
Judiciary Committee

HB 1477

Title: An act relating to homeowners' associations.

Brief Description: Changing regulations for homeowners' associations.

Sponsors: Representatives Kagi and Chase.

Brief Summary of Bill

- | |
|--|
| <ul style="list-style-type: none">• Amends various provisions of the Homeowners' Association Act relating to the election or removal of directors, budget ratification, special meetings, board action, quorum requirements, and application of the Act. |
|--|

Hearing Date: 2/8/05

Staff: Edie Adams (786-7180).

Background:

A homeowners' association is an organization consisting of the homeowners and property owners within a residential development. Often homeowners' associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations can be organized in different ways, including incorporated under the Business Corporation Act or the Nonprofit Corporation Act, or as an unincorporated association.

The primary functions of homeowner's associations include: imposing and collecting assessments on property owners; managing and maintaining common areas, such as parks, lakes, roads, and community centers for the benefit of the community; and enforcing restrictive covenants that govern the community. In addition, homeowners' associations may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules. They derive authority to carry out these functions from several documents, including the declaration of covenants, conditions, and restrictions (CC&R's), the association's bylaws and articles of incorporation, and the deeds to the property within a development.

In 1995, the Legislature passed the Homeowners' Association Act (Act). The Act regulates the operation of homeowners' associations in a number of ways, including requirements with respect to duties of the board of directors, adoption of the association budget, and association meeting and quorum requirements.

Board of Directors

The board of directors of a homeowners' association has the primary authority to manage the affairs of the association. The board is required to act on behalf of the association and to perform its duties in good faith and in a manner the director believes to be in the best interests of the association. The governing documents of the association must specify the number and qualifications of directors, their powers and duties, and the manner of their election and removal.

The Act does not contain provisions on the election of directors, but does provide that any member of the board of directors may be removed with or without cause by a majority vote at a meeting at which a quorum is present. The Act does not address whether cumulative voting can apply to the election or removal of directors. Cumulative voting is a process authorized under the corporations statutes that allows the possibility of a minority group's candidate winning election to a board with several open seats. Cumulative voting allows voters to pool their votes and cast them all for one candidate, rather than spreading the votes between all open seats.

Meetings of the board of directors must be open for observation by all owners and their authorized agents except for limited purposes specified in the Act. The board must vote in an open meeting to convene in a closed session, and any action taken in the closed session becomes effective only if the board reconvenes in an open meeting and votes on the action in the open meeting.

Association Budget

When the board of directors adopts a regular or special budget, the board must call a meeting of the owners for the purpose of ratification of the budget. The budget is automatically ratified unless a majority of the owners in the association reject the budget at that meeting. The governing documents may require that a percentage greater than a majority is necessary in order to reject a proposed budget.

Association Meetings

The association must hold at least one meeting per year, and special meetings may be called by the president, a majority of the board of directors, or by owners having 10 percent of the votes in the association. Notice of a meeting must be mailed at least 14 days, and no more than 60 days, in advance of the meeting and must contain the time, place, and purpose of the meeting.

Quorum Requirements

Unless the governing documents of an association specify a different percentage, a quorum for any association meeting is 34 percent of the votes in the association.

Summary of Bill:

Various provisions of the Homeowners' Association Act (Act) are amended relating to the election or removal of directors, budget ratification, special meetings, board action, quorum requirements, and application of the Act.

Board of Directors

A specific prohibition on the use or application of cumulative voting in the election or removal of a member of the board of directors is added to the Act.

The board of directors is specifically prohibited from taking official action on any matter of business through the use of electronic communications or other form of communication that does not allow all owners and their authorized agents to observe the action.

Budget Ratification

The requirements for ratification of a budget proposed by the board are amended to allow the governing documents to specify a budget ratification process that controls over the statutory process.

Association Meetings

When the required number of owners request a special meeting of the association, the board of directors must take action within 15 days to set a date and location for the meeting. The special meeting must take place within 45 days after the request for a special meeting.

Quorum Requirements

The quorum provision is amended to specify that a quorum for a meeting is determined according to quorum requirements in an association's governing documents, if any. In the absence of quorum requirements in the governing documents, a quorum for a meeting consists of 34 percent of the votes in the association.

Application of the Act

A new provision is added to the Act stating that the Act applies to all homeowners' associations, however organized, and that if there is a conflict between the Act and the law under which the association is organized, the provisions of the Act control.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.