

HOUSE BILL NO. 269

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HOLMES

Introduced: 1/17/12

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the amendment of a declaration that creates a common interest**
2 **community."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 34.08.250(a) is amended to read:

5 (a) Except for amendments that may be executed by a declarant under
6 AS 34.08.170(b) or 34.08.180, [OR] by the association under AS 34.08.140(d),
7 34.08.160(c), 34.08.200(a), 34.08.210, or 34.08.740, or by certain unit owners under
8 AS 34.08.160(b), 34.08.200(a), 34.08.210(b), or 34.08.260(b), and except as limited
9 by (d) or required by (f) and (g) of this section, a declaration, including any required
10 plats and plans, may be amended only by vote or agreement of unit owners of units
11 comprising either at least 67 percent of the allocated interests in the association or a
12 larger percentage specified in the declaration. A declaration may not specify a smaller
13 number unless all of the units are restricted exclusively to nonresidential use.

14 *** Sec. 2.** AS 34.08.250(d) is amended to read:

(d) Except to the extent expressly permitted or required in [BY OTHER PROVISIONS OF] this chapter, an amendment may not create or increase special declarant rights, increase the number of units, or change the boundaries of a unit, the allocated interests of a unit, or the uses to which a unit is restricted, in the absence of unanimous consent of the unit owners.

* Sec. 3. AS 34.08.250 is amended by adding new subsections to read:

(f) By vote or agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated or a larger percentage specified in the declaration, an amendment to the declaration may prohibit or materially restrict the permitted uses of or behavior in a unit or the number or other qualifications of persons that may occupy units. The amendment must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.

(g) The time limits specified in a declaration described under AS 34.08.130(a)(8) may be extended and additional development rights created if persons entitled to cast at least 80 percent of the votes in the association, including 80 percent of the votes allocated to units not owned by the declarant, agree to the extension or additional development rights. The agreement is effective 30 days after an amendment to the declaration reflecting the terms of the agreement is recorded unless all persons holding special declarant rights affected by the amendment or security interests in those rights

(1) record a written objection within the 30-day period, in which case, the amendment is void; or

(2) consent in writing when the amendment is recorded, in which case, the amendment is effective when recorded.