

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 and Common Interest Community Ombudsperson Act.

6 Section 5. Applicability. This Act applies to all
7 condominium associations governed by the Condominium Property
8 Act and all common interest community associations governed by
9 the Common Interest Community Association Act.

10 Section 10. Findings. The General Assembly finds as
11 follows:

12 (1) Managing condominium property or common interest
13 community property is a complex responsibility. Unit
14 owners and persons charged with managing condominium
15 property or common interest community property may have
16 little or no prior experience in managing real property,
17 operating a not-for-profit association or corporation,
18 complying with the laws governing condominium property or
19 common interest community property, and interpreting and
20 enforcing restrictions and rules imposed by applicable
21 instruments or covenants. Unit owners may not fully
22 understand their rights and obligations under the law or

1 applicable instruments or covenants. Mistakes and
2 misunderstandings are inevitable and may lead to serious,
3 costly, and divisive problems. This Act seeks to educate
4 unit owners, condominium associations, common interest
5 community associations, boards of managers, and boards of
6 directors about the Condominium Property Act and the Common
7 Interest Community Association Act. Effective education
8 can prevent or reduce the severity of problems within a
9 condominium or common interest community.

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

21 Section 15. Definitions. As used in this Act:

22 "Association" means a condominium association or common
23 interest community association as defined in this Act.

24 "Board of managers" or "board of directors" means:

25 (1) a common interest community association's board of

1 managers or board of directors, whichever is applicable; or

2 (2) a condominium association's board of managers or
3 board or directors, whichever is applicable.

4 "Common interest community" means a property governed by
5 the Common Interest Community Association Act.

6 "Common interest community association" has the meaning
7 ascribed to it in Section 1-5 of the Common Interest Community
8 Association Act.

9 "Condominium" means a property governed by the Condominium
10 Property Act.

11 "Condominium association" means an association in which
12 membership is a condition of ownership or shareholder interest
13 of a unit in a condominium, cooperative, townhouse, villa, or
14 other residential unit which is part of a residential
15 development plan and that is authorized to impose an
16 assessment, rents, or other costs that may become a lien on the
17 unit or lot, and includes a unit owners' association as defined
18 in subsection (o) of Section 2 of the Condominium Property Act
19 and a master association as defined in subsection (u) of
20 Section 2 of the Condominium Property Act.

21 "Declaration" has the meaning ascribed to it in:

22 (1) Section 1-5 of the Common Interest Community
23 Association Act; or

24 (2) Section 2 of the Condominium Property Act.

25 "Department" means the Department of Financial and
26 Professional Regulation.

1 "Director" means the Director of the Division of
2 Professional Regulation.

3 "Division" means the Division of Professional Regulation
4 within the Department of Financial and Professional
5 Regulation.

6 "Office" means the Office of the Condominium and Common
7 Interest Community Ombudsperson established under Section 20
8 of this Act.

9 "Ombudsperson" means the Condominium and Common Interest
10 Community Ombudsperson employed under Section 20 of this Act.

11 "Person" includes a natural person, firm, association,
12 organization, partnership, business trust, corporation,
13 limited liability company, or public entity.

14 "Secretary" means the Secretary of Financial and
15 Professional Regulation.

16 "Unit" means a part of the condominium property or common
17 interest community property designed and intended for any type
18 of independent use.

19 "Unit owner" has the meaning ascribed to it in:

20 (1) subsection (g) of Section 2 of the Condominium
21 Property Act; or

22 (2) Section 1-5 of the Common Interest Community
23 Association Act.

24 Section 20. Office of the Condominium and Common Interest
25 Community Ombudsperson.

1 (a) There is created in the Division of Professional
2 Regulation within the Department of Financial and Professional
3 Regulation, under the supervision and control of the Secretary,
4 the Office of the Condominium and Common Interest Community
5 Ombudsperson.

6 (b) The Department shall employ an Ombudsperson and other
7 persons as necessary to discharge the requirements of this Act.
8 The Ombudsperson shall have the powers delegated to him or her
9 by the Department, in addition to the powers set forth in this
10 Act.

11 (c) Information and advice provided by the Ombudsperson has
12 no binding legal effect and is not subject to the rulemaking
13 provisions of the Illinois Administrative Procedure Act.

14 Section 25. Training and education.

15 (a) On or before July 1, 2017, the Ombudsperson shall offer
16 training, educational materials, and courses to unit owners,
17 associations, boards of managers, and boards of directors in
18 subjects relevant to: (i) the operation and management of
19 condominiums and common interest communities; and (ii) the
20 Condominium Property Act and the Common Interest Community
21 Association Act.

