



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0111

Introduced 2/3/2021, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

765 ILCS 605/15
765 ILCS 605/31

from Ch. 30, par. 315
from Ch. 30, par. 331

Amends the Condominium Property Act. Provides that any unit owner objecting to a sale of the property shall have 30 (instead of 20) days from the date of the meeting approving the sale of the property to file a written objection. Provides that for the vote to approve a sale of the property to be valid, the notice to unit owners announcing the unit owner meeting shall include the name of the proposed purchaser, the amount the purchaser is offering, and copies of any written offer from the proposed purchaser. Provides that the notice shall apprise the unit owners that after the purchaser has received the required 75% approval, any unit owner objecting to the sale shall have 30 days from the date of the meeting approving the sale of the property to file a written objection. Provides that a sale of the property is solely within the powers, duties, and authority reserved by law to the members of the association. Restricts the association and the board of managers from acting in furtherance of a sale of the property on behalf of all unit owners absent the approval of such action. Allows a unit owner to serve a written demand on the board of managers to immediately cease and desist taking action if the association or board of managers takes any action in furtherance of a sale of the property on behalf of all unit owners without first receiving the affirmative vote of not less than 2/3 of unit owners. Requires the board of managers to certify to each unit owner making the demand that the action has ceased or that no such action has taken place within the preceding 90 days. Allows a unit owner making a demand to commence a legal action to enjoin and restrain the unauthorized action if the board of managers fails to certify that all action has ceased or is not taking place, or falsely certifies the same. Provides that, upon proof of a violation, the unit owner is entitled to recover from the association and any member of the board of managers participating in or approving the unauthorized action all reasonable costs and expenses. Makes other changes.

LRB102 04084 LNS 14100 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 changing Sections 15 and 31 as follows:

6 (765 ILCS 605/15) (from Ch. 30, par. 315)

7 Sec. 15. Sale of property.

8 (a) Unless a greater percentage is provided for in the
9 declaration or bylaws, and notwithstanding the provisions of
10 Sections 13 and 14 hereof, a majority of the unit owners where
11 the property contains 2 units, or not less than 66 2/3% where
12 the property contains three units, and not less than 75% where
13 the property contains 4 or more units may, by affirmative vote
14 at a meeting of unit owners duly called for such purpose, elect
15 to sell the property. Such action shall be binding upon all
16 unit owners, and it shall thereupon become the duty of every
17 unit owner to execute and deliver such instruments and to
18 perform all acts as in manner and form may be necessary to
19 effect such sale, provided, however, that any unit owner who
20 did not vote in favor of such action and who has filed written
21 objection thereto with the manager or board of managers within
22 30 ~~20~~ days after the date of the meeting at which such sale was
23 approved shall be entitled to receive from the proceeds of

1 such sale an amount equivalent to the greater of: (i) the value
2 of his or her interest, as determined by a fair appraisal, less
3 the amount of any unpaid assessments or charges due and owing
4 from such unit owner or (ii) the outstanding balance of any
5 bona fide debt secured by the objecting unit owner's interest
6 which was incurred by such unit owner in connection with the
7 acquisition or refinance of the unit owner's interest, less
8 the amount of any unpaid assessments or charges due and owing
9 from such unit owner. The objecting unit owner is also
10 entitled to receive from the proceeds of a sale under this
11 Section reimbursement for reasonable relocation costs,
12 determined in the same manner as under the federal Uniform
13 Relocation Assistance and Real Property Acquisition Policies
14 Act of 1970, as amended from time to time, and as implemented
15 by regulations promulgated under that Act.

16 For the vote to approve the sale of the property to be
17 valid, the notice to unit owners announcing the unit owner
18 meeting called for the purpose of voting on whether to approve
19 the sale of the property shall include the name of the proposed
20 purchaser, the amount the purchaser is offering, and copies of
21 any written offer from the proposed purchaser. In addition,
22 the notice shall apprise the unit owners that after the
23 purchaser has received the required 75% approval, any unit
24 owner objecting to the sale pursuant to this Section shall
25 have 30 days from the date of the meeting approving the sale of
26 the property to file a written objection and the notice shall

1 set forth the address to which such a written objection shall
2 be mailed.

3 (b) If there is a disagreement as to the value of the
4 interest of a unit owner who did not vote in favor of the sale
5 of the property, that unit owner shall have a right to
6 designate an expert in appraisal or property valuation to
7 represent him, in which case, the prospective purchaser of the
8 property shall designate an expert in appraisal or property
9 valuation to represent him, and both of these experts shall
10 mutually designate a third expert in appraisal or property
11 valuation. The 3 experts shall constitute a panel to determine
12 by vote of at least 2 of the members of the panel, the value of
13 that unit owner's interest in the property. The changes made
14 by this amendatory Act of the 100th General Assembly apply to
15 sales under this Section that are pending or commenced on and
16 after the effective date of this amendatory Act of the 100th
17 General Assembly.

18 (c) A sale of the property pursuant to this Section is
19 solely within the powers, duties, and authority reserved by
20 law to the members of the association as referred to in Section
21 18.4.

22 (d) Neither the association nor the board of managers
23 shall have the authority to act in furtherance of a sale of the
24 property on behalf of all unit owners absent approval of such
25 action at a special meeting of unit owners duly called for that
26 purpose pursuant to subparagraph (iii) of paragraph (13) of

1 subsection (b) of Section 18. As used in this subsection, an
2 action in furtherance of the sale of the property on behalf of
3 all unit owners includes, but is not limited to:

4 (1) listing the property with a real estate broker for
5 sale on behalf of all unit owners;

6 (2) otherwise offering the property for sale on behalf
7 of all unit owners;

8 (3) negotiating a contract for sale of the property on
9 behalf of all unit owners; or

10 (4) any combination of paragraphs (1), (2), and (3).

