



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1555

Introduced 2/20/2015, by Sen. Kwame Raoul

#### 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 05854 HEP 25898 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~~ 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.