



Rep. Elaine Nekritz

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LRB098 15146 JLS 58359 a

1 AMENDMENT TO HOUSE BILL 4204

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4204 by replacing  
3 everything after the enacting clause with the following:

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

1 little or no prior experience in managing real property,  
2 operating a not-for-profit association or corporation,  
3 complying with the laws governing condominium property or  
4 common interest community property, and interpreting and  
5 enforcing restrictions and rules imposed by applicable  
6 instruments or covenants. Unit owners may not fully  
7 understand their rights and obligations under the law or  
8 applicable instruments or covenants. Mistakes and  
9 misunderstandings are inevitable and may lead to serious,  
10 costly, and divisive problems. This Act seeks to educate  
11 unit owners, condominium associations, common interest  
12 community associations, boards of managers, and boards of  
13 directors about the Condominium Property Act and the Common  
14 Interest Community Association Act. Effective education  
15 can prevent or reduce the severity of problems within a  
16 condominium or common interest community.

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

1 and common interest community property law.

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

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

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

6 (1) a common interest community association's board of  
7 managers or board of directors, whichever is applicable; or

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

10 "Common interest community" means a property governed by  
11 the Common Interest Community Association Act.

12 "Common interest community association" has the meaning  
13 ascribed to it in Section 1-5 of the Common Interest Community  
14 Association Act.

15 "Condominium" means a property governed by the Condominium  
16 Property Act.

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

1 Section 2 of the Condominium Property Act.

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

3 (1) Section 1-5 of the Common Interest Community  
4 Association Act; or

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

6 "Department" means the Department of Financial and  
7 Professional Regulation.

8 "Director" means the Director of the Division of  
9 Professional Regulation.

10 "Division" means the Division of Professional Regulation  
11 within the Department of Financial and Professional  
12 Regulation.

13 "Office" means the Office of the Condominium and Common  
14 Interest Community Ombudsperson established under Section 20  
15 of this Act.

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

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

21 "Secretary" means the Secretary of Financial and  
22 Professional Regulation.

23 "Unit" means a part of the condominium property or common  
24 interest community property designed and intended for any type  
25 of independent use.

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

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

3           (2) Section 1-5 of the Common Interest Community  
4           Association Act.

5           Section 20. Office of the Condominium and Common Interest  
6           Community Ombudsperson.

7           (a) There is created in the Division of Professional  
8           Regulation within the Department of Financial and Professional  
9           Regulation, under the supervision and control of the Secretary,  
10          the Office of the Condominium and Common Interest Community  
11          Ombudsperson.

12          (b) The Department shall employ an Ombudsperson and other  
13          persons as necessary to discharge the requirements of this Act.  
14          The Ombudsperson shall have the powers delegated to him or her  
15          by the Department, in addition to the powers set forth in this  
16          Act.

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

20          Section 25. Training and education.

21          (a) On or before July 1, 2017, the Ombudsperson shall offer  
22          training, educational materials, and courses to unit owners,  
23          associations, boards of managers, and boards of directors in  
24          subjects relevant to: (i) the operation and management of

1 condominiums and common interest communities; and (ii) the  
2 Condominium Property Act and the Common Interest Community  
3 Association Act.

4 (b) The Ombudsperson may charge a fee for training,  
5 educational materials, and courses provided under this  
6 Section.

7 Section 30. Website.

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

10 (1) the text of this Act, the Condominium Property Act,  
11 the Community Interest Community Association Act, and any  
12 other statute, administrative rule, or regulation that the  
13 Ombudsperson determines is relevant to the operation and  
14 management of a condominium association or common interest  
15 community association;

16 (2) information concerning nonjudicial resolution of  
17 disputes that may arise within a condominium or common  
18 interest community;

19 (3) a description of the services provided by the  
20 Ombudsperson and information on how to contact the  
21 Ombudsperson for assistance; and

22 (4) any other information that the Ombudsperson  
23 determines is useful to unit owners, associations, boards  
24 of managers, and boards of directors.

25 (b) The Office shall make the information described in

1 subsection (a) of this Section available in printed form. The  
2 Office may establish a fee by rule for the purchase of printed  
3 materials.

4 Section 35. Written policy for resolving complaints.

5 (a) Each association, except for those outlined in Section  
6 (b) of this Section, shall adopt a written policy for resolving  
7 complaints made by unit owners. The association shall make the  
8 policy available to all unit owners upon request. The policy  
9 must include:

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

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

14 (3) the association's timeline and manner of making  
15 final determinations in response to a unit owner's  
16 complaint; and

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

19 (i) made in writing;

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

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

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

1           (c) No later than 180 days after the effective date of this  
2 Act, associations existing on the effective date of this Act,  
3 except for those identified in subsection (b) of this Section,  
4 must establish and adopt the policy required under this  
5 Section.

