



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1374

Introduced 2/18/2015, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-102 from Ch. 110, par. 9-102
765 ILCS 160/1-5
765 ILCS 160/1-20
765 ILCS 160/1-25
765 ILCS 160/1-30
765 ILCS 160/1-50

Amends the Code of Civil Procedure. Adds certain common interest community associations owned by limited liability companies to the list of associations subject to specified provisions of the Code. Amends the Common Interest Community Association Act. Makes associations organized as limited liability companies subject to the Act. Adds references to articles of organization. In places where the Act addresses an association's declaration or bylaws, adds operating agreements. Effective immediately.

LRB099 05853 HEP 25897 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 Code of Civil Procedure is amended by
5 changing Section 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or
9 tenements may be restored thereto under any of the following
10 circumstances:

11 (1) When a forcible entry is made thereon.

12 (2) When a peaceable entry is made and the possession
13 unlawfully withheld.

14 (3) When entry is made into vacant or unoccupied lands
15 or tenements without right or title.

16 (4) When any lessee of the lands or tenements, or any
17 person holding under such lessee, holds possession without
18 right after the termination of the lease or tenancy by its
19 own limitation, condition or terms, or by notice to quit or
20 otherwise.

21 (5) When a vendee having obtained possession under a
22 written or verbal agreement to purchase lands or tenements,
23 and having failed to comply with the agreement, withholds

1 possession thereof, after demand in writing by the person
2 entitled to such possession; provided, however, that any
3 such agreement for residential real estate as defined in
4 the Illinois Mortgage Foreclosure Law entered into on or
5 after July 1, 1987 where the purchase price is to be paid
6 in installments over a period in excess of 5 years and the
7 amount unpaid under the terms of the contract at the time
8 of the filing of a foreclosure complaint under Article XV,
9 including principal and due and unpaid interest, is less
10 than 80% of the original purchase price shall be foreclosed
11 under the Illinois Mortgage Foreclosure Law.

12 This amendatory Act of 1993 is declarative of existing
13 law.

14 (6) When lands or tenements have been conveyed by any
15 grantor in possession, or sold under the order or judgment
16 of any court in this State, or by virtue of any sale in any
17 mortgage or deed of trust contained and the grantor in
18 possession or party to such order or judgment or to such
19 mortgage or deed of trust, after the expiration of the time
20 of redemption, when redemption is allowed by law, refuses
21 or neglects to surrender possession thereof, after demand
22 in writing by the person entitled thereto, or his or her
23 agent.

24 (7) When any property is subject to the provisions of
25 the Condominium Property Act, the owner of a unit fails or
26 refuses to pay when due his or her proportionate share of

1 the common expenses of such property, or of any other
2 expenses lawfully agreed upon or any unpaid fine, the Board
3 of Managers or its agents have served the demand set forth
4 in Section 9-104.1 of this Article in the manner provided
5 for in that Section and the unit owner has failed to pay
6 the amount claimed within the time prescribed in the
7 demand; or if the lessor-owner of a unit fails to comply
8 with the leasing requirements prescribed by subsection (n)
9 of Section 18 of the Condominium Property Act or by the
10 declaration, by-laws, and rules and regulations of the
11 condominium, or if a lessee of an owner is in breach of any
12 covenants, rules, regulations, or by-laws of the
13 condominium, and the Board of Managers or its agents have
14 served the demand set forth in Section 9-104.2 of this
15 Article in the manner provided in that Section.

16 (8) When any property is subject to the provisions of a
17 declaration establishing a common interest community and
18 requiring the unit owner to pay regular or special
19 assessments for the maintenance or repair of common areas
20 owned in common by all of the owners of the common interest
21 community or by the community association and maintained
22 for the use of the unit owners or of any other expenses of
23 the association lawfully agreed upon, and the unit owner
24 fails or refuses to pay when due his or her proportionate
25 share of such assessments or expenses and the board or its
26 agents have served the demand set forth in Section 9-104.1

1 of this Article in the manner provided for in that Section
2 and the unit owner has failed to pay the amount claimed
3 within the time prescribed in the demand.

