



Sen. Michael E. Hastings

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LRB100 06989 HEP 23282 a

1 AMENDMENT TO SENATE BILL 949

2 AMENDMENT NO. _____. Amend Senate Bill 949 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 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,

1 bylaws, or operating agreement shall be deemed effective upon
2 recordation, unless the amendment sets forth a different
3 effective date.

4 (b) Unless otherwise provided by this Act, amendments to
5 community instruments authorized to be recorded shall be
6 executed and recorded by the president of the board or such
7 other officer authorized by the common interest community
8 association or the community instruments.

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

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

21 (e) If the community instruments require approval of any
22 mortgagee or lienholder of record and the mortgagee or
23 lienholder of record receives a request to approve or consent
24 to the amendment to the community instruments, the mortgagee or
25 lienholder of record is deemed to have approved or consented to
26 the request unless the mortgagee or lienholder of record

1 delivers a negative response to the requesting party within 60
2 days after the mailing of the request. A request to approve or
3 consent to an amendment to the community instruments that is
4 required to be sent to a mortgagee or lienholder of record
5 shall be sent by certified mail.

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

7 Section 10. The Condominium Property Act is amended by
8 changing Section 27 as follows:

9 (765 ILCS 605/27) (from Ch. 30, par. 327)

10 Sec. 27. Amendments.

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

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

19 (ii) with the approval of, or notice to, any mortgagees
20 or other lienholders of record, if required under the
21 provisions of the condominium instruments. If the
22 condominium instruments require approval of any mortgagee
23 or lienholder of record and the mortgagee or lienholder of
24 record receives a request to approve or consent to the

1 amendment to the condominium instruments, the mortgagee or
2 lienholder of record is deemed to have approved or
3 consented to the request unless the mortgagee or lienholder
4 of record delivers a negative response to the requesting
5 party within 60 days after the mailing of the request. A
6 request to approve or consent to an amendment to the
7 condominium instruments that is required to be sent to a
8 mortgagee or lienholder of record shall be sent by
9 certified mail.

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

26 (2) If through a scrivener's error, a unit has not been

1 designated as owning an appropriate undivided share of the
2 common elements or does not bear an appropriate share of the
3 common expenses or that all the common expenses or all of the
4 common elements in the condominium have not been distributed in
5 the declaration, so that the sum total of the shares of common
6 elements which have been distributed or the sum total of the
7 shares of the common expenses fail to equal 100%, or if it
8 appears that more than 100% of the common elements or common
9 expenses have been distributed, the error may be corrected by
10 operation of law by filing an amendment to the declaration
11 approved by vote of two-thirds of the members of the Board of
12 Managers or a majority vote of the unit owners at a meeting
13 called for this purpose which proportionately adjusts all
14 percentage interests so that the total is equal to 100% unless
15 the condominium instruments specifically provide for a
16 different procedure or different percentage vote by the owners
17 of the units and the owners of mortgages thereon affected by
18 modification being made in the undivided interest in the common
19 elements, the number of votes in the unit owners association or
20 the liability for common expenses appertaining to the unit.

21 (3) If an omission or error or a scrivener's error in the
22 declaration, bylaws or other condominium instrument is
23 corrected by vote of two-thirds of the members of the Board of
24 Managers pursuant to the authority established in subsections
25 (b) (1) or (b) (2) of this Section ~~27 of this Act~~, the Board upon
26 written petition by unit owners with 20 percent of the votes of

1 the association filed within 30 days of the Board action shall
2 call a meeting of the unit owners within 30 days of the filing
3 of the petition to consider the Board action. Unless a majority
4 of the votes of the unit owners of the association are cast at
5 the meeting to reject the action, it is ratified whether or not
6 a quorum is present.

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

17 (5) If there is an omission or error in the declaration,
18 bylaws, or other condominium instruments, which may not be
19 corrected by an amendment procedure set forth in paragraphs (1)
20 and (2) of this subsection (b) ~~of Section 27~~ in the declaration
21 then the Circuit Court in the County in which the condominium
22 is located shall have jurisdiction to hear a petition of one or
23 more of the unit owners thereon or of the association, to
24 correct the error or omission, and the action may be a class
25 action. The court may require that one or more methods of
26 correcting the error or omission be submitted to the unit

1 owners to determine the most acceptable correction. All unit
2 owners in the association must be joined as parties to the
3 action. Service of process on owners may be by publication, but
4 the plaintiff shall furnish all unit owners not personally
5 served with process with copies of the petition and final
6 judgment of the court by certified mail return receipt
7 requested, at their last known address.

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

18 (Source: P.A. 98-282, eff. 1-1-14; 99-472, eff. 6-1-16; revised
19 9-1-16.)".