



Sen. John J. Cullerton

Filed: 3/10/2008

09500SB2432sam001

LRB095 16072 AJO 47911 a

1 AMENDMENT TO SENATE BILL 2432

2 AMENDMENT NO. _____. Amend Senate Bill 2432 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Condominium Property Act is amended by
5 changing Section 18 as follows:

6 (765 ILCS 605/18) (from Ch. 30, par. 318)

7 (Text of Section after amendment by P.A. 95-624)

8 Sec. 18. Contents of bylaws. The bylaws shall provide for
9 at least the following:

10 (a) (1) The election from among the unit owners of a board
11 of managers, the number of persons constituting such board,
12 and that the terms of at least one-third of the members of
13 the board shall expire annually and that all members of the
14 board shall be elected at large. If there are multiple
15 owners of a single unit, only one of the multiple owners
16 shall be eligible to serve as a member of the board at any

1 one time.

2 (2) the powers and duties of the board;

3 (3) the compensation, if any, of the members of the
4 board;

5 (4) the method of removal from office of members of the
6 board;

7 (5) that the board may engage the services of a manager
8 or managing agent;

9 (6) that each unit owner shall receive, at least 30
10 days prior to the adoption thereof by the board of
11 managers, a copy of the proposed annual budget together
12 with an indication of which portions are intended for
13 reserves, capital expenditures or repairs or payment of
14 real estate taxes;

15 (7) that the board of managers shall annually supply to
16 all unit owners an itemized accounting of the common
17 expenses for the preceding year actually incurred or paid,
18 together with an indication of which portions were for
19 reserves, capital expenditures or repairs or payment of
20 real estate taxes and with a tabulation of the amounts
21 collected pursuant to the budget or assessment, and showing
22 the net excess or deficit of income over expenditures plus
23 reserves;

24 (8) (i) that each unit owner shall receive notice, in
25 the same manner as is provided in this Act for membership
26 meetings, of any meeting of the board of managers

1 concerning the adoption of the proposed annual budget and
2 regular assessments pursuant thereto or to adopt a separate
3 (special) assessment, (ii) that except as provided in
4 subsection (iv) below, if an adopted budget or any separate
5 assessment adopted by the board would result in the sum of
6 all regular and separate assessments payable in the current
7 fiscal year exceeding 115% of the sum of all regular and
8 separate assessments payable during the preceding fiscal
9 year, the board of managers, upon written petition by unit
10 owners with 20 percent of the votes of the association
11 delivered to the board within 14 days of the board action,
12 shall call a meeting of the unit owners within 30 days of
13 the date of delivery of the petition to consider the budget
14 or separate assessment; unless a majority of the total
15 votes of the unit owners are cast at the meeting to reject
16 the budget or separate assessment, it is ratified, (iii)
17 that any common expense not set forth in the budget or any
18 increase in assessments over the amount adopted in the
19 budget shall be separately assessed against all unit
20 owners, (iv) that separate assessments for expenditures
21 relating to emergencies or mandated by law may be adopted
22 by the board of managers without being subject to unit
23 owner approval or the provisions of item (ii) above or item
24 (v) below. As used herein, "emergency" means an immediate
25 danger to the structural integrity of the common elements
26 or to the life, health, safety or property of the unit

1 owners, (v) that assessments for additions and alterations
2 to the common elements or to association-owned property not
3 included in the adopted annual budget, shall be separately
4 assessed and are subject to approval of two-thirds of the
5 total votes of all unit owners, (vi) that the board of
6 managers may adopt separate assessments payable over more
7 than one fiscal year. With respect to multi-year
8 assessments not governed by items (iv) and (v), the entire
9 amount of the multi-year assessment shall be deemed
10 considered and authorized in the first fiscal year in which
11 the assessment is approved;

12 (9) that meetings of the board of managers shall be
13 open to any unit owner, except for the portion of any
14 meeting held (i) to discuss litigation when an action
15 against or on behalf of the particular association has been
16 filed and is pending in a court or administrative tribunal,
17 or when the board of managers finds that such an action is
18 probable or imminent, (ii) to consider information
19 regarding appointment, employment or dismissal of an
20 employee, or (iii) to discuss violations of rules and
21 regulations of the association or a unit owner's unpaid
22 share of common expenses; that any vote on these matters
23 shall be taken at a meeting or portion thereof open to any
24 unit owner; that any unit owner may record the proceedings
25 at meetings or portions thereof required to be open by this
26 Act by tape, film or other means; that the board may

