

BILLS AFFECTING COMMUNITY ASSOCIATIONS IN THE 99TH GENERAL ASSEMBLY
INTRODUCED IN 2015

This document provides a general synopsis of various bills that affect community associations. This list is by no means complete. Further, the information contained herein can change throughout the legislative process. Bills can be amended and language originally proposed can be deleted. In order to assure you have the most accurate information about any given bill, please go to www.ilga.gov and review not only the synopsis but the actual language of the bill and any relevant amendments. This information is provided as of July 31, 2015.

LEGISLATORS NEXT IN SESSION:

SENATE – 8/4/15

HOUSE – 8/5/15

HB486 (Reps. Cassidy and Williams) – CONDOMINIUM FORECLOSURE BILL. This bill amends the Illinois Condominium Property Act by changing condominium associations' right to collect unpaid common expense on foreclosed units. This bill is identical to the Governor Quinn's amendatory veto of SB 2664 from the 2014 Legislative Session. The bill changes a third-party buyer's obligation from 6 months of common expense to 9 months of regular assessments. The bill amends Section 2 of the Act to include a definition of "regular monthly assessments." Further, while attorney fees and costs of collection can be charged to the third-party buyer, in no event can the total balance collected from the third-party buyer exceed an amount equal to 9 months of regular monthly assessments. The bill goes on to provide that any unpaid amounts not paid by the third-party purchaser are to be paid by the mortgage holder. Effectively, the mortgage holder would need to make-up any unpaid amounts and the association, following the foreclosure, would be made whole.

The bill removes the "initiation of an action" prerequisite to collecting any post-foreclosure amounts. Finally, the bill amends Section 22.1 of the Illinois Condominium Property Act and reduces the amount of time an association (or its management company) has to respond to a request from a purchaser for information from 30 days to 14 days, if the association is professionally managed. If the association is self-managed it has 21 days to respond. Currently the law requires the information to be made available within 30 days. On March 27, 2015 this bill was assigned to the Rules Committee.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=486&GAID=13&GA=99&DocTypeID=HB&LegID=84900&SessionID=88>

HB2606 (Rep. Dunkin) OBLIGATION TO PROVIDE MANAGEMENT AGREEMENT. This bill amends Section 18 of the Illinois Condominium Property Act and provides that "upon request," any person who makes payments toward the common expense shall be furnished with a copy of the management agreement. This bill contains conflicting language and obligations to Section 19 of the Illinois Condominium Property Act. On March 27, 2015 this bill was referred to Rules Committee.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2606&GAID=13&GA=99&DocTypeID=HB&LegID=88113&SessionID=88>

HB2640 (Rep. Cassidy) BOARD MEETINGS PROCEDURES. This bill amends Section 18 of the Illinois Condominium Property Act. The bill makes changes to various portions Section

18(a)(9) of the Act to clarify board procedures as it relates to closed portions of board meetings, board member's ability to participate in meetings by phone or other technological means, recording of board meetings and the different board meeting notice requirements for board members vs. owners. The amendments provided in the bill correspond to standard board protocol and seek to provide further guidance and uniformity in meeting procedures. On March 19th, this bill passed the House 113-0-0 and passed the Senate on 5/21/15 with an extra amendment added 550-0-1. The Bill returned to the House for concurrence, AND PASSED. The Bill has now passed both Houses and is awaiting Governor Rauner's signature.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2640&GAID=13&GA=99&DocTypeID=HB&LegID=88225&SessionID=88>

HB2641 (Rep. Cassidy) EMERGENCY BOARD PROCEDURES. This bill amends Section 18 of the Illinois Condominium Property Act with the additions of Section 18(a)(21). The bill requires by-laws of all condominium associations state that a Board may ratify actions taken without a meeting in response to an emergency, provided such action is otherwise authorized and does not violate the Act or the condominium instruments. The bill requires that the board give notice of the occurrence of the emergency to the owners within 2 days of the event, notice of the action taken within 7 days of the event, and hold a meeting (with notice) to ratify the actions taken within 30 days of the event. The bill references Section 18(a)(8(iv) for its definition of an emergency. On March 19, 2015 this bill passed the House 114-0-0, and is now in the Senate. The Bill received 2 co-sponsors in June.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2641&GAID=13&GA=99&DocTypeID=HB&LegID=88226&SessionID=88>

HB2642 (Rep. Cassidy) REMOVAL OF SEVERED LANGUAGE FROM COMMON INTEREST COMMUNITY ASSOCIATION ACT. This bill amends Section 1-15 of the Common Interest Community Association Act. Specifically, this bill deletes section 1-15 (b) of the Act. Section 1-15 (b) currently provides:

All provisions of the declaration, bylaws, and other community instruments severed by this Act shall be revised by the board of directors independent of the membership to comply with this Act.

