



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3193

Introduced 1/13/2022, by Sen. Meg Loughran Cappel

SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-30
765 ILCS 605/19

from Ch. 30, par. 319

Amends the Common Interest Community Association Act. Provides that a reasonable fee may be charged by a common interest community association's board of managers or board of directors for the cost of retrieving and copying records, but in no case shall the fee exceed \$150. Allows a board to charge an additional rush fee of not more than \$100 if the records are needed within 72 hours after the request for the records is made. Provides that any fees charged shall be accompanied by an itemized statement detailing the basis of the fees being charged. Amends the Condominium Property Act. Removes language allowing an association to charge the requesting member the actual cost of retrieving and making requested records available for inspection and examination and the actual cost of reproducing the records. Provides instead that an association may charge a reasonable fee for the cost of retrieving and copying records available for inspection and examination, but in no case shall the fee exceed \$150. Allows an association to charge an additional rush fee of not more than \$100 if the records are needed within 72 hours after the request for the records is made. Provides that any fees charged shall be accompanied by an itemized statement detailing the basis of the fees being charged. Effective Immediately

LRB102 24026 LNS 33238 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 (2) Where a request for records under this subsection
21 is made in writing to the board or its agent, failure to
22 provide the requested record or to respond within 30 days
23 shall be deemed a denial by the board.

24 (3) A reasonable fee may be charged by the board for
25 the cost of retrieving and copying records properly
26 requested, but in no case shall the fee exceed \$150. The

1 board may charge an additional rush fee of not more than
2 \$100 if the records are needed within 72 hours after the
3 request for the records is made. Any fees charged shall be
4 accompanied by an itemized statement detailing the basis
5 of the fees being charged.

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

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

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

20 Section 10. The Condominium Property Act is amended by
21 changing Section 19 as follows:

22 (765 ILCS 605/19) (from Ch. 30, par. 319)

23 Sec. 19. Records of the association; availability for
24 examination.

1 (a) The board of managers of every association shall keep
2 and maintain the following records, or true and complete
3 copies of these records, at the association's principal
4 office:

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

7 (2) the rules and regulations of the association, if
8 any;

9 (3) if the association is incorporated as a
10 corporation, the articles of incorporation of the
11 association and all amendments to the articles of
12 incorporation;

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

15 (5) all current policies of insurance of the
16 association;

17 (6) all contracts, leases, and other agreements then
18 in effect to which the association is a party or under
19 which the association or the unit owners have obligations
20 or liabilities;

21 (7) a current listing of the names, addresses, email
22 addresses, telephone numbers, and weighted vote of all
23 members entitled to vote;

24 (8) ballots and proxies related to ballots for all
25 matters voted on by the members of the association during
26 the immediately preceding 12 months, including, but not

1 limited to, the election of members of the board of
2 managers; and

3 (9) the books and records for the association's
4 current and 10 immediately preceding fiscal years,
5 including, but not limited to, itemized and detailed
6 records of all receipts, expenditures, and accounts.

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

19 Any member who prevails in an enforcement action to compel
20 examination of records described in subdivisions (1), (2),
21 (3), (4), (5), (6), and (9) of subsection (a) of this Section
22 shall be entitled to recover reasonable attorney's fees and
23 costs from the association.

24 (c) (Blank).

25 (d) (Blank).

26 (d-5) As used in this Section, "commercial purpose" means

1 the use of any part of a record or records described in
2 subdivisions (7) and (8) of subsection (a) of this Section, or
3 information derived from such records, in any form for sale,
4 resale, or solicitation or advertisement for sales or
5 services.

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

1 days of receipt of the member's written request shall be
2 deemed a denial; provided, however, that the board of managers
3 of an association that has adopted a secret ballot election
4 process as provided in Section 18 of this Act shall not be
5 deemed to have denied a member's request for records described
6 in subdivision (8) of subsection (a) of this Section if voting
7 ballots, without identifying unit numbers, are made available
8 to the requesting member within 10 business days of receipt of
9 the member's written request.

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

16 (f) The association may charge a reasonable fee for the
17 cost of retrieving and copying records available for
18 inspection and examination under this Section, but in no case
19 shall the fee exceed \$150. The association may charge an
20 additional rush fee of not more than \$100 if the records are
21 needed within 72 hours after the request for the records is
22 made. Any fees charged shall be accompanied by an itemized
23 statement detailing the basis of the fees being charged. ~~The~~
24 actual cost to the association of retrieving and making
25 requested records available for inspection and examination
26 under this Section may be charged by the association to the

1 ~~requesting member. If a member requests copies of records~~
2 ~~requested under this Section, the actual costs to the~~
3 ~~association of reproducing the records may also be charged by~~
4 ~~the association to the requesting member.~~

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

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

11 (2) documents relating to actions pending against or
12 on behalf of the association or its board of managers in a
13 court or administrative tribunal;

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

18 (4) documents relating to common expenses or other
19 charges owed by a member other than the requesting member;
20 and

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

24 (h) The provisions of this Section are applicable to all
25 condominium instruments recorded under this Act. Any portion
26 of a condominium instrument that contains provisions contrary

1 to these provisions shall be void as against public policy and
2 ineffective. Any condominium instrument that fails to contain
3 the provisions required by this Section shall be deemed to
4 incorporate the provisions by operation of law.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.