22 (b) The Ombudsperson may charge a fee for training,
23 educational materials, and courses provided under this
24 Section.

1 Section 30. Website.

2 (a) The Office shall maintain on the Department's website
3 the following information:

4 (1) the text of this Act, the Condominium Property Act,
5 the Community Interest Community Association Act, and any
6 other statute, administrative rule, or regulation that the
7 Ombudsperson determines is relevant to the operation and
8 management of a condominium association or common interest
9 community association;

10 (2) information concerning nonjudicial resolution of
11 disputes that may arise within a condominium or common
12 interest community;

13 (3) a description of the services provided by the
14 Ombudsperson and information on how to contact the
15 Ombudsperson for assistance; and

16 (4) any other information that the Ombudsperson
17 determines is useful to unit owners, associations, boards
18 of managers, and boards of directors.

19 (b) The Office shall make the information described in
20 subsection (a) of this Section available in printed form. The
21 Office may establish a fee by rule for the purchase of printed
22 materials.

23 Section 35. Written policy for resolving complaints.

24 (a) Each association, except for those outlined in Section

25 (b) of this Section, shall adopt a written policy for resolving

1 complaints made by unit owners. The association shall make the
2 policy available to all unit owners upon request. The policy
3 must include:

4 (1) a sample form on which a unit owner may make a
5 complaint to the association;

6 (2) a description of the process by which complaints
7 shall be delivered to the association;

8 (3) the association's timeline and manner of making
9 final determinations in response to a unit owner's
10 complaint; and

11 (4) a requirement that the final determination made by
12 the association in response to a unit owner's complaint be:

13 (i) made in writing;

14 (ii) made within a reasonable time after the unit
15 owner's original complaint; and

16 (iii) marked clearly and conspicuously as "final".

17 (b) Common interest community associations exempt from the
18 Common Interest Community Association Act are not required to
19 have a written policy for resolving complaints.

20 (c) No later than 180 days after the effective date of this
21 Act, associations existing on the effective date of this Act,
22 except for those identified in subsection (b) of this Section,
23 must establish and adopt the policy required under this
24 Section.

25 (d) Associations first created after the effective date of
26 this Act, except for those identified in subsection (b) of this

1 Section, must establish and adopt the policy required under
2 this Section at the time of initial registration as required by
3 Section 65 of this Act.

4 (e) A unit owner may not bring a request for assistance
5 under Section 40 of this Act for an association's lack of or
6 inadequacy of a written policy to resolve complaints, but may
7 notify the Department in writing of the association's lack of
8 or inadequacy of a written policy. An association that fails to
9 comply with this Section is subject to subsection (g) of
10 Section 65 of this Act.

11 Section 40. Requests for assistance.

12 (a) Beginning on July 1, 2018, unit owners meeting the
13 requirements of this Section may make a written request, as
14 outlined in subsection (f) of this Section, to the Ombudsperson
15 for assistance in resolving a dispute between a unit owner and
16 an association that involves a violation of the Condominium
17 Property Act or the Common Interest Community Property Act.

18 (b) The Ombudsperson shall not accept requests for
19 resolutions of disputes with community association managers,
20 supervising community association managers, or community
21 association management firms, as defined in the Community
22 Association Manager Licensing and Disciplinary Act.

23 (c) The Ombudsperson shall not accept requests for
24 resolutions of disputes for which there is a pending complaint
25 filed in any court or administrative tribunal in any

1 jurisdiction or for which arbitration or alternative dispute
2 resolution is scheduled to occur or has previously occurred.

3 (d) The assistance described in subsection (a) of this
4 Section is available only to unit owners. In order for a unit
5 owner to receive the assistance from the Ombudsperson described
6 in subsection (a) of this Section, the unit owner must:

7 (1) owe no outstanding assessments, fees, or funds to
8 the association, unless the assessments, fees, or funds are
9 central to the dispute;

10 (2) allege a dispute that was initiated or initially
11 occurred within the past 2 calendar years of the date of
12 the request;

13 (3) have made a written complaint pursuant to the unit
14 owner's association's complaint policy, as outlined in
15 Section 35, which alleges violations of the Condominium
16 Property Act or the Common Interest Community Association
17 Act;

18 (4) have received a final and adverse decision from the
19 association and attach a copy of the association's final
20 adverse decision marked "final" to the request to the
21 Ombudsperson; and

22 (5) have filed the request within 30 days after the
23 receipt of the association's final adverse decision.

