



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4158**

Introduced 10/19/2021, by Rep. Margaret Croke

#### SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-30

765 ILCS 605/19

from Ch. 30, par. 319

Amends the Common Interest Community Association Act. Requires a common interest community association's board of managers or board of directors to maintain a record of any reserve study. Amends the Condominium Property Act. Requires the board of managers of every association to keep and maintain records of any reserve study.

LRB102 20110 LNS 28960 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 Common Interest Community Association Act  
5 is amended by changing Section 1-30 as follows:

6 (765 ILCS 160/1-30)

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

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

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

23 (c) The bylaws or operating agreement shall provide for

1 the maintenance, repair, and replacement of the common areas  
2 and payments therefor, including the method of approving  
3 payment vouchers.

4 (d) (Blank).

5 (e) The association may engage the services of a manager  
6 or management company.

7 (f) The association shall have one class of membership  
8 unless the declaration, bylaws, or operating agreement provide  
9 otherwise; however, this subsection (f) shall not be construed  
10 to limit the operation of subsection (c) of Section 1-20 of  
11 this Act.

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

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

1 unit owner's respective share of the common expenses is  
2 specifically stated in the declaration, bylaws, or operating  
3 agreement of the association.

4 (i) Board records.

5 (1) The board shall maintain the following records of  
6 the association and make them available for examination  
7 and copying at convenient hours of weekdays by any member  
8 or unit owner in a common interest community subject to  
9 the authority of the board, their mortgagees, and their  
10 duly authorized agents or attorneys:

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

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

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

3 (iv) With a written statement of a proper purpose,  
4 ballots and proxies related thereto, if any, for any  
5 election held for the board and for any other matters  
6 voted on by the members, which shall be maintained for  
7 not less than one year.

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

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

20 (vii) Any reserve study.

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

25 (3) A reasonable fee may be charged by the board for  
26 the cost of retrieving and copying records properly

1 requested.

2 (4) If the board fails to provide records properly  
3 requested under paragraph (1) of this subsection (i)  
4 within the time period provided in that paragraph (1), the  
5 member may seek appropriate relief and shall be entitled  
6 to an award of reasonable attorney's fees and costs if the  
7 member prevails and the court finds that such failure is  
8 due to the acts or omissions of the board of managers or  
9 the board of directors.

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

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

16 Section 10. The Condominium Property Act is amended by  
17 changing Section 19 as follows:

18 (765 ILCS 605/19) (from Ch. 30, par. 319)

19 Sec. 19. Records of the association; availability for  
20 examination.

21 (a) The board of managers of every association shall keep  
22 and maintain the following records, or true and complete  
23 copies of these records, at the association's principal  
24 office:

1 (1) the association's declaration, bylaws, and plats  
2 of survey, and all amendments of these;

3 (2) the rules and regulations of the association, if  
4 any;

5 (3) if the association is incorporated as a  
6 corporation, the articles of incorporation of the  
7 association and all amendments to the articles of  
8 incorporation;

9 (4) minutes of all meetings of the association and its  
10 board of managers for the immediately preceding 7 years;

11 (5) all current policies of insurance of the  
12 association;

13 (6) all contracts, leases, and other agreements then  
14 in effect to which the association is a party or under  
15 which the association or the unit owners have obligations  
16 or liabilities;

17 (7) a current listing of the names, addresses, email  
18 addresses, telephone numbers, and weighted vote of all  
19 members entitled to vote;

20 (8) ballots and proxies related to ballots for all  
21 matters voted on by the members of the association during  
22 the immediately preceding 12 months, including, but not  
23 limited to, the election of members of the board of  
24 managers; ~~and~~

25 (9) the books and records for the association's  
26 current and 10 immediately preceding fiscal years,

1 including, but not limited to, itemized and detailed  
2 records of all receipts, expenditures, and accounts; and  
3 (10) any reserve study.

4 (b) Any member of an association shall have the right to  
5 inspect, examine, and make copies of the records described in  
6 subdivisions (1), (2), (3), (4), (5), (6), ~~and (9)~~, and (10) of  
7 subsection (a) of this Section, in person or by agent, at any  
8 reasonable time or times, at the association's principal  
9 office. In order to exercise this right, a member must submit a  
10 written request to the association's board of managers or its  
11 authorized agent, stating with particularity the records  
12 sought to be examined. Failure of an association's board of  
13 managers to make available all records so requested within 10  
14 business days of receipt of the member's written request shall  
15 be deemed a denial.

