

SB0927



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0927

Introduced 2/7/2017, by Sen. Jennifer Bertino-Tarrant

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-102
765 ILCS 160/1-30

from Ch. 110, par. 9-102

Amends the Common Interest Community Association Act. Provides that the board shall have the power, after notice and an opportunity to be heard, to (i) place a lien upon the owner's residence in the event the owner has amassed an unpaid assessment totaling \$500 or more; and (ii) to begin foreclosure proceedings on property upon which a lien has attached once the owner has amassed an unpaid assessment of \$1,000 or more. Provides that nothing in the new provisions prevents the board from levying and collecting fines. Makes a corresponding change in the Code of Civil Procedure.

LRB100 05360 HEP 15371 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or
9 tenements may be restored thereto under any of the following
10 circumstances:

11 (1) When a forcible entry is made thereon.

12 (2) When a peaceable entry is made and the possession
13 unlawfully withheld.

14 (3) When entry is made into vacant or unoccupied lands
15 or tenements without right or title.

16 (4) When any lessee of the lands or tenements, or any
17 person holding under such lessee, holds possession without
18 right after the termination of the lease or tenancy by its
19 own limitation, condition or terms, or by notice to quit or
20 otherwise.

21 (5) When a vendee having obtained possession under a
22 written or verbal agreement to purchase lands or tenements,
23 and having failed to comply with the agreement, withholds

1 possession thereof, after demand in writing by the person
2 entitled to such possession; provided, however, that any
3 such agreement for residential real estate as defined in
4 the Illinois Mortgage Foreclosure Law entered into on or
5 after July 1, 1987 where the purchase price is to be paid
6 in installments over a period in excess of 5 years and the
7 amount unpaid under the terms of the contract at the time
8 of the filing of a foreclosure complaint under Article XV,
9 including principal and due and unpaid interest, is less
10 than 80% of the original purchase price shall be foreclosed
11 under the Illinois Mortgage Foreclosure Law.

12 This amendatory Act of 1993 is declarative of existing
13 law.

14 (6) When lands or tenements have been conveyed by any
15 grantor in possession, or sold under the order or judgment
16 of any court in this State, or by virtue of any sale in any
17 mortgage or deed of trust contained and the grantor in
18 possession or party to such order or judgment or to such
19 mortgage or deed of trust, after the expiration of the time
20 of redemption, when redemption is allowed by law, refuses
21 or neglects to surrender possession thereof, after demand
22 in writing by the person entitled thereto, or his or her
23 agent.

24 (7) When any property is subject to the provisions of
25 the Condominium Property Act, the owner of a unit fails or
26 refuses to pay when due his or her proportionate share of

1 the common expenses of such property, or of any other
2 expenses lawfully agreed upon or any unpaid fine, the Board
3 of Managers or its agents have served the demand set forth
4 in Section 9-104.1 of this Article in the manner provided
5 for in that Section and the unit owner has failed to pay
6 the amount claimed within the time prescribed in the
7 demand; or if the lessor-owner of a unit fails to comply
8 with the leasing requirements prescribed by subsection (n)
9 of Section 18 of the Condominium Property Act or by the
10 declaration, by-laws, and rules and regulations of the
11 condominium, or if a lessee of an owner is in breach of any
12 covenants, rules, regulations, or by-laws of the
13 condominium, and the Board of Managers or its agents have
14 served the demand set forth in Section 9-104.2 of this
15 Article in the manner provided in that Section.

16 (8) When: (i) any property is subject to the provisions
17 of a declaration establishing a common interest community
18 and requiring the unit owner to pay regular or special
19 assessments for the maintenance or repair of common areas
20 owned in common by all of the owners of the common interest
21 community or by the community association and maintained
22 for the use of the unit owners or of any other expenses of
23 the association lawfully agreed upon; (ii) ~~and~~ the unit
24 owner fails or refuses to pay when due his or her
25 proportionate share of such assessments or expenses; (iii)
26 a lien has attached under subsection (k) of Section 1-30 of

1 the Common Interest Community Association Act; (iv) the
2 owner has accumulated unpaid assessments exceeding \$1,000;
3 (v) and the board or its agents have served the demand set
4 forth in Section 9-104.1 of this Article in the manner
5 provided for in that Section; and (vi) the unit owner has
6 failed to pay the amount claimed within the time prescribed
7 in the demand.