24 (e) A unit owner who has not received a response, marked
25 "final", to his or her complaint from the association within a
26 reasonable time may request assistance from the Ombudsperson

1 pursuant to subsection (a) of this Section if the unit owner
2 meets the requirements of items (1), (2), and (3) of subsection
3 (d) of this Section. A unit owner may not request assistance
4 from the Ombudsperson until at least 90 days after the initial
5 written complaint was submitted to the association. The
6 Ombudsperson may decline a unit owner's request for assistance
7 on the basis that a reasonable time has not yet passed.

8 (f) The request for assistance shall be in writing, on
9 forms provided by the Office, and include the following:

10 (1) the name, address, and contact information of the
11 unit owner;

12 (2) the name, address, and contact information of the
13 association;

14 (3) the applicable association governing documents
15 unless the absence of governing documents is central to the
16 dispute;

17 (4) the date of the final adverse decision by the
18 association;

19 (5) a copy of the association's written complaint
20 policy required under Section 35 of this Act;

21 (6) a copy of the unit owner's complaint to the
22 association with a specific reference to the alleged
23 violations of the Condominium Property Act or the Common
24 Interest Community Association Act;

25 (7) documentation verifying the unit owner's ownership
26 of a unit, such as a copy of a recorded deed or other

1 document conferring title; and

2 (8) a copy of the association's adverse decision marked
3 "final", if applicable.

4 (g) On receipt of a unit owner's request for assistance
5 that the Department determines meets the requirements of this
6 Section, the Ombudsperson shall, within the limits of the
7 available resources, confer with the interested parties and
8 assist in efforts to resolve the dispute by mutual agreement of
9 the parties.

10 (h) The Ombudsperson shall assist only opposing parties who
11 mutually agree to participate in dispute resolution.

12 (i) A unit owner is limited to one request for assistance
13 per dispute. The meaning of dispute is to be broadly
14 interpreted by the Department.

15 (j) The Department has the authority to determine whether
16 or not a final decision is adverse under paragraph (4) of
17 subsection (d) of this Section.

18 (k) The Department shall establish rules describing the
19 time limit, method, and manner for dispute resolution.

20 (l) A request under the Freedom of Information Act for
21 information does not constitute a request for assistance under
22 this Section.

23 Section 45. Confidentiality. All information collected by
24 the Department in the course of addressing a request for
25 assistance pursuant to Section 40 shall be maintained for the

1 confidential use of the Department and shall not be disclosed.
2 The Department shall not disclose the information to anyone
3 other than law enforcement officials or regulatory agencies
4 that have an appropriate regulatory interest as determined by
5 the Secretary. Information and documents disclosed to a
6 federal, State, county, or local law enforcement agency shall
7 not be disclosed by that agency for any purpose to any other
8 agency or person.

9 Section 50. Reports.

10 (a) The Department shall submit an annual written report on
11 the activities of the Office to the General Assembly, no later
12 than October 1 of each year, with the initial report being due
13 October 1, 2019. The report shall include all of the following:

14 (1) annual workload and performance data, including
15 the number of requests for assistance received, the manner
16 in which requests were or were not resolved and the staff
17 time required to resolve the requests. For each category of
18 data, the report shall provide subtotals based on the type
19 of question or dispute involved in the request; and

20 (2) analysis of the most common and serious types of
21 disputes within condominiums and common interest
22 communities, along with any recommendations for statutory
23 reform to reduce the frequency or severity of those
24 disputes.

1 Section 55. Fees. The Department shall by rule impose
2 nonrefundable fees for the administration and enforcement of
3 this Act. All of the fees collected under this Act shall be
4 deposited into the Condominium and Common Interest Community
5 Ombudsperson Fund.

6 Section 60. Condominium and Common Interest Community
7 Ombudsperson Fund. The Condominium and Common Interest
8 Community Ombudsperson Fund is hereby created as a special fund
9 in the State treasury. All moneys in the fund, upon
10 appropriation by the General Assembly, shall be used
11 exclusively for expenditures by the Department that are
12 necessary for the proper administration and enforcement of this
13 Act.

14 Section 65. Registration.

15 (a) Except as otherwise provided in subsections (d) and (f)
16 of this Section, every association shall register with the
17 Department in a form and manner specified by the Department. A
18 registration shall be valid for 2 years. The initial
19 registration and fee for associations existing on the effective
20 date of this Act are due 180 days after the effective date of
21 this Act.

