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TEXT OF THE CONDOMINIUM AND COMMON INTEREST COMMUNITY OMBUDSPERSON ACT

The Condominium and Common Interest Community Ombudsperson Act is contained in 765 ILCS 615, Sections 1 through 999, of the Illinois Compiled Statutes.

Section 1 **Short title**

This Act may be cited as the Condominium and Common Interest Community Ombudsperson Act.

(July 1, 2016)

Section 5 **Applicability**

This Act applies to all condominium associations governed by the Condominium Property Act and all common interest community associations governed by the Common Interest Community Association Act.

(July 1, 2016)

Section 10 **Findings**

The General Assembly finds as follows:

(1) Managing condominium property or common interest community property is a complex responsibility. Unit owners and persons charged with managing condominium property or common interest community property may have little or no prior experience in managing real property, operating a not-for-profit association or corporation, complying with the laws governing condominium property or common interest community property, and interpreting and enforcing restrictions and rules imposed by applicable instruments or covenants. Unit owners may not fully understand their rights and obligations under the law or applicable instruments or covenants. Mistakes and misunderstandings are inevitable and may lead to serious, costly, and divisive problems. This Act seeks to educate unit owners, condominium associations, common interest community associations, boards of managers, and boards of directors about the Condominium Property Act and the Common Interest Community Association Act. Effective education can prevent or reduce the severity of problems within a condominium or common interest community.

(2) Anecdotal accounts of abuses within condominiums and common interest communities create continuing public demand for reform of condominium and

common interest community property law. This results in frequent changes to the law, making it difficult to understand and apply, and imposes significant transitional costs on these communities statewide. By collecting empirical data on the nature and incidence of problems within these communities, this Act will provide a sound basis for prioritizing reform efforts, thereby increasing the stability of condominium and common interest community property law.

(July 1, 2016)

Section 15 **Definitions**

As used in this Act:

“Association” means a condominium association or common interest community association as defined in this Act.

“Board of managers” or “board of directors” means:

- (1) a common interest community association's board of managers or board of directors, whichever is applicable; or
- (2) a condominium association's board of managers or board of directors, whichever is applicable.

“Common interest community” means a property governed by the Common Interest Community Association Act.

“Common interest community association” has the meaning ascribed to it in Section 1-5 of the Common Interest Community Association Act.

“Condominium” means a property governed by the Condominium Property Act.

“Condominium association” means an association in which membership is a condition of ownership or shareholder interest of a unit in a condominium, cooperative, townhouse, villa, or other residential unit which is part of a residential development plan and that is authorized to impose an assessment, rents, or other costs that may become a lien on the unit or lot, and includes a unit owners’ association as defined in subsection (o) of Section 2 of the Condominium Property Act and a master association as defined in subsection (u) of Section 2 of the Condominium Property Act.

“Declaration” has the meaning ascribed to it in:

- (1) Section 1-5 of the Common Interest Community Association Act; or
- (2) Section 2 of the Condominium Property Act.

“Department” means the Department of Financial and Professional Regulation.

“Director” means the Director of the Division of Professional Regulation.

“Division” means the Division of Professional Regulation within the Department of Financial and Professional Regulation.

“Office” means the Office of the Condominium and Common Interest Community Ombudsperson established under Section 20 of this Act.

“Ombudsperson” means the Condominium and Common Interest Community Ombudsperson employed under Section 20 of this Act.

“Person” includes a natural person, firm, association, organization, partnership, business trust, corporation, limited liability company, or public entity.

“Secretary” means the Secretary of Financial and Professional Regulation.

“Unit” means a part of the condominium property or common interest community property designed and intended for any type of independent use.

“Unit owner” has the meaning ascribed to it in:

- (1) subsection (g) of Section 2 of the Condominium Property Act; or
- (2) Section 1-5 of the Common Interest Community Association Act.

(July 1, 2016)

Section 20 **Office of the Condominium and Common Interest Community Ombudsperson**

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

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

(c) Information and advice provided by the Ombudsperson has no binding

legal effect and is not subject to the rulemaking provisions of the Illinois Administrative Procedure Act.

(July 1, 2016)

Section 25 Training and education

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

(July 1, 2016)

Section 30 Website

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

- (1) the text of this Act, the Condominium Property Act, the Community Interest Community Association Act, and any other statute, administrative rule, or regulation that the Ombudsperson determines is relevant to the operation and management of a condominium association or common interest community association;
- (2) information concerning nonjudicial resolution of disputes that may arise within a condominium or common interest community;
- (3) a description of the services provided by the Ombudsperson and information on how to contact the Ombudsperson for assistance; and
- (4) any other information that the Ombudsperson determines is useful to unit owners, associations, boards of managers, and boards of directors.

