



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5000

Introduced 2/7/2012, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

765 ILCS 605/18.4

from Ch. 30, par. 318.4

Amends the Condominium Property Act. Provides that the powers and duties of the board of managers of an association shall include inspecting the common elements for the presence of pests and, if necessary, controlling pests in the common elements.

LRB097 16767 AJO 61946 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Condominium Property Act is amended by
5 changing Section 18.4 as follows:

6 (765 ILCS 605/18.4) (from Ch. 30, par. 318.4)

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

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

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

20 (b) To prepare, adopt and distribute the annual budget
21 for the property.

22 (c) To levy and expend assessments.

23 (d) To collect assessments from unit owners.

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

1 (f) To obtain adequate and appropriate kinds of
2 insurance.

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

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

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

1 property.

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

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

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

19 (m) Unless the condominium instruments expressly
20 provide to the contrary, by a majority vote of the entire
21 board of managers, to assign the right of the association
22 to future income from common expenses or other sources, and
23 to mortgage or pledge substantially all of the remaining
24 assets of the association.

25 (n) To record the dedication of a portion of the common
26 elements to a public body for use as, or in connection

1 with, a street or utility where authorized by the unit
2 owners under the provisions of Section 14.2.

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

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

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

26 (r) To accept service of a notice of claim for purposes

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

12 (s) To inspect the common elements for the presence of
13 pests and, if necessary, control pests in the common
14 elements.

15 In the performance of their duties, the officers and
16 members of the board, whether appointed by the developer or
17 elected by the unit owners, shall exercise the care required of
18 a fiduciary of the unit owners.

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

23 The provisions of this Section are applicable to all
24 condominium instruments recorded under this Act. Any portion of
25 a condominium instrument which contains provisions contrary to
26 these provisions shall be void as against public policy and

1 ineffective. Any such instrument that fails to contain the
2 provisions required by this Section shall be deemed to
3 incorporate such provisions by operation of law.

4 (Source: P.A. 96-1000, eff. 7-2-10.)