



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3593

Introduced 2/24/2005, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

765 ILCS 605/18.4

from Ch. 30, par. 318.4

Amends the Condominium Property Act. Adds to the list of powers of the Board of Managers, the power to accept, for property with more than 8 units, service of a notice of claim for purposes of the Mechanics Lien Act on behalf of each representative member of the Unit Owners' Association with respect to improvements performed pursuant to any contract entered into by the Board of Managers or any contract entered into prior to the recording of the condominium declaration. Adds the power to distribute the notices to the unit owners. Provides that service to the Board of Managers shall be treated the same as service to the individual unit owner. Effective immediately.

LRB094 08876 LCB 39095 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 Section 18.4 as follows:

6 (765 ILCS 605/18.4) (from Ch. 30, par. 318.4)

7 Sec. 18.4. Powers and Duties of Board of Managers. The
8 board of managers shall exercise for the association all
9 powers, duties and authority vested in the association by law
10 or the condominium instruments except for such powers, duties
11 and authority reserved by law to the members of the
12 association. The powers and duties of the board of managers
13 shall include, but shall not be limited to, the following:

14 (a) To provide for the operation, care, upkeep,
15 maintenance, replacement and improvement of the common
16 elements. Nothing in this subsection (a) shall be deemed to
17 invalidate any provision in a condominium instrument
18 placing limits on expenditures for the common elements,
19 provided, that such limits shall not be applicable to
20 expenditures for repair, replacement, or restoration of
21 existing portions of the common elements. The term "repair,
22 replacement or restoration" means expenditures to
23 deteriorated or damaged portions of the property related to
24 the existing decorating, facilities, or structural or
25 mechanical components, interior or exterior surfaces, or
26 energy systems and equipment with the functional
27 equivalent of the original portions of such areas.
28 Replacement of the common elements may result in an
29 improvement over the original quality of such elements or
30 facilities; provided that, unless the improvement is
31 mandated by law or is an emergency as defined in item (iv)
32 of subparagraph (8) of paragraph (a) of Section 18, if the

1 improvement results in a proposed expenditure exceeding 5%
2 of the annual budget, the board of managers, upon written
3 petition by unit owners with 20% of the votes of the
4 association delivered to the board within 14 days of the
5 board action to approve the expenditure, shall call a
6 meeting of the unit owners within 30 days of the date of
7 delivery of the petition to consider the expenditure.
8 Unless a majority of the total votes of the unit owners are
9 cast at the meeting to reject the expenditure, it is
10 ratified.

11 (b) To prepare, adopt and distribute the annual budget
12 for the property.

13 (c) To levy and expend assessments.

14 (d) To collect assessments from unit owners.

15 (e) To provide for the employment and dismissal of the
16 personnel necessary or advisable for the maintenance and
17 operation of the common elements.

18 (f) To obtain adequate and appropriate kinds of
19 insurance.

20 (g) To own, convey, encumber, lease, and otherwise deal
21 with units conveyed to or purchased by it.

22 (h) To adopt and amend rules and regulations covering
23 the details of the operation and use of the property, after
24 a meeting of the unit owners called for the specific
25 purpose of discussing the proposed rules and regulations.
26 Notice of the meeting shall contain the full text of the
27 proposed rules and regulations, and the meeting shall
28 conform to the requirements of Section 18(b) of this Act,
29 except that no quorum is required at the meeting of the
30 unit owners unless the declaration, bylaws or other
31 condominium instrument expressly provides to the contrary.
32 However, no rule or regulation may impair any rights
33 guaranteed by the First Amendment to the Constitution of
34 the United States or Section 4 of Article I of the Illinois
35 Constitution, nor may any rules or regulations conflict
36 with the provisions of this Act or the condominium

1 instruments.

2 (i) To keep detailed, accurate records of the receipts
3 and expenditures affecting the use and operation of the
4 property.

5 (j) To have access to each unit from time to time as
6 may be necessary for the maintenance, repair or replacement
7 of any common elements or for making emergency repairs
8 necessary to prevent damage to the common elements or to
9 other units.

10 (k) To pay real property taxes, special assessments,
11 and any other special taxes or charges of the State of
12 Illinois or of any political subdivision thereof, or other
13 lawful taxing or assessing body, which are authorized by
14 law to be assessed and levied upon the real property of the
15 condominium.

16 (l) To impose charges for late payment of a unit
17 owner's proportionate share of the common expenses, or any
18 other expenses lawfully agreed upon, and after notice and
19 an opportunity to be heard, to levy reasonable fines for
20 violation of the declaration, by-laws, and rules and
21 regulations of the association.

22 (m) Unless the condominium instruments expressly
23 provide to the contrary, by a majority vote of the entire
24 board of managers, to assign the right of the association
25 to future income from common expenses or other sources, and
26 to mortgage or pledge substantially all of the remaining
27 assets of the association.

28 (n) To record the dedication of a portion of the common
29 elements to a public body for use as, or in connection
30 with, a street or utility where authorized by the unit
31 owners under the provisions of Section 14.2.

32 (o) To record the granting of an easement for the
33 laying of cable television cable where authorized by the
34 unit owners under the provisions of Section 14.3; to
35 obtain, if available and determined by the board to be in
36 the best interests of the association, cable television

1 service for all of the units of the condominium on a bulk
2 identical service and equal cost per unit basis; and to
3 assess and recover the expense as a common expense and, if
4 so determined by the board, to assess each and every unit
5 on the same equal cost per unit basis.

6 (p) To seek relief on behalf of all unit owners when
7 authorized pursuant to subsection (c) of Section 10 from or
8 in connection with the assessment or levying of real
9 property taxes, special assessments, and any other special
10 taxes or changes of the State of Illinois or of any
11 political subdivision thereof or of any lawful taxing or
12 assessing body.

13 (q) To reasonably accommodate the needs of a
14 handicapped unit owner as required by the federal Civil
15 Rights Act of 1968, the Human Rights Act and any applicable
16 local ordinances in the exercise of its powers with respect
17 to the use of common elements or approval of modifications
18 in an individual unit.

19 (r) To accept service of a notice of claim for purposes
20 of the Mechanics Lien Act on behalf of each respective
21 member of the Unit Owners' Association with respect to
22 improvements performed pursuant to any contract entered
23 into by the Board of Managers or any contract entered into
24 prior to the recording of the condominium declaration
25 pursuant to this Act, for a property containing more than 8
26 units, and to distribute the notice to the unit owners. The
27 service shall be effective as if each individual unit owner
28 had been served individually with notice.

29 In the performance of their duties, the officers and
30 members of the board, whether appointed by the developer or
31 elected by the unit owners, shall exercise the care required of
32 a fiduciary of the unit owners.

33 The collection of assessments from unit owners by an
34 association, board of managers or their duly authorized agents
35 shall not be considered acts constituting a collection agency
36 for purposes of the Collection Agency Act.

1 The provisions of this Section are applicable to all
2 condominium instruments recorded under this Act. Any portion of
3 a condominium instrument which contains provisions contrary to
4 these provisions shall be void as against public policy and
5 ineffective. Any such instrument that fails to contain the
6 provisions required by this Section shall be deemed to
7 incorporate such provisions by operation of law.

8 (Source: P.A. 91-195, eff. 7-20-99.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.