

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2155 Session of
2012

INTRODUCED BY GALLOWAY, CALTAGIRONE, CARROLL, D. COSTA, GEORGE,
GIBBONS, JOSEPHS, MCGEEHAN, MURT, MYERS AND YOUNGBLOOD,
JANUARY 26, 2012

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 26, 2012

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, establishing the Office
3 of the Cooperative and Condominium Ombudsman and providing
4 for its powers and duties; imposing a residential unit fee;
5 and establishing the Office of the Cooperative and
6 Condominium Ombudsman Fund.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 68 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 35

12 OFFICE OF THE COOPERATIVE AND

13 CONDOMINIUM OMBUDSMAN

14 Sec.

15 3501. Definitions.

16 3502. Office of the Cooperative and Condominium Ombudsman.

17 3503. Powers and duties of office.

18 3504. Principal offices and satellite offices.

19 3505. Reports to the Governor, Attorney General and General

1 Assembly.
2 3506. Residential unit fee.
3 3507. Office of the Cooperative and Condominium Ombudsman Fund.
4 § 3501. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Cooperative." As defined in section 4103 (relating to
9 definitions).

10 "Fund." The Office of the Cooperative and Condominium
11 Ombudsman Fund established under this chapter.

12 "Local agency." Any department, board, bureau, commission,
13 division, office, council, officer or agency of a city, town or
14 village.

15 "Master association." An association as defined in section
16 3103 (relating to definitions) or 4103 (relating to
17 definitions).

18 "Office." The Office of the Cooperative and Condominium
19 Ombudsman established under this chapter.

20 "Ombudsman." The chief administrative officer of the Office
21 of the Cooperative and Condominium Ombudsman.

22 "Proprietary lessees' association." As defined in section
23 4103 (relating to definitions).

24 "State agency." Any department, board, bureau, commission,
25 division, office, council or agency of the State, or a public
26 benefit corporation or authority authorized under the laws of
27 this Commonwealth.

28 § 3502. Office of the Cooperative and Condominium Ombudsman.

29 (a) Establishment.--The Office of the Cooperative and
30 Condominium Ombudsman is established within the Office of

1 Attorney General to have and exercise the functions, powers and
2 duties provided by the provisions of this chapter and any other
3 provision of law. The Attorney General shall be responsible for
4 oversight of the office.

5 (b) Ombudsman.--The head of the office shall be the
6 cooperative and condominium ombudsman who shall be appointed by
7 the Attorney General. The ombudsman shall hold office until the
8 end of the term of the Attorney General by whom the ombudsman
9 was appointed and until his or her successor is appointed and
10 has qualified. The ombudsman may be removed by the Attorney
11 General for cause, after being given an opportunity to be heard.
12 A vacancy shall be filled in the same manner as the original
13 appointment.

14 (c) Salary.--The ombudsman shall receive an annual salary to
15 be fixed by the Attorney General within the amount made
16 available by an appropriation and shall be allowed the actual
17 expenses necessary in the performance of the ombudsman's duties.

18 (d) Requirement.--The ombudsman shall be an attorney with
19 extensive experience in real estate, cooperative and condominium
20 law and in conflict and alternative dispute resolution.

21 (e) Duties.--The ombudsman shall direct the work of the
22 office and shall be the chief executive officer of the office.
23 The ombudsman may appoint such officers and employees as the
24 ombudsman may deem necessary, prescribe their powers and duties,
25 fix their compensation and provide for the reimbursement of
26 their expenses, all within amounts made available by
27 appropriation. The officers and employees shall include
28 attorneys and other professionals with experience in real
29 estate, cooperative and condominium law and in conflict and
30 alternative dispute resolution.

1 (f) Code of ethics.--The ombudsman and officers and
2 employees of the office shall adhere to a code of ethics in
3 order to inspire public confidence and trust in the fairness and
4 impartiality of the office. The ombudsman shall prescribe the
5 code of ethics. The code shall require that the ombudsman and
6 officers and employees of the office:

7 (1) respect and comply with the law;

8 (2) not use or attempt to use their positions to secure
9 privileges or exemptions for themselves or others;

10 (3) not solicit, accept or agree to accept any gifts or
11 gratuities from persons having or likely to have any official
12 transaction with the office;

13 (4) not request or accept any payment in addition to
14 their regular compensation for assistance given as part of
15 their official duties; and

16 (5) not perform any function in a manner that improperly
17 favours any person or party.

18 (g) Restrictions on political activities.--The ombudsman and
19 officers and employees of the office shall not:

20 (1) serve as officers or employees of a political party
21 or a club or organization related to a political party;

22 (2) receive remuneration for activities on behalf of any
23 candidate for public office or party position; or

24 (3) engage in soliciting votes or other activities on
25 behalf of a candidate for public office or party position.

