration, bylaws or other condominium instrument is
19 corrected by vote of two-thirds of the members of the Board of
20 Managers pursuant to the authority established in subsections
21 (b) (1) or (b) (2) of Section 27 of this Act, the Board upon
22 written petition by unit owners with 20 percent of the votes of
23 the association filed within 30 days of the Board action shall
24 call a meeting of the unit owners within 30 days of the filing
25 of the petition to consider the Board action. Unless a majority
26 of the votes of the unit owners of the association are cast at

1 the meeting to reject the action, it is ratified whether or not
2 a quorum is present.

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

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

1 served with process with copies of the petition and final
2 judgment of the court by certified mail return receipt
3 requested, at their last known address.

4 (6) Nothing contained in this Section shall be construed to
5 invalidate any provision of a condominium instrument
6 authorizing the developer to amend a condominium instrument
7 prior to the latest date on which the initial membership
8 meeting of the unit owners must be held, whether or nor it has
9 actually been held, to bring the instrument into compliance
10 with the legal requirements of the Federal National Mortgage
11 Association, the Federal Home Loan Mortgage Corporation, the
12 Federal Housing Administration, the United States Veterans
13 Administration or their respective successors and assigns.

14 (Source: P.A. 98-282, eff. 1-1-14.)