

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2235

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2235

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7455

Committee Clerk Signature

Erin Riabel

Minutes:

Chairman Klein: Opened the meeting on Senate Bill 2235.

Malcolm H. Brown, Attorney: Written Testimony Attached.

Senator Potter: How long and how many days, is there a time limit?

Malcolm H. Brown: A reasonable time, you have to give a notice of a meeting we would presume a reasonable time.

Senator Wanzek: If the condominium association decides to have a meeting and they decide to do something. It doesn't affect the right of the mortgage holder.

Malcolm Brown: No it doesn't.

Senator Horne: Until this date did you typically go to the mortgage holder?

Malcolm Brown: Yes, it worked in the past but it's becoming difficult to find who holds your mortgage.

Chairman Klein: Simple enough to not require minor amendments unless it would deal with their mortgage.

Malcolm Brown: The lender still has to get notice; they don't have to approve it.

Senator Horne: The mortgage holder had to approve all of these?

Malcolm Brown: No.

Senator Andrist: I am trying to conceive how any owner's agreement could affect the mortgage lender.

Malcolm Brown: To change the policy of some condo owners to lease out their condo if they would choose. I can't think of any other lender that would care.

Senator Behm: This makes sense. Who bought my mortgage and how would you find out?

Malcolm Brown: I don't know, the lender would be notified but they should really not have a say.

Senator Potter: Did you consider putting a time limit in there?

Malcolm Brown: I don't have a problem with adding a time limit.

Chairman Klein: You don't have a problem with us adding thirty days?

Malcolm Brown: No.

Senator Andrist: It speaks to the last known address how do you know the last known address?

Malcolm Brown: We go by the county records office.

Senator Nodland: There's always a service bank, so you can have contact with that person. So if you're sold and resold. These are two different issues. Trying to contact them but you still have contact with the servicing bank.

Malcolm Brown: But the servicing bank might not have the right to give any approval.

Chairman Klein: Close hearing on Senate Bill 2235.

Moved to pass amendment, Senator Potter. Seconded by Senator Behm.

Roll Call Vote: Yes: 7 No:0 Absent:0

Moved to pass as amended, Senator Potter. Seconded by Senator Behm.

Roll Call Vote: Yes: 7 No:0 Absent:0 Floor Assignment: Senator Behm

Date: 1/21/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2235

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken Pass Do Not Pass Amended

Motion Made By Senator Potter Seconded By Senator Behm

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/21/09
 Roll Call Vote #: 2

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2235**

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number 90615.0101 Title: 0200

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Potter Seconded By Senator Behm

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Behm

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2235: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2235 was placed on the Sixth order on the calendar.

Page 1, line 8, after the underscored comma insert "after being given a thirty-day written notice beginning with the date of mailing,"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2235

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2235

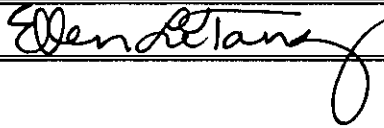
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 10, 2009

Recorder Job Number: 10551

Committee Clerk Signature



Chairman Keiser: Opened the hearing on SB 2235 relating to lender approval of amendment of condominium rules.

Malcom Brown~Attorney appearing on behalf of the Real Property Section of the State

Bar Association. See testimony attachment.

Representative Amerman: Say there was a number of new condominiums built in an area, they were just rented and bought and the board of directors is putting together all their bylaws with the mortgage company at the meeting. Do you have to notify the underwriter in the initial bylaws?

Brown: In my experience, all of that would have been done the same time they are getting the loan approval before they start building. Again, if this bill were law, the mortgage holder would not have to approve the declaration as long as there was nothing to affect their rights to enforce their mortgage.

Kieser: Will one of the outcomes that this could potentially be that the term of mortgage will literally state that must come to them prior to?

Brown: They could but again, I don't think a typical lending institution would be that concerned about how many are on board.

Chairman Keiser: Anyone here to testify in opposition for SB 2235, neutral? Closes the hearing, what are the wishes of the committee?

Representative Nottestad: Moves a Do Pass.

Representative Thorpe: Second.

Voting roll call was taken on SB 2235 for a Do Pass with 12 ayes, 0 nays, 1 absent and

Representative Clark is the carrier.

Date: Mar 10-2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2235

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Not Seconded By Thorpe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	1		Representative Amerman	1	
Vice Chairman Kasper			Representative Boe	1	
Representative Clark	1		Representative Gruchalla	1	
Representative N Johnson	1		Representative Schneider	1	
Representative Nottestad	1		Representative Thorpe	1	
Representative Ruby	1				
Representative Sukut	1				
Representative Vigesaa	1				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Clark

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 10, 2009 11:25 a.m.

Module No: HR-43-4429
Carrier: Clark
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2235, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2235 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2235

Testimony of Malcolm H. Brown in support of SB 2235.

My name is Malcolm H. Brown. I am an attorney appearing on behalf of the Real Property Section of the State Bar Association in support of SB 2235.

This bill permits condominium associations to amend the declaration creating the condominium or the by laws of the association without having to secure the specific consent of the holder of mortgages on all the condo units.

Often condo associations make minor changes or amendments to the rules or by laws of the organization that have no effect on the mortgage holder. Yet current practice requires the approval of all mortgage holders to any such amendments. Mortgages today are assigned, bundled and sold several different times to various holders and it may difficult to obtain consents to these amendments.

This bill would permit a condo association to notify a mortgage holder at the last known address shown at the County Recorder office of a proposed amendment, and, unless the mortgage holder refuses to approve the amendment, it will be able to be adopted.

This bill does not permit a condo amendment that would in any manner affect the mortgage holders rights to enforce or foreclose its mortgage.

Testimony of Malcolm H. Brown in support of SB 2235.

My name is Malcolm H. Brown. I am an attorney appearing on behalf of the Real Property Section of the State Bar Association in support of SB 2235. This bill was introduced by Senators Holmberg and Hogue at the request of our Section.

This bill permits condominium associations to amend the declaration creating the condominium or the by laws of the association without having to secure the specific consent of the holder of mortgages on all the condo units.

Often condo associations make minor changes or amendments to the rules or by laws of the organization that have no effect on the mortgage holder. For instance, changing the number of the members of a Board of Directors. Yet current practice requires the approval of all mortgage holders to any such amendments. Mortgages today are assigned, bundled and sold several different times to various holders and it may difficult to obtain consents to these amendments.

This bill would permit a condo association to notify a mortgage holder, at least 30 days in advance, at the last known address shown at the County Recorder office, of a proposed amendment, and, unless the mortgage holder refuses to approve the amendment, it will be adopted.

This bill does not permit a condo amendment that would in any manner affect the mortgage holders rights to enforce or foreclose its mortgage.