

Condominium Owners' Rights Act ...  
Condo Legislation 2023

Section 1. Chapter 183A Section 1 of the General laws is hereby amended by adding the following:-

"Governing body," trustees, officers or directors responsible for the administration and operation of the organization of unit owners of a condominium organized under Chapter 183A, as defined in the by-laws of said condominium.

"Remote meeting," any meeting where unit owners or members of a governing board attend by telephone, video conference call or by interactive electronic communications, including over the internet.

Section 2. Chapter 183A Section 10(c)(4) of the General laws is hereby amended by adding the following subsection(vi):-

Governing bodies of self-managed unit owner organizations of 50 or fewer units shall make these records available within ten(10) business days. Unit owner organizations with appointed managing agents shall produce such records within five(5) business days. Electronic conveyance of documents to the owner is preferred and shall be at no cost to the unit owner. A governing board or managing agent may comply with this requirement by posting the requested records to a secure web site using Hyper Text Transfer Protocol Secure (HTTPS), or stronger, for secure transmission of documents. Unless an extension is agreed upon in writing, failure to timely produce requested documents shall be deemed a violation of this chapter and result in a \$100.00 fine. Said fine shall be payable by an appointed managing agent from its own funds or, if a self-managed trust or association, from common funds, to the requesting unit owner. Each day after day five (5) or day ten(10), whichever applies,

shall be considered a separate violation, enforceable by any unit owner in small claims court.

Section 3. Chapter 183A Section 10(c)(4) of the General Laws is hereby amended by adding the following subsection(vii):-

All Other Records: Documents and records available to unit owners shall include all books, records and reports, including but not limited to architectural and engineering reports and studies, legal opinion letters or legal memoranda commissioned by a governing board offering guidance about condominium statutes, master deeds, by-laws and rules and regulations associated with the administration and operation of the organization of unit owners. Personnel discipline records or records regarding contract negotiations or litigation strategy are the only documents that are excluded from release pursuant to §10(c)(4). Upon completion of litigation or execution of a contract, those records shall be available to owners pursuant to the same time and condominium size standards in § 10(c)(4)(vi).

Section 4. Subsection (i) of section 10 of Chapter 183A of the General Laws is hereby amended by adding the following at the end of the first sentence:- Total contributions to a replacement reserve fund shall be no lower than ten (10) percent of a condominium's annual operating budget and collected as part of a condominium's regular common expense assessment, however timed. All condominium governing bodies shall prepare or have prepared in writing a preventive maintenance program for its facility. Such plan shall be

updated at least every two years and distributed to all unit owners. Governing bodies of condominium associations or trusts with 50 or more units shall have a capital reserve fund study prepared by a registered engineer or registered architect at least once every ten years.

Section 5. Subsection (f) (2) of section 10 of Chapter 183A of the General Laws is hereby amended by adding the following at the end of the first sentence:- including, but not limited to, accounting for special fee or assessment funds by project.

Section 6. Chapter 183A of the General Laws is hereby amended by adding the following Section 10A:-

(a) A condominium organized under chapter 183A of the General Laws must have in its by-laws an internal dispute resolution procedure to address disputes between a governing body and a unit owner or owners arising from the administration or operation of the condominium, including, but not limited to, interpretation of the condominium master deed, by laws and any rules or regulations. Unit owners' complaints to the governing body must be in writing and governing body decisions must be rendered in writing within seven (7) from the date of the complaint.

(b) All governing bodies of self-managed condominiums with fewer than 50 units must hold regular meetings at least quarterly. Governing bodies of unit owner organizations with 50 or more units and those with appointed managers must hold meetings at least monthly. Such

meetings must have a standing agenda item for unit owners to raise issues related to condominium management and administration.

(c) All regularly scheduled meetings shall be open to all unit owners for the entirety of the meeting, except for executive sessions limited only to topics of personnel discipline, litigation or contract negotiation strategy.

(d) Governing bodies shall keep minutes of all meetings and make them available to all unit owners subject to the same time and condominium size standards as in c. 183A §10(c)(4) (vi).

(e) Governing bodies or their managing agent shall maintain an up-to-date list of all unit owners including, but not limited to, unit designation, telephone number and email address and to make that list available to other unit owners upon written request, subject to the same time and condominium size standards in c. 183A §10(c)(4) (vi).

