

SB1914



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1914

Introduced 2/6/2025, by Sen. Lakesia Collins

SYNOPSIS AS INTRODUCED:

765 ILCS 605/9

from Ch. 30, par. 309

Amends the Condominium Property Act. Requires that if there is negligence on the part of the board resulting in the loss of use of a unit by the unit owner, a portion of the reserves must be designated for use to assist the unit owner in covering expenses incurred as a result of the loss of use if the unit owner does not carry Category D loss-of-use insurance.

LRB104 09871 JRC 19939 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 Condominium Property Act is amended by
5 changing Section 9 as follows:

6 (765 ILCS 605/9) (from Ch. 30, par. 309)

7 Sec. 9. Sharing of expenses - Lien for nonpayment.

8 (a) All common expenses incurred or accrued prior to the
9 first conveyance of a unit shall be paid by the developer, and
10 during this period no common expense assessment shall be
11 payable to the association. It shall be the duty of each unit
12 owner including the developer to pay his proportionate share
13 of the common expenses commencing with the first conveyance.
14 The proportionate share shall be in the same ratio as his
15 percentage of ownership in the common elements set forth in
16 the declaration.

17 (b) The condominium instruments may provide that common
18 expenses for insurance premiums be assessed on a basis
19 reflecting increased charges for coverage on certain units.

20 (c) Budget and reserves.

21 (1) The board of managers shall prepare and distribute
22 to all unit owners a detailed proposed annual budget,
23 setting forth with particularity all anticipated common

1 expenses by category as well as all anticipated
2 assessments and other income. The initial budget and
3 common expense assessment based thereon shall be adopted
4 prior to the conveyance of any unit. The budget shall also
5 set forth each unit owner's proposed common expense
6 assessment.

7 (2) All budgets adopted by a board of managers on or
8 after July 1, 1990 shall provide for reasonable reserves
9 for capital expenditures and deferred maintenance for
10 repair or replacement of the common elements. In the case
11 of negligence on the part of the board resulting in the
12 loss of use of a unit by the unit owner, a portion of the
13 reserves shall also be designated for use to assist the
14 unit owner in covering expenses incurred as a result of
15 the loss of use if the unit owner does not carry Category D
16 loss-of-use insurance. To determine the amount of reserves
17 appropriate for an association, the board of managers
18 shall take into consideration the following: (i) the
19 repair and replacement cost, and the estimated useful
20 life, of the property which the association is obligated
21 to maintain, including but not limited to structural and
22 mechanical components, surfaces of the buildings and
23 common elements, and energy systems and equipment; (ii)
24 the current and anticipated return on investment of
25 association funds; (iii) any independent professional
26 reserve study which the association may obtain; (iv) the

1 financial impact on unit owners, and the market value of
2 the condominium units, of any assessment increase needed
3 to fund reserves; and (v) the ability of the association
4 to obtain financing or refinancing.

5 (3) Notwithstanding the provisions of this subsection
6 (c), an association without a reserve requirement in its
7 condominium instruments may elect to waive in whole or in
8 part the reserve requirements of this Section by a vote of
9 2/3 of the total votes of the association. Any association
10 having elected under this paragraph (3) to waive the
11 provisions of subsection (c) may by a vote of 2/3 of the
12 total votes of the association elect to again be governed
13 by the requirements of subsection (c).

14 (4) In the event that an association elects to waive
15 all or part of the reserve requirements of this Section,
16 that fact must be disclosed after the meeting at which the
17 waiver occurs by the association in the financial
18 statements of the association and, highlighted in bold
19 print, in the response to any request of a prospective
20 purchaser for the information prescribed under Section
21 22.1; and no member of the board of managers or the
22 managing agent of the association shall be liable, and no
23 cause of action may be brought for damages against these
24 parties, for the lack or inadequacy of reserve funds in
25 the association budget.

26 (5) At the end of an association's fiscal year and

1 after the association has approved any end-of-year fiscal
2 audit, if applicable, if the fiscal year ended with a
3 surplus of funds over actual expenses, including budgeted
4 reserve fund contributions, then, to the extent that there
5 are not any contrary provisions in the association's
6 declaration and bylaws, the board of managers has the
7 authority, in its discretion, to dispose of the surplus in
8 one or more of the following ways: (i) contribute the
9 surplus to the association's reserve fund; (ii) return the
10 surplus to the unit owners as a credit against the
11 remaining monthly assessments for the current fiscal year;
12 (iii) return the surplus to the unit owners in the form of
13 a direct payment to the unit owners; or (iv) maintain the
14 funds in the operating account, in which case the funds
15 shall be applied as a credit when calculating the
16 following year's annual budget. If the fiscal year ends in
17 a deficit, then, to the extent that there are not any
18 contrary provisions in the association's declaration and
19 bylaws, the board of managers has the authority, in its
20 discretion, to address the deficit by incorporating it
21 into the following year's annual budget. If 20% of the
22 unit owners of the association deliver a petition
23 objecting to the action under this paragraph (5) within 30
24 days after notice to the unit owners of the action, the
25 board of managers shall call a meeting of the unit owners
26 within 30 days of the date of delivery of the petition. At

1 the meeting, the unit owners may vote to select a
2 different option than the option selected by the board of
3 managers. Unless a majority of the total votes of the unit
4 owners are cast at the meeting to reject the board's
5 selection and select a different option, the board's
6 decision is ratified.

7 (d) (Blank).

8 (e) The condominium instruments may provide for the
9 assessment, in connection with expenditures for the limited
10 common elements, of only those units to which the limited
11 common elements are assigned.

12 (f) Payment of any assessment shall be in amounts and at
13 times determined by the board of managers.

14 (g) Lien.