On March 19, 2015 this bill passed the House 114-0-0 and passed the Senate on 5/21/15 55-0-0. The Bill returned to the House for concurrence, but the deadline of 5/31 has passed.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2642&GAID=13&GA=99&DocTypeID=HB&LegID=88227&SessionID=88>

HB2643 (Rep. Cassidy) AMENDMENTS TO CONDOMINIUM GOVERNING DOCUMENTS BY BOARD ACTION. This bill amends Sections 27(a) and 27(b) of the Illinois Condominium Property Act. Section 27(a) is amended by clarifying that some condominium instruments only require notice to mortgagees (or lienholders) to effectuate an amendment. The bill clarifies and expands Section 27(b) as it relates to a condominium board's ability, by two-thirds board vote, to amend an association's governing documents to correct an error, correct an inconsistency or to conform the documents to the provisions of the Act or other applicable statute. The bill provides that if the amendment is a correction of an error, correction of an inconsistency or conformance with the Act or other statute, the vote of the membership, mortgagees or lienholders, regardless of the language of the documents, shall not be required. On March 19,

2015 this bill passed the House 106-5-1 and is now on the Senate calendar for 3rd reading, however, the deadline of 5/31/15 has passed.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2643&GAID=13&GA=99&DocTypeID=HB&LegID=88228&SessionID=88>

HB2644 (Rep. Cassidy) RIGHTS OF THE BOARD. This bill amends former Section 18.8 “Common Elements; rights of board” of the Illinois Condominium Property Act. This bill re-numbers the Section to 18.9 and substantively, it limits provisions in community instruments which can be considered void to those provisions which attempt to limit a board’s right under Section 9.1(b) to institute an action in court or otherwise compel arbitration or mediation prior to court. The bill clarifies that all provisions in governing documents limiting or restricting a board’s right to act are not necessarily void against public policy. Additionally, this bill removes subsection (b) which provided that a provision in a declaration which would otherwise be void and ineffective may be enforced if it is approved by a vote of not less than 75% of the unit owners. On March 19, 2015, this bill passed the House 63-50-1 and passed the Senate on 5/21/15 54-0-1. The bill is now awaiting the governor’s signature.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2644&GAID=13&GA=99&DocTypeID=HB&LegID=88229&SessionID=88>

HB2645 (Rep. Cassidy) RE-DEFINE “MEETING OF BOARD OF MANAGERS” IN THE CONDOMINIUM PROPERTY ACT. The bill amends Section 2 of the Illinois Condominium Property Act. The bill expands and clarifies the definition of a meeting of board of managers or board of master association. The bill specifically provides that a meeting DOES NOT include mere discussions, conferences and working sessions where no votes are taken. This bill would effectively codify and legislatively permit the practice of board workshops. The bill was re-referred to the Rules committee in April, and has not moved.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2645&GAID=13&GA=99&DocTypeID=HB&LegID=88230&SessionID=88>

HB2646 (Rep. Cassidy) UNANIMOUS CONSENT. The bill amends Section 18 of the Illinois Condominium Property Act by adding Section 18(a)(9-5). The bill is similar in concept to Section 108.45 “Informal action by directors” in the General Not-for-Profit Corporation Act. The bill provides that a board may take action without a meeting provided the action is unanimously approved in writing, and that the action is ratified by the board at a meeting within 30 days of the action. The bill further provides that the meeting at which the unanimous action is ratified must include the consent as part of the minutes, and as part of the notice of the meeting. Finally, the bill would require at least one board member to comment on the action at an open board meeting. The bill was re-referred to the Rules committee in April, and has not moved.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=2646&GAID=13&GA=99&DocTypeID=HB&LegID=88231&SessionID=88>

SB157 (Sen. Harmon) ALTERNATE FORECLOSURE LANGUAGE – FAVORABLE TO BANKERS. Inserts recording requirements for Associations, limits collectable amounts, sets time limit for recording of amounts owed with the State at 14 days. Significant issues with this bill. Placed on Senate calendar for 3rd reading, but the 5/31/15 deadline for passage has passed.

SB1344 (Sen. Haine) MUNICIPAL INCORPORATION OF COMMON INTEREST COMMUNITY. This bill amends Section 1-20 (d) of the Common Interest Community Association Act by providing that no action to incorporate a common interest community as a municipality shall commence until an instrument agreeing to incorporation has been signed by 51% of the members. Currently, the statute as written requires “two-thirds” of the members to agree to the municipal incorporation. This bill has passed both houses and is currently awaiting the governor’s signature.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=1344&GAID=13&GA=99&DocTypeID=SB&LegID=87827&SessionID=88>

SB1368 (Sen. Steans) CONDOMINIUM FORECLOSURE BILL. This bill amends the Illinois Condominium Property Act by changing condominium associations’ right to collect unpaid common expense on foreclosed units. This bill is identical to the Governor Quinn’s amendatory veto of SB 2664 from the 2014 Legislative Session. The bill changes a third-party buyer’s obligation from 6 months of common expense to 9 months of regular assessments. The bill amends Section 2 of the Act to include a definition of “regular monthly assessments.” Further, while attorney fees and costs of collection can be charged to the third-party buyer, in no event can the total balance collected from the third-party buyer exceed an amount equal to 9 months of regular monthly assessments. The bill goes on to provide that any unpaid amounts not paid by the third-party purchaser are to be paid by the mortgage holder. Effectively, the mortgage holder would need to make-up any unpaid amounts and the association, following the foreclosure, would be made whole.

