

DELAWARE CODE TITLE 29

State Government

State Offices Created by Constitution

CHAPTER 25. STATE DEPARTMENT OF JUSTICE

Subchapter IV. Common Interest Community Ombudsperson (Annotated)

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§ 2540 Short title.

This subchapter shall be known as the
"Common Interest Community
Ombudsperson Act."

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c.
186, § 1.;

§ 2541 Definitions.¹

For the purposes of this subchapter, the
following definitions shall apply:

(1) "Bylaws" shall have the meaning as
used in § 81-103 of Title 25.²

¹ The Definitions all refer definitions in the Delaware
Uniform Common Interest Community Ownership
Act, or the DUCIOA, which applies to planned
communities and subdivisions, condominiums and
cooperatives.

² "(6) 'Bylaws' mean the recorded document (and
any recorded amendments thereto) that contains the
procedures for conduct of the affairs of the
association of a common interest community in
accordance with § 81-306 of this title, regardless of

the form of the association's legal entity or the name by which the document comprising the bylaws is identified.”

“§ 81-306 Bylaws.

(a) The bylaws of the association must provide for:

- (1) The number of members of the executive board and the titles of the officers of the association;
- (2) Election by the executive board, or if the declaration so requires by the unit owners, of a president, treasurer, secretary, and any other officers of the association specified in the bylaws;
- (3) The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;
- (4) Which of its powers the executive board or officers may delegate to other persons or to a managing agent;
- (5) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association;
- (6) For an association for a condominium or cooperative with more than 50 unit owners, an independent audit by a licensed certified public accounting firm of the financial records of the association to be performed no less frequently than once every 3 years and for each intervening year a review (instead of a full audit) by an independent accountant which need not be conducted by a certified public accounting firm, provided that where an association of fewer than 100 unit owners so decides by duly adopted resolution, the audit requirement may be satisfied by a review (instead of a full audit) by an independent accountant which need not be conducted by a certified public accounting firm;
- (7) A method for amending the bylaws by the unit owners;
- (8) Any provisions that may be necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other matters concerning the activities of the association; and
- (9) Any other matters required by the laws of this State to appear in the bylaws of legal entities organized in the same manner as the association.

(2) "Common interest community" shall have the meaning as used in § 81-103³ of Title 25 and includes small preexisting cooperatives and planned communities as referenced in § 81-120⁴ of Title 25.

(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate unless the declaration or this chapter requires that those provisions appear in the declaration.
[76 Del. Laws, c. 422, § 2](#); [77 Del. Laws, c. 91, §§ 44, 82.](#)”

³ (11) "Common interest community" means real estate described in a declaration with respect to which a person, by virtue of that person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of or services or other expenses related to common elements, other units or other real estate described in that declaration. Common interest community does not include a campground which is subject to Chapter 28 of Title 6 or those arrangements described in § 81-224 of this title. "Ownership of a unit" does not include holding a leasehold interest in a unit of a stated term of less than 20 years in a unit, including renewal options.

³ **“§ 81-120 Exception for small preexisting cooperatives and planned communities.**

If a cooperative or planned community created within this State before the effective date of this chapter, contains no more than 20 units and is not subject to any development rights expanding it to include more than 20 units, or the annual average common expense liability of each unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, does not exceed \$500, as adjusted pursuant to this section, it is subject only to §§ 81-105 (Separate titles and taxation), 81-106 (Applicability of local ordinances, regulations, and building codes), and 81-107 of this title (Eminent domain), but to no other sections of this chapter unless the declaration is amended in conformity with applicable law and with the procedures and requirements of the declaration to take advantage of the provisions of §§ 81-121 of this title, in which case all the sections enumerated in § 81-119 of this title apply to that cooperative or planned community. Commencing with the July 1 next following the effective date of this chapter and each July 1 thereafter, the \$500 maximum assessment specified in this section may be increased by an amount not in excess of 3 percent over the amount so calculated for the previous year. The bylaws of any such

(3) "Common interest community association" shall have the meaning ascribed to "association" or "unit owners' association" as used in § 81-103 of Title 25 and includes associations or unit owners' associations for small preexisting cooperatives and planned communities as referenced in § 81-120 of Title 25.⁵

(4) "Declarant" shall have the meaning as used in § 81-103 of Title 25.⁶

(5) "Declaration" shall have the meaning as used in § 81-103 of Title 25.⁷

(6) "Department" means the Department of Justice.

