

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1614

By: Worthen

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6 AS INTRODUCED

7 An Act relating to owners associations; providing  
8 that members of an owners association may examine the  
9 books and records of an owners association; providing  
10 exceptions; requiring written requests; providing  
11 time-line for inspecting books and records; providing  
12 format of books and records; requiring owners  
13 association boards to adopt a records production and  
14 copying policy that prescribes the costs that will be  
15 charge for the compilation, production, and  
16 reproduction of requested information; requiring  
17 confidentiality of certain information; providing  
18 exceptions for confidential information; requiring  
19 owners association to adopt and comply with a  
20 document retention policy; providing that owners  
21 association members who are denied access the owners  
22 association books or records may file a petition in  
23 district court; providing relief and remedies;  
24 requiring certain notice before filing a petition;  
defining "business day"; amending 60 O.S. 2021,  
Section 852, which relates to owners associations;  
requiring owners associations to provide the Oklahoma  
Secretary of State with certain information;  
requiring the Secretary of State to list certain  
owners association information on their website;  
providing for codification; and providing an  
effective date.

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

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

4           A. An owners association shall make the books and records of  
5 the owners association, including financial records, open to and  
6 reasonably available for examination by an owners association  
7 member, or a person designated in a writing signed by the owners  
8 association member as the member's agent, attorney, or certified  
9 public accountant, in accordance with this section.

10          B. Except as provided by this subsection, an attorney's files  
11 and records relating to the owners association, excluding invoices,  
12 are not records of the owners association and are not subject to  
13 inspection by the member or his or her representative. If a  
14 document in an attorney's files or records relating to the owners  
15 association would be responsive to a legally authorized request to  
16 inspect or copy association documents, the document shall be  
17 produced by using the copy from the attorney's files and records if  
18 the association has not maintained a separate copy of the document.  
19 This subsection does not require production of a document that  
20 constitutes attorney work product or that is privileged as an  
21 attorney-client communication.

22          C. An owners association member or his or her authorized  
23 representative described by subsection A of this section must submit  
24 a written request for access or information by certified mail, with

1 sufficient detail describing the owners association's books and  
2 records requested, to the mailing address of the association or  
3 authorized representative. The request must contain an election  
4 either to inspect the books and records before obtaining copies or  
5 to have the owners association forward copies of the requested books  
6 and records and:

7 1. If an inspection is requested, the owners association, on or  
8 before the tenth business day after the date the owners association  
9 receives the request, shall send written notice of dates during  
10 normal business hours that the owners association member may inspect  
11 the requested books and records to the extent those books and  
12 records are in the possession, custody, or control of the owners  
13 association; or

14 2. If copies of identified books and records are requested, the  
15 owners association shall, to the extent those books and records are  
16 in the possession, custody, or control of the owners association,  
17 produce the requested books and records for the requesting party on  
18 or before the tenth business day after the date the owners  
19 association receives the request, except as otherwise provided by  
20 this section.

21 D. If the owners association is unable to produce the books or  
22 records requested under subsection C of this section on or before  
23 the tenth business day after the date the owners association  
24

1 receives the request, the owners association must provide to the  
2 requestor written notice that:

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

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

10 E. If an inspection is requested or required, the inspection  
11 shall take place at a mutually agreed on time during normal business  
12 hours, and the requesting party shall identify the books and records  
13 for the owners association to copy and forward to the requesting  
14 party.

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

18 G. An owners association board must adopt a records production  
19 and copying policy that prescribes the costs the association will  
20 charge for the compilation, production, and reproduction of  
21 information requested under this section. The prescribed charges  
22 may include all reasonable costs of materials, labor, and overhead.  
23 An owners association member is responsible for costs related to the  
24 compilation, production, and reproduction of the requested

1 information in the amounts prescribed by the policy adopted under  
2 this subsection. The owners association may require advance payment  
3 of the estimated costs of compilation, production, and reproduction  
4 of the requested information. If the estimated costs are lesser or  
5 greater than the actual costs, the owners association shall submit a  
6 final invoice to the owners association member on or before the  
7 thirtieth business day after the date the information is delivered.  
8 If the final invoice includes additional amounts due from the owners  
9 association member, the additional amounts, if not reimbursed to the  
10 owners association before the thirtieth business day after the date  
11 the invoice is sent to the owners association member, may be added  
12 to the owners association member's account as an assessment. If the  
13 estimated costs exceeded the final invoice amount, the owners  
14 association member is entitled to a refund, and the refund shall be  
15 issued to the owners association member not later than the thirtieth  
16 business day after the date the invoice is sent to the owners  
17 association member.

