

Association of Condominium,  
Townhouse, and  
Homeowners Associations

# ACTHANNEWS

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## October 2015

### Inside this issue:

Tip of the Month	3
Legislation continued	4
ACTHA Announcements	5
Tip of the Month	6

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## Selected

### 2015 Passed Legislation

#### Affecting Condos, CICs and Co-Ops

By: Michael C. Kim

Out of 18 originally introduced bills (not including “shell bills”), only 7 ultimately emerged successfully passing both Senate and House. Of those 7 bills, the Governor vetoed two, leaving only five to become law in 2016.

Below are the summaries of the bills and their outcomes.

#### HOUSE BILLS (“HB”)

**HB 2640 (Public Act 99-0472)** amends the Illinois Condominium Property Act (“ICPA”) to allow directors to participate in board meetings by use of telephone or acceptable technological means; to require a minimum 48 hours prior written notice of board meetings to all unit owners; to provide a method for ratification of board member actions in emergency situations; and to clarify that an amendment to the declaration or bylaws to correct errors, omissions or inconsistencies does not require approval by the unit owners or notice to mortgagees (even if provided in the declaration/bylaws). HB 2640 also amends the Common Interest Community Association Act (“CICA Act”) to delete Section 1-15(b) as to board amendment of “severed” portions of the community instruments.

**Comment:** Effective June 1, 2016.

**HB 2644 (VETOED)** would have amended the ICPA to expressly invalidate any provision in the condominium instrument (declaration/by-laws) that limits or restricts the board’s rights to take action regarding the common elements or more than 1 unit, if such provision requires

*Continued on page 4*

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# TIP OF THE MONTH

## What Financial Statements Should the Board Review

### BALANCE SHEET

- Cash
- Investments
- Unit Owner Receivables

#### Tips:

- Compare current month to last month and review changes
- Is your operating cash at an acceptable level to pay bills in a timely manner
- Are your reserve investments increasing to the level projected
- Compare cash and investments to bank reconciliations and bank statements
- Accounts Receivable: compare to owner listing and monitor progress from attorney on delinquent accounts

### INCOME STATEMENT

- Assessments
- Bad debts
- Reserve Expenses
- Reserve transfers

#### Tips:

- Does the budget for operations come to a zero balance
  - Assessments (on accrual or modified cash basis) should agree to budget
- Review bad debts (on the cash basis, it is netted with assessment income)
- Expenses: ask questions about categories significantly over or under budget; should any expenses be re-classified to reserves
  - Reserve transfers: are they on budget and if not, do you have too low of an operating cash buffer
  - Reserve expenses: Are there budgets for each category and for those without a budget, were they unexpected repairs

**Review at least quarterly although monthly is preferred!**

Brad Schneider of Condo CPA

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#### Board of Directors

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*Continued from page 1*

prior consent of the unit owners or requires the board to arbitrate or mediate a dispute with the developer of the condominium. It would have also precluded the possible approval of such restrictions by a vote of the unit owners.

**Comment:** Governor Rauner vetoed the bill on August 13, 2015, because he felt that it would be an “unnecessary restriction on the rights of condominium homeowners”. However, the Governor apparently misunderstood (or was not aware of) the background of this bill.

**HB 4049 (Public Act 99-0143)** amends the ICPA to replace the term “handicapped unit owner” with “unit owner who is a person with a disability”.

**Comment:** Effective July 27, 2015.

**HB 4137 (Public Act 99-0078)** makes a stylistic change to the Manager Licensing Act and amends the ICPA to clarify the numbering of Sections 18.8 and 18.9 (18.8 to be “Use of Technology” and 18.9 to be “Common Elements; rights of board”).

**Comment:** Effective July 20, 2015.

### SENATE BILLS (“SB”)

**SB 1344 (VETOED)** would have amended the CICA Act so that any action to incorporate a common interest community as a municipality would require a 51% (as opposed to the existing 2/3) vote of the membership.

**Comment:** Governor Rauner vetoed the bill on August 13, 2015 because he felt that incorporation was a serious decision and thus

should require the higher existing vote requirement.

