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HOUSE BILL NO. 2055

House Amendments in [] - February 3, 2015

A *BILL to amend and reenact §§ 55-79.76 and 55-79.77 of the Code of Virginia, relating to the Condominium Act; suspension of voting rights prohibited.*

Patron Prior to Engrossment—Delegate Pogge

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.76 and 55-79.77 of the Code of Virginia are amended and reenacted as follows:

§ 55-79.76. Same; quorums.

(a)A. Unless the condominium instruments otherwise provide *or as specified in subsection G of § 55-79.77*, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than 33 1/3 percent of the votes are present at the beginning of such meeting. The bylaws may provide for a larger percentage, or for a smaller percentage not less than 10 percent.

(b)B. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the executive organ if persons entitled to cast one-half of the votes in that body are present at the beginning of such meeting.

§ 55-79.77. Same; voting.

A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55-79.58 a number of votes in the unit owners' association proportionate to the undivided interest in the common elements appertaining to each such unit.

B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. But if more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this subsection to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a unit owner.

D. The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium instruments, any proxy shall be void if it is not dated, or if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. To the extent the condominium instruments or rules adopted thereto expressly so provide, a vote or proxy may be submitted by electronic transmission, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the unit owner or the unit owner's proxy.

E. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

F. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same proportions as the votes cast by unit owners other than the unit owners' association.

ENGROSSED

HB2055E

59 G. [*Except to the extent that the condominium instruments provide otherwise, the voting interest*
60 *allocated to the unit or member that has been suspended by the unit owners' association or the*
61 *executive organ pursuant to the condominium instruments shall not be counted in the total number of*
62 *voting interests used to determine the quorum for any meeting or vote under the condominium*
63 *instruments.] A voting interest allocated to a unit or member that has been suspended by the unit*
64 *owners' association or the executive organ shall not be counted toward the total number of voting*
65 *interests necessary to constitute a quorum, the number of voting interests required to conduct an*
66 *election, or the number of voting interests required to approve an action under this chapter or pursuant*
67 *to the declaration, articles of incorporation, or bylaws.*