(7) "Executive board" shall have the meaning as used in § 81-103 of Title 25.⁸

(8) "Office" means the Office of the Common Interest Community Ombudsperson.

(9) "Ombudsperson" means the Common Interest Community Ombudsperson.

(10) "Rule" or "rules" shall have the meaning as used in § 81-103 of Title 25.⁹

cooperative or planned community, and any amendments thereto, shall be recorded.

⁵ "(5) 'Association' or 'unit owners' association' means the unit owners' association organized under § 81-301 of this title."

§ 81-301 Organization of unit owners' association.

A unit owners' association must be organized no later than the date the first unit in the common interest community is conveyed. The association must have an executive board and the membership of the association at all times consists exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under § 81-218 of this title or their heirs, successors, or assigns. The association may be organized as a profit or nonprofit unincorporated association, corporation, trust, limited liability company or other lawful form of legal entity authorized by the laws of this State.

⁶ "(16) 'Declarant' means any person or group of persons acting in concert who: (i) as part of a common promotional plan, offers to dispose of the interest of the person or group of persons in a unit not previously disposed of or (ii) reserves or succeeds to any special declarant right.

⁷ "(17) 'Declaration' means the recorded instruments, however denominated, that create a common interest community, including any amendments to those instruments."

⁸ "(22) 'Executive board' means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association.

⁹ "(42) 'Rule' or 'rules' means any rule, procedure or regulation of the association, however denominated, that does not appear in the declaration or bylaws and that governs either the management of the association or the common interest community or the conduct of persons or property within the common interest community and adopted as provided in § 81-320 [§ 81-320 Rules.] of this title.

§ 81-320 Rules.

(a) Before adopting or substantially amending any rule, the executive board must notify all unit owners of: (i) its intention to adopt the proposed rule and (ii) a date on which the executive board will convene a meeting to receive comments on them from the unit owners.

(b) If the right is reserved in the declaration pursuant to § 81-302(a)(16) of this title, the association may adopt rules to establish and enforce construction and design criteria and aesthetic standards. If it does so, the association must also adopt procedures for enforcement of those standards and for approval of applications, including a reasonable time within which the association must act after an application is submitted. The association's power under this section is subject to any reserved special declarant right to control any construction or design review process during the period of declarant control.

(c) A rule regulating display of the flag of the United States must be consistent with federal law and § 316 of this title, but the rule may not prohibit the right of a unit owner to display the flag of the United States, measuring up to 3 feet by 5 feet, on a pole located within the property's boundaries or attached to the exterior wall of that unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common element adjoining a unit of a flag of this State, or signs regarding candidates for public office or ballot questions, but the association may adopt rules governing the time, place, size, number or

(11) "Unit" shall have the meaning as used in § 81-103 of Title 25.¹⁰

manner of those displays. Unless the declaration provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12" x 18"), on the exterior wall of the unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names, addresses and phone numbers of the person or persons who are offering the unit for sale.

(d) Unless otherwise permitted by the declaration or this chapter, an association may only adopt rules that affect the use of or behavior in units that may be used for residential purposes to:

(1) Prevent any use of a unit which violates the declaration;

(2) Regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners;

(3) Permit installation of a flagpole located within the property's boundaries which does not exceed 25 feet in height and conforms to all setback requirements, for purposes of displaying the flag of the United States of America, provided such flag's measurement does not exceed 3 feet by 5 feet; or

(4) Restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on units in common interest communities or regularly purchase those mortgages.

(e) All rules adopted by the association must be reasonable.

(f) The executive board must maintain on a current basis for reference by unit owners' tenants a complete statement of all rules.

(g) The unit owner shall obtain from the executive board and deliver to or otherwise make available to each tenant of the unit owner's unit, at the time the lease is executed or, in the absence of a written lease when the tenancy begins, a current copy of the rules for the common interest community as furnished by the executive board and shall deliver to or otherwise make available to the tenant a copy of any additions or revisions to the rules as such

additions or revisions are adopted and noticed to the unit owners by the executive board.

(h) A tenant shall be bound to comply with the noticed rules, and the unit owner leasing to the tenant shall take all lawful action against a tenant who materially violates the noticed rules.

