



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5496

Introduced 2/15/2012, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

765 ILCS 605/18.1a new
765 ILCS 605/22.3 new

Amends the Condominium Property Act. Provides for an escrow account to be established prior to the conveyance of title to the first unit for the benefit of the unit owners' association to pay for any necessary corrections in the common areas. Provides that all sales contracts for the first-time sale of any condominium unit shall contain express warranties concerning common elements and systems and the individual unit's mechanical equipment. Provides that permissible warranty exclusions are damage caused by acts of unauthorized third parties; acts of God and accidents; normal wear and tear; normal deterioration; and ordinary maintenance and repairs. Provides that the person or entity providing the warranty shall have the option to repair or replace warranted systems or elements, or to pay for the repair or replacement, provided existing manufacturers' warranties were first enforced. Provides that the person or entity issuing the warranty shall set up escrows or other appropriate security to provide security for the warranties. Provides that the escrow accounts or other appropriate security shall be in an amount constituting 1% of the sales price of each unit sold and shall be in a combined joint fund available for both common element warranty work and unit warranty work.

LRB097 17590 AJ0 62796 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 Sections 18.1a and 22.3 as follows:

6 (765 ILCS 605/18.1a new)

7 Sec. 18.1a. Escrow account; common areas. An escrow account
8 or other satisfactory security shall be established prior to
9 the conveyance of title to the first unit, shall be for the
10 benefit of the unit owners' association, and shall be utilized
11 for and be in an amount necessary to correct any applicable
12 code violations in the common areas and the contracted-for but
13 uncompleted non-code improvements of the common areas. The
14 "common area escrow" or other security must be established
15 prior to the conveyance of the first unit.

16 (765 ILCS 605/22.3 new)

17 Sec. 22.3. Warranties.

18 (a) All sales contracts for the first-time sale of any
19 condominium unit covered under this Act shall contain the
20 following express warranties by the developer:

21 (1) Common elements and systems: "Common elements and
22 systems" for the purpose of this Section mean the roof,

1 foundation, external and supporting walls, and other
2 structural elements; the electrical, plumbing, heating,
3 air conditioning, and other mechanical systems; and all
4 other common facilities, including, but not limited to,
5 private sidewalks, recreational areas, and common open
6 space (but excluding decorating and carpeting). The
7 developer shall warrant the materials, workmanship,
8 operation, construction, or condition of all such items or
9 elements for either 4 years after the date of transfer of
10 title of the first unit transferred, or 2 years after the
11 date of transfer of the unit which brings the total number
12 of units transferred to 60% or more of the total units,
13 whichever occurs first. The developer shall provide his or
14 her own warranty, whether or not any manufacturer's
15 warranty currently exists.

16 (2) Individual unit mechanical equipment: "Individual
17 unit mechanical equipment" for the purpose of this Section
18 means all appliances and other mechanical equipment,
19 including heating, electrical, and plumbing systems,
20 physically located within the individual unit. The
21 developer shall warrant the materials, workmanship,
22 operation, construction, or condition of the items for one
23 year after the date of title transfer of that individual
24 unit.

25 (3) Warranty exclusions: The following are exempted
26 from all of the above warranties, provided the work was

1 done in accordance with existing applicable codes:

2 (A) Damage caused by acts of unauthorized third
3 parties, including vandalism, negligence, improper
4 maintenance, or improper operation by anyone other
5 than the developer or his employees, agents, or
6 subcontractors.

7 (B) Acts of God and accidents, including but not
8 limited to fire, explosion, smoke, water escape,
9 windstorm, hail, lightning, flood, and earthquake.

10 (C) Normal wear and tear and normal deterioration.

11 (b) Ordinary maintenance and repairs.

12 (1) The developer shall have the option to repair or
13 replace warranted systems or elements, or to pay the cash
14 value of the repair or replacement, except that where he or
15 she fails upon notice and reasonable time as set forth
16 below to repair, replace, or pay for the item or system, or
17 to state in writing why the system or element does not fall
18 within the warranty, the unit owners' association or the
19 unit owners may decide whether to repair or replace the
20 items. The developer shall not be required to honor his or
21 her own warranty unless or until the unit owner or
22 association, as the case may be, shall have first sought to
23 enforce existing manufacturer's warranties.

24 (2) Following the timely notification by a unit owner
25 or the unit owner's association, the developer shall,
26 during the period of the warranty, make any required

1 repairs or replacements of systems or equipment. If the
2 developer fails to comply with the warranty provisions, the
3 unit owners' association, in the case of common elements,
4 and the unit owner, in the case of unit items, shall notify
5 the developer in writing of its, his, or her intention to
6 correct or repair the condition at the developer's expense.
7 If the developer fails to comply within 14 days after being
8 so notified or as promptly as conditions require in case of
9 emergency, the unit owners' association or the unit owner,
10 as the case requires, may have the work done and the
11 association for itself or jointly with and on behalf of the
12 unit owner shall have recourse to the escrow or other
13 security provided.

14 (c) In order to cause a warranty to be honored, the unit
15 owners' association or the unit owner, as the case may be,
16 shall give timely notice of any defect or failure of operation
17 to the developer or his successor, provided that all notices
18 must be made during the period of warranty.

19 (d) To assure compliance with the warranties set forth in
20 this Section, the developer shall set up escrows or other
21 appropriate security pursuant to this Section, which shall
22 provide for the escrows or other security to revert to sole
23 control of the developer at the expiration of the different
24 warranty periods unless outstanding claims exist against them.
25 Escrows or other appropriate security shall be in an amount
26 constituting the total of 1% of the sales price of each unit

1 sold and shall be a combined joint fund available for both
2 common element warranty work and unit warranty work and shall
3 be irrevocable until the expiration of the common element
4 warranty period or unit warranty period, whichever occurs
5 later.