



Rep. Rita Mayfield

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10400HB5449ham001

LRB104 18328 JRC 36887 a

1 AMENDMENT TO HOUSE BILL 5449

2 AMENDMENT NO. _____. Amend House Bill 5449 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Common Interest Community Association Act
5 is amended by changing Sections 1-30 and 1-45 as follows:

6 (765 ILCS 160/1-30)

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

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

9 (b) A common interest community association may not enter
10 into a contract with a current board member, or with a
11 corporation, limited liability company, or partnership in
12 which a board member or a member of his or her immediate family
13 has 25% or more interest, unless notice of intent to enter into
14 the contract is given to members within 20 days after a
15 decision is made to enter into the contract and the members are
16 afforded an opportunity by filing a petition, signed by 20% of

1 the membership, for an election to approve or disapprove the
2 contract; such petition shall be filed within 20 days after
3 such notice and such election shall be held within 30 days
4 after filing the petition. For purposes of this subsection, a
5 board member's immediate family means the board member's
6 spouse, parents, siblings, and children.

7 (c) The bylaws or operating agreement shall provide for
8 the maintenance, repair, and replacement of the common areas
9 and payments therefor, including the method of approving
10 payment vouchers.

11 (d) (Blank).

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

14 (f) The association shall have one class of membership
15 unless the declaration, bylaws, or operating agreement provide
16 otherwise; however, this subsection (f) shall not be construed
17 to limit the operation of subsection (c) of Section 1-20 of
18 this Act.

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

24 (h) Other than attorney's fees and court or arbitration
25 costs, no fees pertaining to the collection of a member's or
26 unit owner's financial obligation to the association,

1 including fees charged by a manager or managing agent, shall
2 be added to and deemed a part of a member's or unit owner's
3 respective share of the common expenses unless: (i) the
4 managing agent fees relate to the costs to collect common
5 expenses for the association; (ii) the fees are set forth in a
6 contract between the managing agent and the association; and
7 (iii) the authority to add the management fees to a member's or
8 unit owner's respective share of the common expenses is
9 specifically stated in the declaration, bylaws, or operating
10 agreement of the association.

11 (i) Board records.

12 (1) The board shall maintain the following records of
13 the association and make them available for examination
14 and copying at convenient hours of weekdays by any member
15 or unit owner in a common interest community subject to
16 the authority of the board, their mortgagees, and their
17 duly authorized agents or attorneys:

18 (i) Copies of the recorded declaration, other
19 community instruments, other duly recorded covenants
20 and bylaws and any amendments, articles of
21 incorporation, articles of organization, annual
22 reports, and any rules and regulations adopted by the
23 board shall be available. Prior to the organization of
24 the board, the developer shall maintain and make
25 available the records set forth in this paragraph (i)
26 for examination and copying.

1 (ii) Detailed and accurate records in
2 chronological order of the receipts and expenditures
3 affecting the common areas, specifying and itemizing
4 the maintenance and repair expenses of the common
5 areas and any other expenses incurred, and copies of
6 all contracts, leases, or other agreements entered
7 into by the board shall be maintained.

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

10 (iv) With a written statement of a proper purpose,
11 ballots and proxies related thereto, if any, for any
12 election held for the board and for any other matters
13 voted on by the members, which shall be maintained for
14 not less than one year.

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

20 (vi) With respect to units owned by a land trust, a
21 living trust, or other legal entity, the trustee,
22 officer, or manager of the entity may designate, in
23 writing, a person to cast votes on behalf of the member
24 or unit owner and a designation shall remain in effect
25 until a subsequent document is filed with the
26 association.

1 (vii) Any reserve study.

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

6 (3) A reasonable fee may be charged by the board for
7 the cost of retrieving and copying records properly
8 requested.

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

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

21 (k) The board may contract with the highway commissioner
22 of a road district in which the association is located, if the
23 association comprises 50% of the population or greater of the
24 township or road district, to furnish materials related to the
25 maintenance or repair of roads. Any such purchases shall be
26 included in the board's finance report as outlined in Section

1 1-45.

