



Sen. Michael E. Hastings

**Filed: 3/20/2014**

09800SB2664sam001

LRB098 12651 HEP 57255 a

1 AMENDMENT TO SENATE BILL 2664

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2664 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Condominium Property Act is amended by  
5 changing Sections 2, 9 and 22.1 as follows:

6 (765 ILCS 605/2) (from Ch. 30, par. 302)

7 Sec. 2. Definitions. As used in this Act, unless the  
8 context otherwise requires:

9 (a) "Declaration" means the instrument by which the  
10 property is submitted to the provisions of this Act, as  
11 hereinafter provided, and such declaration as from time to time  
12 amended.

13 (b) "Parcel" means the lot or lots, tract or tracts of  
14 land, described in the declaration, submitted to the provisions  
15 of this Act.

16 (c) "Property" means all the land, property and space

1 comprising the parcel, all improvements and structures  
2 erected, constructed or contained therein or thereon,  
3 including the building and all easements, rights and  
4 appurtenances belonging thereto, and all fixtures and  
5 equipment intended for the mutual use, benefit or enjoyment of  
6 the unit owners, submitted to the provisions of this Act.

7 (d) "Unit" means a part of the property designed and  
8 intended for any type of independent use.

9 (e) "Common Elements" means all portions of the property  
10 except the units, including limited common elements unless  
11 otherwise specified.

12 (f) "Person" means a natural individual, corporation,  
13 partnership, trustee or other legal entity capable of holding  
14 title to real property.

15 (g) "Unit Owner" means the person or persons whose estates  
16 or interests, individually or collectively, aggregate fee  
17 simple absolute ownership of a unit, or, in the case of a  
18 leasehold condominium, the lessee or lessees of a unit whose  
19 leasehold ownership of the unit expires simultaneously with the  
20 lease described in item (x) of this Section.

21 (h) "Majority" or "majority of the unit owners" means the  
22 owners of more than 50% in the aggregate in interest of the  
23 undivided ownership of the common elements. Any specified  
24 percentage of the unit owners means such percentage in the  
25 aggregate in interest of such undivided ownership. "Majority"  
26 or "majority of the members of the board of managers" means

1 more than 50% of the total number of persons constituting such  
2 board pursuant to the bylaws. Any specified percentage of the  
3 members of the board of managers means that percentage of the  
4 total number of persons constituting such board pursuant to the  
5 bylaws.

6 (i) "Plat" means a plat or plats of survey of the parcel  
7 and of all units in the property submitted to the provisions of  
8 this Act, which may consist of a three-dimensional horizontal  
9 and vertical delineation of all such units.

10 (j) "Record" means to record in the office of the recorder  
11 or, whenever required, to file in the office of the Registrar  
12 of Titles of the county wherein the property is located.

13 (k) "Conversion Condominium" means a property which  
14 contains structures, excepting those newly constructed and  
15 intended for condominium ownership, which are, or have  
16 previously been, wholly or partially occupied before recording  
17 of condominium instruments by persons other than those who have  
18 contracted for the purchase of condominiums.

19 (l) "Condominium Instruments" means all documents and  
20 authorized amendments thereto recorded pursuant to the  
21 provisions of the Act, including the declaration, bylaws and  
22 plat.

23 (m) "Common Expenses" means the proposed or actual expenses  
24 affecting the property, including reserves, if any, lawfully  
25 assessed by the Board of Managers of the Unit Owner's  
26 Association.

1           (n) "Reserves" means those sums paid by unit owners which  
2 are separately maintained by the board of managers for purposes  
3 specified by the board of managers or the condominium  
4 instruments.

5           (o) "Unit Owners' Association" or "Association" means the  
6 association of all the unit owners, acting pursuant to bylaws  
7 through its duly elected board of managers.

8           (p) "Purchaser" means any person or persons other than the  
9 Developer who purchase a unit in a bona fide transaction for  
10 value.

