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Ontario
CHAPTER 77

The Condominium Act

1.—(1) In this Act,

(a) "board" means the board of directors of a corporation;
(b) "buildings" means the buildings included in a property;
(c) "by-law" means a by-law of a corporation;
(d) "claim" includes a right, title, interest, encumbrance, or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest;
(e) "common elements" means all the property except the units;
(f) "common expenses" means the expenses of the performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration;
(g) "common interest" means the interest in the common elements appurtenant to a unit;
(h) "corporation" means a corporation incorporated by this Act;
(i) "declaration" means the declaration specified in section 3, and includes any amendments;
(j) "description" means the description specified in section 4;
(k) "encumbrance" means a claim that secures the payment of money or the performance of any other obligation, and includes a charge under The Land Titles Act, a mortgage and a lien;
(l) "owner" means the owner or owners of the freehold estate or estates in a unit and common interest, but does not include a mortgagee unless in possession;
(m) "prescribed" means prescribed by the regulations;
(n) "property" means the land and interests appurtenant to the land described in the description, and includes any land and interests appurtenant to land that are added to the common elements;
(o) "registered" means registered under The Land Titles Act or The Registry Act;
(p) "regulations" means the regulations made under this Act;
(q) "surveyor" means an Ontario land surveyor registered under The Surveyors Act;

(r) "unit" means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and description are registered.

(2) For the purposes of this Act, the ownership of land includes the ownership of space. 1967, c. 12, s. 1.

DECLARATION AND DESCRIPTION

2.-(1) A property shall comprise only freehold land and interests, if any, appurtenant to that land.

(2) A declaration and description may be registered by or on behalf of the owner in fee simple of the land described in the description.

(3) Where the land and the interests appurtenant to the land described in the description are not entirely within one land titles or registry division or not entirely under The Land Titles Act or The Registry Act, the description shall not be registered.

(4) Where the land described in a description is situate in a provisional judicial district or in a county, part of a county, city or separated town to which The Land Titles Act applies, the declaration and description must be registered under that Act.

(5) Where the land described in a description is situate in a county, part of a county, city or separated town to which The Land Titles Act does not apply, a certificate of title under The Certification of Titles Act showing the owner by whom the declaration and description are being registered as the owner in fee simple of the land shall be registered under The Registry Act before the declaration and description are registered.

(6) Upon registration of a declaration and description, the land and the interests appurtenant to the land described in the description are governed by this Act. 1967, c. 12, s. 2.

3.-(1) A declaration shall not be registered unless it is executed by the owner or owners of the land and interests appurtenant to the land described in the description and unless it contains,

(a) a statement of intention that the land and interests appurtenant to the land described in the description be governed by this Act;
(b) the consent of all persons having registered encumbrances against the land or interests appurtenant to the land described in the description;

(c) a statement, expressed in percentages, of the proportions of the common interests;

(d) a statement, expressed in percentages allocated to the units, of the proportions in which the owners are to contribute to the common expenses; and

(e) an address for service.

(2) In addition to the matters mentioned in subsection 1, a declaration may contain,

(a) a specification of common expenses;

(b) a specification of any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;

(c) provisions respecting the occupation and use of the units and common elements;

(d) provisions restricting gifts, leases and sales of the units and common interests;

(e) a specification of the number, qualification, nomination, election, term of office, compensation and removal of members of the board, and the meetings, quorum, functions and officers of the board;

(f) a specification of duties of the corporation consistent with its objects;

(g) a specification of the majority required to make by-laws of the corporation;

(h) provisions regulating the assessment and collection of contributions towards the common expenses;

(i) a specification of the majority required to make substantial changes in the common elements and the assets of the corporation;

(j) a specification of any provision requiring the corporation to purchase the units and common interests of any dissenters after a substantial addition, alteration or improvement to or renovation of the common elements has been made or after the assets of the corporation have been substantially changed;

(k) a specification of any allocation of the obligations to repair and to maintain the units and common elements;

(l) a specification of the percentage of substantial damage to the buildings and a specification of the majority required to authorize repairs under section 17;
(m) a specification of the majority required for a sale of the property or of part of the common elements;

(n) a specification of the majority required for the termination of the government of the property by this Act; and

(o) any other matters concerning the property.

