CHAPTER 222
HB 1129 - FINAL VERSION

28Mar2024... 0871h
05/02/2024 1693s

2024 SESSION

24-2649
05/10

HOUSE BILL ***1129***

AN ACT relative to the authority to vote by proxy in a condominium association.

SPONSORS: Rep. Almy, Graf. 17; Rep. Infantine, Hills. 16

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill defines directed and undirected proxies for the purpose of voting in condominium meetings. The bill allows the unit owner to designate either a directed or undirected proxy.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the authority to vote by proxy in a condominium association.

Be it Enacted by the Senate and House of Representatives in General Court convened:

222:1 New Paragraph; Condominium Act; Definition of Proxy Added. Amend RSA 356-B:3 by inserting after paragraph XXIV the following new paragraph:

XXIV-a. "Proxy" means a document created by the association to allow unit-owners to vote in absentia by providing a proxy to another person who is the proxy holder of the unit-owner's choice.

(a) A directed proxy allows the unit-owner providing the proxy to the holder to direct the holder's votes on one or more of the issues to be put to the meeting which the proxy holder will attend.

(b) An undirected proxy provides its holder with full power to decide how to vote on each issue before the meeting of unit owners.

222:2 Condominium Act; Voting RSA 356-B:39, IV is repealed and reenacted to read as follows:

IV.(a) The votes appertaining to any unit may be cast in person at a properly noticed meeting of the unit owners' association or pursuant to a directed or undirected 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. The option of a directed or undirected proxy shall be the choice of the unit owner. In a condominium association of more than 20 units, proxies cast by any person shall not exceed 10 percent of the votes cast, provided that condominium bylaws that specify less than 10 percent of proxies cast shall apply. In a condominium association of less than 20 units, proxies cast by any person shall not represent a majority of the votes. The board of directors or the association secretary shall implement a process to ensure the integrity of all votes cast in person or by directed or undirected proxy in order to properly register the votes cast.

(b) The complete text of all voting articles must be included in the properly noticed meeting agenda. Voting on articles amended during a meeting must be deferred until the next properly noticed meeting. Proper notice must be delivered to all condominium owners in accordance with the provisions in RSA 356-B:37.

(c) The proxy or proxies shall list the name of the person who is to vote. 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. Any proxy shall be void if it is not dated or if it purports to be revocable without the required notice. 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 automatically upon the adjournment of the first meeting held on or after the date of that proxy. The board of directors shall deliver to the unit owners, together with their notice of meeting and agenda, both directed and undirected proxy forms bearing a control number which the board of directors shall correlate to the list of all unit owners then entitled to vote. At the noticed meeting, the

board of directors shall recover all proxies and compare them to the control list maintained for that purpose. Any proxies which are on a form other than that provided by the board of directors or which do not correlate with the control list maintained by the board of directors shall be disregarded for purposes of determining whether a quorum was present at the meeting and for purposes of casting any vote at that meeting.

(d) The board of directors shall retain all proxies delivered to the board of directors and all independent written confirmation of any such proxies for inspection by the unit owners for a period of not less than 3 years from the date of the unit owners' association meeting.

(e) This section shall not apply if the condominium is comprised of time sharing interests.

222:3 Effective Date. This act shall take effect 180 days after its passage.

Approved: July 19, 2024
Effective Date: January 15, 2025