

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 42

Introduced by Hilkemann, 4.

Read first time January 10, 2019

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to condominium law; to amend sections 76-808,
- 2 76-816, and 76-861, Reissue Revised Statutes of Nebraska; to provide
- 3 responsibility for maintenance, repair, and replacement and provide
- 4 a duty as prescribed for the board of administrators or other
- 5 administrative body under the Condominium Property Act; to provide a
- 6 duty for the executive board under the Nebraska Condominium Act; to
- 7 provide for filing fees; and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-808, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-808 (1) Each co-owner may use the elements held in common in
4 accordance with the purpose for which they are intended, without
5 hindering or encroaching upon the lawful rights of the other co-owners.

6 (2) The association of co-owners and board of administrators, or
7 other administrative body governing the condominium, is responsible for
8 maintenance, repair, and replacement of the common elements. Each co-
9 owner of an apartment is responsible for maintenance, repair, and
10 replacement of such co-owner's apartment.

11 Sec. 2. Section 76-816, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 76-816 (1) The board of administrators, or other administrative
14 body form of administration specified in the bylaws, shall keep or cause
15 to be kept a book with a detailed account, in chronological order, of the
16 receipts and expenditures affecting the condominium property regime and
17 its administration and specifying the maintenance and repair expenses of
18 the common elements and all other expenses incurred. Both the book and
19 the vouchers accrediting the entries made thereupon shall be available
20 for examination by any co-owner or any prospective purchaser at
21 convenient hours on working days that shall be set and announced for
22 general knowledge. Any prospective purchaser must be designated as such
23 by a co-owner in writing. For condominiums created in this state before
24 January 1, 1984, the provision on the records of the administrative body
25 or association in section 76-876 shall apply to the extent necessary in
26 construing the provisions of sections 76-827, 76-829 to 76-831, 76-840,
27 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891.01, and subdivisions
28 (a)(1) to (a)(6) and (a)(11) to (a)(16) of section 76-860 which apply to
29 events and circumstances which occur after January 1, 1984.

30 (2) The association of co-owners and board of administrators, or
31 other administrative body governing the condominium property regime, and

1 its common elements, shall file with the county clerk of the county in
2 which the condominium is located the names and addresses of the current
3 officers of such board or other administrative body. Such filing shall be
4 made every year on or before December 31. The county clerk may charge a
5 fee of not more than twenty-five dollars for such filing. The receipt of
6 any legal notice by or service of process on such officer personally or
7 at such officer's filed address shall constitute notice to the board or
8 other administrative body administering the condominium and its common
9 elements. If the board or other administrative body fails to make the
10 filing required by this subsection, the posting of the legal notice or
11 process at the entrance to each building in the condominium shall
12 constitute notice to the board or other administrative body until such
13 filing is made.

14 Sec. 3. Section 76-861, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 76-861 (a) Except as provided in the declaration, the bylaws,
17 subsection (b) of this section, or other provisions of the Nebraska
18 Condominium Act ~~sections 76-825 to 76-894~~, the executive board may act in
19 all instances on behalf of the association. In the performance of their
20 duties, the officers and members of the executive board are required to
21 exercise ordinary and reasonable care.

22 (b) The executive board may not act on behalf of the association to
23 amend the declaration pursuant to section 76-854, to terminate the
24 condominium pursuant to section 76-855, or to elect members of the
25 executive board or determine the qualifications, powers and duties, or
26 terms of office of executive board members pursuant to subsection (f) of
27 this section, but the executive board may fill vacancies in its
28 membership for the unexpired portion of any term.

29 (c) Within thirty days after adoption of any proposed budget for the
30 condominium, the executive board shall provide a summary of the budget to
31 all the unit owners, and shall set a date for a meeting of the unit

1 owners to consider ratification of the budget not less than fourteen nor
2 more than thirty days after mailing of the summary. Unless at that
3 meeting a majority of all votes in the association or any larger vote
4 specified in the declaration reject the budget, the budget is ratified,
5 whether or not a quorum is present. In the event the proposed budget is
6 rejected, the periodic budget last ratified by the unit owners shall be
7 continued until such time as the unit owners ratify a subsequent budget
8 proposed by the executive board.

9 (d) Subject to subsection (e) of this section, the declaration may
10 provide for a period of declarant control of the association, during
11 which period a declarant, or persons designated by him or her, may
12 appoint and remove the officers and members of the executive board.
13 Regardless of the period provided in the declaration, a period of
14 declarant control terminates no later than the earlier of: (i) Sixty days
15 after conveyance of ninety percent of the units which may be created to
16 unit owners other than a declarant; or (ii) two years after all
17 declarants have ceased to offer units for sale in the ordinary course of
18 business. A declarant may voluntarily surrender the right to appoint and
19 remove officers and members of the executive board before termination of
20 that period, but in that event he or she may require, for the duration of
21 the period of declarant control, that specified actions of the
22 association or executive board, as described in a recorded instrument
23 executed by the declarant, be approved by the declarant before they
24 become effective. Successor boards following declarant control may not
25 discriminate nor act arbitrarily with respect to units still owned by a
26 declarant or a successor declarant.

27 (e) Not later than sixty days after conveyance of twenty-five
28 percent of the units which may be created to unit owners other than a
29 declarant, at least one member and not less than twenty-five percent of
30 the members of the executive board shall be elected exclusively by unit
31 owners other than the declarant. Not later than sixty days after

1 conveyance of fifty percent of the units which may be created to unit
2 owners other than a declarant, not less than thirty-three and one-third
3 percent of the members of the executive board shall be elected
4 exclusively by unit owners other than the declarant.

5 (f) Not later than the termination of any period of declarant
6 control, the unit owners shall elect an executive board of at least three
7 members, at least a majority of whom must be unit owners. The executive
8 board shall elect the officers. The executive board members and officers
9 shall take office upon election.

10 (g) Notwithstanding any provision of the declaration or bylaws to
11 the contrary, the unit owners, by a two-thirds vote of all persons
12 present and entitled to vote at any meeting of the unit owners at which a
13 quorum is present, may remove any member of the executive board with or
14 without cause, other than a member appointed by the declarant.

15 (h) The association shall file with the county clerk of the county
16 in which the condominium is located the names and addresses of the
17 current officers of the association. Such filing shall be made every year
18 on or before December 31. The county clerk may charge a fee of not more
19 than twenty-five dollars for such filing. The receipt of any legal notice
20 by or service of process on such officer personally or at such officer's
21 filed address shall constitute notice to the association. If the
22 association fails to make the filing required by this subsection, the
23 posting of the legal notice or process at the entrance to each building
24 in the condominium shall constitute notice to the association until such
25 filing is made.

26 Sec. 4. Original sections 76-808, 76-816, and 76-861, Reissue
27 Revised Statutes of Nebraska, are repealed.