



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5037

by Rep. Marlow H. Colvin

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/14.5 new

Amends the Condominium Property Act. Provides procedures for addressing distressed condominium property that is a danger, blight, or nuisance to the surrounding community or the public and that is substantially unoccupied, without utilities, or in a serious negative condition. Provides a definition of "distressed condominium property". Provides that a municipality may file a petition in the circuit court and that if the court finds that a property is a distressed condominium property, the court may appoint a receiver to manage the property. Provides also that if a court finds that the property is not viable as a condominium, the court may deem that the entire property is owned in common by the unit owners and may authorize the receiver to sell the entire property without the consent of the unit owners. Provides that if the receiver sells the property pursuant to court authorization, the sale proceeds shall be paid to unit owners according to their respective shares, after sale expenses, taxes, and liens have been paid. Provides that the receiver has the power and authority to secure and insure the premises, make repairs, and otherwise manage the premises.

LRB095 15175 AJO 41155 b

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 Condominium Property Act is amended by  
5 adding Section 14.5 as follows:

6 (765 ILCS 605/14.5 new)

7 Sec. 14.5. Distressed condominium property.

8 (a) As used in this Section:

9 (1) "Distressed condominium property" means a parcel  
10 containing condominium units which are operated in a manner  
11 or have conditions which may constitute a danger, blight,  
12 or nuisance to the surrounding community or to the general  
13 public, including but not limited to one or more of the  
14 following conditions:

15 (A) the building is substantially unoccupied, or  
16 has serious violations of any applicable local  
17 building code;

18 (B) 60% or more of the condominium units are in  
19 foreclosure or are units against which a judgment of  
20 foreclosure was entered within the last 18 months;

21 (C) there has been a recording of more condominium  
22 units on the parcel than physically exist;

23 (D) any of the essential utilities to the parcel or

1 condominium units is either terminated or threatened  
2 with termination;

3 (E) there is a delinquency on the property taxes  
4 for at least 60% of the condominium units; or

5 (F) the board of managers has not met within the  
6 last 12 months or is otherwise not functioning.

7 (2) "Party in interest" means any unit owner or owner  
8 of record, mortgagee of record, lienholder of record,  
9 judgment creditor, tax purchaser, or other party of record  
10 having any legal or equitable title or other interest in  
11 the distressed condominium property or in a unit of the  
12 property.

13 (3) "Municipality" means a city, village, or  
14 incorporated town in which the distressed condominium  
15 property is located.

16 (b) A proceeding under this Section shall be commenced by a  
17 municipality filing a verified petition or verified complaint  
18 in the circuit court in the county in which the property is  
19 located. The petition or complaint shall allege conditions  
20 specified in paragraph (1) of subsection (a) of this Section  
21 and shall request the relief available under this Section. All  
22 parties in interest of the property shall be named as  
23 defendants in the petition or complaint and summons shall be  
24 issued and service had as in other civil cases. The hearing  
25 upon the suit shall be expedited by the court and shall be  
26 given precedence over other actions.

1       (c) If a court finds that the property is a distressed  
2 condominium property:

3           (1) the court may order the appointment of a receiver  
4 for the property with the powers specified in this Section;  
5 or

6           (2) the court may appoint a receiver for the property  
7 and if the court further finds that the property is not  
8 viable as a condominium, then the court may declare:

9                   (A) that the property is no longer a condominium;

10                   (B) that the property shall be deemed to be owned  
11 in common by the unit owners;

12                   (C) that the undivided interest in the property  
13 which shall appertain to each unit owner shall be the  
14 percentage of undivided interest previously owned by  
15 the owner in the common elements; and

16                   (D) that any liens affecting any unit shall be  
17 deemed to be attached to the undivided interest of the  
18 unit owner in the property as provided herein.

19       A copy of the court's declaration under this subsection (c)  
20 shall be recorded by the municipality in the office of the  
21 recorder of deeds in the county where the property is located  
22 against both the individual units and owners and the general  
23 property. The court's declaration shall be forwarded to the  
24 county assessor's office in the county where the property is  
25 located.

