

Bill No. CS for CS for CS for SB 1184, 1st Eng.

Amendment No. ____ Barcode 820854

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

13/WD/3R
04/26/2004 11:06 AM

.
. .
. .
. .
. .
. .

Senator Geller moved the following amendment:

Senate Amendment (with title amendment)

On page 10, before line 1,

insert:

(d) Unit owner meetings.--

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term shall be filled by electing a new board member, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required. If there is no provision in the bylaws for terms of the members of the board, the terms of all members of the board shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3. A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1 his or her residence is not eligible for board membership. The
2 validity of an action by the board is not affected if it is
3 later determined that a member of the board is ineligible for
4 board membership due to having been convicted of a felony.

5 2. The bylaws shall provide the method of calling
6 meetings of unit owners, including annual meetings. Written
7 notice, which notice must include an agenda, shall be mailed,
8 hand delivered, or electronically transmitted to each unit
9 owner at least 14 days prior to the annual meeting and shall
10 be posted in a conspicuous place on the condominium property
11 at least 14 continuous days preceding the annual meeting. Upon
12 notice to the unit owners, the board shall by duly adopted
13 rule designate a specific location on the condominium property
14 or association property upon which all notices of unit owner
15 meetings shall be posted; however, if there is no condominium
16 property or association property upon which notices can be
17 posted, this requirement does not apply. In lieu of or in
18 addition to the physical posting of notice of any meeting of
19 the unit owners on the condominium property, the association
20 may, by reasonable rule, adopt a procedure for conspicuously
21 posting and repeatedly broadcasting the notice and the agenda
22 on a closed-circuit cable television system serving the
23 condominium association. However, if broadcast notice is used
24 in lieu of a notice posted physically on the condominium
25 property, the notice and agenda must be broadcast at least
26 four times every broadcast hour of each day that a posted
27 notice is otherwise required under this section. When
28 broadcast notice is provided, the notice and agenda must be
29 broadcast in a manner and for a sufficient continuous length
30 of time so as to allow an average reader to observe the notice
31 and read and comprehend the entire content of the notice and

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1 the agenda. Unless a unit owner waives in writing the right to
2 receive notice of the annual meeting, such notice shall be
3 hand delivered, mailed, or electronically transmitted to each
4 unit owner. Notice for meetings and notice for all other
5 purposes shall be mailed to each unit owner at the address
6 last furnished to the association by the unit owner, or hand
7 delivered to each unit owner. However, if a unit is owned by
8 more than one person, the association shall provide notice,
9 for meetings and all other purposes, to that one address which
10 the developer initially identifies for that purpose and
11 thereafter as one or more of the owners of the unit shall so
12 advise the association in writing, or if no address is given
13 or the owners of the unit do not agree, to the address
14 provided on the deed of record. An officer of the association,
15 or the manager or other person providing notice of the
16 association meeting, shall provide an affidavit or United
17 States Postal Service certificate of mailing, to be included
18 in the official records of the association affirming that the
19 notice was mailed or hand delivered, in accordance with this
20 provision.

21 3. The members of the board shall be elected by
22 written ballot or voting machine. Proxies shall in no event be
23 used in electing the board, either in general elections or
24 elections to fill vacancies caused by recall, resignation, or
25 otherwise, unless otherwise provided in this chapter. Not less
26 than 60 days before a scheduled election, the association
27 shall mail, deliver, or electronically transmit, whether by
28 separate association mailing or included in another
29 association mailing, delivery, or transmission, including
30 regularly published newsletters, to each unit owner entitled
31 to a vote, a first notice of the date of the election. Any

