

2010 Bylaws Revision to Comply with Michigan Attorney General opinion #7230

To comply with Michigan Public Act 137 of 1929, The Summer Resort Corporation Act, the following definition is provided by the Attorney General:

- **A freeholder is defined as each joint tenant, tenant in common, tenant by the entireties, land contract vendee, and person who holds an undivided interest in fee, as well as each life tenant, is a “freeholder”.**
- **To comply with the Act, each freeholder must have an unrestricted right to vote.**
- **The Legislature made conscious distinctions when defining the right to vote, and in 1929 PA 137, the Legislature tied membership in the corporation to one's status as a "freeholder" and granted each such member one and only one vote. Unlike in earlier acts, the Legislature did not grant a vote for each lot or each share in the corporation.**

Q: Can association bylaws allow for the removal of the right to vote for nonpayment of assessments, or for any other reason than alienation of the property of the member?

- A. A summer resort owners corporation created under Michigan Public Act 137 of 1929, MCL 455.201 affords each owner of a freehold interest in property subject to the corporation's jurisdiction membership in the corporation and the right to vote in all its elections. Because a member's right to vote is conditioned on ownership of a freehold interest in lands, a summer resort corporation may not through adoption of a bylaw deny or limit that right of suffrage based upon the nonpayment of assessments or dues. A bylaw disenfranchising members for nonpayment of dues or assessments is unenforceable.

Q: Can an association bylaw allow more than one vote per member other than one vote each for husband and wife owning property by the entirety? If there is more than one owner of a piece of property other than husband and wife, are all members entitled to one vote each?

- A. Each freeholder holding lands within the corporate jurisdiction of a summer resort owners corporation created under Michigan Public Act 137 of 1929 is entitled to one vote in elections held under that Act. An association bylaw allowing other than one vote per member/ freeholder is unenforceable.

Q: IF members are not in good standing because of nonpayment of assessments or other bylaw requirements, do they count in the number of all members?

- A. Similar to questions above.

Q: How fair is it that property “A” with five persons on a title will have five votes, Property “B” with husband and wife have two votes and property “C” with a single person has only one vote??

- A. While it may seem unfair, The Summer Resort Corporation Act sets forth that each owner of the property has a right to one vote. While home owners associations have attempted to create fairness by limiting votes to one per lot, the Act does not permit such an attempt to create fairness.