



Sen. Mattie Hunter

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1 AMENDMENT TO SENATE BILL 177

2 AMENDMENT NO. _____. Amend Senate Bill 177 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 Sec. 18. Contents of bylaws. The bylaws shall provide for
8 at least the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (11) that no member of the board or officer shall be
18 elected for a term of more than 2 years, but that officers
19 and board members may succeed themselves. Any director may
20 be removed from the Board of Directors at a special meeting
21 of owners, called for said purpose by a two-thirds majority
22 of those present or voting by absentee ballot. All
23 procedures governing secret ballot elections shall hereby
24 apply. A director, after notice and an opportunity for a
25 hearing, may be suspended or removed for cause by a
26 two-thirds majority by the Directors;

1 (12) the designation of an officer to mail and receive
2 all notices and execute amendments to condominium
3 instruments as provided for in this Act and in the
4 condominium instruments;

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

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

22 (15) provisions concerning notice of board meetings to
23 members of the board;

24 (16) the board of managers may not enter into a
25 contract with a current board member or with a corporation
26 or partnership in which a board member or a member of the

1 board member's immediate family has 25% or more interest,
2 unless notice of intent to enter the contract is given to
3 unit owners within 20 days after a decision is made to
4 enter into the contract and the unit owners are afforded an
5 opportunity by filing a petition, signed by 20% of the unit
6 owners, for an election to approve or disapprove the
7 contract; such petition shall be filed within 20 days after
8 such notice and such election shall be held within 30 days
9 after filing the petition; for purposes of this subsection,
10 a board member's immediate family means the board member's
11 spouse, parents, and children;

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

20 (18) any proxy distributed for board elections by the
21 board of managers gives unit owners the opportunity to
22 designate any person as the proxy holder, and gives the
23 unit owner the opportunity to express a preference for any
24 of the known candidates for the board or to write in a
25 name;

26 (19) that special meetings of the board of managers can

1 be called by the president or 25% of the members of the
2 board; and

3 (20) that the board of managers may establish and
4 maintain a system of master metering of public utility
5 services and collect payments in connection therewith,
6 subject to the requirements of the Tenant Utility Payment
7 Disclosure Act.

8 (b) (1) What percentage of the unit owners, if other than
9 20%, shall constitute a quorum provided that, for
10 condominiums with 20 or more units, the percentage of unit
11 owners constituting a quorum shall be 20% unless the unit
12 owners holding a majority of the percentage interest in the
13 association provide for a higher percentage;

14 (2) that the association shall have one class of
15 membership;

16 (3) that the members shall hold an annual meeting, one
17 of the purposes of which shall be to elect members of the
18 board of managers;

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

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

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

1 (7) that voting shall be on a percentage basis, and
2 that the percentage vote to which each unit is entitled is
3 the percentage interest of the undivided ownership of the
4 common elements appurtenant thereto, provided that the
5 bylaws may provide for approval by unit owners in
6 connection with matters where the requisite approval on a
7 percentage basis is not specified in this Act, on the basis
8 of one vote per unit;

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

21 (9) (A) that unless the Articles of Incorporation or the
22 bylaws otherwise provide, and except as provided in
23 subparagraph (B) of this paragraph (9) in connection with
24 board elections, a unit owner may vote by proxy executed in
25 writing by the unit owner or by his duly authorized
26 attorney in fact; that the proxy must bear the date of

1 execution and, unless the condominium instruments or the
2 written proxy itself provide otherwise, is invalid after 11
3 months from the date of its execution;

4 (B) that if a rule adopted at least 120 days before a
5 board election or the declaration or bylaws provide for
6 balloting as set forth in this subsection, unit owners may
7 not vote by proxy in board elections, but may vote only (i)
8 by submitting an association-issued ballot in person at the
9 election meeting or (ii) by submitting an
10 association-issued ballot to the association or its
11 designated agent by mail or other means of delivery
12 specified in the declaration, bylaws, or rule; that the
13 ballots shall be mailed or otherwise distributed to unit
14 owners not less than 10 and not more than 30 days before
15 the election meeting, and the board shall give unit owners
16 not less than 21 days' prior written notice of the deadline
17 for inclusion of a candidate's name on the ballots; that
18 the deadline shall be no more than 7 days before the
19 ballots are mailed or otherwise distributed to unit owners;
20 that every such ballot must include the names of all
21 candidates who have given the board or its authorized agent
22 timely written notice of their candidacy and must give the
23 person casting the ballot the opportunity to cast votes for
24 candidates whose names do not appear on the ballot; that a
25 ballot received by the association or its designated agent
26 after the close of voting shall not be counted; that a unit

1 owner who submits a ballot by mail or other means of
2 delivery specified in the declaration, bylaws, or rule may
3 request and cast a ballot in person at the election
4 meeting, and thereby void any ballot previously submitted
5 by that unit owner;

6 (C) that if a written petition by unit owners with at
7 least 20% of the votes of the association is delivered to
8 the board within 14 days after the board's approval of a
9 rule adopted pursuant to subparagraph (B) of this paragraph
10 (9), the board shall call a meeting of the unit owners
11 within 30 days after the date of delivery of the petition;
12 that unless a majority of the total votes of the unit
13 owners are cast at the meeting to reject the rule, the rule
14 is ratified;

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

25 (11) that in the event of a resale of a condominium
26 unit the purchaser of a unit from a seller other than the

