

SENATE BILL REPORT

SB 5250

As of January 24, 2017

Title: An act relating to amendments to bylaws of a condominium association.

Brief Description: Concerning amendments to bylaws of a condominium association.

Sponsors: Senators Keiser, Rivers and Hasegawa.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/26/17.

Brief Summary of Bill

- Provides an alternative process for acquiring and counting votes to amend condominium bylaws.
- Requires notice of vote to owners who fail to vote.
- Subtracts number of unreturned ballots from the total number of unit owners before applying the minimum percentage required to amend.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Aldo Melchiori (786-7439)

Background: A condominium has three sets of governing documents:

- a declaration with an accompanying survey map and plans detailing the land description, units, parking spaces, limited common elements, common elements fractional interests, and use restrictions;
- the articles of incorporation; and
- the bylaws, if the condominium association chooses to use them.

The bylaws must be consistent with the declaration and, if provided, are statutorily required to include provisions for the election of officers, the power of the officers, the method of amending the bylaws, a statement on the officers' standard of care, and other matters that the association deems appropriate.

The bylaws are permitted to reserve broad powers to the unit owners of the condominium over detailed matters. Unless provided for in the declaration, the bylaws must specify:

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- the number, qualifications, powers and duties, terms of office, manner of electing and removing the board of directors and officers, and filling vacancies;
- election by the board of directors of such officers of the association;
- which, if any, of its powers the board of directors or officers may delegate to other persons or to a managing agent;
- which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association;
- the method of amending the bylaws; and
- a statement of the standard of care for officers and members of the board of directors.

Statutes, the declaration, and bylaws may govern the number of votes required to perform certain functions. For example, an amendment to a declaration must always be approved by a super-majority of the members, normally 67 percent, although this may be increased by the governing documents.

Summary of Bill: The number of votes needed to amend the bylaws of a condominium is determined by subtracting the number of unreturned ballots from the total number of unit owners and applying the minimum percentage to the resulting number if:

- the proposed amendment was voted upon at a properly convened meeting and notice of the meeting included the text of the proposed amendment; and
- any unit owner who failed to vote on the proposed amendment was subsequently provided with at least three notices, sent mail, at least 10 days apart and with an opportunity to vote by mail or electronically.

The notices must include the text of the proposed amendment, a ballot, the time and date by which the ballot must be delivered to the association, and a statement that a unit owner's failure to return a ballot will result in their vote being disregarded from the total number of unit owners.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: It is very difficult to obtain the required votes needed to make needed changes to the bylaws. Some associations can never amend their bylaws simply by reason of non-participation. Owners are not always engaged in governance.

CON: The provisions provided in the bylaws of the condominium should be taken in consideration. The meeting should not be required if the bylaws already provide adequate due process.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor.

CON: Krystelle Purkey, Washington State Community Association Institute.

Persons Signed In To Testify But Not Testifying: No one.