26 (h) Coordination with State agencies.--All State agencies
27 shall provide the ombudsman with assistance in advancing the
28 purposes of the office, and the office shall coordinate with the
29 activities of State agencies providing related services.

30 § 3503. Powers and duties of office.

1 The office shall have the following powers and duties:

2 (1) To educate and inform proprietary lessees of
3 cooperatives and unit owners of condominiums, proprietary
4 lessees' associations, unit owners' associations, master
5 associations, property managers, professionals working with
6 and for the associations and other interested parties of
7 their legal rights and responsibilities under the Federal,
8 State and local laws and regulations applicable to
9 cooperative and condominium housing in this Commonwealth and
10 under the cooperative and condominium documents governing the
11 respective properties.

12 (2) To coordinate and assist in the preparation and
13 publication of educational and reference materials about
14 residential cooperatives and condominiums, to make those
15 resources known and available to the widest possible
16 audience.

17 (3) To organize and conduct meetings, workshops,
18 conferences, public hearings and forums and to utilize all
19 forms of communications media to disseminate accurate and
20 timely information of interest to persons residing in, owning
21 and managing cooperative and condominium housing.

22 (4) To provide meetings, mediation, arbitration and
23 other forms of alternative dispute resolution services to
24 cooperative and condominium sponsors and developers,
25 cooperative proprietary lessees, condominium unit owners,
26 their associations, prospective proprietary lessees and unit
27 owners and other parties so as to avoid costly and lengthy
28 litigation and reduce expenses for those involved in
29 disputes.

30 (5) To subpoena and enforce the attendance of witnesses,

1 administer oaths or affirmations and examine witnesses under
2 oath and require the production of any books and papers
3 deemed relevant or material to the resolution of any dispute
4 pending before the office.

5 (6) To engage with the courts, State and local agencies
6 and with alternative dispute resolution programs maintained
7 by the Administrative Office of Pennsylvania Courts in order
8 to provide specialized expertise in the resolution of
9 cooperative and condominium disputes as an alternative to
10 litigation.

11 (7) To offer procedures, monitors and vote counting
12 services to assure fair elections for members and officers of
13 an executive board of a cooperative proprietary lessees'
14 association and condominium unit owners' association. Fifteen
15 percent of the total voting interests in a cooperative or
16 condominium or proprietary lessees or unit owners of six
17 residential units, whichever is greater, may petition the
18 office to attend and conduct an election of executive board
19 members and officers. All costs associated with the election
20 monitoring process shall be paid by the cooperative or
21 condominium.

22 (8) To refer any complaint received to the appropriate
23 law enforcement agency for prosecution, if deemed appropriate
24 by the office.

25 (9) To perform any other functions that are necessary or
26 appropriate to fulfill the duties and responsibilities of the
27 office.

28 § 3504. Principal offices and satellite offices.

29 The office shall maintain its principal offices in
30 Philadelphia and Pittsburgh and shall have satellite offices in

1 other locations within this Commonwealth where there are
2 significant concentrations of cooperative or condominium
3 housing.

4 § 3505. Reports to the Governor, Attorney General and General
5 Assembly.

6 The office shall make an annual report, to be received on or
7 before January 1, to the Governor, Attorney General and the
8 General Assembly concerning the activities undertaken by the
9 office, recommendations for legislative proposals, data
10 concerning program activities and other pertinent information as
11 may be required.

12 § 3506. Residential unit fee.

13 (a) Fee.--A proprietary lessees' association or unit owners'
14 association shall pay an annual fee of \$6 per year for each
15 residential unit located in a building or buildings owned or
16 operated by such corporation or association. The fee shall be
17 payable to the Department of Revenue. All revenue from the fee
18 shall be paid by the department to the State Treasurer to be
19 deposited into the fund.

20 (b) Fee adjustment.--Beginning on January 1, 2013, and each
21 January 1 thereafter, the fee under subsection (a) shall be
22 increased by the percentage of increase in the Consumer Price
23 Index for All Urban Consumers (CPI-U) for the United States for
24 all items for the immediate preceding calendar year. The
25 adjusted fee shall be published in the Pennsylvania Bulletin
26 annually by the Department of Revenue on or before the preceding
27 November 30.

28 § 3507. Office of the Cooperative and Condominium Ombudsman
29 Fund.

30 (a) Establishment.--There is established in the State

1 Treasury a special fund to be known as the Office of the
2 Cooperative and Condominium Ombudsman Fund.

3 (b) Transfers.--The fund shall consist of moneys
4 appropriated to the fund, funds transferred from any other fund
5 or sources and moneys deposited in the fund under section 3506
6 (relating to residential unit fee).

7 (c) Use.--The moneys in the fund shall be allocated to and
8 expended by the Office of Attorney General solely for the
9 staffing and administration of the office.

10 Section 2. This act shall take effect in 60 days.