16 Any member who prevails in an enforcement action to compel  
17 examination of records described in subdivisions (1), (2),  
18 (3), (4), (5), (6), ~~and (9)~~, and (10) of subsection (a) of this  
19 Section shall be entitled to recover reasonable attorney's  
20 fees and costs from the association.

21 (c) (Blank).

22 (d) (Blank).

23 (d-5) As used in this Section, "commercial purpose" means  
24 the use of any part of a record or records described in  
25 subdivisions (7) and (8) of subsection (a) of this Section, or  
26 information derived from such records, in any form for sale,



1 resale, or solicitation or advertisement for sales or  
2 services.

3 (e) Except as otherwise provided in subsection (g) of this  
4 Section, any member of an association shall have the right to  
5 inspect, examine, and make copies of the records described in  
6 subdivisions (7) and (8) of subsection (a) of this Section, in  
7 person or by agent, at any reasonable time or times but only  
8 for a purpose that relates to the association, at the  
9 association's principal office. In order to exercise this  
10 right, a member must submit a written request, to the  
11 association's board of managers or its authorized agent,  
12 stating with particularity the records sought to be examined.  
13 As a condition for exercising this right, the board of  
14 managers or authorized agent of the association may require  
15 the member to certify in writing that the information  
16 contained in the records obtained by the member will not be  
17 used by the member for any commercial purpose or for any  
18 purpose that does not relate to the association. The board of  
19 managers of the association may impose a fine in accordance  
20 with item (1) of Section 18.4 upon any person who makes a false  
21 certification. Subject to the provisions of subsection (g) of  
22 this Section, failure of an association's board of managers to  
23 make available all records so requested within 10 business  
24 days of receipt of the member's written request shall be  
25 deemed a denial; provided, however, that the board of managers  
26 of an association that has adopted a secret ballot election

1 process as provided in Section 18 of this Act shall not be  
2 deemed to have denied a member's request for records described  
3 in subdivision (8) of subsection (a) of this Section if voting  
4 ballots, without identifying unit numbers, are made available  
5 to the requesting member within 10 business days of receipt of  
6 the member's written request.

7 Any member who prevails in an enforcement action to compel  
8 examination of records described in subdivision (7) or (8) of  
9 subsection (a) of this Section shall be entitled to recover  
10 reasonable attorney's fees and costs from the association only  
11 if the court finds that the board of directors acted in bad  
12 faith in denying the member's request.

13 (f) The actual cost to the association of retrieving and  
14 making requested records available for inspection and  
15 examination under this Section may be charged by the  
16 association to the requesting member. If a member requests  
17 copies of records requested under this Section, the actual  
18 costs to the association of reproducing the records may also  
19 be charged by the association to the requesting member.

20 (g) Notwithstanding the provisions of subsection (e) of  
21 this Section, unless otherwise directed by court order, an  
22 association need not make the following records available for  
23 inspection, examination, or copying by its members:

24 (1) documents relating to appointment, employment,  
25 discipline, or dismissal of association employees;

26 (2) documents relating to actions pending against or

1 on behalf of the association or its board of managers in a  
2 court or administrative tribunal;

3 (3) documents relating to actions threatened against,  
4 or likely to be asserted on behalf of, the association or  
5 its board of managers in a court or administrative  
6 tribunal;

7 (4) documents relating to common expenses or other  
8 charges owed by a member other than the requesting member;  
9 and

10 (5) documents provided to an association in connection  
11 with the lease, sale, or other transfer of a unit by a  
12 member other than the requesting member.

13 (h) The provisions of this Section are applicable to all  
14 condominium instruments recorded under this Act. Any portion  
15 of a condominium instrument that contains provisions contrary  
16 to these provisions shall be void as against public policy and  
17 ineffective. Any condominium instrument that fails to contain  
18 the provisions required by this Section shall be deemed to  
19 incorporate the provisions by operation of law.

20 (Source: P.A. 100-292, eff. 1-1-18; 100-863, eff. 8-14-18.)