(i) By entering into a lease for a unit, the unit owner of that unit irrevocably appoints the executive board as attorney-in-fact coupled with an interest to enforce the noticed rules against the tenant of that lease in the event that the unit owner shall fail, within a reasonable time after written demand by the executive board, to take what the executive board reasonably regards as adequate enforcement action against the tenant in material violation of noticed rules. In the event of enforcement action (including any summary action for possession at law or a petition for injunctive relief in equity) under this subsection, the tenant shall have no resort to any defense based upon lack of contractual privity with the executive board." [76 Del. Laws, c. 422, § 2](#); [77 Del. Laws, c. 91, § 82](#); [79 Del. Laws, c. 93, § 3](#);

¹⁰ "(48) 'Unit' means a physical portion of or 3-dimensional space in the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to § 81-205(a)(5) of this title, and shall include all improvements contained within the space except those excluded in the declaration. A unit may include 2 or more noncontiguous spaces. If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered, or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected."

"§ 81-205 Contents of declaration.

(a) The declaration must contain:

(1) The names of the common interest community and the association and a statement that the common interest community is either a condominium, cooperative, or planned community;

(2) The name of every county in which any part of the common interest community is situated;

(3) A legally sufficient description of the real estate included in the common interest community;

(4) A statement of the maximum number of units that the declarant reserves the right to create;

(5) In a condominium, a description of the boundaries of each unit created by the declaration, including the unit's identifying number; or, in a cooperative, a description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than 1 unit;

(6) A description of any limited common elements, other than those specified in § 81-202(b) and (d) of this title, as provided in § 81-209(b)(10) of this title and, in a planned community, any real estate that is or must become common elements;

(7) A description of any real estate, except real estate subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in § 81-202(b) and (d) of this title, together with a statement that they may be so allocated;

(8) A description of any development rights (§ 81-103(19) of this title) and other special declarant rights (§ 81-103(45) of this title) reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights must be exercised;

(9) If any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with: (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;

(10) Any other conditions or limitations under which the rights described in paragraph (8) of this section may be exercised or will lapse;

(11) An allocation to each unit of the allocated interests in the manner described in § 81-207 of this title;

(12) Any restrictions: (i) on alienation of the units, including any restrictions on leasing which exceed the restrictions on leasing units which executive boards may impose pursuant to § 81-302(c)(2) of this title, and (ii) on the amount for which

(12) "Unit owners" shall have the meaning as used in § 81-103 of Title 25.¹¹

a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(13) The recording data for recorded easements and licenses appurtenant to or included in the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation in the declaration;

(14) In the case of a condominium or cooperative, provisions that mandate that the association create and maintain, in addition to any reserve for contingencies, a fully funded repair and replacement reserve based upon a current reserve study;

(15) Any authorization pursuant to which the association may regulate the display of American flags or political signs within the common interest community;

(16) Any authorization pursuant to which the association may adopt rules to establish and enforce construction and design criteria and aesthetic standards in the manner provided in § 81-320 of this title; and

(17) All matters required by §§ 81-206 [Leasehold common interest communities], 81-207 [Allocation of allocated interests], 81-208 [Limited common elements], 81-209 [Plats and plans], 81-215 [Use for sales purposes], 81-216 [Easement rights], and 81-303 [Executive board members and officers] of this title.

(b) The declaration may contain any other matters the declarant considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units.

[76 Del. Laws, c. 422, § 2](#); [77 Del. Laws, c. 91, §§ 25, 26, 82.](#)”

¹¹ “49) 'Unit owner' means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the unit owner of any unit created by the declaration. In a cooperative, the

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c. 186, § 1.;

§ 2542 Common Interest Community Ombudsperson; creation, appointment, role, term of office, and vacancy.

- (a) There is established within the Department an Office of the Common Interest Community Ombudsperson.
- (b) The Attorney General shall appoint the Ombudsperson, consistent with the qualifications for the Ombudsperson set forth in § 2543 of this title.
- (c) The Ombudsperson shall be the head of the Office and is charged with managing the Office consistent with the powers and duties vested in the Ombudsperson by § 2544 of this title, within the limitations of the funds appropriated by the General Assembly.
- (d) The Ombudsperson shall serve at the pleasure of the Attorney General.
- (e) A vacancy in the Ombudsperson position shall be filled in the same manner as the original appointment.

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c. 186, § 1.;

§ 2543 Common Interest Community Ombudsperson; qualifications.

The Ombudsperson must:

- (1) Be a member in good standing of the Bar of this State.
- (2) Have at least 5 years of experience in the practice of law in this State.
- (3) Have experience in real estate law, including common interest community law.
- (4) Have experience in conflict and alternative dispute resolution.

declarant is treated as the unit owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.”