2 (l) The board must provide a website as soon as practical
3 that unit owners can access on the Internet that includes
4 information about board and association meetings, agendas, and
5 minutes of the last meeting.

6 (m) The board must transmit annually to the members
7 electronically via email a statement of the association's
8 financial data, to include, but not be limited to, receipts,
9 expenses, invoices, contracts, and obligations.

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

11 (765 ILCS 160/1-45)

12 Sec. 1-45. Finances.

13 (a) Each member shall receive through a prescribed
14 delivery method, at least 30 days but not more than 60 days
15 prior to the adoption thereof by the board, a copy of the
16 proposed annual budget together with an indication of which
17 portions are intended for reserves, capital expenditures or
18 repairs or payment of real estate taxes.

19 (b) The board shall provide all members with a reasonably
20 detailed summary of the receipts, common expenses, and
21 reserves for the preceding budget year. The board shall (i)
22 make available for review to all members an itemized
23 accounting of the common expenses for the preceding year
24 actually incurred or paid, together with an indication of
25 which portions were for reserves, capital expenditures or

1 repairs or payment of real estate taxes and with a tabulation
2 of the amounts collected pursuant to the budget or assessment,
3 and showing the net excess or deficit of income over
4 expenditures plus reserves or (ii) provide a consolidated
5 annual independent audit report of the financial status of all
6 fund accounts within the association.

7 (c) If an adopted budget or any separate assessment
8 adopted by the board would result in the sum of all regular and
9 separate assessments payable in the current fiscal year
10 exceeding 115% of the sum of all regular and separate
11 assessments payable during the preceding fiscal year, the
12 common interest community association, upon written petition
13 by members with 20% of the votes of the association delivered
14 to the board within 14 days of the board action, shall call a
15 meeting of the members within 30 days of the date of delivery
16 of the petition to consider the budget or separate assessment;
17 unless a majority of the total votes of the members are cast at
18 the meeting to reject the budget or separate assessment, it
19 shall be deemed ratified.

20 (d) If total common expenses exceed the total amount of
21 the approved and adopted budget, the common interest community
22 association shall disclose this variance to all its members
23 and specifically identify the subsequent assessments needed to
24 offset this variance in future budgets.

25 (e) Separate assessments for expenditures relating to
26 emergencies or mandated by law may be adopted by the board

1 without being subject to member approval or the provisions of
2 subsection (c) or (f) of this Section. As used herein,
3 "emergency" means a danger to or a compromise of the
4 structural integrity of the common areas or any of the common
5 facilities of the common interest community. "Emergency" also
6 includes a danger to the life, health or safety of the
7 membership.

8 (f) Assessments for additions and alterations to the
9 common areas or to association-owned property not included in
10 the adopted annual budget, shall be separately assessed and
11 are subject to approval of a simple majority of the total
12 members at a meeting called for that purpose.

13 (g) The board may adopt separate assessments payable over
14 more than one fiscal year. With respect to multi-year
15 assessments not governed by subsections (e) and (f) of this
16 Section, the entire amount of the multi-year assessment shall
17 be deemed considered and authorized in the first fiscal year
18 in which the assessment is approved.

19 (h) The board of a common interest community association
20 shall have the authority to establish and maintain a system of
21 master metering of public utility services to collect payments
22 in conjunction therewith, subject to the requirements of the
23 Tenant Utility Payment Disclosure Act.

24 (i) An association subject to this Act that consists of
25 100 or more units shall use generally accepted accounting
26 principles in fulfilling any accounting obligations under this

1 Act.

2 (Source: P.A. 100-292, eff. 1-1-18.)