(3) The declaration may be amended only with the consent of all owners and all persons having registered encumbrances against the units and common interests.

(4) When a declaration is amended, the corporation shall register a copy of the amendment executed by all the owners and all persons having registered encumbrances against the units and common interests, and until the copy is registered the amendment is ineffective. 1967, c. 12, s. 3.

4.—(1) A description shall contain,

(a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings;

(b) structural plans of the buildings;

(c) a specification of the boundaries of each unit by reference to the buildings;

(d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;

(e) a certificate of a surveyor that the buildings have been constructed and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans; and

(f) a description of any interests appurtenant to the land that are included in the property, prepared in accordance with the regulations.

(2) A description shall not be registered unless it has been approved in accordance with the regulations. 1967, c. 12, s. 4.

REGISTRATION

5.—(1) Every master of titles and every registrar of deeds in whose office a declaration and description are registered shall keep an index in the prescribed form to be known as the “Condominium Corporations Index”.

(2) Where a land titles office is combined with a registry office, one index under subsection 1 shall be kept for all declarations and descriptions registered in the combined offices.
(3) Every master of titles and every registrar of deeds in whose office a declaration and description are registered shall keep a register in the prescribed form to be known as the "Condominium Register".

(4) Declarations, descriptions, by-laws, notices of termination, and other instruments respecting land governed by this Act shall be registered and recorded in the Condominium Register in accordance with this Act and the regulations but, except as otherwise provided by this Act and the regulations, The Land Titles Act or The Registry Act, as the case may be, applies in respect of property governed by this Act. 1967, c. 12, s. 5.

UNITS AND COMMON ELEMENTS

6.—(1) Units and common interests are real property for all purposes.

(2) Subject to this Act, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of his unit.

(3) No condition shall be permitted to exist and no activity shall be carried on in any unit or the common elements that are likely to damage the property.

(4) The corporation or any person authorized by the corporation may enter any unit at any reasonable time to perform the objects and duties of the corporation. 1967, c. 12, s. 6.

7.—(1) The owners are tenants in common of the common elements.

(2) An undivided interest in the common elements is appurtenant to each unit.

(3) The proportions of the common interests are those expressed in the declaration.

(4) Subject to this Act, the declaration and the by-laws, each owner may make reasonable use of the common elements.

(5) The ownership of a unit shall not be separated from the ownership of the common interest, and any instrument that purports to separate the ownership of a unit from a common interest is void.

(6) Except as provided by this Act, the common elements shall not be partitioned or divided.

(7) No encumbrance is enforceable against the common elements after the declaration and description are registered.

(8) Where, but for subsection 7, an encumbrance would be saving enforceable against the common elements, the encumbrance is enforceable against all the units and common interests.
Discharge

(9) Any unit and common interest may be discharged from such an encumbrance by payments to the claimant of a portion of the sum claimed determined by the proportions specified in the declaration for sharing the common expenses.

Idem

(10) Upon payment of a portion of the encumbrance sufficient to discharge a unit and common interest, and upon demand, the claimant shall give to the owner a discharge of that unit and common interest in accordance with the regulations.

Assessment

(11) For the purposes of municipal assessment and taxation, each unit and common interest constitute a parcel, and the common elements do not constitute a parcel.

(12) For the purpose of determining liability resulting from breach of the duties of an occupier of land, the corporation shall be deemed to be the occupier of the common elements and the owners shall be deemed not to be occupiers of the common elements. 1967, c. 12, s. 7.

EASEMENTS

8. — (1) The following easements are appurtenant to each unit:

1. Where a building or any part of a building,
   (a) moves after registration of the declaration and description; or
   (b) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and description,
   an easement for exclusive use and occupation in accordance with this Act, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the description and not at the time of registration.

