



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3601

by Rep. Sam Yingling

SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-5
765 ILCS 160/1-45

Amends the Common Interest Community Association Act. Defines a "retirement community" as a community intended and operated: (i) for occupancy by persons 55 years of age or older; and (ii) with at least 80% of the occupied units occupied by at least one person 55 years of age or older. Provides that the real estate taxes on a unit in a retirement community shall be assessed on the unit and paid by the unit owner. Provides that only real estate taxes on a common area may be included in an assessment. Provides that a common interest community shall provide a detailed breakdown of all costs in an association assessment, including a breakdown of real estate tax information. Effective immediately.

LRB101 09175 LNS 54269 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 is
5 amended by changing Sections 1-5 and 1-45 as follows:

6 (765 ILCS 160/1-5)

7 Sec. 1-5. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 "Acceptable technological means" includes, without
10 limitation, electronic transmission over the Internet or other
11 network, whether by direct connection, intranet, telecopier,
12 electronic mail, and any generally available technology that,
13 by rule of the association, is deemed to provide reasonable
14 security, reliability, identification, and verifiability.

15 "Association" or "common interest community association"
16 means the association of all the members of a common interest
17 community, acting pursuant to bylaws or an operating agreement
18 through its duly elected board of managers or board of
19 directors.

20 "Board" means a common interest community association's
21 board of managers or board of directors, whichever is
22 applicable.

23 "Board member" or "member of the board" means a member of

1 the board of managers or the board of directors, whichever is
2 applicable.

3 "Board of directors" means, for a common interest community
4 that has been incorporated as an Illinois not-for-profit
5 corporation, the group of people elected by the members of a
6 common interest community as the governing body to exercise for
7 the members of the common interest community association all
8 powers, duties, and authority vested in the board of directors
9 under this Act and the common interest community association's
10 declaration and bylaws.

11 "Board of managers" means, for a common interest community
12 that is an unincorporated association or organized as a limited
13 liability company, the group of people elected by the members
14 of a common interest community as the governing body to
15 exercise for the members of the common interest community
16 association all powers, duties, and authority vested in the
17 board of managers under this Act and the common interest
18 community association's declaration, bylaws, or operating
19 agreement.

20 "Building" means all structures, attached or unattached,
21 containing one or more units.

22 "Common areas" means the portion of the property other than
23 a unit.

24 "Common expenses" means the proposed or actual expenses
25 affecting the property, including reserves, if any, lawfully
26 assessed by the common interest community association.

1 "Common interest community" means real estate other than a
2 condominium or cooperative with respect to which any person by
3 virtue of his or her ownership of a partial interest or a unit
4 therein is obligated to pay for the maintenance, improvement,
5 insurance premiums or real estate taxes of common areas
6 described in a declaration which is administered by an
7 association. "Common interest community" may include, but not
8 be limited to, an attached or detached townhome, villa, or
9 single-family home. A "common interest community" does not
10 include a master association.

11 "Community instruments" means all documents and authorized
12 amendments thereto recorded by a developer or common interest
13 community association, including, but not limited to, the
14 declaration, bylaws, operating agreement, plat of survey, and
15 rules and regulations.

16 "Declaration" means any duly recorded instruments, however
17 designated, that have created a common interest community and
18 any duly recorded amendments to those instruments.

19 "Developer" means any person who submits property legally
20 or equitably owned in fee simple by the person to the
21 provisions of this Act, or any person who offers units legally
22 or equitably owned in fee simple by the person for sale in the
23 ordinary course of such person's business, including any
24 successor to such person's entire interest in the property
25 other than the purchaser of an individual unit.

26 "Developer control" means such control at a time prior to

1 the election of the board of the common interest community
2 association by a majority of the members other than the
3 developer.

4 "Electronic transmission" means any form of communication,
5 not directly involving the physical transmission of paper, that
6 creates a record that may be retained, retrieved, and reviewed
7 by a recipient and that may be directly reproduced in paper
8 form by the recipient through an automated process.

9 "Majority" or "majority of the members" means the owners of
10 more than 50% in the aggregate in interest of the undivided
11 ownership of the common elements. Any specified percentage of
12 the members means such percentage in the aggregate in interest
13 of such undivided ownership. "Majority" or "majority of the
14 members of the board of the common interest community
15 association" means more than 50% of the total number of persons
16 constituting such board pursuant to the bylaws or operating
17 agreement. Any specified percentage of the members of the
18 common interest community association means that percentage of
19 the total number of persons constituting such board pursuant to
20 the bylaws or operating agreement.

21 "Management company" or "community association manager"
22 means a person, partnership, corporation, or other legal entity
23 entitled to transact business on behalf of others, acting on
24 behalf of or as an agent for an association for the purpose of
25 carrying out the duties, responsibilities, and other
26 obligations necessary for the day to day operation and

1 management of any property subject to this Act.

2 "Meeting of the board" or "board meeting" means any
3 gathering of a quorum of the members of the board of the common
4 interest community association held for the purpose of
5 conducting board business.

6 "Member" means the person or entity designated as an owner
7 and entitled to one vote as defined by the community
8 instruments. The terms "member" and "unit owner" may be used
9 interchangeably as defined by the community instruments,
10 except in situations in which a matter of legal title to the
11 unit is involved or at issue, in which case the term "unit
12 owner" would be the applicable term used.

13 "Membership" means the collective group of members
14 entitled to vote as defined by the community instruments.