3 Section 10. The Condominium Property Act is amended by
4 changing Section 18.4 and by adding Section 40 as follows:

5 (765 ILCS 605/18.4) (from Ch. 30, par. 318.4)

6 Sec. 18.4. Powers and duties of board of managers. The
7 board of managers shall exercise for the association all
8 powers, duties and authority vested in the association by law
9 or the condominium instruments except for such powers, duties
10 and authority reserved by law to the members of the
11 association. The powers and duties of the board of managers
12 shall include, but shall not be limited to, the following:

13 (a) To provide for the operation, care, upkeep,
14 maintenance, replacement and improvement of the common
15 elements. Nothing in this subsection (a) shall be deemed
16 to invalidate any provision in a condominium instrument
17 placing limits on expenditures for the common elements,
18 provided, that such limits shall not be applicable to
19 expenditures for repair, replacement, or restoration of
20 existing portions of the common elements. The term
21 "repair, replacement or restoration" means expenditures to
22 deteriorated or damaged portions of the property related
23 to the existing decorating, facilities, or structural or
24 mechanical components, interior or exterior surfaces, or

1 energy systems and equipment with the functional
2 equivalent of the original portions of such areas.
3 Replacement of the common elements may result in an
4 improvement over the original quality of such elements or
5 facilities; provided that, unless the improvement is
6 mandated by law or is an emergency as defined in item (iv)
7 of subparagraph (8) of paragraph (a) of Section 18, if the
8 improvement results in a proposed expenditure exceeding 5%
9 of the annual budget, the board of managers, upon written
10 petition by unit owners with 20% of the votes of the
11 association delivered to the board within 21 days of the
12 board action to approve the expenditure, shall call a
13 meeting of the unit owners within 30 days of the date of
14 delivery of the petition to consider the expenditure.
15 Unless a majority of the total votes of the unit owners are
16 cast at the meeting to reject the expenditure, it is
17 ratified.

18 (b) To prepare, adopt and distribute the annual budget
19 for the property.

20 (c) To levy and expend assessments.

21 (d) To collect assessments from unit owners.

22 (e) To provide for the employment and dismissal of the
23 personnel necessary or advisable for the maintenance and
24 operation of the common elements.

25 (f) To obtain adequate and appropriate kinds of
26 insurance.

1 (g) To own, convey, encumber, lease, and otherwise
2 deal with units conveyed to or purchased by it.

3 (h) To adopt and amend rules and regulations covering
4 the details of the operation and use of the property,
5 after a meeting of the unit owners called for the specific
6 purpose of discussing the proposed rules and regulations.
7 Notice of the meeting shall contain the full text of the
8 proposed rules and regulations, and the meeting shall
9 conform to the requirements of Section 18(b) of this Act,
10 except that no quorum is required at the meeting of the
11 unit owners unless the declaration, bylaws or other
12 condominium instrument expressly provides to the contrary.
13 However, no rule or regulation may impair any rights
14 guaranteed by the First Amendment to the Constitution of
15 the United States or Section 4 of Article I of the Illinois
16 Constitution including, but not limited to, the free
17 exercise of religion, nor may any rules or regulations
18 conflict with the provisions of this Act or the
19 condominium instruments. No rule or regulation shall
20 prohibit any reasonable accommodation for religious
21 practices, including the attachment of religiously
22 mandated objects to the front-door area of a condominium
23 unit.

24 (i) To keep detailed, accurate records of the receipts
25 and expenditures affecting the use and operation of the
26 property.

1 (j) To have access to each unit from time to time as
2 may be necessary for the maintenance, repair or
3 replacement of any common elements or for making emergency
4 repairs necessary to prevent damage to the common elements
5 or to other units.

6 (k) To pay real property taxes, special assessments,
7 and any other special taxes or charges of the State of
8 Illinois or of any political subdivision thereof, or other
9 lawful taxing or assessing body, which are authorized by
10 law to be assessed and levied upon the real property of the
11 condominium.

12 (l) To impose charges for late payment of a unit
13 owner's proportionate share of the common expenses, or any
14 other expenses lawfully agreed upon, and after notice and
15 an opportunity to be heard, to levy reasonable fines for
16 violation of the declaration, by-laws, and rules and
17 regulations of the association.

