

STATE OF NEW YORK

6615

2023-2024 Regular Sessions

IN ASSEMBLY

April 24, 2023

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Housing

AN ACT to amend the executive law, in relation to creating the office of the cooperative and condominium ombudsperson; to amend the tax law, in relation to authorizing the residential unit fee; and to amend the state finance law, in relation to establishing the office of the cooperative and condominium ombudsperson fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new article 49-C
2 to read as follows:

ARTICLE 49-C

OFFICE OF THE COOPERATIVE AND CONDOMINIUM OMBUDSPERSON

3 Section 996. Short title.

4 996-a. Legislative declaration.

5 996-b. Definitions.

6 996-c. Office of the cooperative and condominium ombudsperson.

7 996-d. Functions, powers and duties of the office.

8 996-e. Principal office and satellite offices.

9 996-f. Assistance of other state agencies.

10 996-g. Reports to the governor, attorney general and the legis-
11 lature.

12 996-h. Contract authority.

13 996-i. Separability.

14 § 996. Short title. This article shall be known and may be cited as
15 the "cooperative and condominium ombudsperson act".

16 § 996-a. Legislative declaration. The legislature finds and determines
17 as follows:

18 Cooperative and condominium housing constitutes a significant portion
19 of New York state's residential housing stock. It is and has been the
20 public policy of this state to encourage such forms of home ownership. A
21 public policy of this state to encourage such forms of home ownership. A
22

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 wide variety of laws have been enacted to provide fairness in the
2 conversion of rental properties to cooperative and condominium ownership
3 and in the regulation and taxation of cooperatives and condominiums.
4 State and local laws and regulations are also designed to ensure that
5 the residents of such housing are provided with safe and habitable
6 accommodations.

7 Inevitably, disputes have arisen among cooperative and condominium
8 sponsors and developers, cooperative shareholders and condominium unit
9 owners, prospective shareholders and unit owners, boards of directors
10 and boards of managers. Such disputes often result in lengthy and costly
11 litigation and uncertainty as to the rights of the parties pending the
12 outcome of litigation. Such litigation diverts resources that could be
13 better utilized to provide affordable and well-maintained buildings and
14 grounds for the common good of the owners.

15 This article is necessary to provide a neutral, informative and acces-
16 sible resource available to all parties involved in residential cooper-
17 ative and condominium ownership and governance. The ombudsperson
18 appointed pursuant to this article will conduct outreach programs to
19 educate unit owners and board members as to their legal rights and
20 responsibilities. The ombudsperson will encourage alternative dispute
21 resolution when disputes do arise. The ombudsperson will be available to
22 provide dispute resolution services on consent of the parties. The
23 ombudsperson will also provide monitoring and supervision of cooperative
24 and condominium elections.

25 § 996-b. Definitions. 1. "Cooperative" means a corporation organized
26 and operating pursuant to the general business law or the cooperative
27 corporations law for the primary purpose of providing residential hous-
28 ing to its shareholders.

29 2. "Condominium" means a homeowners association or any association
30 organized and operating pursuant to article nine-B of the real property
31 law for the primary purpose of providing residential housing to its unit
32 owners.

33 3. "Office" means the office of the cooperative and condominium ombud-
34 sperson created by this article.

35 4. "Ombudsperson" means the chief administrative officer of the office
36 of the cooperative and condominium ombudsperson.

37 5. "State agency" means any department, board, bureau, commission,
38 division, office, council or agency of the state, or a public benefit
39 corporation or authority authorized by the laws of the state.

40 6. "Local agency" means any department, board, bureau, commission,
41 division, office, council, officer or agency of a city, town or village.

42 § 996-c. Office of the cooperative and condominium ombudsperson. 1.
43 The office of the cooperative and condominium ombudsperson is hereby
44 created within the department of law to have and exercise the functions,
45 powers and duties provided by the provisions of this article and any
46 other provision of law. The attorney general shall be responsible for
47 oversight of the office.