The bill removes the “initiation of an action” prerequisite to collecting any post-foreclosure amounts. Finally, the bill amends Section 22.1 of the Illinois Condominium Property Act and reduces the amount of time an association (or its management company) has to respond to a request from a purchaser for information from 30 days to 14 days, if the association is professionally managed. If the association is self-managed it has 21 days to respond. Currently the law requires the information to be made available within 30 days. On March 24, 2015, this bill was assigned to the Judiciary Committee Subcommittee on Special Issues. It has not moved, and the deadline of 5/31/15 has passed.

This bill is identical to HB486.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=1368&GAID=13&GA=99&DocTypeID=SB&LegID=87863&SessionID=88>

SB1374 (Sen. Hastings) LIMITED LIABILITY COMPANIES SUBJECT TO COMMON INTEREST COMMUNITY ASSOCIATION ACT. This bill amends numerous sections of the Common Interest Community Association Act to provide that community associations organized as limited liability companies, instead of not-for-profit corporations, are still bound to the terms and provisions of the Common Interest Community Association Act. Certain declarations have organized community associations as limited liability companies and arguments have been raised that such associations are therefore not subject to the Act. This bill would ensure that, provided the association is not otherwise exempt, it is subject to the terms of the Act. The bill also amends Section 9-102(a)(8) of the Forcible Entry and Detainer statute to provide that

communities organized as limited liability companies may use the Forcible Act to collect assessments. Bill passed both houses as of 5/13/15, and received the Governor's signature on 7/14/15. **This law is now in effect, and is known as Public Act 99-0041.**

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=1374&GAID=13&GA=99&DocTypeID=SB&LegID=87870&SessionID=88>

SB1521 (Sen. Noland) MINUTES, EXECUTIVE SESSION AND EXEMPTIONS OF COMMON INTEREST COMMUNITIES. This bill amends the Common Interest Community Association Act in three distinct ways. First, the bill would require that following any closed portion of a board meeting of a common interest community, the board would be required to "note" any matter discussed in the closed portion of the meeting. Secondly, the bill would require that all minutes of meetings of members, the board or committees with decision making authority (even those only in draft form) be made available to members within 30 days of the meeting. Finally, the bill removes the \$100,000 budget threshold from the exemption requirements under CICAA but maintains the exemption for ten (10) units or less. On March 27, 2015 this bill has been re-referred to Assignments in the Senate. It has not moved, and the deadline for passage of 5/31/15 has passed.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=1521&GAID=13&GA=99&DocTypeID=SB&LegID=88183&SessionID=88>

SB1555 (Sen. Raoul) LIMITED LIABILITY COMPANIES SUBJECT TO COMMON INTEREST COMMUNITY ASSOCIATION ACT. This bill amends numerous sections of the Common Interest Community Association Act to provide that community associations organized as limited liability companies, instead of not-for-profit corporations, are still bound to the terms and provisions of the Common Interest Community Association Act. Certain declarations have organized community associations as limited liability companies and arguments have been raised that such associations are therefore not subject to the Act. This bill would ensure that, provided the association is not otherwise exempt, it is subject to the terms of the Act. The bill also amends Section 9-102(a)(8) of the Forcible Entry and Detainer statute to provide that communities organized as limited liability companies may use the Forcible Act to collect assessments. On February 18, 2015 this bill was referred to Assignments in the Senate. On March 27, 2015 this bill has been re-referred to Assignments in the Senate. It has not moved, and the deadline for passage set for 5/31/15 has passed, but given that SB1374 is identical and is now signed as law, this Bill is no longer necessary.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=1555&GAID=13&GA=99&DocTypeID=SB&LegID=88247&SessionID=88>

**** Senate Bills 1374 and 1555 are identical.

IN ORDER TO DETERMINE THE MOST UP-TO-DATE INFORMATION ON ANY PENDING LEGISLATION PLEASE FOLLOW THE ASSOCIATED LINKS. LEGISLATION CAN BE AMENDED OR MODIFIED AT ANY TIME PRIOR TO PASSAGE. FURTHER NEW LEGISLATION MAY BE INTRODUCED.