



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1984

Introduced 2/10/2011, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-25
765 ILCS 160/1-35
765 ILCS 160/1-40

Amends the Common Interest Community Association Act. With respect to the election of the board of managers or board of directors, provides that an association with 3,500 units or more may establish in its bylaws an election procedure utilizing an acclamation process when the number of qualified candidates are the same as, or less than, the number of positions to be filled. Also provides that an association with 1,000 units or more may provide in its declaration or bylaws a procedure for holding the election without a meeting, so long as proxy voting is permitted. In provisions concerning the obligation of the board to make certain documents available for inspection to a prospective purchaser who seeks to purchase a unit from a unit owner, deletes a provision requiring a statement from the board that any improvements or alterations made to the unit or related common areas by the prior unit owner are in compliance with the association's declaration.

LRB097 10091 AJO 50270 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 Common Interest Community Association Act is
5 amended by changing Sections 1-25, 1-35, and 1-40 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) There shall be an election of the board of managers or
10 board of directors from among the unit owners of a common
11 interest community association, provided that associations
12 with 3,500 units or more may establish in their bylaws an
13 election procedure utilizing an acclamation process when the
14 number of qualified candidates is the same as, or less than,
15 the number of positions to be filled on the board of managers
16 or board of directors at an election.

17 (b) The terms of at least one-third of the members of the
18 board shall expire annually and all members of the board shall
19 be elected at large.

20 (c) The members of the board shall serve without
21 compensation, unless the community instruments indicate
22 otherwise.

23 (d) No member of the board or officer shall be elected for

1 a term of more than 3 years, but officers and board members may
2 succeed themselves.

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

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

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

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

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

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

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

10 (h) Where there is more than one owner of a unit, if only
11 one of the multiple owners is present at a meeting of the
12 association, he or she is entitled to cast all the votes
13 allocated to that unit. ~~A unit owner may vote:~~

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

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

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

25 (h-5) A unit owner may vote:

26 (1) by proxy executed in writing by the unit owner or

1 by his or her duly authorized attorney in fact, provided,
2 however, that the proxy bears the date of execution. Unless
3 the community instruments or the written proxy itself
4 provide otherwise, a proxy will not be valid for more than
5 11 months after the date of its execution; or

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

8 (3) by submitting an association-issued ballot to the
9 association or its designated agent by mail or other means
10 of delivery specified in the declaration or bylaws.

11 (i) The association may, upon adoption of the appropriate
12 rules by the board, conduct elections by secret ballot whereby
13 the voting ballot is marked only with the voting interest for
14 the unit and the vote itself, provided that the association
15 shall further adopt rules to verify the status of the unit
16 owner issuing a proxy or casting a ballot. A candidate for
17 election to the board or such candidate's representative shall
18 have the right to be present at the counting of ballots at such
19 election.

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

1 association and to be elected to and serve on the board unless
2 the seller expressly retains in writing any or all of such
3 rights.

4 (Source: P.A. 96-1400, eff. 7-29-10.)

5 (765 ILCS 160/1-35)

6 Sec. 1-35. Unit owner powers, duties, and obligations.

7 (a) The provisions of this Act, the declaration, bylaws,
8 other community instruments, and rules and regulations that
9 relate to the use of an individual unit or the common areas
10 shall be applicable to any person leasing a unit and shall be
11 deemed to be incorporated in any lease executed or renewed on
12 or after the effective date of this Act. With regard to any
13 lease entered into subsequent to the effective date of this
14 Act, the unit owner leasing the unit shall deliver a copy of
15 the signed lease to the association or if the lease is oral, a
16 memorandum of the lease, not later than the date of occupancy
17 or 10 days after the lease is signed, whichever occurs first.

18 (b) If there are multiple owners of a single unit, only one
19 of the multiple owners shall be eligible to serve as a member
20 of the board at any one time.

21 (c) Two-thirds of the unit owners may remove a board member
22 as a director at a duty called special meeting of the unit
23 owners.

24 (d) In the event of any resale of a unit in a common
25 interest community association by a unit owner other than the

1 developer, the board shall make available for inspection to the
2 prospective purchaser, upon demand, the following:

3 (1) A copy of the declaration, other instruments, and
4 any rules and regulations.