1 prescribe reasonable rules and regulations to govern the
2 right to make such recordings, that notice of such meetings
3 shall be mailed or delivered at least 48 hours prior
4 thereto, unless a written waiver of such notice is signed
5 by the person or persons entitled to such notice pursuant
6 to the declaration, bylaws, other condominium instrument,
7 or provision of law other than this subsection before the
8 meeting is convened, and that copies of notices of meetings
9 of the board of managers shall be posted in entranceways,
10 elevators, or other conspicuous places in the condominium
11 at least 48 hours prior to the meeting of the board of
12 managers except where there is no common entranceway for 7
13 or more units, the board of managers may designate one or
14 more locations in the proximity of these units where the
15 notices of meetings shall be posted;

16 (10) that the board shall meet at least 4 times
17 annually;

18 (11) that no member of the board or officer shall be
19 elected for a term of more than 2 years, but that officers
20 and board members may succeed themselves;

21 (12) the designation of an officer to mail and receive
22 all notices and execute amendments to condominium
23 instruments as provided for in this Act and in the
24 condominium instruments;

25 (13) the method of filling vacancies on the board which
26 shall include authority for the remaining members of the

1 board to fill the vacancy by two-thirds vote until the next
2 annual meeting of unit owners or for a period terminating
3 no later than 30 days following the filing of a petition
4 signed by unit owners holding 20% of the votes of the
5 association requesting a meeting of the unit owners to fill
6 the vacancy for the balance of the term, and that a meeting
7 of the unit owners shall be called for purposes of filling
8 a vacancy on the board no later than 30 days following the
9 filing of a petition signed by unit owners holding 20% of
10 the votes of the association requesting such a meeting, and
11 the method of filling vacancies among the officers that
12 shall include the authority for the members of the board to
13 fill the vacancy for the unexpired portion of the term;

14 (14) what percentage of the board of managers, if other
15 than a majority, shall constitute a quorum;

16 (15) provisions concerning notice of board meetings to
17 members of the board;

18 (16) the board of managers may not enter into a
19 contract with a current board member or with a corporation
20 or partnership in which a board member or a member of the
21 board member's immediate family has 25% or more interest,
22 unless notice of intent to enter the contract is given to
23 unit owners within 20 days after a decision is made to
24 enter into the contract and the unit owners are afforded an
25 opportunity by filing a petition, signed by 20% of the unit
26 owners, for an election to approve or disapprove the

1 contract; such petition shall be filed within 20 days after
2 such notice and such election shall be held within 30 days
3 after filing the petition; for purposes of this subsection,
4 a board member's immediate family means the board member's
5 spouse, parents, and children;

6 (17) that the board of managers may disseminate to unit
7 owners biographical and background information about
8 candidates for election to the board if (i) reasonable
9 efforts to identify all candidates are made and all
10 candidates are given an opportunity to include
11 biographical and background information in the information
12 to be disseminated; and (ii) the board does not express a
13 preference in favor of any candidate;

14 (18) any proxy distributed for board elections by the
15 board of managers gives unit owners the opportunity to
16 designate any person as the proxy holder, and gives the
17 unit owner the opportunity to express a preference for any
18 of the known candidates for the board or to write in a
19 name;

20 (19) that special meetings of the board of managers can
21 be called by the president or 25% of the members of the
22 board; and

23 (20) that the board of managers may establish and
24 maintain a system of master metering of public utility
25 services and collect payments in connection therewith,
26 subject to the requirements of the Tenant Utility Payment

1 Disclosure Act.

2 (b) (1) What percentage of the unit owners, if other than
3 20%, shall constitute a quorum provided that, for
4 condominiums with 20 or more units, the percentage of unit
5 owners constituting a quorum shall be 20% unless the unit
6 owners holding a majority of the percentage interest in the
7 association provide for a higher percentage;

8 (2) that the association shall have one class of
9 membership;

