



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

**HB4841**

Introduced 2/7/2024, by Rep. Daniel Didech

#### SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-25

765 ILCS 160/1-30

Amends the Common Interest Community Association Act. Prohibits a person from running for or serving on an association that collects \$100,000 or more in annual dues if, within the immediately preceding 36-month period, he or she has been more than 3 months delinquent in the payment of any fees or assessments to the association or has written 2 or more insufficient funds checks to the association for the payment of assessments or fees. Requires officers and members of the board to exercise the care required of a fiduciary of the membership. Prohibits a board, its officers, or board members from forbearing the payment of assessments or fees by any member nor shall any officer or member of the board unilaterally waive or vote on the waiver of any penalties applicable to himself or herself. For associations that collect annual dues of \$100,000 or more, requires a background check of all members of the board in obtaining any fidelity bond and directors and officers liability coverage. Requires notification to the membership on a monthly basis through the prescribed delivery method of all delinquencies for dues, fees, and fines by any member of the board.

LRB103 36632 JRC 66741 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  
5 is amended by changing Sections 1-25 and 1-30 as follows:

6 (765 ILCS 160/1-25)

7 Sec. 1-25. Board of managers, board of directors, duties,  
8 elections, and voting.

9 (a) Elections shall be held in accordance with the  
10 community instruments, provided that an election shall be held  
11 no less frequently than once every 24 months, for the board of  
12 managers or board of directors from among the membership of a  
13 common interest community association.

14 (b) No person may run for or serve on the board of an  
15 association that collects \$100,000 or more in annual dues if,  
16 within the immediately preceding 36-month period, he or she  
17 has been more than 3 months delinquent in the payment of any  
18 fees or assessments to the association or has written 2 or more  
19 insufficient funds checks to the association for the payment  
20 of assessments or fees ~~(Blank)~~.

21 (c) The members of the board shall serve without  
22 compensation, unless the community instruments indicate  
23 otherwise.

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

4           (e) If there is a vacancy on the board, the remaining  
5 members of the board may fill the vacancy by a two-thirds vote  
6 of the remaining board members until the next annual meeting  
7 of the membership or until members holding 20% of the votes of  
8 the association request a meeting of the members to fill the  
9 vacancy for the balance of the term. A meeting of the members  
10 shall be called for purposes of filling a vacancy on the board  
11 no later than 30 days following the filing of a petition signed  
12 by membership holding 20% of the votes of the association  
13 requesting such a meeting.

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

15                 (1) president from among the members of the board, who  
16 shall preside over the meetings of the board and of the  
17 membership;

18                 (2) secretary from among the members of the board, who  
19 shall keep the minutes of all meetings of the board and of  
20 the membership and who shall, in general, perform all the  
21 duties incident to the office of secretary; and

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

24           (g) If no election is held to elect board members within  
25 the time period specified in the bylaws, or within a  
26 reasonable amount of time thereafter not to exceed 90 days,

1 then 20% of the members may bring an action to compel  
2 compliance with the election requirements specified in the  
3 bylaws or operating agreement. If the court finds that an  
4 election was not held to elect members of the board within the  
5 required period due to the bad faith acts or omissions of the  
6 board of managers or the board of directors, the members shall  
7 be entitled to recover their reasonable attorney's fees and  
8 costs from the association. If the relevant notice  
9 requirements have been met and an election is not held solely  
10 due to a lack of a quorum, then this subsection (g) does not  
11 apply.

12 (h) Where there is more than one owner of a unit and there  
13 is only one member vote associated with that unit, if only one  
14 of the multiple owners is present at a meeting of the  
15 membership, he or she is entitled to cast the member vote  
16 associated with that unit.

17 (h-5) A member may vote:

18 (1) by proxy executed in writing by the member or by  
19 his or her duly authorized attorney in fact, provided,  
20 however, that the proxy bears the date of execution.  
21 Unless the community instruments or the written proxy  
22 itself provide otherwise, proxies will not be valid for  
23 more than 11 months after the date of its execution; or

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

26 (3) by submitting an association-issued ballot to the

1 association or its designated agent by mail or other means  
2 of delivery specified in the declaration or bylaws; or

3 (4) by any electronic or acceptable technological  
4 means.

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

7 (i) The association may, upon adoption of the appropriate  
8 rules by the board, conduct elections by electronic or  
9 acceptable technological means. Members may not vote by proxy  
10 in board elections. Instructions regarding the use of  
11 electronic means or acceptable technological means for voting  
12 shall be distributed to all members not less than 10 and not  
13 more than 30 days before the election meeting. The instruction  
14 notice must include the names of all candidates who have given  
15 the board or its authorized agent timely written notice of  
16 their candidacy and must give the person voting through  
17 electronic or acceptable technological means the opportunity  
18 to cast votes for candidates whose names do not appear on the  
19 ballot. The board rules shall provide and the instructions  
20 provided to the member shall state that a member who submits a  
21 vote using electronic or acceptable technological means may  
22 request and cast a ballot in person at the election meeting,  
23 and thereby void any vote previously submitted by that member.