15 (1) If any unit owner shall fail or refuse to make any
16 payment of the common expenses or the amount of any unpaid
17 fine when due, the amount thereof together with any
18 interest, late charges, reasonable attorney fees incurred
19 enforcing the covenants of the condominium instruments,
20 rules and regulations of the board of managers, or any
21 applicable statute or ordinance, and costs of collections
22 shall constitute a lien on the interest of the unit owner
23 in the property prior to all other liens and encumbrances,
24 recorded or unrecorded, except only (a) taxes, special
25 assessments and special taxes theretofore or thereafter
26 levied by any political subdivision or municipal

1 corporation of this State and other State or federal taxes
2 which by law are a lien on the interest of the unit owner
3 prior to preexisting recorded encumbrances thereon and (b)
4 encumbrances on the interest of the unit owner recorded
5 prior to the date of such failure or refusal which by law
6 would be a lien thereon prior to subsequently recorded
7 encumbrances. Any action brought to extinguish the lien of
8 the association shall include the association as a party.

9 (2) With respect to encumbrances executed prior to
10 August 30, 1984 or encumbrances executed subsequent to
11 August 30, 1984 which are neither bonafide first mortgages
12 nor trust deeds and which encumbrances contain a statement
13 of a mailing address in the State of Illinois where notice
14 may be mailed to the encumbrancer thereunder, if and
15 whenever and as often as the manager or board of managers
16 shall send, by United States certified or registered mail,
17 return receipt requested, to any such encumbrancer at the
18 mailing address set forth in the recorded encumbrance a
19 statement of the amounts and due dates of the unpaid
20 common expenses with respect to the encumbered unit, then,
21 unless otherwise provided in the declaration or bylaws,
22 the prior recorded encumbrance shall be subject to the
23 lien of all unpaid common expenses with respect to the
24 unit which become due and payable within a period of 90
25 days after the date of mailing of each such notice.

26 (3) The purchaser of a condominium unit at a judicial

1 foreclosure sale, or a mortgagee who receives title to a
2 unit by deed in lieu of foreclosure or judgment by common
3 law strict foreclosure or otherwise takes possession
4 pursuant to court order under the Illinois Mortgage
5 Foreclosure Law, shall have the duty to pay the unit's
6 proportionate share of the common expenses for the unit
7 assessed from and after the first day of the month after
8 the date of the judicial foreclosure sale, delivery of the
9 deed in lieu of foreclosure, entry of a judgment in common
10 law strict foreclosure, or taking of possession pursuant
11 to such court order. Such payment confirms the
12 extinguishment of any lien created pursuant to paragraph
13 (1) or (2) of this subsection (g) by virtue of the failure
14 or refusal of a prior unit owner to make payment of common
15 expenses, where the judicial foreclosure sale has been
16 confirmed by order of the court, a deed in lieu thereof has
17 been accepted by the lender, or a consent judgment has
18 been entered by the court.

19 (4) The purchaser of a condominium unit at a judicial
20 foreclosure sale, other than a mortgagee, who takes
21 possession of a condominium unit pursuant to a court order
22 or a purchaser who acquires title from a mortgagee shall
23 have the duty to pay the proportionate share, if any, of
24 the common expenses for the unit which would have become
25 due in the absence of any assessment acceleration during
26 the 6 months immediately preceding institution of an

1 action to enforce the collection of assessments, and which
2 remain unpaid by the owner during whose possession the
3 assessments accrued. If the outstanding assessments are
4 paid at any time during any action to enforce the
5 collection of assessments, the purchaser shall have no
6 obligation to pay any assessments which accrued before he
7 or she acquired title.

8 (5) The notice of sale of a condominium unit under
9 subsection (c) of Section 15-1507 of the Code of Civil
10 Procedure shall state that the purchaser of the unit other
11 than a mortgagee shall pay the assessments and the legal
12 fees required by subdivisions (g) (1) and (g) (4) of Section
13 9 of this Act. The statement of assessment account issued
14 by the association to a unit owner under subsection (i) of
15 Section 18 of this Act, and the disclosure statement
16 issued to a prospective purchaser under Section 22.1 of
17 this Act, shall state the amount of the assessments and
18 the legal fees, if any, required by subdivisions (g) (1)
19 and (g) (4) of Section 9 of this Act.

20 (h) A lien for common expenses shall be in favor of the
21 members of the board of managers and their successors in
22 office and shall be for the benefit of all other unit owners.
23 Notice of the lien may be recorded by the board of managers, or
24 if the developer is the manager or has a majority of seats on
25 the board of managers and the manager or board of managers
26 fails to do so, any unit owner may record notice of the lien.

1 Upon the recording of such notice the lien may be foreclosed by
2 an action brought in the name of the board of managers in the
3 same manner as a mortgage of real property.

4 (i) Unless otherwise provided in the declaration, the
5 members of the board of managers and their successors in
6 office, acting on behalf of the other unit owners, shall have
7 the power to bid on the interest so foreclosed at the
8 foreclosure sale, and to acquire and hold, lease, mortgage and
9 convey it.

10 (j) Any encumbrancer may from time to time request in
11 writing a written statement from the manager or board of
12 managers setting forth the unpaid common expenses with respect
13 to the unit covered by his encumbrance. Unless the request is
14 complied with within 20 days, all unpaid common expenses which
15 become due prior to the date of the making of such request
16 shall be subordinate to the lien of the encumbrance. Any
17 encumbrancer holding a lien on a unit may pay any unpaid common
18 expenses payable with respect to the unit, and upon payment
19 the encumbrancer shall have a lien on the unit for the amounts
20 paid at the same rank as the lien of his encumbrance.

21 (k) Nothing in Public Act 83-1271 is intended to change
22 the lien priorities of any encumbrance created prior to August
23 30, 1984.

24 (Source: P.A. 100-292, eff. 1-1-18.)