6           (d) Associations first created after the effective date of  
7 this Act, except for those identified in subsection (b) of this  
8 Section, must establish and adopt the policy required under  
9 this Section at the time of initial registration as required by  
10 Section 65 of this Act.

11           (e) A unit owner may not bring a request for assistance  
12 under Section 40 of this Act for an association's lack of or  
13 inadequacy of a written policy to resolve complaints, but may  
14 notify the Department in writing of the association's lack of  
15 or inadequacy of a written policy. An association that fails to  
16 comply with this Section is subject to subsection (g) of  
17 Section 65 of this Act.

18           Section 40. Requests for assistance.

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

25           (b) The Ombudsperson shall not accept requests for



1 resolutions of disputes with community association managers,  
2 supervising community association managers, or community  
3 association management firms, as defined in the Community  
4 Association Manager Licensing and Disciplinary Act.

5 (c) The Ombudsperson shall not accept requests for  
6 resolutions of disputes for which there is a pending complaint  
7 filed in any court or administrative tribunal in any  
8 jurisdiction or for which arbitration or alternative dispute  
9 resolution is scheduled to occur or has previously occurred.

10 (d) The assistance described in subsection (a) of this  
11 Section is available only to unit owners. In order for a unit  
12 owner to receive the assistance from the Ombudsperson described  
13 in subsection (a) of this Section, the unit owner must:

14 (1) owe no outstanding assessments, fees, or funds to  
15 the association, unless the assessments, fees, or funds are  
16 central to the dispute;

17 (2) allege a dispute that was initiated or initially  
18 occurred within the past 2 calendar years of the date of  
19 the request;

20 (3) have made a written complaint pursuant to the unit  
21 owner's association's complaint policy, as outlined in  
22 Section 35, which alleges violations of the Condominium  
23 Property Act or the Common Interest Community Association  
24 Act;

25 (4) have received a final and adverse decision from the  
26 association and attach a copy of the association's final

1 adverse decision marked "final" to the request to the  
2 Ombudsperson; and

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

5 (e) A unit owner who has not received a response, marked  
6 "final", to his or her complaint from the association within a  
7 reasonable time may request assistance from the Ombudsperson  
8 pursuant to subsection (a) of this Section if the unit owner  
9 meets the requirements of items (1), (2), and (3) of subsection  
10 (d) of this Section. A unit owner may not request assistance  
11 from the Ombudsperson until at least 90 days after the initial  
12 written complaint was submitted to the association. The  
13 Ombudsperson may decline a unit owner's request for assistance  
14 on the basis that a reasonable time has not yet passed.

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

17 (1) the name, address, and contact information of the  
18 unit owner;

19 (2) the name, address, and contact information of the  
20 association;

21 (3) the applicable association governing documents  
22 unless the absence of governing documents is central to the  
23 dispute;

24 (4) the date of the final adverse decision by the  
25 association;

26 (5) a copy of the association's written complaint

1 policy required under Section 35 of this Act;

2 (6) a copy of the unit owner's complaint to the  
3 association with a specific reference to the alleged  
4 violations of the Condominium Property Act or the Common  
5 Interest Community Association Act;

6 (7) documentation verifying the unit owner's ownership  
7 of a unit, such as a copy of a recorded deed or other  
8 document conferring title; and

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

11 (g) On receipt of a unit owner's request for assistance  
12 that the Department determines meets the requirements of this  
13 Section, the Ombudsperson shall, within the limits of the  
14 available resources, confer with the interested parties and  
15 assist in efforts to resolve the dispute by mutual agreement of  
16 the parties.

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

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

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

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

1           (1) A request under the Freedom of Information Act for  
2 information does not constitute a request for assistance under  
3 this Section.

4           Section 45. Confidentiality. All information collected by  
5 the Department in the course of addressing a request for  
6 assistance pursuant to Section 40 shall be maintained for the  
7 confidential use of the Department and shall not be disclosed.  
8 The Department shall not disclose the information to anyone  
9 other than law enforcement officials or regulatory agencies  
10 that have an appropriate regulatory interest as determined by  
11 the Secretary. Information and documents disclosed to a  
12 federal, State, county, or local law enforcement agency shall  
13 not be disclosed by that agency for any purpose to any other  
14 agency or person.