24 (j) Upon proof of purchase, the purchaser of a unit from a  
25 seller other than the developer pursuant to an installment  
26 contract for purchase shall, during such times as he or she

1 resides in the unit, be counted toward a quorum for purposes of  
2 election of members of the board at any meeting of the  
3 membership called for purposes of electing members of the  
4 board, shall have the right to vote for the members of the  
5 board of the common interest community association and to be  
6 elected to and serve on the board unless the seller expressly  
7 retains in writing any or all of such rights.

8 (Source: P.A. 98-1042, eff. 1-1-15; 99-41, eff. 7-14-15.)

9 (765 ILCS 160/1-30)

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

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

12 (b) A common interest community association may not enter  
13 into a contract with a current board member, or with a  
14 corporation, limited liability company, or partnership in  
15 which a board member or a member of his or her immediate family  
16 has 25% or more interest, unless notice of intent to enter into  
17 the contract is given to members within 20 days after a  
18 decision is made to enter into the contract and the members are  
19 afforded an opportunity by filing a petition, signed by 20% of  
20 the membership, for an election to approve or disapprove the  
21 contract; such petition shall be filed within 20 days after  
22 such notice and such election shall be held within 30 days  
23 after filing the petition. For purposes of this subsection, a  
24 board member's immediate family means the board member's  
25 spouse, parents, siblings, and children.

1 (c) The bylaws or operating agreement shall provide for  
2 the maintenance, repair, and replacement of the common areas  
3 and payments therefor, including the method of approving  
4 payment vouchers.

5 (d) In the performance of their duties, the officers and  
6 members of the board, whether appointed by the developer or  
7 elected by the members, shall exercise the care required of a  
8 fiduciary of the membership. The board and the officers and  
9 members of the board shall have no authority to forebear the  
10 payment of assessments or fees by any member, nor shall any  
11 officer or member of the board unilaterally waive or vote on  
12 the waiver of any penalties applicable to himself or herself.  
13 The association shall have no authority to forbear the payment  
14 of assessments by any unit owner ~~(Blank)~~.

15 (e) The association may engage the services of a manager  
16 or management company. For associations that collect annual  
17 dues of \$100,000 or more, the manager or management company  
18 shall require a background check of all members of the board in  
19 connection with obtaining any fidelity bond and directors and  
20 officers liability coverage, and shall notify the membership  
21 on a monthly basis through the prescribed delivery method of  
22 all delinquencies for dues, fees, and fines by any member of  
23 the board.

24 (f) The association shall have one class of membership  
25 unless the declaration, bylaws, or operating agreement provide  
26 otherwise; however, this subsection (f) shall not be construed

1 to limit the operation of subsection (c) of Section 1-20 of  
2 this Act.

3 (g) The board shall have the power, after notice and an  
4 opportunity to be heard, to levy and collect reasonable fines  
5 from members or unit owners for violations of the declaration,  
6 bylaws, operating agreement, and rules and regulations of the  
7 common interest community association.

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

21 (i) Board records.

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



1           duly authorized agents or attorneys:

2           (i) Copies of the recorded declaration, other  
3           community instruments, other duly recorded covenants  
4           and bylaws and any amendments, articles of  
5           incorporation, articles of organization, annual  
6           reports, and any rules and regulations adopted by the  
7           board shall be available. Prior to the organization of  
8           the board, the developer shall maintain and make  
9           available the records set forth in this paragraph (i)  
10          for examination and copying.

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

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

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

25          (v) With a written statement of a proper purpose,  
26          such other records of the board as are available for

1 inspection by members of a not-for-profit corporation  
2 pursuant to Section 107.75 of the General Not For  
3 Profit Corporation Act of 1986 shall be maintained.

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

11 (vii) Any reserve study.

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

16 (3) A reasonable fee may be charged by the board for  
17 the cost of retrieving and copying records properly  
18 requested.

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

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

5           (k) The board may contract with the highway commissioner  
6       of a road district in which the association is located, if the  
7       association comprises 50% of the population or greater of the  
8       township or road district, to furnish materials related to the  
9       maintenance or repair of roads. Any such purchases shall be  
10      included in the board's finance report as outlined in Section  
11      1-45.

12      (Source: P.A. 102-921, eff. 5-27-22; 103-486, eff. 1-1-24.)