



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5422

Introduced 2/5/2010, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.755 new

Creates the Condominium Ombudsperson Act and amends the State Finance Act. Creates the Office of the Condominium Ombudsperson in the Department of Financial and Professional Regulation under the supervision and control of the Secretary of the Department of Financial and Professional Regulation. Provides that the Ombudsperson shall offer training and educational materials and courses to condominium unit owners, condominium associations, and boards of managers in subjects relevant to the operation and management of condominium property and the rights and duties of a unit owner or unit owners' association. Requires the Ombudsperson to maintain a statewide toll-free telephone number, and a website with certain specified information, to provide information or assistance on matters relating to condominium property. Requires the Ombudsperson to report annually to the General Assembly. Provides that every condominium unit owners' association shall pay an annual fee to the Ombudsperson to cover the administration of the Act. Creates the Condominium Ombudsperson Fund as a special fund in the State treasury, to consist of fees received by the Ombudsperson, to be used exclusively for expenditures necessary for the proper administration of the Act. Repeals the Act on July 1, 2013. Effective July 1, 2010.

LRB096 16743 AJO 32036 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning condominium property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Condominium Ombudsperson Act.

6 Section 5. Definitions. As used in this Act:

7 "Board of managers", "condominium instruments", "master
8 association", "unit", "unit owner", and "unit owners'
9 association" have the meanings ascribed to those terms in the
10 Condominium Property Act.

11 "Condominium association" means a unit owners' association
12 or master association.

13 "Department" means the Department of Financial and
14 Professional Regulation.

15 "Office" means the Office of the Condominium Ombudsperson
16 established under Section 15.

17 "Ombudsperson" means the Condominium Ombudsperson employed
18 under Section 15.

19 "Person" includes a natural person, firm, association,
20 organization, partnership, business trust, corporation,
21 limited liability company, or public entity.

22 Section 10. Findings. The General Assembly finds as

1 follows:

2 (1) Managing condominium property is a complex
3 responsibility. Unit owners and persons charged with
4 managing condominium property may have little or no prior
5 experience in managing real property, operating a
6 not-for-profit association or corporation, complying with
7 the law governing condominium property, and interpreting
8 and enforcing restrictions and rules imposed by the
9 condominium instruments or other applicable covenants.
10 Unit owners may not fully understand their rights and
11 obligations under the law and the condominium instruments
12 or other applicable covenants. Mistakes and
13 misunderstandings are inevitable and may lead to serious,
14 costly, and divisive problems. A Condominium Ombudsperson
15 will seek to educate unit owners, condominium
16 associations, and boards of managers as to their legal
17 rights and obligations. Effective education can prevent or
18 reduce the severity of problems within a condominium
19 community.

20 (2) The principal remedy for a violation of condominium
21 property law is private litigation. Litigation is not an
22 ideal remedy for many condominium property disputes,
23 because the disputants are neighbors who must maintain
24 ongoing relationships. The adversarial nature of
25 litigation can disrupt these relationships, creating
26 animosity that degrades the quality of life within the

1 condominium community and makes future disputes more
2 likely to arise. Litigation imposes costs on a condominium
3 community as a whole, costs that must be paid by all unit
4 owners through increased assessments. Many unit owners
5 cannot afford to bring a lawsuit and are effectively denied
6 the benefit of laws designed for their protection. A
7 Condominium Ombudsperson will provide a neutral,
8 nonjudicial forum for resolution of condominium property
9 disputes.

10 (3) Anecdotal accounts of abuses within condominium
11 communities create continuing public demand for reform of
12 condominium property law. This results in frequent changes
13 to the law, making it more difficult to understand and
14 apply and imposing significant transitional costs on
15 condominium communities statewide. By collecting empirical
16 data on the nature and incidence of problems within
17 condominium communities, a Condominium Ombudsperson will
18 provide a sound basis for prioritizing reform efforts,
19 thereby increasing the stability of condominium property
20 law.

21 (4) The costs of the Office of the Condominium
22 Ombudsperson should be borne entirely by condominium unit
23 owners through the imposition of an annual fee.

24 Section 15. Office of the Condominium Ombudsperson.

25 (a) The Office of the Condominium Ombudsperson is created

1 in the Department of Financial and Professional Regulation
2 under the supervision and control of the Secretary of the
3 Department of Financial and Professional Regulation.

4 (b) Commencing July 1, 2010, the Secretary of the
5 Department of Financial and Professional Regulation shall
6 employ a Condominium Ombudsperson and other persons as
7 necessary to discharge the requirements of this Act. The
8 Ombudsperson shall have the powers delegated to him or her by
9 the Secretary, in addition to the powers set forth in this Act.

10 (c) The Ombudsperson may adopt rules governing practices
11 and procedures under this Act. Any rule adopted under this Act
12 is subject to the rulemaking provisions of the Illinois
13 Administrative Procedure Act.

14 (d) Information and advice provided by the Ombudsperson has
15 no binding legal effect and is not subject to the rulemaking
16 provisions of the Illinois Administrative Procedure Act.

17 (e) The Ombudsperson may convene an advisory committee to
18 make recommendations on matters within the Ombudsperson's
19 jurisdiction. The members of any such advisory committee shall
20 receive a per diem and expenses as determined by the
21 Department. In selecting the members of an advisory committee,
22 the Ombudsperson shall ensure a fair representation of the
23 interests involved.

24 Section 20. Training and education.

25 (a) The Ombudsperson shall offer training and other

1 educational materials and courses to condominium unit owners,
2 condominium associations, and boards of managers, in subjects
3 relevant to the operation and management of condominium
4 property and the rights and duties of unit owners, condominium
5 associations, and boards of managers.