4 (b) The provisions of paragraph (8) of subsection (a) of
5 Section 9-102 and Section 9-104.3 of this Act shall not apply
6 to any common interest community unless (1) the association is
7 a not-for-profit corporation or a limited liability company,
8 (2) unit owners are authorized to attend meetings of the board
9 of directors or board of managers of the association in the
10 same manner as provided for condominiums under the Condominium
11 Property Act, and (3) the board of managers or board of
12 directors of the common interest community association has,
13 subsequent to the effective date of this amendatory Act of 1984
14 voted to have the provisions of this Article apply to such
15 association and has delivered or mailed notice of such action
16 to the unit owners or unless the declaration of the association
17 is recorded after the effective date of this amendatory Act of
18 1985.

19 (c) For purposes of this Article:

20 (1) "Common interest community" means real estate
21 other than a condominium or cooperative with respect to
22 which any person by virtue of his or her ownership of a
23 partial interest or unit therein is obligated to pay for
24 maintenance, improvement, insurance premiums, or real
25 estate taxes of other real estate described in a
26 declaration which is administered by an association.

1 (2) "Declaration" means any duly recorded instruments,
2 however designated, that have created a common interest
3 community and any duly recorded amendments to those
4 instruments.

5 (3) "Unit" means a physical portion of the common
6 interest community designated by separate ownership or
7 occupancy by boundaries which are described in a
8 declaration.

9 (4) "Unit owners' association" or "association" means
10 the association of all owners of units in the common
11 interest community acting pursuant to the declaration.

12 (d) If the board of a common interest community elects to
13 have the provisions of this Article apply to such association
14 or the declaration of the association is recorded after the
15 effective date of this amendatory Act of 1985, the provisions
16 of subsections (c) through (h) of Section 18.5 of the
17 Condominium Property Act applicable to a Master Association and
18 condominium unit subject to such association under subsections
19 (c) through (h) of Section 18.5 shall be applicable to the
20 community associations and to its unit owners.

21 (Source: P.A. 88-47; 89-41, eff. 6-23-95; 89-626, eff. 8-9-96.)

22 Section 10. The Common Interest Community Association Act
23 is amended by changing Sections 1-5, 1-20, 1-25, 1-30, and 1-50
24 as follows:

1 (765 ILCS 160/1-5)

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

4 "Acceptable technological means" includes, without
5 limitation, electronic transmission over the Internet or other
6 network, whether by direct connection, intranet, telecopier,
7 or electronic mail.

8 "Association" or "common interest community association"
9 means the association of all the members of a common interest
10 community, acting pursuant to bylaws or an operating agreement
11 through its duly elected board of managers or board of
12 directors.

13 "Board" means a common interest community association's
14 board of managers or board of directors, whichever is
15 applicable.

16 "Board member" or "member of the board" means a member of
17 the board of managers or the board of directors, whichever is
18 applicable.

19 "Board of directors" means, for a common interest community
20 that has been incorporated as an Illinois not-for-profit
21 corporation, the group of people elected by the members of a
22 common interest community as the governing body to exercise for
23 the members of the common interest community association all
24 powers, duties, and authority vested in the board of directors
25 under this Act and the common interest community association's
26 declaration and bylaws.

1 "Board of managers" means, for a common interest community
2 that is an unincorporated association or organized as a limited
3 liability company, the group of people elected by the members
4 of a common interest community as the governing body to
5 exercise for the members of the common interest community
6 association all powers, duties, and authority vested in the
7 board of managers under this Act and the common interest
8 community association's declaration, ~~and~~ bylaws, or operating
9 agreement.

10 "Building" means all structures, attached or unattached,
11 containing one or more units.

12 "Common areas" means the portion of the property other than
13 a unit.

14 "Common expenses" means the proposed or actual expenses
15 affecting the property, including reserves, if any, lawfully
16 assessed by the common interest community association.