(5) Not engage in any other business or profession that conflicts with the powers and duties of the position or the Office.

(6) Comply with all restrictions on political activity applicable to Department employees pursuant to § 2509A of this title.¹²

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c. 186, § 1.;

§ 2544 Common Interest Community Ombudsperson; powers and duties.

The Ombudsperson shall have the following powers and duties:

(1) To contact declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, and other interested parties to inform them of the services available through the Office. In addition to any other method used to publicize the Office's services, the Ombudsperson shall maintain a website containing information about the Office, contact information, the services available through the Office, any information required to be placed on the website by other provisions of this chapter, and any other information deemed appropriate by the Ombudsperson.

(2) To assist declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, and other interested parties in understanding their rights and responsibilities and the processes available to them according to the law, regulations, and documents governing

¹² “§ 2509 Conflict of interest. No member of the Department of Justice shall act as attorney or counsel in any controversy in which the State, a county or a municipality has an interest except in the member's official capacity.”

their respective common interest community. The Ombudsperson is not the attorney for declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, or other interested parties; no attorney-client relationship shall be implied or established by the Ombudsperson's communication with such persons, and the Ombudsperson may not act as or appear to act as an attorney in a legal action brought by such persons.

(3) To organize and conduct meetings to educate declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, and other interested parties about their rights and responsibilities and the processes available to them according to the law, regulations, and documents governing their respective common interest community.

(4) To prepare and publish educational and reference materials about common interest communities and to make these resources available in print and on the Office's website. The materials about common interest communities shall include general information about the roles, rights, and responsibilities of the various parties, suggestions for the orderly operation of the common interest community association, mechanisms for internal dispute resolution, or any other information deemed appropriate by the Ombudsperson.

(5) To develop and publicize procedures intended to result in fair elections for members and officers of a common interest community association.

(6) To provide monitors and vote counting services to common interest community associations, intended to result in fair elections for members and

officers of a common interest community association, when 15% of the total voting interests of a common interest community association, or 6 unit owners, whichever is greater, petition the Ombudsperson to do so.

(7) To provide meetings, mediation, or other forms of alternative dispute resolution as may from time to time be requested by declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, or other interested parties. Nothing in this paragraph shall affect the right of a declarant, common interest community association, the executive board of a common interest community association, unit owners in common interest community, or other interested parties from proceeding pursuant to the procedure established by § 348 of Title 10.¹³

¹³ **“§ 348 Disputes involving deed covenants or restrictions.**

(a) Without limiting the jurisdiction of any court of this State, the Court of Chancery shall, through a Master in Chancery or such other person as may be appointed that Master in Chancery's designee, mediate disputes involving the enforcement of deed covenants or restrictions when:

(1) An action involving the enforcement of deed covenants or restrictions has been filed with the Court;

(2) At least 1 party is an association or other entity representing the homeowners or lot owners of a subdivision, if such an association or entity exists; and

(3) At least 1 party is a homeowner or lot owner in that subdivision. The mediator shall assist the parties in trying to reach a mutually satisfactory resolution of their dispute. Mediation proceedings under this section are confidential and not of public record.

(b) By rule, the Court of Chancery may further define those types of deed covenant or restriction cases which must be mediated.

(8) To establish a template of reasonable written procedures for the executive board of a common interest community association to adopt to internally handle complaints from unit owners and other interested parties. Each common interest community association shall adhere to the established written procedures when resolving complaints from unit owners and other interested parties. The procedures established by the Ombudsperson and adhered to by the common interest community association may include the following, in addition to procedures outlined in the common interest community association's declaration, bylaws, or other governing documents:

- a. That the complaint to the common interest community association must be in writing.
- b. That a sample complaint form, if any, on which the complaint must be filed shall be provided upon request.
- c. That the common interest community association's complaint written procedure shall include the process by which the complaint shall

(c) Upon the filing of an action involving the enforcement of deed covenants or restrictions, the Court shall schedule a mandatory mediation hearing to be held within 60 days of the filing. If the parties fail to resolve the dispute, the Court shall schedule a trial to be held within 120 days of the failed attempt to mediate the dispute, unless for good cause shown the Court in its discretion concludes that a longer period of time is warranted. A Master in Chancery shall preside over the trial.