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1 unit owner or other eligible person desiring to be a candidate
2 for the board must give written notice to the association not
3 less than 40 days before a scheduled election. Together with
4 the written notice and agenda as set forth in subparagraph 2.,
5 the association shall mail, deliver, or electronically
6 transmit a second notice of the election to all unit owners
7 entitled to vote therein, together with a ballot which shall
8 list all candidates. Upon request of a candidate, the
9 association shall include an information sheet, no larger than
10 8 1/2 inches by 11 inches, which must be furnished by the
11 candidate not less than 35 days before the election, to be
12 included with the mailing, delivery, or transmission of the
13 ballot, with the costs of mailing, delivery, or electronic
14 transmission and copying to be borne by the association. The
15 association is not liable for the contents of the information
16 sheets prepared by the candidates. In order to reduce costs,
17 the association may print or duplicate the information sheets
18 on both sides of the paper. The division shall by rule
19 establish voting procedures consistent with the provisions
20 contained herein, including rules establishing procedures for
21 giving notice by electronic transmission and rules providing
22 for the secrecy of ballots. Elections shall be decided by a
23 plurality of those ballots cast. There shall be no quorum
24 requirement; however, at least 20 percent of the eligible
25 voters must cast a ballot in order to have a valid election of
26 members of the board. No unit owner shall permit any other
27 person to vote his or her ballot, and any such ballots
28 improperly cast shall be deemed invalid, provided any unit
29 owner who violates this provision may be fined by the
30 association in accordance with s. 718.303. A unit owner who
31 needs assistance in casting the ballot for the reasons stated

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1 in s. 101.051 may obtain assistance in casting the ballot. The
2 regular election shall occur on the date of the annual
3 meeting. The provisions of this subparagraph shall not apply
4 to timeshare condominium associations. Notwithstanding the
5 provisions of this subparagraph, an election is not required
6 unless more candidates file notices of intent to run or are
7 nominated than board vacancies exist.

8 4. Any approval by unit owners called for by this
9 chapter or the applicable declaration or bylaws, including,
10 but not limited to, the approval requirement in s. 718.111(8),
11 shall be made at a duly noticed meeting of unit owners and
12 shall be subject to all requirements of this chapter or the
13 applicable condominium documents relating to unit owner
14 decisionmaking, except that unit owners may take action by
15 written agreement, without meetings, on matters for which
16 action by written agreement without meetings is expressly
17 allowed by the applicable bylaws or declaration or any statute
18 that provides for such action.

19 5. Unit owners may waive notice of specific meetings
20 if allowed by the applicable bylaws or declaration or any
21 statute. If authorized by the bylaws, notice of meetings of
22 the board of administration, unit owner meetings, except unit
23 owner meetings called to recall board members under paragraph
24 (j), and committee meetings may be given by electronic
25 transmission to unit owners who consent to receive notice by
26 electronic transmission.

27 6. Unit owners shall have the right to participate in
28 meetings of unit owners with reference to all designated
29 agenda items. However, the association may adopt reasonable
30 rules governing the frequency, duration, and manner of unit
31 owner participation.

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1 7. Any unit owner may tape record or videotape a
2 meeting of the unit owners subject to reasonable rules adopted
3 by the division.

4 8. Unless otherwise provided in the bylaws, any
5 vacancy occurring on the board before the expiration of a term
6 may be filled by the affirmative vote of the majority of the
7 remaining directors, even if the remaining directors
8 constitute less than a quorum, or by the sole remaining
9 director. In the alternative, a board may hold an election to
10 fill the vacancy, in which case the election procedures must
11 conform to the requirements of subparagraph 3. unless the
12 association has opted out of the statutory election process,
13 in which case the bylaws of the association control. Unless
14 otherwise provided in the bylaws, a board member appointed or
15 elected under this section shall fill the vacancy for the
16 unexpired term of the seat being filled. Filling vacancies
17 created by recall is governed by paragraph (j) and rules
18 adopted by the division.

19 9. Fifteen percent of the total voting interests in a
20 condominium association, or six unit owners, whichever is
21 greater, may petition the division to appoint an election
22 monitor to attend the annual meeting of the unit owners and
23 conduct the election of directors. The division shall appoint
24 a division employee, a person or persons specializing in
25 condominium election monitoring, or an attorney licensed to
26 practice in this state as the election monitor. All costs
27 associated with the election monitoring process shall be paid
28 by the association. The division shall adopt a rule
29 establishing procedures for the appointment of election
30 monitors and the scope and extent of the monitor's role in the
31 election process.

Bill No. CS for CS for CS for SB 1184, 1st Enq.

Amendment No. ____ Barcode 820854

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Notwithstanding subparagraphs (b)2. and (d)3., an association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 1, line 26, after the semicolon,

insert:

providing for unit owners or shareholders to petition the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to appoint an election monitor to attend the annual association meeting and conduct the election of directors; providing for the adoption of rules;