17 "Common interest community" means real estate other than a
18 condominium or cooperative with respect to which any person by
19 virtue of his or her ownership of a partial interest or a unit
20 therein is obligated to pay for the maintenance, improvement,
21 insurance premiums or real estate taxes of common areas
22 described in a declaration which is administered by an
23 association. "Common interest community" may include, but not
24 be limited to, an attached or detached townhome, villa, or
25 single-family home. A "common interest community" does not
26 include a master association.

1 "Community instruments" means all documents and authorized
2 amendments thereto recorded by a developer or common interest
3 community association, including, but not limited to, the
4 declaration, bylaws, operating agreement, plat of survey, and
5 rules and regulations.

6 "Declaration" means any duly recorded instruments, however
7 designated, that have created a common interest community and
8 any duly recorded amendments to those instruments.

9 "Developer" means any person who submits property legally
10 or equitably owned in fee simple by the person to the
11 provisions of this Act, or any person who offers units legally
12 or equitably owned in fee simple by the person for sale in the
13 ordinary course of such person's business, including any
14 successor to such person's entire interest in the property
15 other than the purchaser of an individual unit.

16 "Developer control" means such control at a time prior to
17 the election of the board of the common interest community
18 association by a majority of the members other than the
19 developer.

20 "Electronic transmission" means any form of communication,
21 not directly involving the physical transmission of paper, that
22 creates a record that may be retained, retrieved, and reviewed
23 by a recipient and that may be directly reproduced in paper
24 form by the recipient through an automated process.

25 "Majority" or "majority of the members" means the owners of
26 more than 50% in the aggregate in interest of the undivided

1 ownership of the common elements. Any specified percentage of
2 the members means such percentage in the aggregate in interest
3 of such undivided ownership. "Majority" or "majority of the
4 members of the board of the common interest community
5 association" means more than 50% of the total number of persons
6 constituting such board pursuant to the bylaws or operating
7 agreement. Any specified percentage of the members of the
8 common interest community association means that percentage of
9 the total number of persons constituting such board pursuant to
10 the bylaws or operating agreement.

11 "Management company" or "community association manager"
12 means a person, partnership, corporation, or other legal entity
13 entitled to transact business on behalf of others, acting on
14 behalf of or as an agent for an association for the purpose of
15 carrying out the duties, responsibilities, and other
16 obligations necessary for the day to day operation and
17 management of any property subject to this Act.

18 "Meeting of the board" or "board meeting" means any
19 gathering of a quorum of the members of the board of the common
20 interest community association held for the purpose of
21 conducting board business.

22 "Member" means the person or entity designated as an owner
23 and entitled to one vote as defined by the community
24 instruments. The terms "member" and "unit owner" may be used
25 interchangeably as defined by the community instruments,
26 except in situations in which a matter of legal title to the

1 unit is involved or at issue, in which case the term "unit
2 owner" would be the applicable term used.

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

5 "Parcel" means the lot or lots or tract or tracts of land
6 described in the declaration as part of a common interest
7 community.

8 "Person" means a natural individual, corporation,
9 partnership, trustee, or other legal entity capable of holding
10 title to real property.

11 "Plat" means a plat or plats of survey of the parcel and of
12 all units in the common interest community, which may consist
13 of a three-dimensional horizontal and vertical delineation of
14 all such units, structures, easements, and common areas on the
15 property.

16 "Prescribed delivery method" means mailing, delivering,
17 posting in an association publication that is routinely mailed
18 to all members, electronic transmission, or any other delivery
19 method that is approved in writing by the member and authorized
20 by the community instruments.

21 "Property" means all the land, property, and space
22 comprising the parcel, all improvements and structures
23 erected, constructed or contained therein or thereon,
24 including any building and all easements, rights, and
25 appurtenances belonging thereto, and all fixtures and
26 equipment intended for the mutual use, benefit, or enjoyment of

1 the members, under the authority or control of a common
2 interest community association.

3 "Purchaser" means any person or persons, other than the
4 developer, who purchase a unit in a bona fide transaction for
5 value.