1 developer pursuant to an installment contract for purchase
2 shall during such times as he or she resides in the unit be
3 counted toward a quorum for purposes of election of members
4 of the board of managers at any meeting of the unit owners
5 called for purposes of electing members of the board, shall
6 have the right to vote for the election of members of the
7 board of managers and to be elected to and serve on the
8 board of managers unless the seller expressly retains in
9 writing any or all of such rights. In no event may the
10 seller and purchaser both be counted toward a quorum, be
11 permitted to vote for a particular office or be elected and
12 serve on the board. Satisfactory evidence of the
13 installment contact shall be made available to the
14 association or its agents. For purposes of this subsection,
15 "installment contact" shall have the same meaning as set
16 forth in Section 1 (e) of "An Act relating to installment
17 contracts to sell dwelling structures", approved August
18 11, 1967, as amended;

19 (12) the method by which matters subject to the
20 approval of unit owners set forth in this Act, or in the
21 condominium instruments, will be submitted to the unit
22 owners at special membership meetings called for such
23 purposes; and

24 (13) that matters subject to the affirmative vote of
25 not less than 2/3 of the votes of unit owners at a meeting
26 duly called for that purpose, shall include, but not be

1 limited to:

2 (i) merger or consolidation of the association;

3 (ii) sale, lease, exchange, or other disposition
4 (excluding the mortgage or pledge) of all, or
5 substantially all of the property and assets of the
6 association; and

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

9 (c) Election of a president from among the board of
10 managers, who shall preside over the meetings of the board of
11 managers and of the unit owners.

12 (d) Election of a secretary from among the board of
13 managers, who shall keep the minutes of all meetings of the
14 board of managers and of the unit owners and who shall, in
15 general, perform all the duties incident to the office of
16 secretary.

17 (e) Election of a treasurer from among the board of
18 managers, who shall keep the financial records and books of
19 account.

20 (f) Maintenance, repair and replacement of the common
21 elements and payments therefor, including the method of
22 approving payment vouchers.

23 (g) An association with 30 or more units shall obtain and
24 maintain fidelity insurance covering persons who control or
25 disburse funds of the association for the maximum amount of
26 coverage available to protect funds in the custody or control

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

26 For the purpose of this subsection a management company

1 shall be defined as a person, partnership, corporation, or
2 other legal entity entitled to transact business on behalf of
3 others, acting on behalf of or as an agent for a unit owner,
4 unit owners or association of unit owners for the purpose of
5 carrying out the duties, responsibilities, and other
6 obligations necessary for the day to day operation and
7 management of any property subject to this Act. For purposes of
8 this subsection, the term "fiduciary insurance coverage" shall
9 be defined as both a fidelity bond and directors and officers
10 liability coverage, the fidelity bond in the full amount of
11 association funds and association reserves that will be in the
12 custody of the association, and the directors and officers
13 liability coverage at a level as shall be determined to be
14 reasonable by the board of managers, if not otherwise
15 established by the declaration or by laws.

16 Until one year after the effective date of this amendatory
17 Act of 1985, if a condominium association has reserves plus
18 assessments in excess of \$250,000 and cannot reasonably obtain
19 100% fidelity bond coverage for such amount, then it must
20 obtain a fidelity bond coverage of \$250,000.

21 (h) Method of estimating the amount of the annual budget,
22 and the manner of assessing and collecting from the unit owners
23 their respective shares of such estimated expenses, and of any
24 other expenses lawfully agreed upon.

25 (i) That upon 10 days notice to the manager or board of
26 managers and payment of a reasonable fee, any unit owner shall

1 be furnished a statement of his account setting forth the
2 amount of any unpaid assessments or other charges due and owing
3 from such owner.

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

6 (k) Such restrictions on and requirements respecting the
7 use and maintenance of the units and the use of the common
8 elements, not set forth in the declaration, as are designed to
9 prevent unreasonable interference with the use of their
10 respective units and of the common elements by the several unit
11 owners.

12 (l) Method of adopting and of amending administrative rules
13 and regulations governing the operation and use of the common
14 elements.

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

18 (n) (i) The provisions of this Act, the declaration,
19 bylaws, other condominium instruments, and rules and
20 regulations that relate to the use of the individual unit or
21 the common elements shall be applicable to any person leasing a
22 unit and shall be deemed to be incorporated in any lease
23 executed or renewed on or after the effective date of this
24 amendatory Act of 1984. (ii) With regard to any lease entered
25 into subsequent to the effective date of this amendatory Act of
26 1989, the unit owner leasing the unit shall deliver a copy of

1 the signed lease to the board or if the lease is oral, a
2 memorandum of the lease, not later than the date of occupancy
3 or 10 days after the lease is signed, whichever occurs first.
4 In addition to any other remedies, by filing an action jointly
5 against the tenant and the unit owner, an association may seek
6 to enjoin a tenant from occupying a unit or seek to evict a
7 tenant under the provisions of Article IX of the Code of Civil
8 Procedure for failure of the lessor-owner to comply with the
9 leasing requirements prescribed by this Section or by the
10 declaration, bylaws, and rules and regulations. The board of
11 managers may proceed directly against a tenant, at law or in
12 equity, or under the provisions of Article IX of the Code of
13 Civil Procedure, for any other breach by tenant of any
14 covenants, rules, regulations or bylaws.

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

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

1 storage unit.

2 (q) That a unit owner may not assign, delegate, transfer,
3 surrender, or avoid the duties, responsibilities, and
4 liabilities of a unit owner under this Act, the condominium
5 instruments, or the rules and regulations of the Association;
6 and that such an attempted assignment, delegation, transfer,
7 surrender, or avoidance shall be deemed void.

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

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