

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. On or before July 1,
15 2018, the Ombudsperson shall offer training, educational
16 materials, and courses to unit owners, associations, boards of
17 managers, and boards of directors in subjects relevant to: (i)
18 the operation and management of condominiums and common
19 interest communities; and (ii) the Condominium Property Act and
20 the Common Interest Community Association Act.

21 Section 30. Website.

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

24 (1) the text of this Act, the Condominium Property Act,

1 the Community Interest Community Association Act, and any
2 other statute, administrative rule, or regulation that the
3 Ombudsperson determines is relevant to the operation and
4 management of a condominium association or common interest
5 community association;

6 (2) information concerning nonjudicial resolution of
7 disputes that may arise within a condominium or common
8 interest community;

9 (3) a description of the services provided by the
10 Ombudsperson and information on how to contact the
11 Ombudsperson for assistance; and

12 (4) any other information that the Ombudsperson
13 determines is useful to unit owners, associations, boards
14 of managers, and boards of directors.

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

17 Section 35. Written policy for resolving complaints.

18 (a) Each association, except for those outlined in Section
19 (b) of this Section, shall adopt a written policy for resolving
20 complaints made by unit owners. The association shall make the
21 policy available to all unit owners upon request. The policy
22 must include:

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

25 (2) a description of the process by which complaints

1 shall be delivered to the association;

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

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

7 (i) made in writing;

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

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

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

14 (c) No later than 180 days after the effective date of this
15 Act, associations existing on the effective date of this Act,
16 except for those identified in subsection (b) of this Section,
17 must establish and adopt the policy required under this
18 Section.

19 (d) Associations first created after the effective date of
20 this Act, except for those identified in subsection (b) of this
21 Section, must establish and adopt the policy required under
22 this Section at the time of initial registration as required by
23 Section 65 of this Act.

24 (e) A unit owner may not bring a request for assistance
25 under Section 40 of this Act for an association's lack of or
26 inadequacy of a written policy to resolve complaints, but may

1 notify the Department in writing of the association's lack of
2 or inadequacy of a written policy. An association that fails to
3 comply with this Section is subject to subsection (g) of
4 Section 65 of this Act.

5 Section 40. Requests for assistance.

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

12 (b) The Ombudsperson shall not accept requests for
13 resolutions of disputes with community association managers,
14 supervising community association managers, or community
15 association management firms, as defined in the Community
16 Association Manager Licensing and Disciplinary Act.

17 (c) The Ombudsperson shall not accept requests for
18 resolutions of disputes for which there is a pending complaint
19 filed in any court or administrative tribunal in any
20 jurisdiction or for which arbitration or alternative dispute
21 resolution is scheduled to occur or has previously occurred.

22 (d) The assistance described in subsection (a) of this
23 Section is available only to unit owners. In order for a unit
24 owner to receive the assistance from the Ombudsperson described
25 in subsection (a) of this Section, the unit owner must:

1 (1) owe no outstanding assessments, fees, or funds to
2 the association, unless the assessments, fees, or funds are
3 central to the dispute;

4 (2) allege a dispute that was initiated or initially
5 occurred within the past 2 calendar years of the date of
6 the request;

7 (3) have made a written complaint pursuant to the unit
8 owner's association's complaint policy, as outlined in
9 Section 35, which alleges violations of the Condominium
10 Property Act or the Common Interest Community Association
11 Act;

12 (4) have received a final and adverse decision from the
13 association and attach a copy of the association's final
14 adverse decision marked "final" to the request to the
15 Ombudsperson; and

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

18 (e) A unit owner who has not received a response, marked
19 "final", to his or her complaint from the association within a
20 reasonable time may request assistance from the Ombudsperson
21 pursuant to subsection (a) of this Section if the unit owner
22 meets the requirements of items (1), (2), and (3) of subsection
23 (d) of this Section. A unit owner may not request assistance
24 from the Ombudsperson until at least 90 days after the initial
25 written complaint was submitted to the association. The
26 Ombudsperson may decline a unit owner's request for assistance

1 on the basis that a reasonable time has not yet passed.