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

8 "Reserves" means those sums paid by members which are
9 separately maintained by the common interest community
10 association for purposes specified by the declaration and
11 bylaws of the common interest community association.

12 "Unit" means a part of the property designed and intended
13 for any type of independent use.

14 "Unit owner" means the person or persons whose estates or
15 interests, individually or collectively, aggregate fee simple
16 absolute ownership of a unit.

17 (Source: P.A. 97-605, eff. 8-26-11; 97-1090, eff. 8-24-12;
18 98-1042, eff. 1-1-15.)

19 (765 ILCS 160/1-20)

20 Sec. 1-20. Amendments to the declaration, ~~or~~ bylaws, or
21 operating agreement.

22 (a) The administration of every property shall be governed
23 by the declaration and bylaws or operating agreement, which may
24 either be embodied in the declaration or in a separate
25 instrument, a true copy of which shall be appended to and

1 recorded with the declaration. No modification or amendment of
2 the declaration, ~~or~~ bylaws, or operating agreement shall be
3 valid unless the same is set forth in an amendment thereof and
4 such amendment is duly recorded. An amendment of the
5 declaration, ~~or~~ bylaws, or operating agreement shall be deemed
6 effective upon recordation, unless the amendment sets forth a
7 different effective date.

8 (b) Unless otherwise provided by this Act, amendments to
9 community instruments authorized to be recorded shall be
10 executed and recorded by the president of the board or such
11 other officer authorized by the common interest community
12 association or the community instruments.

13 (c) If an association that currently permits leasing amends
14 its declaration, bylaws, or rules and regulations to prohibit
15 leasing, nothing in this Act or the declarations, bylaws, rules
16 and regulations of an association shall prohibit a unit owner
17 incorporated under 26 USC 501(c)(3) which is leasing a unit at
18 the time of the prohibition from continuing to do so until such
19 time that the unit owner voluntarily sells the unit; and no
20 special fine, fee, dues, or penalty shall be assessed against
21 the unit owner for leasing its unit.

22 (d) No action to incorporate a common interest community as
23 a municipality shall commence until an instrument agreeing to
24 incorporation has been signed by two-thirds of the members.

25 (Source: P.A. 96-1400, eff. 7-29-10; 97-605, eff. 8-26-11;
26 97-1090, eff. 8-24-12.)

1 (765 ILCS 160/1-25)

2 Sec. 1-25. Board of managers, board of directors, duties,
3 elections, and voting.

4 (a) Elections shall be held in accordance with the
5 community instruments, provided that an election shall be held
6 no less frequently than once every 24 months, for the board of
7 managers or board of directors from among the membership of a
8 common interest community association.

9 (b) (Blank).

10 (c) The members of the board shall serve without
11 compensation, unless the community instruments indicate
12 otherwise.

13 (d) No member of the board or officer shall be elected for
14 a term of more than 4 years, but officers and board members may
15 succeed themselves.

16 (e) If there is a vacancy on the board, the remaining
17 members of the board may fill the vacancy by a two-thirds vote
18 of the remaining board members until the next annual meeting of
19 the membership or until members holding 20% of the votes of the
20 association request a meeting of the members to fill the
21 vacancy for the balance of the term. A meeting of the members
22 shall be called for purposes of filling a vacancy on the board
23 no later than 30 days following the filing of a petition signed
24 by membership holding 20% of the votes of the association
25 requesting such a meeting.

1 (f) There shall be an election of a:

2 (1) president from among the members of the board, who
3 shall preside over the meetings of the board and of the
4 membership;

5 (2) secretary from among the members of the board, who
6 shall keep the minutes of all meetings of the board and of
7 the membership and who shall, in general, perform all the
8 duties incident to the office of secretary; and

9 (3) treasurer from among the members of the board, who
10 shall keep the financial records and books of account.