10 (3) that the members shall hold an annual meeting, one
11 of the purposes of which shall be to elect members of the
12 board of managers;

13 (4) the method of calling meetings of the unit owners;

14 (5) that special meetings of the members can be called
15 by the president, board of managers, or by 20% of unit
16 owners;

17 (6) that written notice of any membership meeting shall
18 be mailed or delivered giving members no less than 10 and
19 no more than 30 days notice of the time, place and purpose
20 of such meeting;

21 (7) that voting shall be on a percentage basis, and
22 that the percentage vote to which each unit is entitled is
23 the percentage interest of the undivided ownership of the
24 common elements appurtenant thereto, provided that the
25 bylaws may provide for approval by unit owners in
26 connection with matters where the requisite approval on a

1 percentage basis is not specified in this Act, on the basis
2 of one vote per unit;

3 (8) that, where there is more than one owner of a unit,
4 if only one of the multiple owners is present at a meeting
5 of the association, he is entitled to cast all the votes
6 allocated to that unit, if more than one of the multiple
7 owners are present, the votes allocated to that unit may be
8 cast only in accordance with the agreement of a majority in
9 interest of the multiple owners, unless the declaration
10 expressly provides otherwise, that there is majority
11 agreement if any one of the multiple owners cast the votes
12 allocated to that unit without protest being made promptly
13 to the person presiding over the meeting by any of the
14 other owners of the unit;

15 (9) (A) that unless the Articles of Incorporation or the
16 bylaws otherwise provide, and except as provided in
17 subparagraph (B) of this paragraph (9) in connection with
18 board elections, a unit owner may vote by proxy executed in
19 writing by the unit owner or by his duly authorized
20 attorney in fact; that the proxy must bear the date of
21 execution and, unless the condominium instruments or the
22 written proxy itself provide otherwise, is invalid after 11
23 months from the date of its execution;

24 (B) that if a rule adopted at least 120 days before a
25 board election or the declaration or bylaws provide for
26 balloting as set forth in this subsection, unit owners may

1 not vote by proxy in board elections, but may vote only (i)
2 by submitting an association-issued ballot in person at the
3 election meeting or (ii) by submitting an
4 association-issued ballot to the association or its
5 designated agent by mail or other means of delivery
6 specified in the declaration, bylaws, or rule; that the
7 ballots shall be mailed or otherwise distributed to unit
8 owners not less than 10 and not more than 30 days before
9 the election meeting, and the board shall give unit owners
10 not less than 21 days' prior written notice of the deadline
11 for inclusion of a candidate's name on the ballots; that
12 the deadline shall be no more than 7 days before the
13 ballots are mailed or otherwise distributed to unit owners;
14 that every such ballot must include the names of all
15 candidates who have given the board or its authorized agent
16 timely written notice of their candidacy and must give the
17 person casting the ballot the opportunity to cast votes for
18 candidates whose names do not appear on the ballot; that a
19 ballot received by the association or its designated agent
20 after the close of voting shall not be counted; that a unit
21 owner who submits a ballot by mail or other means of
22 delivery specified in the declaration, bylaws, or rule may
23 request and cast a ballot in person at the election
24 meeting, and thereby void any ballot previously submitted
25 by that unit owner;

26 (C) that if a written petition by unit owners with at

1 least 20% of the votes of the association is delivered to
2 the board within 14 days after the board's approval of a
3 rule adopted pursuant to subparagraph (B) of this paragraph
4 (9), the board shall call a meeting of the unit owners
5 within 30 days after the date of delivery of the petition;
6 that unless a majority of the total votes of the unit
7 owners are cast at the meeting to reject the rule, the rule
8 is ratified;

9 (10) that the association may, upon adoption of the
10 appropriate rules by the board of managers, conduct
11 elections by secret ballot whereby the voting ballot is
12 marked only with the percentage interest for the unit and
13 the vote itself, provided that the board further adopt
14 rules to verify the status of the unit owner issuing a
15 proxy or casting a ballot; and further, that a candidate
16 for election to the board of managers or such candidate's
17 representative shall have the right to be present at the
18 counting of ballots at such election;

