

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1614

6 By: Worthen of the House

7 and

8 Rogers of the Senate

9 [owners associations - books and records -
10 exceptions - written requests - production and
11 copying policy - confidentiality of information -
12 document retention policy - petition - relief and
13 remedies - notice - codification - effective date]

14 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 859 of Title 60, unless there is
17 created a duplication in numbering, reads as follows:

18 A. An owners association shall make the books and records of
19 the owners association, including financial records, open to and
20 reasonably available for examination by an owners association
21 member, or a person designated in a writing signed by the owners
22 association member as the member's agent, attorney, or certified
23 public accountant, in accordance with this section.

24 B. Except as provided by this subsection, an attorney's files
and records relating to the owners association, excluding invoices,
are not records of the owners association and are not subject to

1 inspection by the member or his or her representative. If a
2 document in an attorney's files or records relating to the owners
3 association would be responsive to a legally authorized request to
4 inspect or copy association documents, the document shall be
5 produced by using the copy from the attorney's files and records if
6 the association has not maintained a separate copy of the document.
7 This subsection does not require production of a document that
8 constitutes attorney work product or that is privileged as an
9 attorney-client communication.

10 C. An owners association member or his or her authorized
11 representative described by subsection A of this section must submit
12 a written request for access or information by certified mail, with
13 sufficient detail describing the owners association's books and
14 records requested, to the mailing address of the association or
15 authorized representative. The request must contain an election
16 either to inspect the books and records before obtaining copies or
17 to have the owners association forward copies of the requested books
18 and records and:

19 1. If an inspection is requested, the owners association, on or
20 before the tenth business day after the date the owners association
21 receives the request, shall send written notice of dates during
22 normal business hours that the owners association member may inspect
23 the requested books and records to the extent those books and
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1 records are in the possession, custody, or control of the owners
2 association; or

3 2. If copies of identified books and records are requested, the
4 owners association shall, to the extent those books and records are
5 in the possession, custody, or control of the owners association,
6 produce the requested books and records for the requesting party on
7 or before the tenth business day after the date the owners
8 association receives the request, except as otherwise provided by
9 this section.

10 D. If the owners association is unable to produce the books or
11 records requested under subsection C of this section on or before
12 the tenth business day after the date the owners association
13 receives the request, the owners association must provide to the
14 requestor written notice that:

15 1. Informs the requestor that the owner association is unable
16 to produce the information on or before the tenth business day after
17 the date the owner association received the request; and

18 2. States a date by which the information will be sent or made
19 available for inspection to the requesting party that is not later
20 than the fifteenth business day after the date notice under this
21 subsection is given.

22 E. If an inspection is requested or required, the inspection
23 shall take place at a mutually agreed on time during normal business
24 hours, and the requesting party shall identify the books and records

1 for the owners association to copy and forward to the requesting
2 party.

3 F. An owners association may produce books and records
4 requested under this section in hard copy, electronic, or other
5 format reasonably available to the owners association.

6 G. An owners association board must adopt a records production
7 and copying policy that prescribes the costs the association will
8 charge for the compilation, production, and reproduction of
9 information requested under this section. The prescribed charges
10 may include all reasonable costs of materials, labor, and overhead.
11 An owners association member is responsible for costs related to the
12 compilation, production, and reproduction of the requested
13 information in the amounts prescribed by the policy adopted under
14 this subsection. The owners association may require advance payment
15 of the estimated costs of compilation, production, and reproduction
16 of the requested information. If the estimated costs are lesser or
17 greater than the actual costs, the owners association shall submit a
18 final invoice to the owners association member on or before the
19 thirtieth business day after the date the information is delivered.
20 If the final invoice includes additional amounts due from the owners
21 association member, the additional amounts, if not reimbursed to the
22 owners association before the thirtieth business day after the date
23 the invoice is sent to the owners association member, may be added
24 to the owners association member's account as an assessment. If the

1 estimated costs exceeded the final invoice amount, the owners
2 association member is entitled to a refund, and the refund shall be
3 issued to the owners association member not later than the thirtieth
4 business day after the date the invoice is sent to the owners
5 association member.

6 H. Except as provided by subsection I of this section and to
7 the extent the information is provided in the meeting minutes, the
8 owners association is not required to release or allow inspection of
9 any books or records that identify the owners association member's
10 personal financial information, including records of payment or
11 nonpayment of amounts due the owners association, an owners
12 association member's contact information, other than the owners
13 association member's address, or information related to an employee
14 of the owners association, including personnel files. Information
15 may be released in an aggregate or summary manner that would not
16 identify an individual owners association member.

17 I. The books and records described by subsection H of this
18 section shall be released or made available for inspection if:

19 1. The express written approval of the owners association
20 member whose records are the subject of the request for inspection
21 is provided to the owners association; or

22 2. A court orders the release of the books and records or
23 orders that the books and records be made available for inspection.

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1 J. An owners association shall adopt and comply with a document
2 retention policy that includes, at a minimum, the following
3 requirements:

4 1. Real estate development instruments, bylaws, restrictive
5 covenants, and all amendments to the certificates of formation,
6 bylaws, covenants and restriction shall be retained permanently;

7 2. Financial books and records shall be retained for seven (7)
8 years;

9 3. Account records of current owners association members shall
10 be retained for five (5) years;

11 4. Contracts with a term of one (1) year or more shall be
12 retained for four (4) years after the expiration of the contract
13 term;

14 5. Minutes of meetings of the owners board meetings of the
15 owners association shall be retained for seven (7) years; and

16 6. Tax returns and audit records shall be retained for seven
17 (7) years.

18 K. An owners association member who is denied access to or
19 copies of the owners association books or records to which the
20 owners association member is entitled under this section may file a
21 petition in district court of the county where the property that is
22 governed by the owners association is located requesting relief in
23 accordance with this subsection. If the court finds that the owners
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1 association member is entitled to access to or copies of the
2 records, the court may grant one or more of the following remedies:

3 1. A judgment ordering the owners association to release or
4 allow access to the books or records;

5 2. A judgment against the owners association for court costs
6 and attorney fees incurred in connection with seeking a remedy under
7 this section; or

8 3. A judgment authorizing the owners association member to
9 deduct the amounts awarded under paragraph 2 of this subsection from
10 any future regular or special assessments payable to the owners
11 association.

12 L. If the owners association prevails in an action under
13 subsection K of this section, the owners association is entitled to
14 a judgment for court costs and attorney's fees incurred by the
15 owners association in connection with the action.

16 M. On or before the tenth business day before the date an
17 owners association member brings an action against an owners
18 association under this section, the owners association member or his
19 or her representative must send written notice to the owners
20 association of their intent to bring the action. The notice must:

21 1. Be sent by certified mail, return receipt requested, or
22 delivered by the United States Postal Service with signature
23 confirmation service to the mailing address of the owners
24 association or authorized representative; and

1 2. Describe with sufficient detail the books and records being
2 requested.

3 N. For the purposes of this section, "business day" means a day
4 other than Saturday, Sunday, or a state or federal holiday.

5 SECTION 2. This act shall become effective November 1, 2023.

6 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
7 April 10, 2023 - DO PASS AS AMENDED

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