6 (b) The Ombudsperson may charge a fee for training and
7 other educational materials and courses provided under this
8 Section, not to exceed the actual cost of the training or other
9 materials and courses.

10 Section 25. Toll-free number; Internet website.

11 (a) The Office shall maintain a statewide toll-free
12 telephone number to provide information or assistance on
13 matters relating to condominium property.

14 (b) The Office shall maintain an Internet website, which
15 shall provide all of the following information:

16 (1) The text of this Act, the Condominium Property Act,
17 and any other statute or regulation that the Ombudsperson
18 determines would be relevant to the operation and
19 management of condominium property or the rights and duties
20 of unit owners, condominium associations, and boards of
21 managers.

22 (2) Information concerning nonjudicial resolution of
23 disputes that may arise within a condominium community,
24 including contacts for locally available dispute
25 resolution programs.

1 (3) A description of the services provided by the
2 Ombudsperson and information on how to contact the
3 Ombudsperson for assistance.

4 (4) An analysis, prepared each year, of changes in the
5 law affecting condominium property.

6 (5) Any other information that the Ombudsperson
7 determines would be useful to unit owners, condominium
8 associations, and boards of managers.

9 (c) Information provided on the Office's Internet website
10 shall also be made available in printed form. The Office may
11 charge a fee for the purchase of such printed materials, not to
12 exceed the actual cost of printing and delivery.

13 Section 30. Members of condominium board of managers or
14 master association.

15 (a) Within 60 days after assuming office as a member of a
16 board of managers or a master association, every such member
17 shall certify that he or she has read each of the following:

18 (1) The condominium instruments relating to the
19 condominium property administered by the board of managers
20 or master association.

21 (2) This Act or, if the Ombudsperson prepares a
22 detailed summary of the requirements of this Act, that
23 summary.

24 (b) Each member of a board of managers or a master
25 association shall file the certification required by this

1 Section with the Ombudsperson.

2 Section 35. Dispute resolution assistance.

3 (a) Any interested person may request that the Ombudsperson
4 provide assistance in resolving a dispute between a unit owner
5 and a condominium association or board of managers that
6 involves the law governing condominium property or the
7 condominium instruments relating to a condominium community.

8 (b) On receipt of a request for assistance, the
9 Ombudsperson shall, within the limits of the available
10 resources, confer with the interested parties and assist in
11 efforts to resolve the dispute by mutual agreement of the
12 parties.

13 (c) The Ombudsperson shall not charge a fee for services
14 provided under this Section.

15 Section 40. Reports.

16 (a) The Ombudsperson shall submit an annual written report
17 to the General Assembly, no later than October 1 of each year.
18 The report shall include all of the following information:

19 (1) Annual workload and performance data, including
20 the number of requests for assistance received, the manner
21 in which a request was or was not resolved, and the staff
22 time required to resolve the inquiry. For each category of
23 data, the Ombudsperson shall provide subtotals based on the
24 type of question or dispute involved in the request.

1 (2) Analysis of the most common and serious types of
2 disputes within condominium communities, along with any
3 recommendations for statutory reform to reduce the
4 frequency or severity of those disputes.

5 (b) On or before January 1, 2012, the Ombudsperson shall
6 submit recommendations to the General Assembly on the following
7 topics:

8 (1) Whether the Ombudsperson should be authorized to
9 enforce condominium property law.

10 (2) Whether the Ombudsperson should be authorized to
11 oversee unit owners' association elections.

12 (3) Whether the scope of application of Section 30
13 should be narrowed or broadened.

14 (4) Whether the Ombudsperson should provide or
15 subsidize mediation of condominium property disputes.

16 Section 45. Fees.

17 (a) Every condominium unit owners' association shall pay to
18 the Ombudsperson an annual fee as provided in this Section.
19 This fee shall be in addition to any other fees authorized to
20 be charged by the Ombudsperson under this Act. The total fee
21 due from an association under this Section in any year shall be
22 the product of (i) the number of units composing the
23 condominium property administered by the association
24 multiplied by (ii) the annual fee amount for that year
25 determined under subsection (b).

1 (b) The initial annual fee amount to be used in calculating
2 a unit owners' association's fee under this Section shall be
3 \$3. The Ombudsperson shall increase or decrease the annual fee
4 amount every year to provide only the revenue that he or she
5 estimates will be necessary for the Office's operation expenses
6 during the next year. The annual fee amount shall not exceed
7 \$10, however.

8 (c) A unit owners' association is excused from paying the
9 fee for a unit if another association has paid the fee for that
10 unit. An association that is excused from paying the fee for a
11 unit shall certify, on a form prescribed by the Ombudsperson
12 for that purpose, that another association has paid the fee for
13 that unit. The Ombudsperson may adopt a rule governing which
14 association is required to pay the fee for a unit that is
15 administered by more than one association.

16 Section 50. Condominium Ombudsperson Fund. All moneys
17 received by the Ombudsperson as fees under this Act shall be
18 deposited into the Condominium Ombudsperson Fund, which is
19 hereby created as a special fund in the State treasury. All
20 moneys in the fund, upon appropriation by the General Assembly,
21 shall be used exclusively for expenditures by the Ombudsperson
22 that are necessary for the proper administration of this Act.

23 Section 85. Repeal. This Act is repealed on July 1, 2013.

1 Section 90. The State Finance Act is amended by adding
2 Section 5.755 as follows:

3 (30 ILCS 105/5.755 new)

4 Sec. 5.755. The Condominium Ombudsperson Fund.

5 Section 99. Effective date. This Act takes effect July 1,
6 2010.