



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB5744**

by Rep. Scott Drury

#### SYNOPSIS AS INTRODUCED:

765 ILCS 605/9.2

from Ch. 30, par. 309.2

Amends the Condominium Property Act. Provides that certain attorney's fees shall be excluded from the demand given under specified provisions of the Code of Civil Procedure. Provides that in any litigation or arbitration between a unit owner and the association or its board of managers or any individual member of the association or its board of managers regarding specified disputes, if the unit owner is deemed by the court or arbitrator to be the substantially prevailing party, then the court or the arbitrator shall award to the unit owner from the non-prevailing party reasonable attorney's fees and costs incurred by the unit owner in the litigation or arbitration.

LRB100 20868 HEP 36366 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 9.2 as follows:

6 (765 ILCS 605/9.2) (from Ch. 30, par. 309.2)

7 Sec. 9.2. Other remedies.

8 (a) In the event of any default by any unit owner, his  
9 tenant, invitee or guest in the performance of his obligations  
10 under this Act or under the declaration, bylaws, or the rules  
11 and regulations of the board of managers, the board of managers  
12 or its agents shall have such rights and remedies as provided  
13 in the Act or condominium instruments including the right to  
14 maintain an eviction action against such defaulting unit owner  
15 or his tenant for the benefit of all the other unit owners in  
16 the manner prescribed by Article IX of the Code of Civil  
17 Procedure.

18 (b) Except for attorney's fees incurred in any litigation  
19 or arbitration described in subsection (d) in which a unit  
20 owner is deemed by the court or arbitrator to be the  
21 substantially prevailing party, any ~~Any~~ attorneys' fees  
22 incurred by the Association arising out of a default by any  
23 unit owner, his tenant, invitee or guest in the performance of

1 any of the provisions of the condominium instruments, rules and  
2 regulations or any applicable statute or ordinance shall be  
3 added to, and deemed a part of, his respective share of the  
4 common expense; however, attorney's fees under this subsection  
5 shall be excluded from the demand given under Section 9-104 or  
6 9-104.1 of the Code of Civil Procedure.

7 (c) Other than attorney's fees, no fees pertaining to the  
8 collection of a unit owner's financial obligation to the  
9 Association, including fees charged by a manager or managing  
10 agent, shall be added to and deemed a part of an owner's  
11 respective share of the common expenses unless: (i) the  
12 managing agent fees relate to the costs to collect common  
13 expenses for the Association; (ii) the fees are set forth in a  
14 contract between the managing agent and the Association; and  
15 (iii) the authority to add the management fees to an owner's  
16 respective share of the common expenses is specifically stated  
17 in the declaration or bylaws of the Association.

18 (d) In any litigation or arbitration between a unit owner  
19 and the Association or its board of managers or any individual  
20 member of the Association or its board of managers regarding:  
21 (i) the enforcement of obligations of the board or the  
22 Association, set forth either in this Act, the condominium  
23 instruments, rules and regulations, or any applicable statute  
24 or ordinance; (ii) a disputed charge on the unit owner's  
25 account; or (iii) a purported default as described in  
26 subsection (a), if the unit owner is deemed by the court or

1 arbitrator to be the substantially prevailing party, then the  
2 court or the arbitrator shall award to the unit owner from the  
3 non-prevailing party reasonable attorney's fees and costs  
4 incurred by the unit owner in the litigation or arbitration.

5 (Source: P.A. 100-173, eff. 1-1-18.)