11 (g) If no election is held to elect board members within
12 the time period specified in the bylaws, or within a reasonable
13 amount of time thereafter not to exceed 90 days, then 20% of
14 the members may bring an action to compel compliance with the
15 election requirements specified in the bylaws or operating
16 agreement. If the court finds that an election was not held to
17 elect members of the board within the required period due to
18 the bad faith acts or omissions of the board of managers or the
19 board of directors, the members shall be entitled to recover
20 their reasonable attorney's fees and costs from the
21 association. If the relevant notice requirements have been met
22 and an election is not held solely due to a lack of a quorum,
23 then this subsection (g) does not apply.

24 (h) Where there is more than one owner of a unit and there
25 is only one member vote associated with that unit, if only one
26 of the multiple owners is present at a meeting of the

1 membership, he or she is entitled to cast the member vote
2 associated with that unit.

3 (h-5) A member may vote:

4 (1) by proxy executed in writing by the member or by
5 his or her duly authorized attorney in fact, provided,
6 however, that the proxy bears the date of execution. Unless
7 the community instruments or the written proxy itself
8 provide otherwise, proxies will not be valid for more than
9 11 months after the date of its execution; or

10 (2) by submitting an association-issued ballot in
11 person at the election meeting; or

12 (3) by submitting an association-issued ballot to the
13 association or its designated agent by mail or other means
14 of delivery specified in the declaration or bylaws; or

15 (4) by any electronic or acceptable technological
16 means.

17 Votes cast under any paragraph of this subsection (h-5) are
18 valid for the purpose of establishing a quorum.

19 (i) The association may, upon adoption of the appropriate
20 rules by the board, conduct elections by electronic or
21 acceptable technological means. Members may not vote by proxy
22 in board elections. Instructions regarding the use of
23 electronic means or acceptable technological means for voting
24 shall be distributed to all members not less than 10 and not
25 more than 30 days before the election meeting. The instruction
26 notice must include the names of all candidates who have given

1 the board or its authorized agent timely written notice of
2 their candidacy and must give the person voting through
3 electronic or acceptable technological means the opportunity
4 to cast votes for candidates whose names do not appear on the
5 ballot. The board rules shall provide and the instructions
6 provided to the member shall state that a member who submits a
7 vote using electronic or acceptable technological means may
8 request and cast a ballot in person at the election meeting,
9 and thereby void any vote previously submitted by that member.

10 (j) Upon proof of purchase, the purchaser of a unit from a
11 seller other than the developer pursuant to an installment
12 contract for purchase shall, during such times as he or she
13 resides in the unit, be counted toward a quorum for purposes of
14 election of members of the board at any meeting of the
15 membership called for purposes of electing members of the
16 board, shall have the right to vote for the members of the
17 board of the common interest community association and to be
18 elected to and serve on the board unless the seller expressly
19 retains in writing any or all of such rights.

20 (Source: P.A. 97-605, eff. 8-26-11; 97-1090, eff. 8-24-12;
21 98-1042, eff. 1-1-15.)

22 (765 ILCS 160/1-30)

23 Sec. 1-30. Board duties and obligations; records.

24 (a) The board shall meet at least 4 times annually.

25 (b) A common interest community association may not enter

1 into a contract with a current board member, or with a
2 corporation, limited liability company, or partnership in
3 which a board member or a member of his or her immediate family
4 has 25% or more interest, unless notice of intent to enter into
5 the contract is given to members within 20 days after a
6 decision is made to enter into the contract and the members are
7 afforded an opportunity by filing a petition, signed by 20% of
8 the membership, for an election to approve or disapprove the
9 contract; such petition shall be filed within 20 days after
10 such notice and such election shall be held within 30 days
11 after filing the petition. For purposes of this subsection, a
12 board member's immediate family means the board member's
13 spouse, parents, siblings, and children.

14 (c) The bylaws or operating agreement shall provide for the
15 maintenance, repair, and replacement of the common areas and
16 payments therefor, including the method of approving payment
17 vouchers.

18 (d) (Blank).

19 (e) The association may engage the services of a manager or
20 management company.

21 (f) The association shall have one class of membership
22 unless the declaration, ~~or~~ bylaws, or operating agreement
23 provide otherwise; however, this subsection (f) shall not be
24 construed to limit the operation of subsection (c) of Section
25 1-20 of this Act.