11           (q) "Developer" means any person who submits property  
12 legally or equitably owned in fee simple by the developer, or  
13 leased to the developer under a lease described in item (x) of  
14 this Section, to the provisions of this Act, or any person who  
15 offers units legally or equitably owned in fee simple by the  
16 developer, or leased to the developer under a lease described  
17 in item (x) of this Section, for sale in the ordinary course of  
18 such person's business, including any successor or successors  
19 to such developers' entire interest in the property other than  
20 the purchaser of an individual unit.

21           (r) "Add-on Condominium" means a property to which  
22 additional property may be added in accordance with condominium  
23 instruments and this Act.

24           (s) "Limited Common Elements" means a portion of the common  
25 elements so designated in the declaration as being reserved for  
26 the use of a certain unit or units to the exclusion of other

1 units, including but not limited to balconies, terraces, patios  
2 and parking spaces or facilities.

3 (t) "Building" means all structures, attached or  
4 unattached, containing one or more units.

5 (u) "Master Association" means an organization described  
6 in Section 18.5 whether or not it is also an association  
7 described in Section 18.3.

8 (v) "Developer Control" means such control at a time prior  
9 to the election of the Board of Managers provided for in  
10 Section 18.2(b) of this Act.

11 (w) "Meeting of Board of Managers or Board of Master  
12 Association" means any gathering of a quorum of the members of  
13 the Board of Managers or Board of the Master Association held  
14 for the purpose of conducting board business.

15 (x) "Leasehold Condominium" means a property submitted to  
16 the provisions of this Act which is subject to a lease, the  
17 expiration or termination of which would terminate the  
18 condominium and the lessor of which is (i) exempt from taxation  
19 under Section 501(c)(3) of the Internal Revenue Code of 1986,  
20 as amended, (ii) a limited liability company whose sole member  
21 is exempt from taxation under Section 501 (c)(3) of the  
22 Internal Revenue Code of 1986, as amended, or (iii) a Public  
23 Housing Authority created pursuant to the Housing Authorities  
24 Act that is located in a municipality having a population in  
25 excess of 1,000,000 inhabitants.

26 (y) "Regular Monthly Assessments" means the amount charged

1 by the association as provided for in the current annual budget  
2 adopted under subsection (c) of Section 9 of this Act.

3 (Source: P.A. 93-474, eff. 8-8-03.)"; and

4 (765 ILCS 605/9) (from Ch. 30, par. 309)

5 Sec. 9. Sharing of expenses - Lien for nonpayment.

6 (a) All common expenses incurred or accrued prior to the  
7 first conveyance of a unit shall be paid by the developer, and  
8 during this period no common expense assessment shall be  
9 payable to the association. It shall be the duty of each unit  
10 owner including the developer to pay his proportionate share of  
11 the common expenses commencing with the first conveyance. The  
12 proportionate share shall be in the same ratio as his  
13 percentage of ownership in the common elements set forth in the  
14 declaration.

15 (b) The condominium instruments may provide that common  
16 expenses for insurance premiums be assessed on a basis  
17 reflecting increased charges for coverage on certain units.

18 (c) Budget and reserves.

19 (1) The board of managers shall prepare and distribute  
20 to all unit owners a detailed proposed annual budget,  
21 setting forth with particularity all anticipated common  
22 expenses by category as well as all anticipated assessments  
23 and other income. The initial budget and common expense  
24 assessment based thereon shall be adopted prior to the  
25 conveyance of any unit. The budget shall also set forth

1 each unit owner's proposed common expense assessment.

2 (2) All budgets adopted by a board of managers on or  
3 after July 1, 1990 shall provide for reasonable reserves  
4 for capital expenditures and deferred maintenance for  
5 repair or replacement of the common elements. To determine  
6 the amount of reserves appropriate for an association, the  
7 board of managers shall take into consideration the  
8 following: (i) the repair and replacement cost, and the  
9 estimated useful life, of the property which the  
10 association is obligated to maintain, including but not  
11 limited to structural and mechanical components, surfaces  
12 of the buildings and common elements, and energy systems  
13 and equipment; (ii) the current and anticipated return on  
14 investment of association funds; (iii) any independent  
15 professional reserve study which the association may  
16 obtain; (iv) the financial impact on unit owners, and the  
17 market value of the condominium units, of any assessment  
18 increase needed to fund reserves; and (v) the ability of  
19 the association to obtain financing or refinancing.