2. An easement for the provision of any service through any installation in the common elements or any other unit.

3. An easement for support by the common elements and any other unit capable of providing support.

(2) The following easements are appurtenant to the common elements:

1. An easement for the provision of any service through any installation in any unit.

2. An easement for support by any unit capable of providing support. 1967, c. 12, s. 8.
(1) The registration of a declaration and description creates a corporation without share capital whose members are the owners from time to time.

(2) When a declaration and description are registered, the master of titles or registrar of deeds in whose office they are registered shall assign a name to the corporation in accordance with the regulations.


(4) The objects of the corporation are to manage the property and any assets of the corporation.

(5) The affairs of the corporation shall be managed by a board consisting of three persons or such greater number as the declaration or by-laws may provide, elected by the members of the corporation.

(6) The term of the members of the board shall be three years or such lesser period as the declaration or by-laws may provide, but the members of the board may continue to act until their successors are elected, and members are eligible for re-election.

(7) If a vacancy in the membership of the board occurs, a new member shall be elected by the members of the corporation.

(8) A quorum for the transaction of business is a majority of the members of the board or such greater number as the declaration or by-laws may provide.

(9) The acts of a member of the board or an officer of the board are valid notwithstanding any defect that may afterwards be discovered in his election or qualifications.

(10) The declaration or the by-laws may specify and regulate the qualification, nomination, election, compensation and removal of members of the board, and the meetings, functions and officers of the board.

(11) The corporation shall keep adequate records, and any member of the corporation may inspect the records on reasonable notice and at any reasonable time.

(12) The corporation has a duty to effect compliance by the owners with this Act, the declaration and the by-laws.

(13) The declaration or the by-laws may specify duties of the corporation consistent with its objects.
Right to performance of duties

(14) Each member of the corporation, and each person having an encumbrance against a unit and common interest has the right to the performance of any duty of the corporation specified by this Act, the declaration and the by-laws.

Real and personal property

(15) The corporation may own, acquire, encumber and dispose of real and personal property for the use and enjoyment of the property.

Interest in assets

(16) The members of the corporation share the assets of the corporation in the same proportions as the proportions of their common interests in accordance with this Act, the declaration and the by-laws.

Judgments against corporation

(17) A judgment for the payment of money against the corporation is also a judgment against each owner at the time the cause of action arose for a portion of the judgment determined by the proportions specified in the declaration for sharing the common expenses.

Actions by corporation respecting common elements

(18) Any action with respect to the common elements may be brought by the corporation and a judgment for the payment of money in favour of the corporation in such an action is an asset of the corporation.

Termination

(19) When the owners and the property cease to be governed by this Act,

(a) the assets of the corporation shall be used to pay any claims for the payment of money against the corporation;

(b) the remainder of the assets of the corporation shall be distributed among the members of the corporation in the same proportions as the proportions of their common interests. 1967, c. 12, s. 9.

By-laws

10.—(1) The corporation may, by a vote of members who own 66 2/3 per cent, or such greater percentage as is specified in the declaration, of the common elements, make by-laws,

(a) governing the management of the property;

(b) governing the use of units or any of them for the purpose of preventing unreasonable interference with the use and enjoyment of the common elements and other units;

(c) governing the use of the common elements;

(d) regulating the maintenance of the units and common elements;

(e) governing the use and management of the assets of the corporation;
Sec. 13 (2)  CONDOMINIUM  Chap. 77  697

(f) respecting the board;

(g) specifying duties of the corporation;

(h) regulating the assessment and collection of contributions towards the common expenses;

(i) respecting the conduct generally of the affairs of the corporation.

(2) The by-laws shall be reasonable and consistent with this Act and the declaration.

(3) When a by-law is made by the corporation, the corporation shall register a copy of the by-law together with a certificate executed by the corporation that the by-law was made in accordance with this Act, the declaration and the by-laws, and until the copy and certificate are registered the by-law is ineffective. 1967, c. 12, s. 10.

