

HB5276



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5276

by Rep. Christine Winger

SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-25

Amends the Common Interest Community Association Act. Deletes language allowing officers and board members to succeed themselves. Provides that the succession of board members and officers shall be determined by community instruments. Provides that a provision to limit the term or terms of a board member or officer may be adopted within a community instrument. Effective immediately.

LRB100 18049 LNS 33238 b

A BILL FOR

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 1-25 as follows:

6 (765 ILCS 160/1-25)

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

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

14 (b) (Blank).

15 (c) The members of the board shall serve without
16 compensation, unless the community instruments indicate
17 otherwise.

18 (d) No member of the board or officer shall be elected for
19 a term of more than 4 years, ~~but officers and board members may~~
20 ~~succeed themselves.~~ The succession of board members and
21 officers shall be as determined by the community instruments.
22 Nothing in this Section shall forbid the adoption, within a
23 community instrument, of a provision to limit the term or terms

1 in office of a board member or an officer.

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

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

13 (1) president from among the members of the board, who
14 shall preside over the meetings of the board and of the
15 membership;

16 (2) secretary from among the members of the board, who
17 shall keep the minutes of all meetings of the board and of
18 the membership and who shall, in general, perform all the
19 duties incident to the office of secretary; and

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

22 (g) If no election is held to elect board members within
23 the time period specified in the bylaws, or within a reasonable
24 amount of time thereafter not to exceed 90 days, then 20% of
25 the members may bring an action to compel compliance with the
26 election requirements specified in the bylaws or operating

1 agreement. If the court finds that an election was not held to
2 elect members of the board within the required period due to
3 the bad faith acts or omissions of the board of managers or the
4 board of directors, the members shall be entitled to recover
5 their reasonable attorney's fees and costs from the
6 association. If the relevant notice requirements have been met
7 and an election is not held solely due to a lack of a quorum,
8 then this subsection (g) does not apply.

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

14 (h-5) A member may vote:

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

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

23 (3) by submitting an association-issued ballot to the
24 association or its designated agent by mail or other means
25 of delivery specified in the declaration or bylaws; or

26 (4) by any electronic or acceptable technological

1 means.

2 Votes cast under any paragraph of this subsection (h-5) are
3 valid for the purpose of establishing a quorum.

4 (i) The association may, upon adoption of the appropriate
5 rules by the board, conduct elections by electronic or
6 acceptable technological means. Members may not vote by proxy
7 in board elections. Instructions regarding the use of
8 electronic means or acceptable technological means for voting
9 shall be distributed to all members not less than 10 and not
10 more than 30 days before the election meeting. The instruction
11 notice must include the names of all candidates who have given
12 the board or its authorized agent timely written notice of
13 their candidacy and must give the person voting through
14 electronic or acceptable technological means the opportunity
15 to cast votes for candidates whose names do not appear on the
16 ballot. The board rules shall provide and the instructions
17 provided to the member shall state that a member who submits a
18 vote using electronic or acceptable technological means may
19 request and cast a ballot in person at the election meeting,
20 and thereby void any vote previously submitted by that member.

21 (j) Upon proof of purchase, the purchaser of a unit from a
22 seller other than the developer pursuant to an installment
23 contract for purchase shall, during such times as he or she
24 resides in the unit, be counted toward a quorum for purposes of
25 election of members of the board at any meeting of the
26 membership called for purposes of electing members of the

1 board, shall have the right to vote for the members of the
2 board of the common interest community association and to be
3 elected to and serve on the board unless the seller expressly
4 retains in writing any or all of such rights.

5 (Source: P.A. 98-1042, eff. 1-1-15; 99-41, eff. 7-14-15.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.