

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1614

By: Worthen

7                                   COMMITTEE SUBSTITUTE

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

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

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

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

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

19       C. An owners association member or his or her authorized  
20 representative described by subsection A of this section must submit  
21 a written request for access or information by certified mail, with  
22 sufficient detail describing the owners association's books and  
23 records requested, to the mailing address of the association or  
24 authorized representative. The request must contain an election

1 either to inspect the books and records before obtaining copies or  
2 to have the owners association forward copies of the requested books  
3 and records and:

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

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

18 D. If the owners association is unable to produce the books or  
19 records requested under subsection C of this section on or before  
20 the tenth business day after the date the owners association  
21 receives the request, the owners association must provide to the  
22 requestor written notice that:

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

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

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

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

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

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

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

1 may be released in an aggregate or summary manner that would not  
2 identify an individual owners association member.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
17 03/02/2023 - DO PASS, As Amended.

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