5 (2) A statement of any liens, including a statement of
6 the account of the unit setting forth the amounts of unpaid
7 assessments and other charges due and owing.

8 (3) A statement of any capital expenditures
9 anticipated by the association within the current or
10 succeeding 2 fiscal years.

11 (4) A statement of the status and amount of any reserve
12 for replacement fund and any portion of such fund earmarked
13 for any specified project by the board.

14 (5) A copy of the statement of financial condition of
15 the association for the last fiscal year for which such a
16 statement is available.

17 (6) A statement of the status of any pending suits or
18 judgments in which the association is a party.

19 (7) A statement setting forth what insurance coverage
20 is provided for all unit owners by the association.

21 ~~(8) A statement that any improvements or alterations~~
22 ~~made to the unit, or any part of the common areas assigned~~
23 ~~thereto, by the prior unit owner are in good faith believed~~
24 ~~to be in compliance with the declaration of the~~
25 ~~association.~~

26 The principal officer of the board or such other officer as

1 is specifically designated shall furnish the above information
2 within 30 days after receiving a written request for such
3 information.

4 A reasonable fee covering the direct out-of-pocket cost of
5 copying and providing such information may be charged by the
6 association or the board to the unit seller for providing the
7 information.

8 (Source: P.A. 96-1400, eff. 7-29-10.)

9 (765 ILCS 160/1-40)

10 Sec. 1-40. Meetings.

11 (a) Written notice of any membership meeting shall be
12 mailed or delivered giving members no less than 10 and no more
13 than 30 days notice of the time, place, and purpose of such
14 meeting.

15 (b) Meetings.

16 (1) Twenty percent of the unit owners shall constitute
17 a quorum, unless the community instruments indicate
18 otherwise.

19 (2) The unit owners shall hold an annual meeting, one
20 of the purposes of which shall be to elect members of the
21 board of managers or board of directors of the common
22 interest community association, unless the association's
23 total number of units exceeds 1,000 units and the
24 association's declaration or bylaws provide a procedure
25 for the election without a meeting, but in any event in

1 compliance with the provisions of items (1) and (3) of
2 subsection (h-5) of Section 1-25.

3 (3) Special meetings of the board may be called by the
4 president or 25% of the members of the board. Special
5 meetings of the unit owners may be called by the president,
6 the board, or by 20% of unit owners.

7 (4) Except to the extent otherwise provided by this
8 Act, the board shall give the unit owners notice of all
9 board meetings at least 48 hours prior to the meeting by
10 sending notice by mail, personal delivery, or by posting
11 copies of notices of meetings in entranceways, elevators,
12 or other conspicuous places in the common interest
13 community at least 48 hours prior to the meeting except
14 where there is no common entranceway for 7 or more units,
15 the board may designate one or more locations in the
16 proximity of these units where the notices of meetings
17 shall be posted. The board shall give unit owners, by mail
18 or personal delivery, notice of any board meeting
19 concerning the adoption of (i) the proposed annual budget,
20 (ii) regular assessments, or (iii) a separate or special
21 assessment within 10 to 30 days prior to the meeting,
22 unless otherwise provided in Section 1-45 (a) or any other
23 provision of this Act.

24 (5) Meetings of the board shall be open to any unit
25 owner, except for the portion of any meeting held (i) to
26 discuss litigation when an action against or on behalf of

1 the particular association has been filed and is pending in
2 a court or administrative tribunal, or when the common
3 interest community association finds that such an action is
4 probable or imminent, (ii) to consider information
5 regarding appointment, employment, or dismissal of an
6 employee, or (iii) to discuss violations of rules and
7 regulations of the association or a unit owner's unpaid
8 share of common expenses. Any vote on these matters shall
9 be taken at a meeting or portion thereof open to any unit
10 owner.

11 (6) The board must reserve a portion of the meeting of
12 the board for comments by unit owners; provided, however,
13 the duration and meeting order for the unit owner comment
14 period is within the sole discretion of the board.

15 (Source: P.A. 96-1400, eff. 7-29-10.)