18 H. Except as provided by subsection I of this section and to  
19 the extent the information is provided in the meeting minutes, the  
20 owners association is not required to release or allow inspection of  
21 any books or records that identify the owners association member's  
22 personal financial information, including records of payment or  
23 nonpayment of amounts due the owners association, an owners  
24 association member's contact information, other than the owners

1 association member's address, or information related to an employee  
2 of the owners association, including personnel files. Information  
3 may be released in an aggregate or summary manner that would not  
4 identify an individual owners association member.

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

7 1. The express written approval of the owners association  
8 member whose records are the subject of the request for inspection  
9 is provided to the owners association; or

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

12 J. An owners association shall adopt and comply with a document  
13 retention policy that includes, at a minimum, the following  
14 requirements:

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

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

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

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

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

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

5           K. An owners association member who is denied access to or  
6 copies of the owners association books or records to which the  
7 owners association member is entitled under this section may file a  
8 petition in district court of the county where the property that is  
9 governed by the owners association is located requesting relief in  
10 accordance with this subsection. If the court finds that the owners  
11 association member is entitled to access to or copies of the  
12 records, the court may grant one or more of the following remedies:

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

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

18           3. A judgment authorizing the owners association member to  
19 deduct the amounts awarded under paragraph 2 of this subsection from  
20 any future regular or special assessments payable to the owners  
21 association.

22           L. If the owners association prevails in an action under  
23 subsection K of this section, the owners association is entitled to

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1 a judgment for court costs and attorney's fees incurred by the  
2 owners association in connection with the action.

3 M. On or before the tenth business day before the date an  
4 owners association member brings an action against an owners  
5 association under this section, the owners association member or his  
6 or her representative must send written notice to the owners  
7 association of their intent to bring the action. The notice must:

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

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

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

16 SECTION 2. AMENDATORY 60 O.S. 2021, Section 852, is  
17 amended to read as follows:

18 Section 852. A. An "owners association" may be formed by the  
19 owner or owners of real estate development for the purpose of:

20 1. providing management, maintenance, preservation and control  
21 of commonly owned areas or any portion of or interest in them,  
22 and/or  
23  
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1 2. enforcing all mutual, common or reciprocal interests in or  
2 restrictions upon all or portions of such separately owned lots,  
3 parcels, or areas, or both.

4 B. An owners association shall be formed by the execution of an  
5 instrument signed and acknowledged by all owners of the real  
6 property included. Such instrument shall set forth in detail the  
7 nature of the obligations of the members and shall be filed of  
8 record in the office of the county clerk of the county wherein the  
9 real property is located. The instrument shall include a  
10 description of said real property.

11 C. All owners associations shall provide the Oklahoma Secretary  
12 of State with a copy of the instrument establishing the owners  
13 association along with any owners association covenants, conditions  
14 and restrictions, a copy of the owners association bylaws, owners  
15 association dues and contact information for the owners association  
16 agent, president, or management company. An owners association  
17 shall provide the Secretary of State with any updated owners  
18 association covenants, conditions and restrictions, owners  
19 association bylaws, owners association dues and contact information  
20 for the owners association agent, president, or management company.

21 This information shall be listed on the Secretary of State's  
22 website and shall be searchable by the real estate development name  
23 (neighborhood name) and by the legal description of the real estate  
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1 development. The Secretary shall maintain and update this  
2 information when updated information provided to them.

3 D. The owners association shall have the power to enforce any  
4 obligation in connection with membership in the owners association  
5 by means of a levy or assessment which may become a lien upon the  
6 separately or commonly owned lots, parcels or areas of defaulting  
7 owners or members, which said lien may be foreclosed in any manner  
8 provided by law for the foreclosure of mortgages or deeds of trust,  
9 with or without a power of sale. In an action brought to enforce  
10 any lien authorized pursuant to the provisions of this section, the  
11 prevailing party shall be entitled to recover reasonable attorney's  
12 fees to be fixed by the court, which shall be taxed as costs in the  
13 action. No lien may be placed or mortgage foreclosed unless the  
14 homeowner was informed in writing upon joining the owners  
15 association of the existence and content of the owners association  
16 restrictions and rules, and of the potential for financial liability  
17 to the individual owner by joining said owners association.

18 SECTION 3. This act shall become effective November 1, 2023.

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