8 (b) The provisions of paragraph (8) of subsection (a) of
9 Section 9-102 and Section 9-104.3 of this Act shall not apply
10 to any common interest community unless (1) the association is
11 a not-for-profit corporation or a limited liability company,
12 (2) unit owners are authorized to attend meetings of the board
13 of directors or board of managers of the association in the
14 same manner as provided for condominiums under the Condominium
15 Property Act, and (3) the board of managers or board of
16 directors of the common interest community association has,
17 subsequent to the effective date of this amendatory Act of 1984
18 voted to have the provisions of this Article apply to such
19 association and has delivered or mailed notice of such action
20 to the unit owners or unless the declaration of the association
21 is recorded after the effective date of this amendatory Act of
22 1985.

23 (c) For purposes of this Article:

24 (1) "Common interest community" means real estate
25 other than a condominium or cooperative with respect to
26 which any person by virtue of his or her ownership of a

1 partial interest or unit therein is obligated to pay for
2 maintenance, improvement, insurance premiums, or real
3 estate taxes of other real estate described in a
4 declaration which is administered by an association.

5 (2) "Declaration" means any duly recorded instruments,
6 however designated, that have created a common interest
7 community and any duly recorded amendments to those
8 instruments.

9 (3) "Unit" means a physical portion of the common
10 interest community designated by separate ownership or
11 occupancy by boundaries which are described in a
12 declaration.

13 (4) "Unit owners' association" or "association" means
14 the association of all owners of units in the common
15 interest community acting pursuant to the declaration.

16 (d) If the board of a common interest community elects to
17 have the provisions of this Article apply to such association
18 or the declaration of the association is recorded after the
19 effective date of this amendatory Act of 1985, the provisions
20 of subsections (c) through (h) of Section 18.5 of the
21 Condominium Property Act applicable to a Master Association and
22 condominium unit subject to such association under subsections
23 (c) through (h) of Section 18.5 shall be applicable to the
24 community associations and to its unit owners.

25 (Source: P.A. 99-41, eff. 7-14-15.)

1 Section 10. The Common Interest Community Association Act
2 is amended by changing Section 1-30 as follows:

3 (765 ILCS 160/1-30)

4 Sec. 1-30. Board duties and obligations; records.

5 (a) The board shall meet at least 4 times annually.

6 (b) A common interest community association may not enter
7 into a contract with a current board member, or with a
8 corporation, limited liability company, or partnership in
9 which a board member or a member of his or her immediate family
10 has 25% or more interest, unless notice of intent to enter into
11 the contract is given to members within 20 days after a
12 decision is made to enter into the contract and the members are
13 afforded an opportunity by filing a petition, signed by 20% of
14 the membership, for an election to approve or disapprove the
15 contract; such petition shall be filed within 20 days after
16 such notice and such election shall be held within 30 days
17 after filing the petition. For purposes of this subsection, a
18 board member's immediate family means the board member's
19 spouse, parents, siblings, and children.

20 (c) The bylaws or operating agreement shall provide for the
21 maintenance, repair, and replacement of the common areas and
22 payments therefor, including the method of approving payment
23 vouchers.

24 (d) (Blank).

25 (e) The association may engage the services of a manager or

1 management company.

2 (f) The association shall have one class of membership
3 unless the declaration, bylaws, or operating agreement provide
4 otherwise; however, this subsection (f) shall not be construed
5 to limit the operation of subsection (c) of Section 1-20 of
6 this Act.

7 (g) The board shall have the power, after notice and an
8 opportunity to be heard, to levy and collect reasonable fines
9 from members or unit owners for violations of the declaration,
10 bylaws, operating agreement, and rules and regulations of the
11 common interest community association.

