

SENATE BILL REPORT

SB 6294

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 31, 2012

Title: An act relating to quorum requirements for homeowners' association meetings.

Brief Description: Addressing quorum requirements for homeowners' association meetings.

Sponsors: Senators Pridemore, Benton and Carrell.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/24/12, 1/31/12 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 6294 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Fain, Haugen, Keiser and Litzow.

Staff: Alison Mendiola (786-7483)

Background: Homeowners' Associations. A homeowners' association (association) is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. An association typically arises from restrictive covenants recorded by a developer against property in a subdivision, and is managed by a board of directors who are elected by the members, once the developer relinquishes control. In general, the purpose of an association is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

The Homeowners' Association Act (HOAA) was enacted by the Legislature in 1995 to provide consistent laws regarding the formation and legal administration of homeowners' associations. Associations are governed by: (1) the HOAA, which identifies the duties and powers of an association, (2) restrictive covenants pursuant to which an association is established, and (3) bylaws, rules and regulations adopted by a particular association. In addition, depending on how a particular association is legally organized, its activities and management may be governed by the state Business Corporation Act or Nonprofit Corporation Act. However, the HOAA does not require an association to be incorporated.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the HOAA, unless the governing documents specify otherwise, a quorum for any meeting of the association requires that 34 percent of the votes of the association are present.

Summary of Bill (Recommended Substitute): If an association requires more than 34 percent of the votes of the association be present for a quorum at a meeting of the association, any owner of that association who has at least 10 percent of the votes in the association (or at least three owners in associations with ten or less properties), may petition the court in the county where the association is located to lower the quorum requirement to 34 percent.

Prior to petitioning the court, the owner must:

- send certified letters to all owners of record in the association of the intent to petition to lower the quorum requirements;
- give all owners in the association three months to respond to the letter. A lack of response is deemed an agreement with the petition; and
- collect owner responses and document a good faith effort to contact all owners.

This process applies retroactively to all governing documents.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): When an owner wants to petition the court to lower the meeting quorum requirements to 34 percent, owners of record have three months, instead of six, to respond.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Homeowners associations are governed both by state law and the group's own governing documents. Statute allows for a meeting quorum of 34 percent. This bill would allow those with higher percentages required by governments petition a court to lower it to 34 percent while providing the other owner ample notice. In one instance, 40 percent of the townhomes in an association are owned by corporations, and until recently banks, so they were unable to meet the 50 percent meeting quorum required in the governing documents. The trusts are out of state and they can't even elect officers. Would recommend the notification to other owners be lowered from six months to three months- this will still allow plenty of time to respond.

Persons Testifying: PRO: Senator Pridemore, prime sponsor; Richard Freedman, Timbers at Towne Center Homeowners Assn.