

SENATE BILL REPORT

SB 6001

As Reported by Senate Committee On:
Law & Justice, February 1, 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, 2/01/18 [DPS, DNP, w/oRec].

Brief Summary of First Substitute 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

Majority Report: That Substitute Senate Bill No. 6001 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Darneille and Frockt.

Minority Report: Do not pass.

Signed by Senators Angel, Assistant Ranking Member; Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden, Ranking Member.

Staff: Shani Bauer (786-7468)

Background: A condominium has three sets of governing documents:

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.

- 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:

- 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 (First Substitute): The bylaws of a condominium may be amended by applying the minimum percentage of affirmative votes to the number of votes received rather than the total number of votes allocated if:

- the proposed amendment is not seeking to amend the method of amending the bylaws; and
- three notices are sent by certified mail, at least ten days apart, to the unit owners in advance of the vote either at a proposed meeting or other voting method authorized by the governing documents.

The notices must include the text of each proposed amendment to be voted on, the method by which the unit owner can vote on the proposed amendment, and a statement that the minimum percentage of votes needed for passage of the amendment will be applied to the number of votes returned and the failure to vote is neither a vote in favor or against the proposed amendment.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Allows the alternate method of counting votes to be used to amend any matter contained in the bylaws other than the method of amending the bylaws.

- Requires the notices be provided in advance of the vote instead of after the vote with an opportunity to vote by mail.
- Requires the notices be sent by certified mail.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* 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.