48 2. The head of the office shall be the cooperative and condominium
49 ombudsperson who shall be appointed by the attorney general. The ombud-
50 sperson shall hold office until the end of the term of the attorney
51 general by whom he or she was appointed and until his or her successor
52 is appointed and has qualified. The ombudsperson may be removed by the
53 attorney general for cause, after being given an opportunity to be
54 heard. A vacancy shall be filled in the same manner as the original
55 appointment.

1 3. The ombudsperson shall receive an annual salary to be fixed by the
2 attorney general within the amount made available therefor by an appro-
3 priation and shall be allowed his or her actual and necessary expenses
4 in the performance of his or her duties. The ombudsperson's salary shall
5 be no less than the salaries of certain state officers holding the posi-
6 tions indicated in paragraph (a) of subdivision one of section one
7 hundred sixty-nine of this chapter.

8 4. The ombudsperson shall be an attorney with extensive experience in
9 real estate, cooperative and condominium law and in conflict and alter-
10 native dispute resolution.

11 5. The ombudsperson shall direct the work of the office and shall be
12 the chief executive officer of the office. The ombudsperson may appoint
13 such officers and employees as he or she may deem necessary, prescribe
14 their powers and duties, fix their compensation and provide for the
15 reimbursement of their expenses, all within amounts made available
16 therefor by appropriation. Such officers and employees shall include
17 attorneys and other professionals with extensive experience in real
18 estate, cooperative and condominium law and in conflict and alternative
19 dispute resolution.

20 6. The ombudsperson and officers and employees of the office shall
21 adhere to a code of ethics in order to inspire public confidence and
22 trust in the fairness and impartiality of the office. The ombudsperson
23 shall prescribe such code of ethics. Such code shall require that the
24 ombudsperson and officers and employees of the office respect and comply
25 with the law; that they not use or attempt to use their positions to
26 secure privileges or exemptions for themselves or others; that they not
27 solicit, accept or agree to accept any gifts or gratuities from persons
28 having or likely to have any official transaction with the office; that
29 they not request or accept any payment in addition to their regular
30 compensation for assistance given as part of their official duties; and
31 that they shall not perform any function in a manner that improperly
32 favors any person or party.

33 7. The ombudsperson and officers and employees of the office shall not
34 serve as officers or employees of a political party or a club or organ-
35 ization related to a political party, receive remuneration for activ-
36 ities on behalf of any candidate for public office or party position or
37 engage in soliciting votes or other activities on behalf of a candidate
38 for public office or party position.

39 8. The secretary to the governor shall assure that all state agencies
40 provide the ombudsperson with assistance in advancing the purposes of
41 the office and to assure that the activities of the office are fully
42 coordinated with the activities of state agencies providing related
43 services.

44 § 996-d. Functions, powers and duties of the office. The office shall
45 have the following functions, powers and duties:

46 1. To educate and inform shareholders of cooperatives and unit owners
47 of condominiums, their boards of directors and boards of managers, prop-
48 erty managers, professionals working with and for such boards and other
49 interested parties of their legal rights and responsibilities under the
50 federal, state and local laws and regulations applicable to cooperative
51 and condominium housing in the state of New York and under the cooper-
52 ative and condominium documents governing the respective properties.

53 2. To coordinate and assist in the preparation and publication of
54 educational and reference materials about residential cooperatives and
55 condominiums, to make such resources known and available to the widest
56 possible audience.

1 3. To organize and conduct meetings, workshops, conferences, public
2 hearings and forums and to utilize all forms of communications media to
3 disseminate accurate and timely information of interest to persons
4 residing in, owning and managing cooperative and condominium housing.

5 4. To provide meetings, mediation, arbitration and other forms of
6 alternative dispute resolution services to cooperative and condominium
7 sponsors and developers, cooperative shareholders, condominium owners,
8 their boards of directors and managers, prospective shareholders and
9 unit owners and other parties so as to avoid costly and lengthy liti-
10 gation and reduce expenses for those involved in disputes.

11 5. To subpoena and enforce the attendance of witnesses, administer
12 oaths or affirmations and examine witnesses under oath and require the
13 production of any books and papers deemed relevant or material to the
14 resolution of any dispute pending before the office.

