

SENATE BILL REPORT

SB 6001

As of January 26, 2018

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 and Kuderer.

Brief History:

Committee Activity: Law & Justice: 1/25/18.

Brief Summary of Bill

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

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

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.

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.

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:

- 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: An alternate method of acquiring and counting votes to amend the bylaws of a condominium is provided if the association is seeking to amend the bylaws that address any of the following:

- 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; or
- which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association;

The number of votes needed for passage is determined by subtracting the number of votes allocated to unit or unit owners with unreturned ballots from the total votes in the association 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 by mail, at least ten 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: Some condominiums require up to 87 percent approval in order to pass an amendment to the bylaws. It is nearly impossible to attain this percentage of votes. This problem is exacerbated when a large percentage of the units are occupied by renters and the owners are absentee. Time passes and bylaws become outdated over time and in need of revision. This bill would make amendment of the bylaws possible while still protecting the rights of those absentee owners with multiple notices and opportunities to vote by mail. The Secretary of State's Office receives seven to ten complaints a week about homeowner situations. This area of the law is in great need of revision. This is a small part of the problem.

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

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