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

4 (1) the name, address, and contact information of the
5 unit owner;

6 (2) the name, address, and contact information of the
7 association;

8 (3) the applicable association governing documents
9 unless the absence of governing documents is central to the
10 dispute;

11 (4) the date of the final adverse decision by the
12 association;

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

15 (6) a copy of the unit owner's complaint to the
16 association with a specific reference to the alleged
17 violations of the Condominium Property Act or the Common
18 Interest Community Association Act;

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

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

24 (g) On receipt of a unit owner's request for assistance
25 that the Department determines meets the requirements of this
26 Section, the Ombudsperson shall, within the limits of the

1 available resources, confer with the interested parties and
2 assist in efforts to resolve the dispute by mutual agreement of
3 the parties.

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

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

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

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

14 (l) A request under the Freedom of Information Act for
15 information does not constitute a request for assistance under
16 this Section.

17 Section 45. Confidentiality. All information collected by
18 the Department in the course of addressing a request for
19 assistance pursuant to Section 40 shall be maintained for the
20 confidential use of the Department and shall not be disclosed.
21 The Department shall not disclose the information to anyone
22 other than law enforcement officials or regulatory agencies
23 that have an appropriate regulatory interest as determined by
24 the Secretary. Information and documents disclosed to a
25 federal, State, county, or local law enforcement agency shall

1 not be disclosed by that agency for any purpose to any other
2 agency or person.

3 Section 50. Reports.

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

8 (1) annual workload and performance data, including
9 the number of requests for assistance received, the manner
10 in which requests were or were not resolved and the staff
11 time required to resolve the requests. For each category of
12 data, the report shall provide subtotals based on the type
13 of question or dispute involved in the request; and

14 (2) analysis of the most common and serious types of
15 disputes within condominiums and common interest
16 communities, along with any recommendations for statutory
17 reform to reduce the frequency or severity of those
18 disputes.

19 Section 55. Registration.

20 (a) Except as otherwise provided in subsections (d) and (f)
21 of this Section, every association shall register with the
22 Department in a form and manner specified by the Department. A
23 registration shall be valid for 2 years. The initial
24 registration for an association existing on the effective date

1 of this Act is due one year after the effective date of this
2 Act, or at such time as the Department has adopted rules and
3 forms for registration, whichever is later.

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

7 (c) The Department may issue a certification of
8 registration under this Act to any association that applies to
9 the Department on forms provided by the Department and provides
10 the following:

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

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

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

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

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

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

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

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

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

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

11 (g) If an association fails to initially register as
12 provided in subsection (a) of this Section or fails to timely
13 renew its registration, the Department may impose a late charge
14 or late fee against the association. If an association fails to
15 properly register within 2 years after the effective date of
16 this Act, or fails to renew its registration on 3 or more
17 occasions, the association is ineligible to impose or enforce a
18 lien for common expenses or to pursue any action or employ any
19 enforcement mechanism otherwise available to it in enforcement
20 of a lien for common expenses until it is validly registered
21 pursuant to this Section. A lien for common expenses previously
22 filed during a period in which the association was registered
23 pursuant to this Section shall not be extinguished by a lapse
24 in the association's registration, nor shall the common expense
25 debt reflected by the lien or court action be deemed invalid,
26 but any pending enforcement proceedings related to the lien

1 shall be suspended and any applicable time limits tolled until
2 the association is again validly registered pursuant to this
3 Section. Nothing contained herein shall be deemed to invalidate
4 any claim for common expenses or other enforcement mechanism,
5 even if the claim arose while the association was not
6 registered.

7 Section 60. Rules. The Department may adopt rules for the
8 administration and enforcement of this Act. Any rule adopted
9 under this Act is subject to the rulemaking provisions of the
10 Illinois Administrative Procedure Act.

11 Section 65. State Lawsuit Immunity Act. Nothing in this Act
12 shall be construed to constitute a waiver of the immunity of
13 the State, Department, Division, Office, or Ombudsperson, or
14 any officer, employee, or agent thereof under the State Lawsuit
15 Immunity Act.

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

17 Section 75. The Condominium Property Act is amended by
18 adding Section 35 as follows:

19 (765 ILCS 605/35 new)

20 Sec. 35. Compliance with the Condominium and Common
21 Interest Community Ombudsperson Act. Every unit owners'

1 association must comply with the Condominium and Common
2 Interest Community Ombudsperson Act and is subject to all
3 provisions of the Condominium and Common Interest Community
4 Ombudsperson Act. This Section is repealed July 1, 2021.

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

7 (765 ILCS 160/1-90 new)

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

16 Section 999. Effective date. This Act takes effect July 1,
17 2016.