15 "Parcel" means the lot or lots or tract or tracts of land
16 described in the declaration as part of a common interest
17 community.

18 "Person" means a natural individual, corporation,
19 partnership, trustee, or other legal entity capable of holding
20 title to real property.

21 "Plat" means a plat or plats of survey of the parcel and of
22 all units in the common interest community, which may consist
23 of a three-dimensional horizontal and vertical delineation of
24 all such units, structures, easements, and common areas on the
25 property.

26 "Prescribed delivery method" means mailing, delivering,

1 posting in an association publication that is routinely mailed
2 to all members, electronic transmission, or any other delivery
3 method that is approved in writing by the member and authorized
4 by the community instruments.

5 "Property" means all the land, property, and space
6 comprising the parcel, all improvements and structures
7 erected, constructed or contained therein or thereon,
8 including any building and all easements, rights, and
9 appurtenances belonging thereto, and all fixtures and
10 equipment intended for the mutual use, benefit, or enjoyment of
11 the members, under the authority or control of a common
12 interest community association.

13 "Purchaser" means any person or persons, other than the
14 developer, who purchase a unit in a bona fide transaction for
15 value.

16 "Record" means to record in the office of the recorder of
17 the county wherein the property is located.

18 "Reserves" means those sums paid by members which are
19 separately maintained by the common interest community
20 association for purposes specified by the declaration and
21 bylaws of the common interest community association.

22 "Retirement community" means a community intended and
23 operated: (i) for occupancy by persons 55 years of age or
24 older; and (ii) with at least 80% of the occupied units
25 occupied by at least one person 55 years of age or older.

26 "Unit" means a part of the property designed and intended

1 for any type of independent use.

2 "Unit owner" means the person or persons whose estates or
3 interests, individually or collectively, aggregate fee simple
4 absolute ownership of a unit.

5 (Source: P.A. 98-1042, eff. 1-1-15; 99-41, eff. 7-14-15;
6 99-612, eff. 1-1-17.)

7 (765 ILCS 160/1-45)

8 Sec. 1-45. Finances.

9 (a) Each member shall receive through a prescribed delivery
10 method, at least 30 days but not more than 60 days prior to the
11 adoption thereof by the board, a copy of the proposed annual
12 budget together with an indication of which portions are
13 intended for reserves, capital expenditures or repairs or
14 payment of real estate taxes.

15 (b) The board shall provide all members with a reasonably
16 detailed summary of the receipts, common expenses, and reserves
17 for the preceding budget year. The board shall (i) make
18 available for review to all members an itemized accounting of
19 the common expenses for the preceding year actually incurred or
20 paid, together with an indication of which portions were for
21 reserves, capital expenditures or repairs or payment of real
22 estate taxes and with a tabulation of the amounts collected
23 pursuant to the budget or assessment, and showing the net
24 excess or deficit of income over expenditures plus reserves or
25 (ii) provide a consolidated annual independent audit report of

1 the financial status of all fund accounts within the
2 association.

3 (c) If an adopted budget or any separate assessment adopted
4 by the board would result in the sum of all regular and
5 separate assessments payable in the current fiscal year
6 exceeding 115% of the sum of all regular and separate
7 assessments payable during the preceding fiscal year, the
8 common interest community association, upon written petition
9 by members with 20% of the votes of the association delivered
10 to the board within 14 days of the board action, shall call a
11 meeting of the members within 30 days of the date of delivery
12 of the petition to consider the budget or separate assessment;
13 unless a majority of the total votes of the members are cast at
14 the meeting to reject the budget or separate assessment, it
15 shall be deemed ratified.

16 (d) If total common expenses exceed the total amount of the
17 approved and adopted budget, the common interest community
18 association shall disclose this variance to all its members and
19 specifically identify the subsequent assessments needed to
20 offset this variance in future budgets.

21 (e) Separate assessments for expenditures relating to
22 emergencies or mandated by law may be adopted by the board
23 without being subject to member approval or the provisions of
24 subsection (c) or (f) of this Section. As used herein,
25 "emergency" means a danger to or a compromise of the structural
26 integrity of the common areas or any of the common facilities

1 of the common interest community. "Emergency" also includes a
2 danger to the life, health or safety of the membership.

3 (f) Assessments for additions and alterations to the common
4 areas or to association-owned property not included in the
5 adopted annual budget, shall be separately assessed and are
6 subject to approval of a simple majority of the total members
7 at a meeting called for that purpose.

8 (g) The board may adopt separate assessments payable over
9 more than one fiscal year. With respect to multi-year
10 assessments not governed by subsections (e) and (f) of this
11 Section, the entire amount of the multi-year assessment shall
12 be deemed considered and authorized in the first fiscal year in
13 which the assessment is approved.

14 (h) The board of a common interest community association
15 shall have the authority to establish and maintain a system of
16 master metering of public utility services to collect payments
17 in conjunction therewith, subject to the requirements of the
18 Tenant Utility Payment Disclosure Act.

19 (i) An association subject to this Act that consists of 100
20 or more units shall use generally accepted accounting
21 principles in fulfilling any accounting obligations under this
22 Act.

23 (j) The real estate taxes on a unit in a retirement
24 community shall be assessed on the unit and paid by the unit
25 owner. The real estate taxes on a unit in a retirement
26 community shall not be included in an assessment. Only real

1 estate taxes on a common area may be included in an assessment.

2 (k) A common interest community shall provide a detailed
3 breakdown of all costs in an association assessment, including
4 a breakdown of real estate tax information.

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

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