



## 2019-2020 End of Session Report

CAI's Minnesota Legislative Action Committee (MN LAC) had a busy legislative session. There were more than 9,900 bills introduced, and the MN LAC closely monitored more than 10,200 bills that would have directly affected community associations.

The greatest success this year was the passage of amendments to Minnesota Statutes Chapter 515B, the Minnesota Common Interest Ownership Act ("MCIOA") that provide several new, practical alternatives for obtaining approval of amendments to the declaration, bylaws, or articles of incorporation of any common interest community.

### **Background**

It was common practice to require a large supermajority or even unanimous written consent of unit owners to amend an association's governing documents. In the fall of 2018, MN LAC Chair, Michael Klemm and Joel Hilgendorf discussed these procedural hurdles that prevent many associations from updating and modernizing their governing documents. Many associations could not update their governing documents because a small group of owners or even an individual owner decline to participate or oppose an important amendment. Joel suggested that the MN LAC propose an amendment to MCIOA to address owner approval requirements by creating a "deemed consent" provision or a court approval process.

In January 2019, the MN LAC's lobbyist, Patrick Hynes began to lead the effort and the MN LAC provided their draft amendment to the MCIOA Committee of the Real Property Law Section of the Minnesota State Bar Association and several real estate related interest groups. The MN LAC also researched associations with compelling stories and identified legislators who could carry the bill through the legislative process.

The bill drafted by the MN LAC was introduced in the Minnesota Senate (S. 3348) and the Minnesota House of Representatives (H. 3274) in the 2020 legislative session by Senator Mark Johnson (R-East Grand Forks) and Representative Andrew Carlson (DFL-Bloomington). Patricia Fisk, President of Old Shakopee Park North Condominium Association, testified before the Senate Judiciary Committee and the House Judiciary & Civil Law Committee, explaining that approval requirements made it nearly impossible to update her association's documents and requesting the legislature's help. Mr. Hynes provided further testimony to answer technical questions. The bill was approved by both committees and sent to the floor for final approval.

In March 2020, the coronavirus pandemic interrupted the legislative process, and the future of the bill became uncertain. Ultimately, the amendment to MCIOA was approved as part of a mini-omnibus bill during the last week of the regular legislative session and signed by Governor Walz on May 16, 2020, as Minnesota Session Laws 2020, Chapter 86, Article 3, with an effective date of August 1, 2020.

Associations may draft amendments prior to August 1, then request approvals on or after August 1, 2020, based on the revised statute. Associations that desire to update their governing documents should consult a qualified attorney for assistance drafting amendments and navigating the new approval requirements and alternatives.

### **Highlights of 2020 MCIOA Amendment**

**Deemed Consent of Owners** - The 2020 MCIOA amendment creates a new alternative for obtaining “deemed consent” of unit owners to address the problem of amendments that fail due to lack of response from unit owners who simply are not engaged in the process.

**Deemed Consent of Mortgagees** -The 2020 MCIOA amendment MCIOA applies to all common interest communities located in Minnesota—including those communities not otherwise governing by MCIOA.

**Petition and Court Approval Process** -The 2020 MCIOA amendment establishes a framework for court approval of an amendment that fails to obtain the votes required by the governing documents for approval.

**Applicability** - The 2020 MCIOA amendment applies to all common interest communities located in Minnesota—including those communities not otherwise governing by MCIOA.

### **Minnesota Contact Information**

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### **Your Assistance is Needed**

Expenses incurred by the LAC are paid for with donations and by Advocacy Fund fees. Corporate contributions are allowed and appreciated. Most community association boards can legally allocate money to support the MN LAC. Please visit [www.caionline.org/lacdonate/](http://www.caionline.org/lacdonate/) and donate to “Minnesota” to support our continued efforts.

For more information visit [www.caionline.org/MNLAC](http://www.caionline.org/MNLAC).