15 6. To engage with the housing courts, other trial courts, state and
16 local agencies and with alternative dispute resolution programs main-
17 tained by the office of court administration in order to provide
18 specialized expertise in the resolution of cooperative and condominium
19 disputes as an alternative to litigation.

20 7. To offer procedures, monitors and vote counting services to assure
21 fair elections for members of cooperative boards of directors and condo-
22 minium boards of managers. Fifteen percent of the total voting inter-
23 ests in a cooperative or condominium or shareholders or owners of six
24 residential units, whichever is greater, may petition the office to
25 attend and conduct an election of directors or managers. All costs asso-
26 ciated with the election monitoring process shall be paid by the cooper-
27 ative or condominium.

28 8. To refer any complaint received to the appropriate law enforcement
29 agency for prosecution, if deemed appropriate by the office.

30 9. To perform any other functions that are necessary or appropriate to
31 fulfill the duties and responsibilities of the office.

32 § 996-e. Principal office and satellite offices. The office shall
33 maintain its principal office in the city of New York and shall have
34 satellite offices in other locations within the state of New York where
35 there are significant concentrations of cooperative or condominium hous-
36 ing.

37 § 996-f. Assistance of other state agencies. To effectuate the
38 purposes of this article, the ombudsperson may request and shall be
39 entitled to receive from any state agency, and the same are authorized
40 to provide, such assistance, services, facilities, and data as will
41 enable the office to carry out its functions, powers and duties, and
42 such temporarily or permanently assigned personnel as the director of
43 the budget may approve.

44 § 996-g. Reports to the governor, attorney general and the legisla-
45 ture. The office shall make an annual report, to be received on or
46 before January first, to the governor, attorney general and the legisla-
47 ture concerning the activities undertaken by the office, recommendations
48 for legislative proposals, data concerning program activities and other
49 pertinent information as may be required.

50 § 996-h. Contract authority. The office is hereby empowered to enter
51 into any agreement or contract with any state or local agency necessary
52 or convenient to carry out the provisions of this article.

53 § 996-i. Separability. If any clause, sentence, paragraph, section or
54 part of this article shall be adjudged by any court of competent juris-
55 isdiction to be invalid, such judgment shall not affect, impair or invali-
56 date the remainder thereof, but shall be confined in its operation to

1 the clause, sentence, paragraph, section or part thereof directly
2 involved in the controversy in which such judgment shall have been
3 rendered.

4 § 2. The tax law is amended by adding a new section 186-h to read as
5 follows:

6 § 186-h. Residential unit fee. A cooperative housing corporation or a
7 homeowners association, as such terms are defined in section two hundred
8 ten of this chapter, shall pay an annual fee of six dollars per year for
9 each residential unit located in a building or buildings owned or oper-
10 ated by such corporation or association. Such fee shall be payable to
11 the department. All revenue from the fee imposed pursuant to this
12 section shall be paid by the department to the state comptroller to be
13 deposited to and credited to the office of the cooperative and condomin-
14 ium ombudsperson fund, established pursuant to section eighty-one-a of
15 the state finance law.

16 § 3. The state finance law is amended by adding a new section 81-a to
17 read as follows:

18 § 81-a. Office of the cooperative and condominium ombudsperson fund.
19 1. There is hereby established in the custody of the state comptroller
20 a special fund to be known as the "office of the cooperative and condo-
21 minium ombudsperson fund".

22 2. The office of the cooperative and condominium ombudsperson fund
23 shall consist of monies appropriated thereto, funds transferred from any
24 other fund or sources, and monies deposited therein pursuant to section
25 one hundred eighty-six-h of the tax law.

26 3. The monies in the office of the cooperative and condominium ombud-
27 sperson fund shall be kept separate from and shall not be commingled
28 with any other monies in the custody of the state comptroller. Such
29 monies shall be allocated to and expended by the department of law sole-
30 ly for the staffing and administration of the office of the cooperative
31 and condominium ombudsperson of such department.

32 § 4. This act shall take effect on the one hundred eightieth day after
33 it shall have become a law.