26       (d) If a court finds that property is subject to paragraph

1 (2) of subsection (c) of this Section, the court may authorize  
2 the receiver to enter into a sales contract and transfer the  
3 title of the property on behalf of the owners of the property  
4 without their consent. In the event of such a sale, the net  
5 proceeds of sale, after payment of all the receiver's costs,  
6 time, expenses, and fees as evidenced by the receiver's notes  
7 or certificates duly issued and assigned as provided for in  
8 subsection (f) of this Section, shall be deposited into an  
9 escrow account. Proceeds in the escrow account shall be  
10 segregated into the respective shares of each unit owner as  
11 determined under subparagraph (C) of paragraph (2) of  
12 subsection (c) of this Section and shall be distributed from  
13 each respective share as follows: (1) to pay taxes attributable  
14 to the unit owner; then (2) to pay other liens attributable to  
15 the unit owner; and then (3) to pay each unit owner any  
16 remaining sums from his or her respective share.

17 (e) A receiver appointed under this Section shall have  
18 possession of the property and shall have full power and  
19 authority to operate, manage, and conserve the property. A  
20 receiver appointed pursuant to this Section must manage the  
21 property as would a prudent person. A receiver may, without an  
22 order of the court, delegate managerial functions to a person  
23 in the business of managing real estate of the kind involved  
24 who is financially responsible and prudently selected.

25 Without limiting the foregoing, a receiver during such time  
26 shall have the power and authority to:

1           (1) secure, clean, board and enclose, and keep secure,  
2           clean, boarded and enclosed, the property or any portion of  
3           the property;

4           (2) secure tenants and execute leases for the property,  
5           the duration and terms of which are reasonable and  
6           customary for the type of use involved, and the leases  
7           shall have the same priority as if made by the owner of the  
8           property;

9           (3) collect the rents, issues, and profits, including  
10          assessments which have been or may be levied;

11          (4) insure the property against loss by fire or other  
12          casualty;

13          (5) employ counsel, custodians, janitors, and other  
14          help;

15          (6) pay taxes which may have been or may be levied  
16          against the property;

17          (7) maintain or disconnect, as appropriate, any  
18          essential utility to the property;

19          (8) make repairs and improvements necessary to comply  
20          with building, housing, and other similar codes;

21          (9) hold receipts as reserves as reasonably required  
22          for the foregoing purposes; and

23          (10) exercise the other powers as are granted to the  
24          receiver by the appointing court.

25          (f) If the court orders the appointment of a receiver, the  
26          receiver may use the rents and issues of the property toward

1 maintenance, repair, and rehabilitation of the property prior  
2 to and despite any assignment of rents; and the court may  
3 further authorize the receiver to recover the cost of any  
4 feasibility study, sale, management, maintenance, repair, and  
5 rehabilitation by the issuance and sale of notes or receiver's  
6 certificates bearing such interest as the court may fix, and  
7 the notes or certificates, after their initial issuance and  
8 transfer by the receiver, shall be freely transferable and when  
9 sold or transferred by the receiver in return for a valuable  
10 consideration in money, material, labor, or services shall be a  
11 first lien upon the real estate and the rents and issues  
12 thereof and shall be superior to all prior assignments of rents  
13 and all prior existing liens and encumbrances, except taxes;  
14 provided, that within 90 days of the sale or transfer for value  
15 by the receiver of a note or certificate, the holder thereof  
16 shall file notice of the lien in the office of the recorder in  
17 the county in which the real estate is located. The notice of  
18 the lien filed shall set forth (i) a description of the real  
19 estate affected sufficient for the identification thereof,  
20 (ii) the face amount of the receiver's note or certificate,  
21 together with the interest payable thereon, and (iii) the date  
22 when the receiver's note or certificate was sold or transferred  
23 for value by the receiver. Upon payment to the holder of the  
24 receiver's note or certificate of the face amount thereof  
25 together with any interest thereon to the date of payment, and  
26 upon the filing of record of a sworn statement of such payment,

1 the lien of such certificate shall be released. The lien may be  
2 enforced by proceedings to foreclose as in the case of a  
3 mortgage or a mechanics lien, and the action to foreclose the  
4 lien may be commenced at any time after the date of default.  
5 For the purposes of this subsection, the date of default shall  
6 be deemed to occur 30 days from the date of issuance of the  
7 receiver's certificate if at that time the certificate remains  
8 unpaid in whole or in part. The receiver's lien shall be paid  
9 upon the sale of the property as set forth in subsection (e) of  
10 this Section.

11 (g) The court may remove a receiver upon a showing of good  
12 cause, in which case a new receiver may be appointed in  
13 accordance with this Section.