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09400HB5267ham001

LRB094 19237 WGH 55437 a

1 AMENDMENT TO HOUSE BILL 5267

2 AMENDMENT NO. _____. Amend House Bill 5267 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Condominium Property Act is amended by
5 changing Section 27 as follows:

6 (765 ILCS 605/27) (from Ch. 30, par. 327)

7 Sec. 27. (a) If there is any unit owner other than the
8 developer, the condominium instruments shall be amended only as
9 follows:

10 (i) upon the affirmative vote of 2/3 of those voting or
11 upon the majority specified by the condominium
12 instruments, provided that in no event shall the
13 condominium instruments require more than a three-quarters
14 vote of unit owners; and

15 (ii) together with the approval of any mortgagees
16 required under the provisions of the condominium
17 instruments.

18 Except ~~except~~ in cases where this Act provides different
19 methods of amendment or with respect to property whose
20 declaration is recorded on or after July 1, 1984, no
21 condominium instrument shall require more than a
22 three-quarters vote of unit owners to amend the bylaws. Except
23 to the extent authorized by other provisions of this Act, no
24 amendment to the condominium instrument shall change the

1 boundaries of any unit or the undivided interest in the common
2 elements, the number of votes in the unit owners' association,
3 or the liability for common expenses appertaining to a unit.

4 (b) (1) If there is an omission or error in the
5 declaration, bylaws or other condominium instrument, the
6 association may correct the error or omission by an amendment
7 to the declaration, bylaws, or other condominium instrument in
8 such respects as may be required to conform to this Act, and
9 any other applicable statute or to the declaration by vote of
10 two-thirds of the members of the Board of Managers or by a
11 majority vote of the unit owners at a meeting called for this
12 purpose, unless the Act or the condominium instruments
13 specifically provide for greater percentages or different
14 procedures.

15 (2) If through a scrivener's error, a unit has not been
16 designated as owning an appropriate undivided share of the
17 common elements or does not bear an appropriate share of the
18 common expenses or that all the common expenses or all of the
19 common elements in the condominium have not been distributed in
20 the declaration, so that the sum total of the shares of common
21 elements which have been distributed or the sum total of the
22 shares of the common expenses fail to equal 100%, or if it
23 appears that more than 100% of the common elements or common
24 expenses have been distributed, the error may be corrected by
25 operation of law by filing an amendment to the declaration
26 approved by vote of two-thirds of the members of the Board of
27 Managers or a majority vote of the unit owners at a meeting
28 called for this purpose which proportionately adjusts all
29 percentage interests so that the total is equal to 100% unless
30 the condominium instruments specifically provide for a
31 different procedure or different percentage vote by the owners
32 of the units and the owners of mortgages thereon affected by
33 modification being made in the undivided interest in the common
34 elements, the number of votes in the unit owners association or

1 the liability for common expenses appertaining to the unit.

2 (3) If an omission or error or a scrivener's error in the
3 declaration, bylaws or other condominium instrument is
4 corrected by vote of two-thirds of the members of the Board of
5 Managers pursuant to the authority established in subsections
6 (b)(1) or (b)(2) of Section 27 of this Act, the Board upon
7 written petition by unit owners with 20 percent of the votes of
8 the association filed within 30 days of the Board action shall
9 call a meeting of the unit owners within 30 days of the filing
10 of the petition to consider the Board action. Unless a majority
11 of the votes of the unit owners of the association are cast at
12 the meeting to reject the action, it is ratified whether or not
13 a quorum is present.

14 (4) The procedures for amendments set forth in this
15 subsection (b) cannot be used if such an amendment would
16 materially or adversely affect property rights of the unit
17 owners unless the affected unit owners consent in writing. This
18 Section does not restrict the powers of the association to
19 otherwise amend the declaration, bylaws, or other condominium
20 instruments, but authorizes a simple process of amendment
21 requiring a lesser vote for the purpose of correcting defects,
22 errors, or omissions when the property rights of the unit
23 owners are not materially or adversely affected.

24 (5) If there is an omission or error in the declaration,
25 bylaws, or other condominium instruments, which may not be
26 corrected by an amendment procedure set forth in paragraphs (1)
27 and (2) of subsection (b) of Section 27 in the declaration then
28 the Circuit Court in the County in which the condominium is
29 located shall have jurisdiction to hear a petition of one or
30 more of the unit owners thereon or of the association, to
31 correct the error or omission, and the action may be a class
32 action. The court may require that one or more methods of
33 correcting the error or omission be submitted to the unit
34 owners to determine the most acceptable correction. All unit

1 owners in the association must be joined as parties to the
2 action. Service of process on owners may be by publication, but
3 the plaintiff shall furnish all unit owners not personally
4 served with process with copies of the petition and final
5 judgment of the court by certified mail return receipt
6 requested, at their last known address.

7 (6) Nothing contained in this Section shall be construed to
8 invalidate any provision of a condominium instrument
9 authorizing the developer to amend a condominium instrument
10 prior to the latest date on which the initial membership
11 meeting of the unit owners must be held, whether or nor it has
12 actually been held, to bring the instrument into compliance
13 with the legal requirements of the Federal National Mortgage
14 Association, the Federal Home Loan Mortgage Corporation, the
15 Federal Housing Administration, the United States Veterans
16 Administration or their respective successors and assigns.

17 (Source: P.A. 84-545.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."