22 (b) Newly created associations required to register with
23 the Department must register no later than 90 days after the
24 association has assumed control of a property.

1 (c) The Department may issue a certification of
2 registration under this Act to any association that applies to
3 the Department on forms provided by the Department, pays the
4 required non-refundable fee, and provides the following:

5 (1) the business name of the association seeking
6 registration;

7 (2) the business address or addresses and contact
8 information of the association seeking registration;

9 (3) the name, address, and contact information for the
10 association's authorized agent or management company and
11 management company representative;

12 (4) a certification that the applicant has a written
13 policy for resolving complaints as required by Section 35
14 of this Act;

15 (5) the initial date of recording of the declaration;

16 (6) the recording number or book and page for the
17 document that constitutes the declaration; and

18 (7) a certification that the association will comply
19 with all other requirements of this Act and rules
20 established for the implementation of this Act.

21 (d) This Section does not apply to a unit, or the owner
22 thereof, if the unit is a timeshare property subject to the
23 Real Estate Timeshare Act of 1999.

24 (e) If any of the information submitted under subsection
25 (c) of this Section changes, the association shall provide
26 updated information to the Department no later than 60 days

1 after the change.

2 (f) A common interest community association is exempt from
3 registration if it is exempt from the Common Interest Community
4 Association Act.

5 (g) An association that fails to properly register or whose
6 registration has expired or who fails to timely establish a
7 written policy for resolving complaints, as described in
8 Section 35, is ineligible to impose or enforce a lien for
9 assessments or to pursue any action or employ any enforcement
10 mechanism otherwise available to it until it is validly
11 registered pursuant to this Section. A lien for assessments
12 previously filed during a period in which the association was
13 registered pursuant to this Section shall not be extinguished
14 by a lapse in the association's registration, but any pending
15 enforcement proceedings related to the lien shall be suspended
16 and any applicable time limits tolled until the association is
17 again validly registered pursuant to this Section.

18 Section 70. Returned checks; fines. Any person who delivers
19 a check or other payment to the Department that is returned to
20 the Department unpaid by the financial institution upon which
21 it is drawn shall pay to the Department, in addition to the
22 amount already owed to the Department, a fine of \$50. The
23 Department shall notify the person that the payment of fees
24 shall be paid to the Department by certified check or money
25 order within 30 calendar days of the notification. If, after

1 the expiration of 30 days after the date of the notification,
2 the person has failed to submit the necessary remittance, the
3 Department shall automatically terminate the registration or
4 deny the application, without hearing. If, after termination or
5 denial, the person seeks a registration, he or she shall apply
6 to the Department for restoration or issuance of the
7 registration and pay all fees and fines due to the Department.

8 Section 75. Rules. The Department may adopt rules for the
9 administration and enforcement of this Act. Any rule adopted
10 under this Act is subject to the rulemaking provisions of the
11 Illinois Administrative Procedure Act.

12 Section 80. State Lawsuit Immunity Act. Nothing in this Act
13 shall be construed to constitute a waiver of the immunity of
14 the State, Department, Division, Office, or Ombudsperson, or
15 any officer, employee, or agent thereof under the State Lawsuit
16 Immunity Act.

17 Section 85. Repeal. This Act is repealed on July 1, 2020.

18 Section 90. The State Finance Act is amended by adding
19 Section 5.855 as follows:

20 (30 ILCS 105/5.855 new)

21 Sec. 5.855. The Condominium and Common Interest Community

1 Ombudsperson Fund.

2 Section 95. The Condominium Property Act is amended by
3 adding Section 35 as follows:

4 (765 ILCS 605/35 new)

5 Sec. 35. Compliance with the Condominium and Common
6 Interest Community Ombudsperson Act. Every unit owners'
7 association must comply with the Condominium and Common
8 Interest Community Ombudsperson Act and is subject to all
9 provisions of the Condominium and Common Interest Community
10 Ombudsperson Act. This Section is repealed July 1, 2020.

11 Section 100. The Common Interest Community Association Act
12 is amended by adding Section 1-90 as follows:

13 (765 ILCS 160/1-90 new)

14 Sec. 1-90. Compliance with the Condominium and Common
15 Interest Community Ombudsperson Act. Every common interest
16 community association, except for those exempt from this Act
17 under Section 1-75, must comply with the Condominium and
18 Community Interest Community Ombudsperson Act and is subject to
19 all provisions of the Condominium and Community Interest
20 Community Ombudsperson Act. This Section is repealed July 1,
21 2020.

22 Section 999. Effective date. This Act takes effect July 1,

1 2015.