

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 170
90TH GENERAL ASSEMBLY

Reported from the Committee on Judiciary, April 13, 1999, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 170 Do Pass by Consent.

ANNE C. WALKER, Chief Clerk

L0654.06C

AN ACT

To repeal sections 448.2-117 and 448.3-106, RSMo 1994, relating to condominium property, and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 448.2-117 and 448.3-106, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 448.2-117 and 448.3-106, to read as follows:

448.2-117. 1. Except in cases of amendments that may be executed by a declarant under subsection 6 of section 448.2-109, or section 448.2-110; the association, under section 448.1-107, subsection 4 of section 448.2-106, subsection 3 of section 448.2-108, or subsection 1 of section 448.2-112, or section 448.2-113; or certain unit owners under subsection 2 of section 448.2-108, subsection 1 of section 448.2-112, subsection 2 of section 448.2-113, or subsection 2 of section 448.2-118, and except as limited by subsection 4 of this section, the declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

3. Every amendment to the declaration shall be recorded in every county in which any portion of the condominium is located, and is effective only upon recordation. Every amendment shall be indexed in the name of the condominium, the association, and the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of sections 448.1-101 to 448.4-120, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5. By vote or agreement of unit owners of units to which at least eighty per cent of the votes in the association are allocated, or any larger percentage specified in the declaration, an amendment to the declaration may prohibit or materially restrict the permitted uses or occupancy of a unit or the number or other qualifications of persons who may occupy units. The amendment must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.

6. Amendments to the declaration required by sections 448.1-101 to 448.4-120 to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

448.3-106. 1. The bylaws of the association shall provide for:

(1) The number of members of the executive board and the titles of the officers of the association;

(2) Election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;

(3) The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;

(4) Which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent; **and**

(5) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association[]; and

(6) The method of amending the bylaws].

2. The bylaws of a condominium association may be amended by a majority of the unit owners of units to which the votes in the association are allocated.

3. Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

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