18 (m) By a majority vote of the entire board of
19 managers, to assign the right of the association to future
20 income from common expenses or other sources, and to
21 mortgage or pledge substantially all of the remaining
22 assets of the association.

23 (n) To record the dedication of a portion of the
24 common elements to a public body for use as, or in
25 connection with, a street or utility where authorized by
26 the unit owners under the provisions of Section 14.2.

1 (o) To record the granting of an easement for the
2 laying of cable television or high speed Internet cable
3 where authorized by the unit owners under the provisions
4 of Section 14.3; to obtain, if available and determined by
5 the board to be in the best interests of the association,
6 cable television or bulk high speed Internet service for
7 all of the units of the condominium on a bulk identical
8 service and equal cost per unit basis; and to assess and
9 recover the expense as a common expense and, if so
10 determined by the board, to assess each and every unit on
11 the same equal cost per unit basis.

12 (p) To seek relief on behalf of all unit owners when
13 authorized pursuant to subsection (c) of Section 10 from
14 or in connection with the assessment or levying of real
15 property taxes, special assessments, and any other special
16 taxes or charges of the State of Illinois or of any
17 political subdivision thereof or of any lawful taxing or
18 assessing body.

19 (q) To reasonably accommodate the needs of a unit
20 owner who is a person with a disability as required by the
21 federal Civil Rights Act of 1968, the Human Rights Act and
22 any applicable local ordinances in the exercise of its
23 powers with respect to the use of common elements or
24 approval of modifications in an individual unit.

25 (r) To accept service of a notice of claim for
26 purposes of the Mechanics Lien Act on behalf of each

1 respective member of the Unit Owners' Association with
2 respect to improvements performed pursuant to any contract
3 entered into by the Board of Managers or any contract
4 entered into prior to the recording of the condominium
5 declaration pursuant to this Act, for a property
6 containing more than 8 units, and to distribute the notice
7 to the unit owners within 7 days of the acceptance of the
8 service by the Board of Managers. The service shall be
9 effective as if each individual unit owner had been served
10 individually with notice.

11 (s) To adopt and amend rules and regulations (1)
12 authorizing electronic delivery of notices and other
13 communications required or contemplated by this Act to
14 each unit owner who provides the association with written
15 authorization for electronic delivery and an electronic
16 address to which such communications are to be
17 electronically transmitted; and (2) authorizing each unit
18 owner to designate an electronic address or a U.S. Postal
19 Service address, or both, as the unit owner's address on
20 any list of members or unit owners which an association is
21 required to provide upon request pursuant to any provision
22 of this Act or any condominium instrument.

23 (t) The board must provide a website as soon as
24 practicable that unit owners can access on the Internet
25 that includes information about board and association
26 meetings, agendas, and minutes of the last meeting.

1 (u) The board must transmit annually to the members
2 electronically via email a statement of the association's
3 financial data, to include, but not be limited to,
4 receipts, expenses, invoices, contracts, and obligations.

5 In the performance of their duties, the officers and
6 members of the board, whether appointed by the developer or
7 elected by the unit owners, shall exercise the care required
8 of a fiduciary of the unit owners.

9 The collection of assessments from unit owners by an
10 association, board of managers or their duly authorized agents
11 shall not be considered acts constituting a collection agency
12 for purposes of the Collection Agency Act.

13 The provisions of this Section are applicable to all
14 condominium instruments recorded under this Act. Any portion
15 of a condominium instrument which contains provisions contrary
16 to these provisions shall be void as against public policy and
17 ineffective. Any such instrument that fails to contain the
18 provisions required by this Section shall be deemed to
19 incorporate such provisions by operation of law.

20 (Source: P.A. 99-143, eff. 7-27-15; 99-849, eff. 1-1-17;
21 100-292, eff. 1-1-18.)".