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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2678

01/31/2022 Authored by Wazlawik and Bahner The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to common interest communities; creating a common interest community
1.3 ombudsperson; appropriating money for the Office of the Common Interest
1.4 Community Ombudsperson; proposing coding for new law in Minnesota Statutes,
1.5 chapter 45.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [45.0137] COMMON INTEREST COMMUNITY OMBUDSPERSON.

1.8 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
1.9 subdivision have the meanings given.

1.10 (b) "Association" has the meaning given in section 515B.1-103, clause (4).

1.11 (c) "Common interest community" has the meaning given in section 515B.1-103, clause
1.12 (10).

1.13 (d) "Data on individuals" has the meaning given in section 13.02, subdivision 5.

1.14 (e) "Nonpublic data" has the meaning given in section 13.02, subdivision 9.

1.15 (f) "Ombudsperson" means the common interest community ombudsperson.

1.16 (g) "Private data on individuals" has the meaning given in section 13.02, subdivision
1.17 12.

1.18 (h) "Unit" has the meaning given in section 515B.1-103, clause (35).

1.19 (i) "Unit owner" has the meaning given in section 515B.1-103, clause (37).

1.20 Subd. 2. Establishment. A common interest community ombudsperson position is
1.21 established within the Department of Commerce to facilitate resolution of disputes between

2.1 unit owners and associations. The ombudsperson is appointed by the governor, serves in
2.2 the unclassified service, and may be removed only for just cause. The ombudsperson must
2.3 be selected without regard to political affiliation, must be qualified and experienced to
2.4 perform the duties of the office, and must be skilled in dispute resolution techniques. A
2.5 person is prohibited from serving as ombudsperson while holding another public office.
2.6 The ombudsperson is a member of the Minnesota State Retirement Association.

2.7 Subd. 3. **Duties.** (a) The ombudsperson must advocate on behalf of unit owners and
2.8 compile complaints against common interest communities made by unit owners. Upon the
2.9 request of a unit owner, the ombudsperson must provide dispute resolution services in
2.10 disputes between a unit owner and an association concerning chapter 515B or the governing
2.11 documents of the common interest community or association, except where: (1) there is a
2.12 pending complaint based on the same issue filed in any court or administrative tribunal; or
2.13 (2) the issue has already been or is currently in arbitration, mediation, or another alternative
2.14 dispute resolution process.

2.15 (b) The ombudsperson must assist unit owners to understand the rights and responsibilities
2.16 for unit owners under chapter 515B and the governing documents of the specific unit owner's
2.17 association, including publishing materials related to the rights and responsibilities. The
2.18 ombudsperson must maintain a website containing, at a minimum:

2.19 (1) the text of chapter 515B and any other relevant statutes or rules;

2.20 (2) information regarding the services provided by the Office of the Common Interest
2.21 Community Ombudsperson, including assistance with dispute resolution;

2.22 (3) information regarding alternative dispute resolution methods and programs; and

2.23 (4) any other information that the ombudsperson determines is useful to unit owners,
2.24 associations, common interest community boards of directors, and common interest
2.25 community property management companies.

2.26 (c) When requested or as the ombudsperson deems necessary, the ombudsperson must
2.27 provide reports and recommendations to the legislative committees with jurisdiction over
2.28 common interest communities.

2.29 Subd. 4. **Powers limited.** (a) In the course of assisting to resolve a dispute, the
2.30 ombudsperson may, at reasonable times, enter and view premises within the control of the
2.31 common interest community.

2.32 (b) The ombudsperson and the commissioner are prohibited from rendering a formal
2.33 legal opinion regarding a dispute between a unit owner and an association. The ombudsperson

3.1 and commissioner are prohibited from making a formal determination or issuing an order
3.2 regarding disputes between a unit owner and an association.

3.3 Subd. 5. **Rulemaking authority.** The commissioner may adopt rules to carry out the
3.4 purposes of this section.

3.5 Subd. 6. **Data.** (a) Data maintained on individuals by the office of the ombudsperson
3.6 under this section are private data on individuals or nonpublic data. Data on individuals
3.7 may be released only with the consent of the individual or by court order.

3.8 (b) Data maintained by the office that does not relate to the identity of a unit owner or
3.9 other individual may be released at the discretion of the ombudsperson responsible for
3.10 maintaining the data.

3.11 **EFFECTIVE DATE.** This section is effective July 1, 2023.

3.12 Sec. 2. **APPROPRIATION; OFFICE OF THE COMMON INTEREST COMMUNITY**
3.13 **OMBUDSPERSON.**

3.14 \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner of
3.15 commerce to establish and maintain the Office of the Common Interest Community
3.16 Ombudsperson. This appropriation is added to the base.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.