



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2741

Introduced 2/16/2016, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-60

Amends the Common Interest Community Association Act. Provides that if a provision of the community instruments does not conform to the Act or to another applicable law because of an error, omission, or inconsistency in the community instruments of the association, the association may correct the error, omission, or inconsistency to conform the community instruments to the Act or to another applicable law by an amendment adopted by vote of two-thirds of the board of directors, without a membership vote. Provides that a provision in the community instruments requiring members of record to vote to approve an amendment to the community instruments, or for the members of record to be given notice of an amendment to the community instruments, does not apply to an amendment that corrects an omission, error, or inconsistency to conform the community instruments to the Act or to another applicable law. Deletes language providing that corrections of errors or omissions may be adopted by a majority vote of the members at a meeting called for that purpose unless other procedural requirements apply.

LRB099 18958 HEP 43347 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 Section 1-60 as follows:

6 (765 ILCS 160/1-60)

7 Sec. 1-60. Errors, ~~and~~ omissions, and inconsistencies.

8 (a) If a provision of the community instruments does not
9 conform to this Act or to another applicable law because of an
10 error, omission, or inconsistency in the community instruments
11 of the association, the association may correct the error,
12 omission, or inconsistency to conform the community
13 instruments to this Act or to another applicable law by an
14 amendment adopted by vote of two-thirds of the board of
15 directors, without a membership vote. A provision in the
16 community instruments requiring members of record to vote to
17 approve an amendment to the community instruments, or for the
18 members of record to be given notice of an amendment to the
19 community instruments, does not apply to an amendment that
20 corrects an omission, error, or inconsistency to conform the
21 community instruments to this Act or to another applicable law.
22 ~~there is an omission or error in the declaration or other~~
23 ~~instrument of the association, the association may correct the~~

1 ~~error or omission by an amendment to the declaration or other~~
2 ~~instrument, as may be required to conform it to this Act, to~~
3 ~~any other applicable statute, or to the declaration. The~~
4 ~~amendment shall be adopted by vote of two thirds of the members~~
5 ~~of the board of directors or by a majority vote of the members~~
6 ~~at a meeting called for that purpose, unless the Act or the~~
7 ~~declaration of the association specifically provides for~~
8 ~~greater percentages or different procedures.~~

9 (b) If, through a scrivener's error, a unit has not been
10 designated as owning an appropriate undivided share of the
11 common areas or does not bear an appropriate share of the
12 common expenses, or if all of the common expenses or all of the
13 common elements have not been distributed in the declaration,
14 so that the sum total of the shares of common areas which have
15 been distributed or the sum total of the shares of the common
16 expenses fail to equal 100%, or if it appears that more than
17 100% of the common elements or common expenses have been
18 distributed, the error may be corrected by operation of law by
19 filing an amendment to the declaration, approved by vote of
20 two-thirds of the members of the board or a majority vote of
21 the members at a meeting called for that purpose, which
22 proportionately adjusts all percentage interests so that the
23 total is equal to 100%, unless the declaration specifically
24 provides for a different procedure or different percentage vote
25 by the owners of the units and the owners of mortgages thereon
26 affected by modification being made in the undivided interest

1 in the common areas, the number of votes in the association or
2 the liability for common expenses appertaining to the unit.

3 (c) If a scrivener's error in the declaration or other
4 instrument is corrected by vote of two-thirds of the members of
5 the board pursuant to the authority established in subsection
6 (a) or subsection (b), the board, upon written petition by
7 members with 20% of the votes of the association received
8 within 30 days of the board action, shall call a meeting of the
9 members within 30 days of the filing of the petition to
10 consider the board action. Unless a majority of the votes of
11 the members of the association are cast at the meeting to
12 reject the action, it is ratified whether or not a quorum is
13 present.

14 (d) Nothing contained in this Section shall be construed to
15 invalidate any provision of a declaration authorizing the
16 developer to amend an instrument prior to the latest date on
17 which the initial membership meeting of the members must be
18 held, whether or not it has actually been held, to bring the
19 instrument into compliance with the legal requirements of the
20 Federal National Mortgage Association, the Federal Home Loan
21 Mortgage Corporation, the Federal Housing Administration, the
22 United States Department of Veterans Affairs, or their
23 respective successors and assigns.

24 (Source: P.A. 96-1400, eff. 7-29-10; 97-605, eff. 8-26-11;
25 97-1090, eff. 8-24-12.)