20 (3) Notwithstanding the provisions of this subsection  
21 (c), an association without a reserve requirement in its  
22 condominium instruments may elect to waive in whole or in  
23 part the reserve requirements of this Section by a vote of  
24 2/3 of the total votes of the association. Any association  
25 having elected under this paragraph (3) to waive the  
26 provisions of subsection (c) may by a vote of 2/3 of the

1 total votes of the association elect to again be governed  
2 by the requirements of subsection (c).

3 (4) In the event that an association elects to waive  
4 all or part of the reserve requirements of this Section,  
5 that fact must be disclosed after the meeting at which the  
6 waiver occurs by the association in the financial  
7 statements of the association and, highlighted in bold  
8 print, in the response to any request of a prospective  
9 purchaser for the information prescribed under Section  
10 22.1; and no member of the board of managers or the  
11 managing agent of the association shall be liable, and no  
12 cause of action may be brought for damages against these  
13 parties, for the lack or inadequacy of reserve funds in the  
14 association budget.

15 (d) (Blank).

16 (e) The condominium instruments may provide for the  
17 assessment, in connection with expenditures for the limited  
18 common elements, of only those units to which the limited  
19 common elements are assigned.

20 (f) Payment of any assessment shall be in amounts and at  
21 times determined by the board of managers.

22 (g) Lien.

23 (1) If any unit owner shall fail or refuse to make any  
24 payment of the common expenses or the amount of any unpaid  
25 fine when due, the amount thereof together with any  
26 interest, late charges, reasonable attorney fees incurred



1 enforcing the covenants of the condominium instruments,  
2 rules and regulations of the board of managers, or any  
3 applicable statute or ordinance, and costs of collections  
4 shall constitute a lien on the interest of the unit owner  
5 in the property prior to all other liens and encumbrances,  
6 recorded or unrecorded, except only (a) taxes, special  
7 assessments and special taxes theretofore or thereafter  
8 levied by any political subdivision or municipal  
9 corporation of this State and other State or federal taxes  
10 which by law are a lien on the interest of the unit owner  
11 prior to preexisting recorded encumbrances thereon and (b)  
12 encumbrances on the interest of the unit owner recorded  
13 prior to the date of such failure or refusal which by law  
14 would be a lien thereon prior to subsequently recorded  
15 encumbrances. Any action brought to extinguish the lien of  
16 the association shall include the association as a party.

17 (2) With respect to encumbrances executed prior to  
18 August 30, 1984 or encumbrances executed subsequent to  
19 August 30, 1984 which are neither bonafide first mortgages  
20 nor trust deeds and which encumbrances contain a statement  
21 of a mailing address in the State of Illinois where notice  
22 may be mailed to the encumbrancer thereunder, if and  
23 whenever and as often as the manager or board of managers  
24 shall send, by United States certified or registered mail,  
25 return receipt requested, to any such encumbrancer at the  
26 mailing address set forth in the recorded encumbrance a

1 statement of the amounts and due dates of the unpaid common  
2 expenses with respect to the encumbered unit, then, unless  
3 otherwise provided in the declaration or bylaws, the prior  
4 recorded encumbrance shall be subject to the lien of all  
5 unpaid common expenses with respect to the unit which  
6 become due and payable within a period of 90 days after the  
7 date of mailing of each such notice.

8 (3) The purchaser of a condominium unit at a judicial  
9 foreclosure sale, or a mortgagee who receives title to a  
10 unit by deed in lieu of foreclosure or judgment by common  
11 law strict foreclosure or otherwise takes possession  
12 pursuant to court order under the Illinois Mortgage  
13 Foreclosure Law, shall have the duty to pay the unit's  
14 proportionate share of the common expenses for the unit  
15 assessed from and after the first day of the month after  
16 the date of the judicial foreclosure sale, delivery of the  
17 deed in lieu of foreclosure, entry of a judgment in common  
18 law strict foreclosure, or taking of possession pursuant to  
19 such court order. Such payment confirms the extinguishment  
20 of any lien created pursuant to paragraph (1) or (2) of  
21 this subsection (g) by virtue of the failure or refusal of  
22 a prior unit owner to make payment of common expenses,  
23 where the judicial foreclosure sale has been confirmed by  
24 order of the court, a deed in lieu thereof has been  
25 accepted by the lender, or a consent judgment has been  
26 entered by the court.