Section 7. Chapter 12 of the general laws is hereby amended by inserting at the end thereof the following new section 36:--

(a) There shall be an Office of the Condominium Ombudsman within the Office of the Attorney General.

(b) The Attorney General shall establish a statewide condominium ombudsman program for the purpose of receiving, investigating and resolving, through administrative action, complaints received from a condominium unit owner or owners about condominium governing boards and the administration and operations of a condominium organized under Chapter 183A of the general laws. The Attorney General shall

appoint an ombudsman to act as the director of the program who shall be a person qualified by training and experience to perform the duties of the office. The ombudsman shall publish the Office's procedures for filing, hearing and settling disputes.

(c) Annually, the ombudsman shall prepare and file a report on its activities to the Attorney General, the house and senate clerks' offices, the senate and house committees on ways and means and the joint housing committee, Inspector General and any other relevant agency, on any matter or subject within the jurisdiction of the Ombudsman's office. At a minimum, such report shall include, but not be limited to, the number of complaints filed, the types of complaints, their origin, how many were resolved without further action, and the resolution reached, if any. When making recommendations to the legislature, the Ombudsman shall include drafts of legislation, if required.

(d) The Ombudsman shall develop educational materials to assist unit owners, unit owner organization boards of trustees or directors, appointed managing agents and others it deems appropriate to understand their rights and responsibilities as set forth in this chapter and the condominium documents governing their respective association or trust.

(e) Notwithstanding any general or special law to the contrary, the Office of Condominium Ombudsman shall establish a Condominium Mediation Program with the goal of resolving disputes between and

among unit owner organization trustees or directors, unit owners and appointed managers, including, but not limited to, interpretation of condominium documents. The mediators shall issue non-binding decisions in writing subject to appeal. Any owner or group of owners that files a complaint with the ombudsman and complies with the condominium's internal dispute resolution program as required by §10A of this act, shall be deemed to have complied with Rule 23.1 of the Massachusetts Rules of Civil Procedure for purposes of any further judicial proceedings.

Section 8. Chapter 183A of the General laws is hereby amended by adding the following section:-

Section 24. (a) Any regularly scheduled or special meeting of said governing body shall permit the option for participants to attend remotely by electronic methods. Presence by such electronic means shall constitute presence for purposes of any quorum requirements. The governing body may vote on any action properly before it and approve minutes of any meeting through use of electronic means as approved by the governing body, including, but not limited to, email, video conferencing or electronic files in a format of the governing body's choosing transmitted over the internet.

(b) Any annual or special meeting of unit owners shall permit the option for eligible participants to attend remotely by electronic methods. In the event that the governing body determines to hold any such unit owner meeting remotely, the governing body shall notify all

unit owners of that decision in the notice of such meeting and provide access information to all unit owners for their participation in such meeting. Remote participation by a unit owner shall constitute presence at the meeting for purposes of any quorum requirements. Unit owners attending remotely shall have access to the agenda, minutes, if any, and all relevant documents in advance of the meeting and the ability to pose questions and make comments.

(c) The governing body of the organization of unit owners may permit the unit owners to vote on any matters properly before such unit owners by electronic means, provided that unit owners constituting a quorum participate in such vote. The governing body may, from time to time, and in compliance with the governing documents of the organization of unit owners, promulgate and amend policies related to the use and implementation of electronic meetings and voting. However, all such meetings and votes conducted electronically in paragraphs (a) and (b) and this paragraph (c) shall use commercially available or open source meeting software, such as Zoom, Webex or similar programs, with security protocols meeting the Advanced Encryption Standard (AES) specification as promulgated by the National Institute of Standards and Technology (NIST) for end-to-end encryption and at least two-factor authentication protocols for unit owner identity verification and identity authentication. Internet communication protocols shall be at the level of Hyper Text Transfer Protocol Secure (HTTPS) or stronger. In the event the

master deed, declaration of trust or by laws of the condominium require the signature or written consent of the unit owners for a certain matter, unit owners shall be entitled to submit their electronic signatures or written consents using the electronic means determined by the governing body which, at a minimum, meets the standards set forth in the Uniform Electronic Transactions Act (UETA) as codified in Chapter 110G of the Massachusetts General Laws.