



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0389

Introduced 2/7/2007, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

765 ILCS 605/14.5 new

Amends the Condominium Property Act. Provides procedures for addressing distressed condominium property that is a danger, blight, or nuisance to the surrounding community or the public and that is substantially unoccupied, without utilities, or in a serious negative condition. Provides a definition of "distressed condominium property". Provides that a municipality may file a petition in the circuit court and that if the court finds that a property is a distressed condominium property, the court may appoint a receiver to manage the property. Provides also that if a court finds that the property is not viable as a condominium, the court may deem that the entire property is owned in common by the unit owners and may authorize the receiver to sell the entire property without the consent of the unit owners. Provides that if the receiver sells the property pursuant to court authorization, the sale proceeds shall be paid to unit owners according to their respective shares, after sale expenses, taxes, and liens have been paid. Provides that the receiver has the power and authority to secure and insure the premises, make repairs, and otherwise manage the premises.

LRB095 04508 AJO 24561 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 adding Section 14.5 as follows:

6 (765 ILCS 605/14.5 new)

7 Sec. 14.5. Distressed condominium property.

8 (a) As used in this Section:

9 (1) "Distressed condominium property" means a parcel
10 containing condominium units which are operated in a manner
11 or have conditions which may constitute a danger, blight,
12 or nuisance to the surrounding community or to the general
13 public, including but not limited to one or more of the
14 following conditions:

15 (A) the building is substantially unoccupied, or
16 has serious violations of any applicable local
17 building code;

18 (B) 60% or more of the condominium units are in
19 foreclosure or are units against which a judgment of
20 foreclosure was entered within the last 18 months;

21 (C) there has been a recording of more condominium
22 units on the parcel than physically exist;

23 (D) any of the essential utilities to the parcel or

1 condominium units is either terminated or threatened
2 with termination;

3 (E) there is a delinquency on the property taxes
4 for at least 60% of the condominium units; or

5 (F) the board of managers has not met within the
6 last 12 months or is otherwise not functioning.

7 (2) "Party in interest" means any unit owner or owner
8 of record, mortgagee of record, lienholder of record,
9 judgment creditor, tax purchaser, or other party of record
10 having any legal or equitable title or other interest in
11 the distressed condominium property or in a unit of the
12 property.

13 (3) "Municipality" means a city, village, or
14 incorporated town in which the distressed condominium
15 property is located.

16 (b) A proceeding under this Section shall be commenced by a
17 municipality filing a verified petition or verified complaint
18 in the circuit court in the county in which the property is
19 located. The petition or complaint shall allege conditions
20 specified in paragraph (1) of subsection (a) of this Section
21 and shall request the relief available under this Section. All
22 parties in interest of the property shall be named as
23 defendants in the petition or complaint and summons shall be
24 issued and service had as in other civil cases. The hearing
25 upon the suit shall be expedited by the court and shall be
26 given precedence over other actions.

1 (c) If a court finds that the property is a distressed
2 condominium property:

3 (1) the court may order the appointment of a receiver
4 for the property with the powers specified in this Section;
5 or

6 (2) the court may appoint a receiver for the property
7 and if the court further finds that the property is not
8 viable as a condominium, then the court may declare:

9 (A) that the property is no longer a condominium;

10 (B) that the property shall be deemed to be owned
11 in common by the unit owners;

12 (C) that the undivided interest in the property
13 which shall appertain to each unit owner shall be the
14 percentage of undivided interest previously owned by
15 the owner in the common elements; and

16 (D) that any liens affecting any unit shall be
17 deemed to be attached to the undivided interest of the
18 unit owner in the property as provided herein.

19 A copy of the court's declaration under this subsection
20 (c) shall be recorded by the municipality in the office of
21 the recorder of deeds in the county where the property is
22 located against both the individual units and owners and
23 the general property. The court's declaration shall be
24 forwarded to the county assessor's office in the county
25 where the property is located.

