

# Illinois Electronic Voting Bill Signed Into Law

Written by: Scott McKeel

HB 5322 - ELECTRONIC VOTING, NOTICE AND USE OF TECHNOLOGY, SIGNED INTO LAW.

AI-IL is pleased to announce that HB 5322, the Electronic Voting Bill introduced by CAI, was signed into law on August 25, 2014 as Public Act 98-1042. This bill amends both the Illinois Condominium Property Act and the Common Interest Community Association Act. The bill permits boards to adopt rules and regulations concerning the use of acceptable, verifiable means of technology, including electronic means for unit owner notice, voting, signatures, consents and approvals. The bill establishes that electronic votes are valid and may be used for the purpose of establishing meeting quorums. The bill also provides that a verifiable electronic signature satisfies any requirements for signatures on documents.

The bill acknowledges that if an owner either does not have the capability or desire to conduct business electronically, an association shall make reasonable accommodation, at its expense, for the person to conduct business without the use of electronic or other means.

If you wish to view this bill in its entirety, please follow the attached link:

<http://ilga.gov/legislation/billstatus.asp?DocNum=5322&GAID=12&GA=98&DocTypeID=HB&LegID=80098&SessionID=85>

## **Preparing your association for electronic communications**

[Pamela Dittmer McKuen](#) Contact Reporter Community Living

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Illinois community associations may now communicate electronically with their owners, but that doesn't mean they can cut their paper and postage budgets. Many practical details must be worked out before any savings are realized.

Public Act 98-1042, which became effective Jan. 1, amends the Illinois Condominium Property Act and the Common Interest Community Association Act. The new provisions grant associations the authority to send notices and information to owners via acceptable electronic means, as defined by the law. They also allow owners to cast votes the same way. However, some provisions are slightly different for the two types of associations.

Whether or not associations embrace technology for these tasks remains to be seen. It's not as simple as churning out emails and faxes.

**Condominium associations must first pass a rule or amend their governing documents to authorize electronic notices. Common interest communities do not. But both types of associations must get written consent and electronic addresses from owners who are willing to participate. They cannot require anyone to sign up.**

"Associations will have to provide notice in person or by mail at their expense to those who do not want to receive electronic notice," said association attorney Stuart Fullett, of Fullett Rosenlund Anderson in Lake Zurich.

He cautioned that letters and documents concerning lawsuits, assessment delinquencies and other legal matters should be delivered via postal mail as always. Furthermore, the law does not allow board members to communicate electronically among themselves about association business. Those communications must continue to take place at open board meetings.



Free speech has its limits in condominium buildings

Howard Dakoff

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**As for elections, both types of associations must adopt rules enabling them to conduct electronic voting.** Condo associations must adopt their rules at least 120 days before the election; common interest communities have no such restriction. Proxies are disallowed for all associations that conduct elections electronically. **Owners may revoke their electronic votes and vote in person at the election meeting.**

Electronic votes count toward quorum requirements.

Reactions to the new law and its authorities are guarded.

"Passage of electronic voting is long overdue in this age of electronic communication," said Gael Mennecke, executive director at the Association of Condominium, Townhouse and Homeowners Associations. "It should be a tremendous help to associations that struggle to achieve quorum."

**For some associations, security and verification of ballots may be a challenge,** she added.

Fullett favors electronic notices for the convenience to owners who opt in. But he questions the value and ease of electronic voting to the association.

"I don't think you'll see the level of participation everyone thinks they are going to get," he said. **"And you still have to have the annual meeting and run your normal election, so those people who did not vote electronically or who want to revoke their electronic vote can vote in person."**

The new law is a "step in the right direction," said Lou Lutz, vice president at Realty and Mortgage Co. management company in Chicago. "I'm not sure how practical it is for most associations at this point."

Because of the intricacies of the initial setup, security and technology, many associations will hire outside vendors to run their elections, he predicted.

"They will pay a higher fee for that," he said.

On the positive side, he believes electronic voting has the potential to draw more voters, especially younger owners, who tend to be comfortable with technology.

**Electronic notices also will require designating someone to set up and maintain the lists of owners who receive them and owners who don't as well as any changes they make,** he said.

Small associations will find implementation of electronic notices easier because they have fewer people and units to keep track of, he said.

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