26 (g) The board shall have the power, after notice and an

1 opportunity to be heard, to levy and collect reasonable fines
2 from members or unit owners for violations of the declaration,
3 bylaws, operating agreement, and rules and regulations of the
4 common interest community association.

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

18 (i) Board records.

19 (1) The board shall maintain the following records of
20 the association and make them available for examination and
21 copying at convenient hours of weekdays by any member or
22 unit owner in a common interest community subject to the
23 authority of the board, their mortgagees, and their duly
24 authorized agents or attorneys:

25 (i) Copies of the recorded declaration, other
26 community instruments, other duly recorded covenants

1 and bylaws and any amendments, articles of
2 incorporation, articles of organization, annual
3 reports, and any rules and regulations adopted by the
4 board shall be available. Prior to the organization of
5 the board, the developer shall maintain and make
6 available the records set forth in this paragraph (i)
7 for examination and copying.

8 (ii) Detailed and accurate records in
9 chronological order of the receipts and expenditures
10 affecting the common areas, specifying and itemizing
11 the maintenance and repair expenses of the common areas
12 and any other expenses incurred, and copies of all
13 contracts, leases, or other agreements entered into by
14 the board shall be maintained.

15 (iii) The minutes of all meetings of the board
16 which shall be maintained for not less than 7 years.

17 (iv) With a written statement of a proper purpose,
18 ballots and proxies related thereto, if any, for any
19 election held for the board and for any other matters
20 voted on by the members, which shall be maintained for
21 not less than one year.

22 (v) With a written statement of a proper purpose,
23 such other records of the board as are available for
24 inspection by members of a not-for-profit corporation
25 pursuant to Section 107.75 of the General Not For
26 Profit Corporation Act of 1986 shall be maintained.

1 (vi) With respect to units owned by a land trust, a
2 living trust, or other legal entity, the trustee,
3 officer, or manager of the entity may designate, in
4 writing, a person to cast votes on behalf of the member
5 or unit owner and a designation shall remain in effect
6 until a subsequent document is filed with the
7 association.

8 (2) Where a request for records under this subsection
9 is made in writing to the board or its agent, failure to
10 provide the requested record or to respond within 30 days
11 shall be deemed a denial by the board.

12 (3) A reasonable fee may be charged by the board for
13 the cost of retrieving and copying records properly
14 requested.

15 (4) If the board fails to provide records properly
16 requested under paragraph (1) of this subsection (i) within
17 the time period provided in that paragraph (1), the member
18 may seek appropriate relief and shall be entitled to an
19 award of reasonable attorney's fees and costs if the member
20 prevails and the court finds that such failure is due to
21 the acts or omissions of the board of managers or the board
22 of directors.

23 (j) The board shall have standing and capacity to act in a
24 representative capacity in relation to matters involving the
25 common areas or more than one unit, on behalf of the members or
26 unit owners as their interests may appear.

1 (Source: P.A. 97-605, eff. 8-26-11; 97-1090, eff. 8-24-12;
2 98-232, eff. 1-1-14; 98-241, eff. 8-9-13; 98-756, eff.
3 7-16-14.)

4 (765 ILCS 160/1-50)

5 Sec. 1-50. Administration of property prior to election of
6 the initial board of directors.

7 (a) Until the election of the initial board whose
8 declaration is recorded on or after the effective date of this
9 Act, the same rights, titles, powers, privileges, trusts,
10 duties, and obligations that are vested in or imposed upon the
11 board by this Act or in the declaration or other duly recorded
12 covenant shall be held and performed by the developer.

13 (b) The election of the initial board, whose declaration is
14 recorded on or after the effective date of this Act, shall be
15 held not later than 60 days after the conveyance by the
16 developer of 75% of the units, or 3 years after the recording
17 of the declaration, whichever is earlier. The developer shall
18 give at least 21 days' notice of the meeting to elect the
19 initial board of directors and shall upon request provide to
20 any member, within 3 working days of the request, the names,
21 addresses, and weighted vote of each member entitled to vote at
22 the meeting. Any member shall, upon receipt of the request, be
23 provided with the same information, within 10 days after the
24 request, with respect to each subsequent meeting to elect
25 members of the board of directors.