26 (d) If a court finds that property is subject to paragraph

1 (2) of subsection (c) of this Section, the court may authorize
2 the receiver to enter into a sales contract and transfer the
3 title of the property on behalf of the owners of the property
4 without their consent. In the event of such a sale, the net
5 proceeds of sale, after payment of all the receiver's costs,
6 time, expenses, and fees as evidenced by the receiver's notes
7 or certificates duly issued and assigned as provided for in
8 subsection (f) of this Section, shall be deposited into an
9 escrow account. Proceeds in the escrow account shall be
10 segregated into the respective shares of each unit owner as
11 determined under subparagraph (C) of paragraph (2) of
12 subsection (c) of this Section and shall be distributed from
13 each respective share as follows: (1) to pay taxes attributable
14 to the unit owner; then (2) to pay other liens attributable to
15 the unit owner; and then (3) to pay each unit owner any
16 remaining sums from his or her respective share.

17 (e) A receiver appointed under this Section shall have
18 possession of the property and shall have full power and
19 authority to operate, manage, and conserve the property. A
20 receiver appointed pursuant to this Section must manage the
21 property as would a prudent person. A receiver may, without an
22 order of the court, delegate managerial functions to a person
23 in the business of managing real estate of the kind involved
24 who is financially responsible and prudently selected.

25 Without limiting the foregoing, a receiver during such time
26 shall have the power and authority to:

1 (1) secure, clean, board and enclose, and keep secure,
2 clean, boarded and enclosed, the property or any portion of
3 the property;

4 (2) secure tenants and execute leases for the property,
5 the duration and terms of which are reasonable and
6 customary for the type of use involved, and the leases
7 shall have the same priority as if made by the owner of the
8 property;

9 (3) collect the rents, issues, and profits, including
10 assessments which have been or may be levied;

11 (4) insure the property against loss by fire or other
12 casualty;

13 (5) employ counsel, custodians, janitors, and other
14 help;

15 (6) pay taxes which may have been or may be levied
16 against the property;

17 (7) maintain or disconnect, as appropriate, any
18 essential utility to the property;

19 (8) make repairs and improvements necessary to comply
20 with building, housing, and other similar codes;

21 (9) hold receipts as reserves as reasonably required
22 for the foregoing purposes; and

23 (10) exercise the other powers as are granted to the
24 receiver by the appointing court.

25 (f) If the court orders the appointment of a receiver, the
26 receiver may use the rents and issues of the property toward

1 maintenance, repair, and rehabilitation of the property prior
2 to and despite any assignment of rents; and the court may
3 further authorize the receiver to recover the cost of any
4 feasibility study, sale, management, maintenance, repair, and
5 rehabilitation by the issuance and sale of notes or receiver's
6 certificates bearing such interest as the court may fix, and
7 the notes or certificates, after their initial issuance and
8 transfer by the receiver, shall be freely transferable and when
9 sold or transferred by the receiver in return for a valuable
10 consideration in money, material, labor, or services shall be a
11 first lien upon the real estate and the rents and issues
12 thereof and shall be superior to all prior assignments of rents
13 and all prior existing liens and encumbrances, except taxes;
14 provided, that within 90 days of the sale or transfer for value
15 by the receiver of a note or certificate, the holder thereof
16 shall file notice of the lien in the office of the recorder in
17 the county in which the real estate is located. The notice of
18 the lien filed shall set forth (i) a description of the real
19 estate affected sufficient for the identification thereof,
20 (ii) the face amount of the receiver's note or certificate,
21 together with the interest payable thereon, and (iii) the date
22 when the receiver's note or certificate was sold or transferred
23 for value by the receiver. Upon payment to the holder of the
24 receiver's note or certificate of the face amount thereof
25 together with any interest thereon to the date of payment, and
26 upon the filing of record of a sworn statement of such payment,

1 the lien of such certificate shall be released. The lien may be
2 enforced by proceedings to foreclose as in the case of a
3 mortgage or a mechanics lien, and the action to foreclose the
4 lien may be commenced at any time after the date of default.
5 For the purposes of this subsection, the date of default shall
6 be deemed to occur 30 days from the date of issuance of the
7 receiver's certificate if at that time the certificate remains
8 unpaid in whole or in part. The receiver's lien shall be paid
9 upon the sale of the property as set forth in subsection (e) of
10 this Section.

11 (g) The court may remove a receiver upon a showing of good
12 cause, in which case a new receiver may be appointed in
13 accordance with this Section.