

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1919

By: Seifried

AS INTRODUCED

An Act relating to owners associations; amending 60 O.S. 2021, Section 857, which relates to copies of recorded covenants and restrictions; allowing buyers to end transactions upon receipt of recorded covenants and restrictions under certain circumstances; providing that members of an owners association may examine the books and records of an owners association; providing exceptions; requiring written requests; providing timeline for inspecting books and records; providing format of books and records; allowing for certain records to be made available to a buyer; requiring owners association boards to adopt a records production and copying policy that prescribes the costs that will be charged for the compilation, production, and reproduction of requested information; requiring confidentiality of certain information; providing exceptions for confidential information; requiring owners association to adopt and comply with a document retention policy; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 2021, Section 857, is amended to read as follows:

1 Section 857. A. A copy or a certified copy of all the recorded
2 covenants and restrictions of a real estate development shall be
3 provided by the title company closing the sale to the buyer of
4 property in the real estate development as a part of the closing of
5 the real estate sale. The buyer may be charged no more than Twenty-
6 five Dollars (\$25.00) for the copy, and the copy shall either be
7 provided prior to or at the time of closing either by mail to the
8 buyer's last-known address, hand-delivered or electronically
9 delivered.

10 B. If the buyer, upon receipt of the recorded covenants and
11 restrictions of a real estate development pursuant to subsection A
12 of this section, is unsatisfied with the terms and conditions of the
13 recorded covenants and restrictions, the buyer shall be allowed to
14 cancel the transaction without retaining the earnest money deposit
15 or prescribed fees set by the real estate development.

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

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

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

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

22 1. If an inspection is requested, the owners association, on or
23 before the tenth business day after the date the owners association
24 receives the request, shall send written notice of dates during

1 normal business hours that the owners association member may inspect
2 the requested books and records to the extent those books and
3 records are in the possession, custody, or control of the owners
4 association; or

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

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

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

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

1 E. If an inspection is requested or required, the inspection
2 shall take place at a mutually agreed-on time during normal business
3 hours, and the requesting party shall identify the books and records
4 for the owners association to copy and forward to the requesting
5 party.

6 F. An owners association may:

7 1. Produce books and records requested under this section in
8 hard copy or electronic or other format reasonably available to the
9 owners association; or

10 2. Make available to prospective buyers, prior to closing, but
11 immediately upon payment of earnest money and any other prescribed
12 fees, the recorded covenants and restrictions for a fee assessed by
13 the owners association not to exceed Two Hundred Fifty Dollars
14 (\$250.00).

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

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

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

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 five (5) years after the expiration of the contract
22 term;

23 5. Minutes of meetings of the owners association shall be
24 retained for seven (7) years; and
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6. Tax returns and audit records shall be retained for seven
(7) years.

SECTION 3. This act shall become effective November 1, 2024.

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