15           Section 50. Reports.

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

20           (1) annual workload and performance data, including  
21 the number of requests for assistance received, the manner  
22 in which requests were or were not resolved and the staff  
23 time required to resolve the requests. For each category of  
24 data, the report shall provide subtotals based on the type

1 of question or dispute involved in the request; and

2 (2) analysis of the most common and serious types of  
3 disputes within condominiums and common interest  
4 communities, along with any recommendations for statutory  
5 reform to reduce the frequency or severity of those  
6 disputes.

7 Section 55. Fees. The Department shall by rule impose  
8 nonrefundable fees for the administration and enforcement of  
9 this Act. All of the fees collected under this Act shall be  
10 deposited into the Condominium and Common Interest Community  
11 Ombudsperson Fund.

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

20 Section 65. Registration.

21 (a) Except as otherwise provided in subsections (d) and (f)  
22 of this Section, every association shall register with the  
23 Department in a form and manner specified by the Department. A

1 registration shall be valid for 2 years. The initial  
2 registration and fee for associations existing on the effective  
3 date of this Act are due 180 days after the effective date of  
4 this Act.

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

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

12 (1) the business name of the association seeking  
13 registration;

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

16 (3) the name, address, and contact information for the  
17 association's authorized agent or management company and  
18 management company representative;

19 (4) a certification that the applicant has a written  
20 policy for resolving complaints as required by Section 35  
21 of this Act;

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

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

25 (7) a certification that the association will comply  
26 with all other requirements of this Act and rules

1 established for the implementation of this Act.

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

5 (e) If any of the information submitted under subsection  
6 (c) of this Section changes, the association shall provide  
7 updated information to the Department no later than 60 days  
8 after the change.

9 (f) A common interest community association is exempt from  
10 registration if it is exempt from the Common Interest Community  
11 Association Act.

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

25 Section 70. Returned checks; fines. Any person who delivers

1 a check or other payment to the Department that is returned to  
2 the Department unpaid by the financial institution upon which  
3 it is drawn shall pay to the Department, in addition to the  
4 amount already owed to the Department, a fine of \$50. The  
5 Department shall notify the person that the payment of fees  
6 shall be paid to the Department by certified check or money  
7 order within 30 calendar days of the notification. If, after  
8 the expiration of 30 days after the date of the notification,  
9 the person has failed to submit the necessary remittance, the  
10 Department shall automatically terminate the registration or  
11 deny the application, without hearing. If, after termination or  
12 denial, the person seeks a registration, he or she shall apply  
13 to the Department for restoration or issuance of the  
14 registration and pay all fees and fines due to the Department.

15 Section 75. Rules. The Department may adopt rules for the  
16 administration and enforcement of this Act. Any rule adopted  
17 under this Act is subject to the rulemaking provisions of the  
18 Illinois Administrative Procedure Act.

19 Section 80. State Lawsuit Immunity Act. Nothing in this Act  
20 shall be construed to constitute a waiver of the immunity of  
21 the State, Department, Division, Office, or Ombudsperson, or  
22 any officer, employee, or agent thereof under the State Lawsuit  
23 Immunity Act.



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

2 Section 90. The State Finance Act is amended by adding  
3 Section 5.855 as follows:

4 (30 ILCS 105/5.855 new)

5 Sec. 5.855. The Condominium and Common Interest Community  
6 Ombudsperson Fund.

7 Section 95. The Condominium Property Act is amended by  
8 adding Section 35 as follows:

9 (765 ILCS 605/35 new)

10 Sec. 35. Compliance with the Condominium and Common  
11 Interest Community Ombudsperson Act. Every unit owners'  
12 association must comply with the Condominium and Common  
13 Interest Community Ombudsperson Act and is subject to all  
14 provisions of the Condominium and Common Interest Community  
15 Ombudsperson Act. This Section is repealed July 1, 2020.

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

18 (765 ILCS 160/1-90 new)

19 Sec. 1-90. Compliance with the Condominium and Common  
20 Interest Community Ombudsperson Act. Every common interest

1 community association, except for those exempt from this Act  
2 under Section 1-75, must comply with the Condominium and  
3 Community Interest Community Ombudsperson Act and is subject to  
4 all provisions of the Condominium and Community Interest  
5 Community Ombudsperson Act. This Section is repealed July 1,  
6 2020.

7 Section 999. Effective date. This Act takes effect July 1,  
8 2015.".