1           (4) The purchaser of a condominium unit at a judicial  
2 foreclosure sale, other than a mortgagee, or a purchaser of  
3 a condominium unit from a mortgagee who acquired title  
4 through a judicial foreclosure, a consent foreclosure, a  
5 common law strict foreclosure, or the delivery of a deed in  
6 lieu of foreclosure ~~who takes possession of a condominium~~  
7 ~~unit pursuant to a court order or a purchaser who acquires~~  
8 ~~title from a mortgagee~~ shall have the duty to pay to the  
9 association an amount not to exceed the total of the unpaid  
10 regular monthly assessments for the condominium unit for  
11 the 9-month period immediately preceding the date of the  
12 judicial foreclosure sale, delivery of the deed in lieu of  
13 foreclosure, entry of a judgment in a common law strict  
14 foreclosure, or the taking of possession pursuant to a  
15 court order under the Illinois Mortgage Foreclosure Law.  
16 The amount due may include any attorney's fees incurred by  
17 the association due to the non-payment of the assessments  
18 during the same 9-month period, and in no event shall the  
19 total amount due exceed the sum of 9 months of regular  
20 monthly assessments ~~the proportionate share, if any, of the~~  
21 ~~common expenses for the unit which would have become due in~~  
22 ~~the absence of any assessment acceleration during the 6~~  
23 ~~months immediately preceding institution of an action to~~  
24 ~~enforce the collection of assessments, and which remain~~  
25 ~~unpaid by the owner during whose possession the assessments~~  
26 ~~accrued. If the outstanding assessments are paid at any~~

1 ~~time during any action to enforce the collection of~~  
2 ~~assessments, the purchaser shall have no obligation to pay~~  
3 ~~any assessments which accrued before he or she acquired~~  
4 ~~title.~~

5 (5) The notice of sale of a condominium unit under  
6 subsection (c) of Section 15-1507 of the Code of Civil  
7 Procedure shall state that the purchaser of the unit other  
8 than a mortgagee shall pay to the association amounts ~~the~~  
9 ~~assessments and the legal fees~~ required by subdivision  
10 ~~subdivisions (g) (1) and (g) (4)~~ of Section 9 of this Act.  
11 The statement of assessment account issued by the  
12 association to a unit owner under subsection (i) of Section  
13 18 of this Act, and the disclosure statement issued to a  
14 prospective purchaser under Section 22.1 of this Act, shall  
15 state the amount ~~of the assessments and the legal fees, if~~  
16 ~~any,~~ required by subdivision ~~subdivisions (g) (1) and~~  
17 (g) (4) of Section 9 of this Act.

18 (h) A lien for common expenses shall be in favor of the  
19 members of the board of managers and their successors in office  
20 and shall be for the benefit of all other unit owners. Notice  
21 of the lien may be recorded by the board of managers, or if the  
22 developer is the manager or has a majority of seats on the  
23 board of managers and the manager or board of managers fails to  
24 do so, any unit owner may record notice of the lien. Upon the  
25 recording of such notice the lien may be foreclosed by an  
26 action brought in the name of the board of managers in the same

1 manner as a mortgage of real property.

2 (i) Unless otherwise provided in the declaration, the  
3 members of the board of managers and their successors in  
4 office, acting on behalf of the other unit owners, shall have  
5 the power to bid on the interest so foreclosed at the  
6 foreclosure sale, and to acquire and hold, lease, mortgage and  
7 convey it.