(d) The parties to a dispute mediated pursuant to the provisions of this section are not required to be represented by an attorney during a mandatory mediation proceeding.

(e) The nonprevailing party at a trial held pursuant to the provisions of this section must pay the prevailing party's attorney fees and court costs, unless the court finds that enforcing this subsection would result in an unfair, unreasonable, or harsh outcome.

[75 Del. Laws, c. 379, § 1](#); [70 Del. Laws, c. 186, § 1.](#)”

be delivered to the common interest community association.

d. That the common interest community association shall provide written acknowledgment of the receipt of the complaint to the complainant within 14 days of receipt. Such acknowledgment shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established procedure of the common interest community association, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery.

e. That any specific documentation that must be provided with the complaint shall be described in the common interest community association's complaint procedure. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference, as well as the requested action or resolution.

f. That the common interest community association shall have a reasonable, efficient, and timely method for identifying and requesting additional information that is necessary for the complainant to provide in order to continue processing the complaint. The common interest community association shall establish a reasonable timeframe for responding to and disposing of the complaint if the request for information is not received within the required timeframe.

g. That, within a reasonable time prior to the consideration of the complaint, the complainant shall be notified of the date, time, and location that the complaint will be considered. For purposes of this paragraph, "reasonable time" shall mean such

time as established by the common interest community association's complaint procedure, but shall not be less than 7 days prior to the date for consideration of the complaint. Notice of the date, time, and location for consideration of the complaint shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established procedure of the common interest community association, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery.

h. That after the final determination is made, the written notice of the final determination shall within 14 days be hand-delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established procedure of the common interest community association, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery.

i. That the notice of final determination shall be dated as of the date of issuance and include specific citations to the common interest community association's declaration, bylaws, or other governing documents, or to an applicable law or regulation that led to the final determination, as well as the registration number for the common interest community association. If applicable, the name and license number of the common interest community manager shall also be provided.

(9) To receive complaints from declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, or other

interested parties regarding potential violations of the law, regulations, or documents governing their respective common interest community. Prior to submitting a complaint to the Ombudsperson, complainants must complete the process established by the Ombudsperson and adopted by the executive board of a common interest community association pursuant to paragraph (8) of this section and must include a copy of the final determination with the complaint filed to the Ombudsperson.

(10) To investigate any complaint received and, if meritorious and appropriate, to provide meetings, mediation, or other forms of alternative dispute resolution to those parties involved in order to assist in the resolution of the complaint.

(11) To refer meritorious violations of existing Delaware law to the Attorney General or other appropriate law-enforcement agency for prosecution.

(12) To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the exercise of the powers or the performance of the duties vested in the Ombudsperson by this section. The power contained in this paragraph may also be exercised by any other employee of the Office who is a member in good standing of the Bar of this State.

(13) To establish and publish, in print and on the Office's website, procedural rules for meetings, mediation, or other forms of alternative dispute resolution organized pursuant to this section.

(14) To establish and publish, in print and on the Office's website, procedures and forms for accepting complaints from declarants, common interest community associations, the executive board of a common interest community association, unit owners in common

interest communities, or other interested parties regarding potential violations of the law, regulations, or documents governing their respective common interest community.

(15) To establish: fees for meetings, mediation, or other forms of alternative dispute resolution; election monitoring; vote counting; or other services as provided by the Ombudsperson pursuant to this section. The amount to be charged for each fee imposed under this paragraph shall approximate and reasonably reflect all costs necessary to defray the expenses related to providing these services.

(16) To make an annual report of the Office's activities to the Governor, the Attorney General, the General Assembly, and the Chief Justice of the Supreme Court on or before December 1 of each year. A copy of the report shall be provided to the Director of the Division of Research. Each such report shall contain:

- a. Statistics on the number of inquiries and complaints handled by the Office;
- b. Information on education and outreach efforts by the Office;
- c. Concerns expressed to the Office by declarants, common interest community associations, the executive board of a common interest community association, unit owners in common interest communities, or other interested parties;
- d. Legal developments impacting common interest communities;
- e. Recommendations for changes to Delaware law or rules of court procedure designed to improve the regulation and operation of common interest communities made by the Ombudsperson and the Common Interest Community Advisory Council;
- f. Any other information deemed appropriate by the Ombudsperson.

(17) To organize and hold public meetings as necessary to gain a comprehensive sense of the issues facing common interest communities in this State. When such meetings are held, at least 1 meeting shall be held in each county at a convenient place within each county. When such meetings are held, the information obtained from these meetings shall be made part of the report issued pursuant to paragraph (15) of this section.