**SB 1374 (Public Act 99-0041)** amends the Code of Civil Procedure to allow a common interest community formed as a limited liability company to use the forcible entry and detainer (eviction) remedy to collect delinquent assessments and other charges, and amends the CICA Act to also include common interest communities organized as limited liability companies.

**Comment:** Effective July 14, 2015

**SB 1487 (Public Act 99-0439)** establishes a pilot program under which the plaintiff in a pending foreclosure case (e.g. a foreclosing lender) could obtain a court order that bars any “non-record claimant” from recording a lien without prior court approval. The program would be effective between January 1, 2016 to January 1, 2019 unless sooner terminated by the county recorder.

**Comment:** Effective January 1, 2016. Applies only to Cook County and may apply to condo lien filings.

\*\*\*\*\*

We await to see whether the Governor’s vetoes of HB 2644 and SB 1344 will be overridden or sustained during the Fall veto session, as well as the new (or renewed) bills submitted for consideration in the 2015-16 term.

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## ACTHA’s 2015 LEGISLATIVE ACHIEVEMENTS

In terms of the legislation outlined above, ACTHA introduced SB 1487, now law. A special thanks to Doug Sury of Keay and Costello who suggested and drafted the language for ACTHA. ACTHA also supported HB 2640 which was signed into law.

If you have legislative ideas you would like ACTHA to consider, please contact [gael@actha.org](mailto:gael@actha.org). She will pass ideas on to the legislative committee which meets in early November.

# NEKRITZ RECEIVES AWARD



ACTHA's President, Beth Lloyd (left) and Legislative Chair, Bob LaMontagne (right), presented a Leadership Recognition Award to State Rep. Elaine Nekritz (middle).

State Representative Elaine Nekritz (D-57) received an award from ACTHA at its North Expo.

Representative Nekritz has been a champion in protecting the interests of community associations, passing a law to create an Ombudsman's Office and stopping legislation which would have adversely affected condo associations with foreclosed units.

Rep. Nekritz has served in the Illinois House since 2003.

She is an Assistant Majority Leader and Chairs both the Judiciary Committee and the Pensions and Personnel Committees.

This is the first award ACTHA has ever given in recognition of an individual's efforts on behalf of community associations.

## THE BEST VOLUNTEERS EVER!!!

ACTHA always has awesome volunteers but a special shout-out to those who assisted with our two fall expos:

Maryanne D'Angelo (Meet and Greet, Corner Presentations)

Dorothy Dillon (Trade Show)

Gene Foray (Registration)

Diane Nelson (Registration)

Mark O'Brien (Registration and Photographer)

John Pagoulatos (Meeter and Greeter)

Gary Schroeder (Registration and Moderator)

And a special thank you to CertaPro Painters (Tony Ardizzone, Toni Ivanov, Don Rollheiser) and First Service Residential (Pat Bialek, Michael Donnell, Deanna Hicks.), who also lent volunteers to our event efforts.

## MARK YOUR 2016 CALENDAR

April 16: Drury Lane in Oakbrook

September 24: Tinley Park

October 15: Northbrook

## ACTHA APPRECIATES INPUT!

Thanks to those who attended and provided input on the two fall expos. Those responding were eligible to win a free conference registration in April. The lucky winners are:

Dan Fidler, Florence Hoffman, Marvel Gross, Dorothy Powell, Gary Schroeder, and Randy Swanson

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## Question of the Month

By: Steve Silberman of Frost Ruttenberg Rothblatt

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**Q.** I have a question regarding HOA fees. It turns out that when my condo board reassessed my HOA fee for the year, they miscalculated what I owed. As it turns out, I paid \$100 more in fees than was necessary. How is this normally handled.

**A.** The first thing to do is make sure that the Association's records show the same overpayment. Most likely, if your assessment was calculated incorrectly, there are probably other owners whose assessments were also calculated incorrectly. If your association is professionally managed, discuss this overpayment with them or if you are self-managed, discuss this with the Treasurer. If the Association's records are different and they do not show this overpayment, ask to get a detailed copy of your account history so you can determine what are the differences. If the Association agrees that you have overpaid your assessments by \$100 for the year, most likely they will credit your account for \$100 and then your next assessment payment will be reduced by the \$100. Some Associations may refund the \$100 if you request a refund. The next step would be to make sure that your assessment is calculated correctly now.