19 (11) that in the event of a resale of a condominium
20 unit the purchaser of a unit from a seller other than the
21 developer pursuant to an installment contract for purchase
22 shall during such times as he or she resides in the unit be
23 counted toward a quorum for purposes of election of members
24 of the board of managers at any meeting of the unit owners
25 called for purposes of electing members of the board, shall
26 have the right to vote for the election of members of the

1 board of managers and to be elected to and serve on the
2 board of managers unless the seller expressly retains in
3 writing any or all of such rights. In no event may the
4 seller and purchaser both be counted toward a quorum, be
5 permitted to vote for a particular office or be elected and
6 serve on the board. Satisfactory evidence of the
7 installment contact shall be made available to the
8 association or its agents. For purposes of this subsection,
9 "installment contact" shall have the same meaning as set
10 forth in Section 1 (e) of "An Act relating to installment
11 contracts to sell dwelling structures", approved August
12 11, 1967, as amended;

13 (12) the method by which matters subject to the
14 approval of unit owners set forth in this Act, or in the
15 condominium instruments, will be submitted to the unit
16 owners at special membership meetings called for such
17 purposes; and

18 (13) that matters subject to the affirmative vote of
19 not less than 2/3 of the votes of unit owners at a meeting
20 duly called for that purpose, shall include, but not be
21 limited to:

22 (i) merger or consolidation of the association;

23 (ii) sale, lease, exchange, or other disposition
24 (excluding the mortgage or pledge) of all, or
25 substantially all of the property and assets of the
26 association; and

1 (iii) the purchase or sale of land or of units on
2 behalf of all unit owners.

3 (c) Election of a president from among the board of
4 managers, who shall preside over the meetings of the board of
5 managers and of the unit owners.

6 (d) Election of a secretary from among the board of
7 managers, who shall keep the minutes of all meetings of the
8 board of managers and of the unit owners and who shall, in
9 general, perform all the duties incident to the office of
10 secretary.

11 (e) Election of a treasurer from among the board of
12 managers, who shall keep the financial records and books of
13 account.

14 (f) Maintenance, repair and replacement of the common
15 elements and payments therefor, including the method of
16 approving payment vouchers.

17 (g) An association with 30 or more units shall obtain and
18 maintain fidelity insurance covering persons who control or
19 disburse funds of the association for the maximum amount of
20 coverage available to protect funds in the custody or control
21 of the association plus the association reserve fund. All
22 management companies which are responsible for the funds held
23 or administered by the association shall maintain and furnish
24 to the association a fidelity bond for the maximum amount of
25 coverage available to protect funds in the custody of the
26 management company at any time. The association shall bear the

1 cost of the fidelity insurance and fidelity bond, unless
2 otherwise provided by contract between the association and a
3 management company. The association shall be the direct obligee
4 of any such fidelity bond. A management company holding reserve
5 funds of an association shall at all times maintain a separate
6 account for each association, provided, however, that for
7 investment purposes, the Board of Managers of an association
8 may authorize a management company to maintain the
9 association's reserve funds in a single interest bearing
10 account with similar funds of other associations. The
11 management company shall at all times maintain records
12 identifying all moneys of each association in such investment
13 account. The management company may hold all operating funds of
14 associations which it manages in a single operating account but
15 shall at all times maintain records identifying all moneys of
16 each association in such operating account. Such operating and
17 reserve funds held by the management company for the
18 association shall not be subject to attachment by any creditor
19 of the management company.

20 For the purpose of this subsection a management company
21 shall be defined as a person, partnership, corporation, or
22 other legal entity entitled to transact business on behalf of
23 others, acting on behalf of or as an agent for a unit owner,
24 unit owners or association of unit owners for the purpose of
25 carrying out the duties, responsibilities, and other
26 obligations necessary for the day to day operation and

1 management of any property subject to this Act. For purposes of
2 this subsection, the term "fiduciary insurance coverage" shall
3 be defined as both a fidelity bond and directors and officers
4 liability coverage, the fidelity bond in the full amount of
5 association funds and association reserves that will be in the
6 custody of the association, and the directors and officers
7 liability coverage at a level as shall be determined to be
8 reasonable by the board of managers, if not otherwise
9 established by the declaration or by laws.