11 The taking of any such action in furtherance of a sale of the
12 property in the absence of the consent of unit owners granted
13 at a special meeting of unit owners duly called for that
14 purpose pursuant to subparagraph (iii) of paragraph (13) of
15 subsection (b) of Section 18 shall constitute ultra vires
16 action and shall not bind the association or any unit owner.

17 (e) If the association or the board of managers takes any
18 action in furtherance of a sale of the property on behalf of
19 all unit owners without first receiving the affirmative vote
20 of not less than 2/3 of the votes of unit owners at a meeting
21 duly called for that purpose as provided in subparagraph (iii)
22 of paragraph (13) of subsection (b) of Section 18, any unit
23 owner, or his or her representative, may serve a written
24 demand on the board of managers or manager, if any, to
25 immediately cease and desist taking such action. The board of
26 managers or manager, if any, shall, within 10 days after

1 service of such a written demand, certify in writing to each
2 person making the demand that the action in violation of
3 subsection (d) has ceased or, if no such action has taken
4 place, shall certify in writing that no such action is taking
5 place or has taken place within the preceding 90 days. The
6 certification shall be under penalties of perjury.

7 (f) If the board of managers, directly or through the
8 manager, if any, fails to certify in writing to the person
9 sending the demand that all action in violation of subsection
10 (d) has ceased or is not taking place, as provided in
11 subsection (e), or falsely certifies the same, then any unit
12 owner making the demand may commence legal action to enjoin
13 and restrain the unauthorized action. The unit owner or unit
14 owners bringing the action, upon proof of a violation of this
15 Section by a preponderance of the evidence, shall be awarded,
16 from the association and from any member of the board of
17 managers participating in or approving the unauthorized
18 actions, jointly and severally, all reasonable costs and
19 expenses of the enforcement of this Section, including, but
20 not limited to, reasonable attorney's fees.

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

22 (765 ILCS 605/31) (from Ch. 30, par. 331)

23 Sec. 31. Subdivision or combination of units.

24 (a) As used in this Section, "combination of any units"
25 means any 2 or more ~~residential~~ units to be used as a single

1 unit as shown on the plat or amended plat, which may involve,
2 without limitation, additional exclusive use of a portion of
3 the common elements within the building adjacent to the
4 combined unit (for example, without limitation, the use of a
5 portion of an adjacent common hallway).

6 (b) Unless the condominium instruments expressly prohibit
7 the subdivision or combination of any units, and subject to
8 additional limitations provided by the condominium
9 instruments, the owner or owners may, at their own expense,
10 subdivide or combine and locate or relocate common elements
11 affected or required thereby, in accordance with the
12 provisions of the condominium instruments and the requirements
13 of this Act. The owner or owners shall make written
14 application to the board of managers, requesting an amendment
15 to the condominium instruments, setting forth in the
16 application a proposed reallocation to the new units of the
17 percentage interest in the common elements, and setting forth
18 whether the limited common elements, if any, previously
19 assigned to the unit to be subdivided should be assigned to
20 each new unit or to fewer than all of the new units created and
21 requesting, if desired in the event of a combination of any
22 units, that the new unit be granted the exclusive right to use
23 as a limited common element, a portion of the common elements
24 within the building adjacent to the new unit. If the
25 transaction is approved by a majority of the board of
26 managers, it shall be effective upon (1) recording of an

1 amendment to condominium instruments in accordance with the
2 provisions of Sections 5 and 6 of this Act, and (2) execution
3 by the owners of the units involved.

4 (c) In the event of a combination of any units, the
5 amendment under subsection (b) may grant the owner of the
6 combined unit the exclusive right to use, as a limited common
7 element, a portion of the common elements within the building
8 adjacent to the new unit. The request for the amendment shall
9 be granted and the amendment shall grant this exclusive right
10 to use as a limited common element if the following conditions
11 are met:

12 (1) the common element for which the exclusive right
13 to use as a limited common element is sought is not
14 necessary or practical for use by the owners of any units
15 other than the owner or owners of the combined unit; and

16 (2) the owner or owners of the combined unit are
17 responsible for any and all costs associated with the
18 renovation, modification, or other adaptation performed as
19 a result of the granting of the exclusive right to use as a
20 limited common element.

21 (d) If the combined unit is divided, part of the original
22 combined unit is sold, and the grant of the exclusive right to
23 use as a limited common element is no longer necessary,
24 practical, or appropriate for the use and enjoyment of the
25 owner or owners of the original combined unit, the board may
26 terminate the grant of the exclusive right to use as a limited

1 common element and require that the owner or owners of the
2 original combined unit restore the common area to its
3 condition prior to the grant of the exclusive right to use as a
4 limited common element. If the combined unit is sold without
5 being divided, the grant of the exclusive right to use as a
6 limited common element shall apply to the new owner or owners
7 of the combined unit, who shall assume the rights and
8 responsibilities of the original owner or owners.

9 (e) Under this Section, the exclusive right to use as a
10 limited common element any portion of the common elements that
11 is not necessary or practical for use by the owners of any
12 other units is not a diminution of the ownership interests of
13 all other unit owners requiring unanimous consent of all unit
14 owners under subsection (e) of Section 4 of this Act or any
15 percentage set forth in the condominium instruments.

16 (f) Notwithstanding Section 27 of this Act and any other
17 amendment provisions set forth in the condominium instruments,
18 an amendment pursuant to this Section is effective if it meets
19 the requirements set forth in this Section.

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