

SENATE BILL NO. 145

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING HOMEOWNERS' ASSOCIATIONS AND CONDOMINIUM ASSOCIATIONS TO ALLOW MEETINGS BY REMOTE MEANS UNLESS THE GOVERNING DOCUMENTS OF THE ASSOCIATION PROVIDE OTHERWISE; AND AMENDING SECTION 35-2-526, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Homeowners association -- remote meetings. (1) Unless the terms of the articles of incorporation or bylaws provide otherwise, a homeowners' association or an association of unit owners may hold a meeting by remote means.

(2) For the purposes of this section, the following definitions apply:

(a) "Association of unit owners" has the meaning provided in 70-23-102, except that the unit owners do not have to have submitted their property to the provisions of Title 70, chapter 23, and the association is organized under the provisions of Title 35, chapter 2.

(b) "Homeowners' association" means a corporation organized under the provisions of Title 35, chapter 2, that is responsible for the operation of a community or a mobile home subdivision in which:

(i) the voting membership is made up of parcel owners or their agents, or a combination of parcel owners and their agents;

(ii) membership is a mandatory condition of parcel ownership; and

(iii) the corporation is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

(c) "Remote means" includes telephone AUDIO, teleconference, or videoconference.

Section 2. Section 35-2-526, MCA, is amended to read:

"35-2-526. Annual and regular meetings. (1) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

1 (2) A corporation with members may hold regular membership meetings at the times stated in or fixed
2 in accordance with the bylaws.

3 (3) Annual and regular membership meetings may be held in the state or out of the state, at the place
4 stated in or fixed in accordance with the bylaws. If a place is not stated in or fixed in accordance with the
5 bylaws, annual and regular meetings must be held at the corporation's principal office. ~~To~~ Except as provided in
6 [section 1], to the extent authorized in the articles or bylaws, the board may determine that an annual meeting
7 of members will be held solely by means of remote communication.

8 (4) At the annual meeting:

9 (a) the president and chief financial officer shall report on the activities and financial condition of the
10 corporation; and

11 (b) the members shall consider and act upon other matters that are raised consistent with the notice
12 and voting requirements of 35-2-530 and 35-2-538(2).

13 (5) At regular meetings, the members shall consider and act upon matters raised consistent with the
14 notice and voting requirements of 35-2-530 and 35-2-538(2).

15 (6) The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a
16 corporation's bylaws does not affect the validity of any corporate action.

17 (7) ~~If~~ Except as provided in [section 1], if permitted by the bylaws, members may participate in a
18 meeting of the members by means of a conference telephone call or similar remote communication. Unless
19 otherwise provided in the articles or bylaws, participation in this manner constitutes presence in person at a
20 meeting."

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22 **NEW SECTION. Section 3. Association of unit owners -- remote meetings.** (1) Unless the terms
23 of the declaration or the bylaws provide otherwise, an association of unit owners may hold a meeting by remote
24 means.

25 (2) For the purposes of this section, "remote means" includes telephone AUDIO, teleconference, or
26 videoconference.

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28 **NEW SECTION. Section 4. Unincorporated homeowners' association -- remote meetings.** (1)

1 Unless the bylaws or other governing documents adopted by the members of the association provide
2 otherwise, an unincorporated homeowners' association may hold a meeting by remote means.

3 (2) For the purposes of this section, the following definitions apply:

4 (a) "Remote means" includes telephone AUDIO, teleconference, or videoconference.

5 (b) "Unincorporated homeowners' association" means an unincorporated entity that is responsible for
6 the operation of a community or a mobile home subdivision in which:

7 (i) the voting membership is made up of parcel owners or their agents, or a combination of parcel
8 owners and their agents;

9 (ii) membership is a mandatory condition of parcel ownership; and

10 (iii) the entity is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

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12 **NEW SECTION. Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as an
13 integral part of Title 35, chapter 2, part 5, and the provisions of Title 35, chapter 2, part 5, apply to [section 1].

14 (2) [Section 3] is intended to be codified as an integral part of Title 70, chapter 23, part 3, and the
15 provisions of Title 70, chapter 23, part 3, apply to [section 3].

16 (3) [Section 4] is intended to be codified as an integral part of Title 35, and the provisions of Title 35
17 apply to [section 4].

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