



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2848

Introduced 1/24/2012, by Sen. Heather A. Steans

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/27

from Ch. 30, par. 327

Amends the Condominium Property Act. Provides that once a condominium association has at least one member other than the developer, condominium instruments shall be amended only, unless the Act provides otherwise (rather than not allowing for an exception), by: (i) an affirmative vote of 2/3 of those voting or by a majority vote margin specified by the condominium instruments, provided that the specified majority vote margin may not exceed a three-quarters vote of all unit owners; and (ii) any required mortgagee's approval. Deletes provisions which state, unless the Act provides otherwise, that: (i) no condominium instrument shall require more than a three-quarters vote of unit owners to amend the bylaws, unless the property's declaration is recorded on or after July 1, 1984; and (ii) no condominium instrument amendment shall change: any unit boundaries; a unit's interest in the common elements; the number of votes in the unit owners' association; or a unit's liability for common expenses.

LRB097 17691 AJ0 62904 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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, and unless otherwise provided in this Act, the  
9 condominium instruments shall be amended only as 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 all unit owners; and

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

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

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

4 (b) (1) If there is an omission or error in the declaration,  
5 bylaws or other condominium instrument, the association may  
6 correct the error or omission by an amendment to the  
7 declaration, bylaws, or other condominium instrument in such  
8 respects as may be required to conform to this Act, and any  
9 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

1 Managers or a majority vote of the unit owners at a meeting  
2 called for this purpose which proportionately adjusts all  
3 percentage interests so that the total is equal to 100% unless  
4 the condominium instruments specifically provide for a  
5 different procedure or different percentage vote by the owners  
6 of the units and the owners of mortgages thereon affected by  
7 modification being made in the undivided interest in the common  
8 elements, the number of votes in the unit owners association or  
9 the liability for common expenses appertaining to the unit.

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

22 (4) The procedures for amendments set forth in this  
23 subsection (b) cannot be used if such an amendment would  
24 materially or adversely affect property rights of the unit  
25 owners unless the affected unit owners consent in writing. This  
26 Section does not restrict the powers of the association to

1 otherwise amend the declaration, bylaws, or other condominium  
2 instruments, but authorizes a simple process of amendment  
3 requiring a lesser vote for the purpose of correcting defects,  
4 errors, or omissions when the property rights of the unit  
5 owners are not materially or adversely affected.

6 (5) If there is an omission or error in the declaration,  
7 bylaws, or other condominium instruments, which may not be  
8 corrected by an amendment procedure set forth in paragraphs (1)  
9 and (2) of subsection (b) of Section 27 in the declaration then  
10 the Circuit Court in the County in which the condominium is  
11 located shall have jurisdiction to hear a petition of one or  
12 more of the unit owners thereon or of the association, to  
13 correct the error or omission, and the action may be a class  
14 action. The court may require that one or more methods of  
15 correcting the error or omission be submitted to the unit  
16 owners to determine the most acceptable correction. All unit  
17 owners in the association must be joined as parties to the  
18 action. Service of process on owners may be by publication, but  
19 the plaintiff shall furnish all unit owners not personally  
20 served with process with copies of the petition and final  
21 judgment of the court by certified mail return receipt  
22 requested, at their last known address.

23 (6) Nothing contained in this Section shall be construed to  
24 invalidate any provision of a condominium instrument  
25 authorizing the developer to amend a condominium instrument  
26 prior to the latest date on which the initial membership

1 meeting of the unit owners must be held, whether or nor it has  
2 actually been held, to bring the instrument into compliance  
3 with the legal requirements of the Federal National Mortgage  
4 Association, the Federal Home Loan Mortgage Corporation, the  
5 Federal Housing Administration, the United States Veterans  
6 Administration or their respective successors and assigns.  
7 (Source: P.A. 94-886, eff. 6-20-06.)