10 Until one year after the effective date of this amendatory
11 Act of 1985, if a condominium association has reserves plus
12 assessments in excess of \$250,000 and cannot reasonably obtain
13 100% fidelity bond coverage for such amount, then it must
14 obtain a fidelity bond coverage of \$250,000.

15 (h) Method of estimating the amount of the annual budget,
16 and the manner of assessing and collecting from the unit owners
17 their respective shares of such estimated expenses, and of any
18 other expenses lawfully agreed upon.

19 (i) That upon 10 days notice to the manager or board of
20 managers and payment of a reasonable fee, any unit owner shall
21 be furnished a statement of his account setting forth the
22 amount of any unpaid assessments or other charges due and owing
23 from such owner.

24 (j) Designation and removal of personnel necessary for the
25 maintenance, repair and replacement of the common elements.

26 (k) Such restrictions on and requirements respecting the

1 use and maintenance of the units and the use of the common
2 elements, not set forth in the declaration, as are designed to
3 prevent unreasonable interference with the use of their
4 respective units and of the common elements by the several unit
5 owners. Restrictions regarding the use of the units may include
6 other prohibitions on, or the allowance of, smoking tobacco
7 products.

8 (l) Method of adopting and of amending administrative rules
9 and regulations governing the operation and use of the common
10 elements.

11 (m) The percentage of votes required to modify or amend the
12 bylaws, but each one of the particulars set forth in this
13 section shall always be embodied in the bylaws.

14 (n) (i) The provisions of this Act, the declaration,
15 bylaws, other condominium instruments, and rules and
16 regulations that relate to the use of the individual unit or
17 the common elements shall be applicable to any person leasing a
18 unit and shall be deemed to be incorporated in any lease
19 executed or renewed on or after the effective date of this
20 amendatory Act of 1984. (ii) With regard to any lease entered
21 into subsequent to the effective date of this amendatory Act of
22 1989, the unit owner leasing the unit shall deliver a copy of
23 the signed lease to the board or if the lease is oral, a
24 memorandum of the lease, not later than the date of occupancy
25 or 10 days after the lease is signed, whichever occurs first.
26 In addition to any other remedies, by filing an action jointly

1 against the tenant and the unit owner, an association may seek
2 to enjoin a tenant from occupying a unit or seek to evict a
3 tenant under the provisions of Article IX of the Code of Civil
4 Procedure for failure of the lessor-owner to comply with the
5 leasing requirements prescribed by this Section or by the
6 declaration, bylaws, and rules and regulations. The board of
7 managers may proceed directly against a tenant, at law or in
8 equity, or under the provisions of Article IX of the Code of
9 Civil Procedure, for any other breach by tenant of any
10 covenants, rules, regulations or bylaws.

11 (o) The association shall have no authority to forbear the
12 payment of assessments by any unit owner.

13 (p) That when 30% or fewer of the units, by number, possess
14 over 50% in the aggregate of the votes in the association, any
15 percentage vote of members specified herein or in the
16 condominium instruments shall require the specified percentage
17 by number of units rather than by percentage of interest in the
18 common elements allocated to units that would otherwise be
19 applicable. For purposes of this subsection (p), when making a
20 determination of whether 30% or fewer of the units, by number,
21 possess over 50% in the aggregate of the votes in the
22 association, a unit shall not include a garage unit or a
23 storage unit.

24 (q) That a unit owner may not assign, delegate, transfer,
25 surrender, or avoid the duties, responsibilities, and
26 liabilities of a unit owner under this Act, the condominium

1 instruments, or the rules and regulations of the Association;
2 and that such an attempted assignment, delegation, transfer,
3 surrender, or avoidance shall be deemed void.

4 The provisions of this Section are applicable to all
5 condominium instruments recorded under this Act. Any portion of
6 a condominium instrument which contains provisions contrary to
7 these provisions shall be void as against public policy and
8 ineffective. Any such instrument which fails to contain the
9 provisions required by this Section shall be deemed to
10 incorporate such provisions by operation of law.

11 (Source: P.A. 95-624, eff. 6-1-08.)

12 Section 99. Effective date. This Act takes effect January
13 1, 2009."