(18) To perform any other function necessary to fulfill the powers and duties outlined in this section.

(19) To direct the work of the Office consistent with the powers and duties established by this section.

(20) To employ and supervise staff necessary to assist in carrying out the powers and duties established by this section, within the limitations of funds appropriated by the General Assembly.

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c. 186, § 1.;

§ 2545 Required information.

(a) When a declarant, a common interest community association, the executive board of a common interest community association, a unit owner in a common interest community contacts the Office to make an inquiry, request services, or file a complaint, the declarant, a common interest community association, the executive board of a common interest community association, a unit owner in a common interest community shall provide the Office with at least the following information regarding the common interest community at issue:

- (1) The name, address, telephone number, and any other contact information for the common interest community association.
- (2) The name of the person engaged in property management for the common interest community association or the name of the person who manages the

property at the site of the common interest community.

(3) The name, mailing address, telephone number, and any other contact information for those on the executive board of the common interest community association.

(4) The name, mailing address, telephone number, and any other contact information for the declarant.

(5) The declaration, bylaws, and any rules for the common interest community association.

(6) The annual budget adopted by the common interest community association.

(7) The number of units in the common interest community.

(8) The total annual assessment made by the common interest community association.

(b) The Ombudsperson may waive the requirement created in subsection (a) of this section when it is deemed appropriate.

79 Del. Laws, c. 408, § 1; 70 Del. Laws, c. 186, § 1.;

§ 2546 Common Interest Community Advisory Council.

(a) There is established the Common Interest Community Advisory Council ("Council"), which shall consist of the following members:

(1) Three members of the public who are members of the executive board of a common interest community, 1 from each county, appointed by the Governor;

(2) The Mayor of the City of Wilmington or a designee appointed by the Mayor;

(3) The County Executive of New Castle County or a designee appointed by the County Executive;

(4) The President of the Kent County Levy Court or a designee appointed by the President;

(5) The President of the Sussex County Council or a designee appointed by the President;

(6) Three members appointed by the Speaker of the House;

(7) Three members appointed by the President pro tempore of the Senate;

(8) The Secretary of State or a designee appointed by the Secretary of State;

(9) Two members from the Real Property Section of the Delaware State Bar Association whose practice involves the creation of, or the handling of disputes arising from, common interest communities, appointed by the President of the Delaware State Bar Association;

(10) The President of the Home Builders Association of Delaware or a designee appointed by the President;

(11) The Chief Executive Officer of Community Associations Institute or a designee appointed by the Chief Executive Officer.

(b) The members of the Council shall serve until a replacement is appointed pursuant to the same process as the member's appointment.

(c) The members of the Council shall serve without compensation, except that they may be reimbursed for reasonable necessary expenses incident to their duties as members in accordance with State law.

(d) The Chairperson of the Council shall be designated by the Attorney General from among the members of the Council.

(e) The powers of the Council shall be exercised by a majority vote of all members present. A quorum of 9 shall be necessary to hold a meeting of the Council.

(f) The Council shall:

(1) Advise the Ombudsperson regarding issues related to common interest communities, including:

- a. Mechanisms to increase the collection rate for common interest community assessments;
- b. The development of conflict resolution procedures within common interest communities;
- c. The feasibility of mandatory mediation, arbitration, or other forms of alternative dispute resolution for disputes not able to be resolved within common interest communities and, if deemed feasible, how to implement such a process;
- d. The development of mechanisms for the registration of common interest communities with the State or other political subdivision;
- e. Any other topic the Council deems necessary to advise the Ombudsperson on related to common interest communities.

(2) Advise the Ombudsperson in the operation of the Office.

(3) Study and recommend to the Ombudsperson the adoption, amendment, or rescission of Delaware law or rules of court procedure designed to improve the regulation and operation of common interest communities.

(4) Assist the Ombudsperson in the preparation of the annual report required of the Ombudsperson by § 2544(16) of this title.

(g) The Ombudsperson shall provide support as requested by the Council. At a minimum, the Ombudsperson shall prepare the agenda for and minutes of meetings and shall post the agenda and minutes as required by the Freedom of Information Act, Chapter 100 of this title.

(h) The Council shall meet at least 4 times each year. The Chairperson, the Ombudsperson, or a majority of the members may call a special meeting of the Council.