1 (c) If the initial board of a common interest community
2 association whose declaration is recorded on or after the
3 effective date of this Act is not elected by the time
4 established in subsection (b), the developer shall continue in
5 office for a period of 30 days, whereupon written notice of his
6 or her resignation shall be sent to all of the unit owners or
7 members.

8 (d) Within 60 days following the election of a majority of
9 the board, other than the developer, by members, the developer
10 shall deliver to the board:

11 (1) All original documents as recorded or filed
12 pertaining to the property, its administration, and the
13 association, such as the declaration, articles of
14 incorporation, articles of organization, other
15 instruments, annual reports, minutes, rules and
16 regulations, and contracts, leases, or other agreements
17 entered into by the association. If any original documents
18 are unavailable, a copy may be provided if certified by
19 affidavit of the developer, or an officer or agent of the
20 developer, as being a complete copy of the actual document
21 recorded or filed.

22 (2) A detailed accounting by the developer, setting
23 forth the source and nature of receipts and expenditures in
24 connection with the management, maintenance, and operation
25 of the property, copies of all insurance policies, and a
26 list of any loans or advances to the association which are

1 outstanding.

2 (3) Association funds, which shall have been at all
3 times segregated from any other moneys of the developer.

4 (4) A schedule of all real or personal property,
5 equipment, and fixtures belonging to the association,
6 including documents transferring the property, warranties,
7 if any, for all real and personal property and equipment,
8 deeds, title insurance policies, and all tax bills.

9 (5) A list of all litigation, administrative action,
10 and arbitrations involving the association, any notices of
11 governmental bodies involving actions taken or which may be
12 taken concerning the association, engineering and
13 architectural drawings and specifications as approved by
14 any governmental authority, all other documents filed with
15 any other governmental authority, all governmental
16 certificates, correspondence involving enforcement of any
17 association requirements, copies of any documents relating
18 to disputes involving members or unit owners, and originals
19 of all documents relating to everything listed in this
20 paragraph.

21 (6) If the developer fails to fully comply with this
22 subsection (d) within the 60 days provided and fails to
23 fully comply within 10 days after written demand mailed by
24 registered or certified mail to his or her last known
25 address, the board may bring an action to compel compliance
26 with this subsection (d). If the court finds that any of

1 the required deliveries were not made within the required
2 period, the board shall be entitled to recover its
3 reasonable attorney's fees and costs incurred from and
4 after the date of expiration of the 10-day demand.

5 (e) With respect to any common interest community
6 association whose declaration is recorded on or after the
7 effective date of this Act, any contract, lease, or other
8 agreement made prior to the election of a majority of the board
9 other than the developer by or on behalf of members or
10 underlying common interest community association, the
11 association or the board, which extends for a period of more
12 than 2 years from the recording of the declaration, shall be
13 subject to cancellation by more than one-half of the votes of
14 the members, other than the developer, cast at a special
15 meeting of members called for that purpose during a period of
16 90 days prior to the expiration of the 2-year period if the
17 board is elected by the members, otherwise by more than
18 one-half of the underlying common interest community
19 association board. At least 60 days prior to the expiration of
20 the 2-year period, the board or, if the board is still under
21 developer control, the developer shall send notice to every
22 member notifying them of this provision, of what contracts,
23 leases, and other agreements are affected, and of the procedure
24 for calling a meeting of the members or for action by the board
25 for the purpose of acting to terminate such contracts, leases
26 or other agreements. During the 90-day period the other party

1 to the contract, lease, or other agreement shall also have the
2 right of cancellation.

3 (f) The statute of limitations for any actions in law or
4 equity that the board may bring shall not begin to run until
5 the members have elected a majority of the members of the
6 board.

7 (Source: P.A. 96-1400, eff. 7-29-10; 97-1090, eff. 8-24-12.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.