8 (j) Any encumbrancer may from time to time request in  
9 writing a written statement from the manager or board of  
10 managers setting forth the unpaid common expenses with respect  
11 to the unit covered by his encumbrance. Unless the request is  
12 complied with within 20 days, all unpaid common expenses which  
13 become due prior to the date of the making of such request  
14 shall be subordinate to the lien of the encumbrance. Any  
15 encumbrancer holding a lien on a unit may pay any unpaid common  
16 expenses payable with respect to the unit, and upon payment the  
17 encumbrancer shall have a lien on the unit for the amounts paid  
18 at the same rank as the lien of his encumbrance.

19 (k) Nothing in Public Act 83-1271 is intended to change the  
20 lien priorities of any encumbrance created prior to August 30,  
21 1984.

22 (Source: P.A. 94-1049, eff. 1-1-07.)

23 (765 ILCS 605/22.1) (from Ch. 30, par. 322.1)

24 Sec. 22.1. (a) In the event of any resale of a condominium  
25 unit by a unit owner other than the developer, the Board of

1 Managers shall produce for the seller and the prospective  
2 purchaser, either electronically or in writing, within 14 days  
3 of a request from the owner or the owner's agent if the  
4 association is managed by a community association management  
5 firm or a community association manager, as those terms are  
6 defined in Section 10 of the Community Association Manager  
7 Licensing and Disciplinary Act, and within 21 days if the  
8 association is self-managed: ~~such owner shall obtain from the~~  
9 ~~Board of Managers and shall make available for inspection to~~  
10 ~~the prospective purchaser, upon demand, the following:~~

11 (1) A copy of the Declaration, by-laws, other  
12 condominium instruments and any rules and regulations.

13 (2) A statement of any liens, including a statement of  
14 the account of the unit setting forth the amounts ~~of unpaid~~  
15 ~~assessments and other charges~~ due and owing as authorized  
16 and limited by the provisions of Section 9 of this Act or  
17 the condominium instruments.

18 (3) A statement of any capital expenditures  
19 anticipated by the unit owner's association within the  
20 current or succeeding two fiscal years.

21 (4) A statement of the status and amount of any reserve  
22 for replacement fund and any portion of such fund earmarked  
23 for any specified project by the Board of Managers.

24 (5) A copy of the statement of financial condition of  
25 the unit owner's association for the last fiscal year for  
26 which such statement is available.

1 (6) A statement of the status of any pending suits or  
2 judgments in which the unit owner's association is a party.

3 (7) A statement setting forth what insurance coverage  
4 is provided for all unit owners by the unit owner's  
5 association.

6 (8) A statement that any improvements or alterations  
7 made to the unit, or the limited common elements assigned  
8 thereto, by the prior unit owner are in good faith believed  
9 to be in compliance with the condominium instruments.

10 (9) The identity and mailing address of the principal  
11 officer of the unit owner's association or of the other  
12 officer or agent as is specifically designated to receive  
13 notices.

14 (10) If ownership of the condominium unit was  
15 transferred by either a judicial foreclosure sale, a  
16 consent foreclosure, a common law strict foreclosure, or a  
17 deed in lieu of foreclosure, a statement setting forth the  
18 total due and owing under subsection (g) of Section 9 of  
19 this Act.

20 (b) The principal officer of the unit owner's association  
21 or such other officer as is specifically designated shall  
22 furnish the above information when requested to do so either  
23 electronically or in writing and within 14 ~~30~~ days of the  
24 request.

25 (c) Within 15 days of the recording of a mortgage or trust  
26 deed against a unit ownership given by the owner of that unit

1 to secure a debt, the owner shall inform the Board of Managers  
2 of the unit owner's association of the identity of the lender  
3 together with a mailing address at which the lender can receive  
4 notices from the association. If a unit owner fails or refuses  
5 to inform the Board as required under subsection (c) then that  
6 unit owner shall be liable to the association for all costs,  
7 expenses and reasonable attorneys fees and such other damages,  
8 if any, incurred by the association as a result of such failure  
9 or refusal.

10 A reasonable fee covering the direct out-of-pocket cost of  
11 providing such information and copying may be charged by the  
12 association or its Board of Managers to the unit seller for  
13 providing such information.

14 (Source: P.A. 87-692.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.".