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

(July 1, 2016)

Section 35 **Written policy for resolving complaints**

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

- (1) a sample form on which a unit owner may make a complaint to the association;
- (2) a description of the process by which complaints shall be delivered to the association;
- (3) the association's timeline and manner of making final determinations in response to a unit owner's complaint; and
- (4) a requirement that the final determination made by the association in response to a unit owner's complaint be:
 - (i) made in writing;
 - (ii) made within a reasonable time after the unit owner's original complaint; and
 - (iii) marked clearly and conspicuously as "final".

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

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

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

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

(July 1, 2016)

Section 40 **Requests for assistance**

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

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

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

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

- (1) owe no outstanding assessments, fees, or funds to the association, unless the assessments, fees, or funds are central to the dispute;
- (2) allege a dispute that was initiated or initially occurred within the past 2 calendar years of the date of the request;
- (3) have made a written complaint pursuant to the unit owner's association's complaint policy, as outlined in Section 35, which alleges violations of the Condominium Property Act or the Common Interest Community Association Act;
- (4) have received a final and adverse decision from the association and attach a copy of the association's final adverse decision marked "final" to the request to the Ombudsperson; and
- (5) have filed the request within 30 days after the receipt of the association's final adverse decision.

(e) A unit owner who has not received a response, marked "final", to his or her complaint from the association within a reasonable time may request assistance from the Ombudsperson pursuant to subsection (a) of this Section if the unit owner meets the requirements of items (1), (2), and (3) of subsection (d) of this Section. A unit owner may not request assistance from the Ombudsperson until at least 90 days after the initial written

complaint was submitted to the association. The Ombudsperson may decline a unit owner's request for assistance on the basis that a reasonable time has not yet passed.

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

- (1) the name, address, and contact information of the unit owner;
- (2) the name, address, and contact information of the association;
- (3) the applicable association governing documents unless the absence of governing documents is central to the dispute;
- (4) the date of the final adverse decision by the association;
- (5) a copy of the association's written complaint policy required under Section 35 of this Act;
- (6) a copy of the unit owner's complaint to the association with a specific reference to the alleged violations of the Condominium Property Act or the Common Interest Community Association Act;
- (7) documentation verifying the unit owner's ownership of a unit, such as a copy of a recorded deed or other document conferring title; and
- (8) a copy of the association's adverse decision marked "final", if applicable.

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

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

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

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

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

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

(July 1, 2016)

Section 45 **Confidentiality**

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

(July 1, 2016)

Section 50 **Reports**

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

- (1) annual workload and performance data, including the number of requests for assistance received, the manner in which requests were or were not resolved and the staff time required to resolve the requests. For each category of data, the report shall provide subtotals based on the type of question or dispute involved in the request; and
- (2) analysis of the most common and serious types of disputes within condominiums and common interest communities, along with any recommendations for statutory reform to reduce the frequency or severity of those disputes.

(July 1, 2016)

Section 55 **Registration**

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

whichever is later.

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

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

- (1) the business name of the association seeking registration;
- (2) the business address or addresses and contact information of the association seeking registration;
- (3) the name, address, and contact information for the association's authorized agent or management company and management company representative;
- (4) a certification that the applicant has a written policy for resolving complaints as required by Section 35 of this Act;
- (5) the initial date of recording of the declaration;
- (6) the recording number or book and page for the document that constitutes the declaration; and
- (7) a certification that the association will comply with all other requirements of this Act and rules established for the implementation of this Act.

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

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

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

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

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

(July 1, 2016)

Section 60 **Rules**

The Department may adopt rules for the administration and enforcement of this Act. Any rule adopted under this Act is subject to the rulemaking provisions of the Illinois Administrative Procedure Act.

(July 1, 2016)

Section 65 **State Lawsuit Immunity Act**

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

(July 1, 2016)

Section 70 **Repeal**

This Act is repealed on July 1, 2021.

(July 1, 2016)

Section 75 **(Amendatory provisions; text omitted)**

(July 1, 2016)

Section 80 **(Amendatory provisions; text omitted)**

(July 1, 2016)

Section 999 **Effective date**

This Act takes effect July 1, 2016.

(July 1, 2016)