12 (h) Other than attorney's fees and court or arbitration
13 costs, no fees pertaining to the collection of a member's or
14 unit owner's financial obligation to the association,
15 including fees charged by a manager or managing agent, shall be
16 added to and deemed a part of a member's or unit owner's
17 respective share of the common expenses unless: (i) the
18 managing agent fees relate to the costs to collect common
19 expenses for the association; (ii) the fees are set forth in a
20 contract between the managing agent and the association; and
21 (iii) the authority to add the management fees to a member's or
22 unit owner's respective share of the common expenses is
23 specifically stated in the declaration, bylaws, or operating
24 agreement of the association.

25 (i) Board records.

26 (1) The board shall maintain the following records of

1 the association and make them available for examination and
2 copying at convenient hours of weekdays by any member or
3 unit owner in a common interest community subject to the
4 authority of the board, their mortgagees, and their duly
5 authorized agents or attorneys:

6 (i) Copies of the recorded declaration, other
7 community instruments, other duly recorded covenants
8 and bylaws and any amendments, articles of
9 incorporation, articles of organization, annual
10 reports, and any rules and regulations adopted by the
11 board shall be available. Prior to the organization of
12 the board, the developer shall maintain and make
13 available the records set forth in this paragraph (i)
14 for examination and copying.

15 (ii) Detailed and accurate records in
16 chronological order of the receipts and expenditures
17 affecting the common areas, specifying and itemizing
18 the maintenance and repair expenses of the common areas
19 and any other expenses incurred, and copies of all
20 contracts, leases, or other agreements entered into by
21 the board shall be maintained.

22 (iii) The minutes of all meetings of the board
23 which shall be maintained for not less than 7 years.

24 (iv) With a written statement of a proper purpose,
25 ballots and proxies related thereto, if any, for any
26 election held for the board and for any other matters

1 voted on by the members, which shall be maintained for
2 not less than one year.

3 (v) With a written statement of a proper purpose,
4 such other records of the board as are available for
5 inspection by members of a not-for-profit corporation
6 pursuant to Section 107.75 of the General Not For
7 Profit Corporation Act of 1986 shall be maintained.

8 (vi) With respect to units owned by a land trust, a
9 living trust, or other legal entity, the trustee,
10 officer, or manager of the entity may designate, in
11 writing, a person to cast votes on behalf of the member
12 or unit owner and a designation shall remain in effect
13 until a subsequent document is filed with the
14 association.

15 (2) Where a request for records under this subsection
16 is made in writing to the board or its agent, failure to
17 provide the requested record or to respond within 30 days
18 shall be deemed a denial by the board.

19 (3) A reasonable fee may be charged by the board for
20 the cost of retrieving and copying records properly
21 requested.

22 (4) If the board fails to provide records properly
23 requested under paragraph (1) of this subsection (i) within
24 the time period provided in that paragraph (1), the member
25 may seek appropriate relief and shall be entitled to an
26 award of reasonable attorney's fees and costs if the member

1 prevails and the court finds that such failure is due to
2 the acts or omissions of the board of managers or the board
3 of directors.

4 (j) The board shall have standing and capacity to act in a
5 representative capacity in relation to matters involving the
6 common areas or more than one unit, on behalf of the members or
7 unit owners as their interests may appear.

8 (k) The board shall have the power, after notice and an
9 opportunity to be heard, to place a lien upon the owner's
10 residence in the event the owner has amassed an unpaid
11 assessment totaling \$500 or more.

12 (l) The board shall have the power, after notice and an
13 opportunity to be heard, to begin foreclosure proceedings on
14 property upon which a lien under subsection (k) of this Section
15 has attached once the owner has amassed an unpaid assessment of
16 \$1,000 or more. Nothing in this Section prevents the board from
17 levying and collecting fines as outlined in subsection (g) of
18 this Section.

19 (Source: P.A. 98-232, eff. 1-1-14; 98-241, eff. 8-9-13; 98-756,
20 eff. 7-16-14; 99-41, eff. 7-14-15.)