



Sen. Heather A. Steans

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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. On or before July 1,
21 2018, the Ombudsperson shall offer training, educational
22 materials, and courses to unit owners, associations, boards of
23 managers, and boards of directors in subjects relevant to: (i)
24 the operation and management of condominiums and common

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

3 Section 30. Website.

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

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

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

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

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

21 (b) The Office shall make the information described in
22 subsection (a) of this Section available in printed form.

23 Section 35. Written policy for resolving complaints.

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

1 (b) of this Section, shall adopt a written policy for resolving
2 complaints made by unit owners. The association shall make the
3 policy available to all unit owners upon request. The policy
4 must include:

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

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

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

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

14 (i) made in writing;

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

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

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

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

26 (d) Associations first created after the effective date of

1 this Act, except for those identified in subsection (b) of this
2 Section, must establish and adopt the policy required under
3 this Section at the time of initial registration as required by
4 Section 65 of this Act.

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

12 Section 40. Requests for assistance.

13 (a) Beginning on July 1, 2019, unit owners meeting the
14 requirements of this Section may make a written request, as
15 outlined in subsection (f) of this Section, to the Ombudsperson
16 for assistance in resolving a dispute between a unit owner and
17 an association that involves a violation of the Condominium
18 Property Act or the Common Interest Community Property Act.

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

24 (c) The Ombudsperson shall not accept requests for
25 resolutions of disputes for which there is a pending complaint

1 filed in any court or administrative tribunal in any
2 jurisdiction or for which arbitration or alternative dispute
3 resolution is scheduled to occur or has previously occurred.

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

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

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

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

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

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

25 (e) A unit owner who has not received a response, marked
26 "final", to his or her complaint from the association within a

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

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

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

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

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

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

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

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

26 (7) documentation verifying the unit owner's ownership

1 of a unit, such as a copy of a recorded deed or other
2 document conferring title; and

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

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

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

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

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

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

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

24 Section 45. Confidentiality. All information collected by
25 the Department in the course of addressing a request for

1 assistance pursuant to Section 40 shall be maintained for the
2 confidential use of the Department and shall not be disclosed.
3 The Department shall not disclose the information to anyone
4 other than law enforcement officials or regulatory agencies
5 that have an appropriate regulatory interest as determined by
6 the Secretary. Information and documents disclosed to a
7 federal, State, county, or local law enforcement agency shall
8 not be disclosed by that agency for any purpose to any other
9 agency or person.

10 Section 50. Reports.

11 (a) The Department shall submit an annual written report on
12 the activities of the Office to the General Assembly, no later
13 than October 1 of each year, with the initial report being due
14 October 1, 2020. The report shall include all of the following:

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

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

1 Section 55. Registration.

2 (a) Except as otherwise provided in subsections (d) and (f)
3 of this Section, every association shall register with the
4 Department in a form and manner specified by the Department. A
5 registration shall be valid for 2 years. The initial
6 registration for an association existing on the effective date
7 of this Act is due one year after the effective date of this
8 Act, or at such time as the Department has adopted rules and
9 forms for registration, whichever is later.

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

13 (c) The Department may issue a certification of
14 registration under this Act to any association that applies to
15 the Department on forms provided by the Department and provides
16 the following:

17 (1) the business name of the association seeking
18 registration;

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

21 (3) the name, address, and contact information for the
22 association's authorized agent or management company and
23 management company representative;

24 (4) a certification that the applicant has a written
25 policy for resolving complaints as required by Section 35

1 of this Act;

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

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

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

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

11 (e) If any of the information submitted under subsection
12 (c) of this Section changes, the association shall provide
13 updated information to the Department no later than 60 days
14 after the change.

15 (f) A common interest community association is exempt from
16 registration if it is exempt from the Common Interest Community
17 Association Act.

18 (g) If an association fails to initially register as
19 provided in subsection (a) of this Section or fails to timely
20 renew its registration, the Department may impose a late charge
21 or late fee against the association. If an association fails to
22 properly register within 2 years after the effective date of
23 this Act, or fails to renew its registration on 3 or more
24 occasions, the association is ineligible to impose or enforce a
25 lien for common expenses or to pursue any action or employ any
26 enforcement mechanism otherwise available to it in enforcement

1 of a lien for common expenses until it is validly registered
2 pursuant to this Section. A lien for common expenses previously
3 filed during a period in which the association was registered
4 pursuant to this Section shall not be extinguished by a lapse
5 in the association's registration, nor shall the common expense
6 debt reflected by the lien or court action be deemed invalid,
7 but any pending enforcement proceedings related to the lien
8 shall be suspended and any applicable time limits tolled until
9 the association is again validly registered pursuant to this
10 Section. Nothing contained herein shall be deemed to invalidate
11 any claim for common expenses or other enforcement mechanism,
12 even if the claim arose while the association was not
13 registered.

14 Section 60. Rules. The Department may adopt rules for the
15 administration and enforcement of this Act. Any rule adopted
16 under this Act is subject to the rulemaking provisions of the
17 Illinois Administrative Procedure Act.

18 Section 65. State Lawsuit Immunity Act. Nothing in this Act
19 shall be construed to constitute a waiver of the immunity of
20 the State, Department, Division, Office, or Ombudsperson, or
21 any officer, employee, or agent thereof under the State Lawsuit
22 Immunity Act.

23 Section 70. Repeal. This Act is repealed on July 1, 2021

1 Section 75. The Condominium Property Act is amended by
2 adding Section 35 as follows:

3 (765 ILCS 605/35 new)

4 Sec. 35. Compliance with the Condominium and Common
5 Interest Community Ombudsperson Act. Every unit owners'
6 association must comply with the Condominium and Common
7 Interest Community Ombudsperson Act and is subject to all
8 provisions of the Condominium and Common Interest Community
9 Ombudsperson Act. This Section is repealed July 1, 2021.

10 Section 80. The Common Interest Community Association Act
11 is amended by adding Section 1-90 as follows:

12 (765 ILCS 160/1-90 new)

13 Sec. 1-90. Compliance with the Condominium and Common
14 Interest Community Ombudsperson Act. Every common interest
15 community association, except for those exempt from this Act
16 under Section 1-75, must comply with the Condominium and
17 Community Interest Community Ombudsperson Act and is subject to
18 all provisions of the Condominium and Community Interest
19 Community Ombudsperson Act. This Section is repealed July 1,
20 2021.

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

1 2016.".