RULES GOVERNING USE OF COMMON ELEMENTS

11.—(1) The by-laws may provide for the making of rules by the owners respecting the use of the common elements for the purpose of preventing unreasonable interference with the use and enjoyment of the units and common elements.

(2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws.

(3) The rules shall be complied with and enforced in the same manner as the by-laws. 1967, c. 12, s. 11.

OBLIGATIONS OF OWNERS

12.—(1) Each owner is bound by and shall comply with this Act, the declaration and the by-laws.

(2) Each owner has a right to the compliance by the other owners with this Act, the declaration and the by-laws.

(3) The corporation, and any person having an encumbrance against any unit and common interest, has a right to the compliance by the owners with this Act, the declaration and the by-laws. 1967, c. 12, s. 12.

13.—(1) The owners shall contribute towards the common expenses in the proportions specified in the declaration.

(2) The assessment and collection of contributions towards the common expenses may be regulated by the declaration or the by-laws.
(3) The obligation of an owner to contribute towards the common expenses shall not be avoided by waiver of the right to use the common elements or by abandonment.

Lien
(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses, the corporation, upon registration of a notice of lien in the prescribed form, has a lien for the unpaid amount against the unit and common interest of that owner.

How enforceable
(5) The lien may be enforced in the same manner as a mortgage.

Discharge
(6) Upon payment of the unpaid amount and upon demand, the corporation shall give the owner a discharge in the prescribed form. 1967, c. 12, s. 13.

MODIFICATIONS OF COMMON ELEMENTS AND ASSETS

14.—(1) The corporation may by a vote of members who own 80 per cent, or such greater percentage as is specified in the declaration, of the common elements make any substantial addition, alteration or improvement to or renovation of the common elements or may make any substantial change in the assets of the corporation, and the corporation may by a vote of a majority of the members make any other addition, alteration or improvement to or renovation of the common elements or may make any other change in the assets of the corporation.

Cost
(2) The cost of any addition, alteration or improvement to or renovation of the common elements and the cost of any substantial change in the assets of the corporation are common expenses.

Dissenters
(3) The declaration may provide that, if any substantial addition, alteration or improvement to or renovation of the common elements is made, or if any substantial change in the assets of the corporation is made, the corporation must, on demand of any owner who dissented, purchase his unit and common interest.

Arbitration
(4) Where the corporation and the owner who dissented do not agree as to the purchase price, the owner who dissented may elect to have the fair market value of his unit and common interest determined by arbitration under The Arbitrations Act by serving a notice to that effect on the corporation. 1967, c. 12, s. 14.

INSURANCE

15.—(1) A corporation shall insure its liability to repair the property after damage resulting from fire, tempest or other casualty to the extent required by the declaration or the by-laws.

Saving
(2) Subsection 1 does not restrict the capacity of any person to
insure otherwise than as provided in that subsection. 1967, c. 12, s. 15.

REPAIRS AND MAINTENANCE

16.—(1) For the purposes of this Act, the obligation to repair after damage and to maintain are mutually exclusive, and the obligation to repair after damage does not include the repair of improvements made to units after registration of the declaration and description.

(2) Subject to section 17, the corporation shall repair the units and common elements after damage.

(3) The corporation shall maintain the common elements.

(4) Each owner shall maintain his unit.

(5) Notwithstanding subsections 2, 3 and 4, the declaration may provide that,

(a) each owner shall, subject to section 17, repair his unit after damage;

(b) the owners shall maintain the common elements or any part of the common elements; or

(c) the corporation shall maintain the units.

(6) The corporation shall make any repairs that an owner is obligated to make and that he does not make within a reasonable time.

(7) An owner shall be deemed to have consented to have repairs done to his unit by the corporation under this section. 1967, c. 12, s. 16.

WHERE DAMAGE OCCURS

17.—(1) Where damage to the buildings occurs, the board shall determine within thirty days of the occurrence whether there has been substantial damage to 25 per cent, or such greater percentage as is specified in the declaration, of the buildings.

(2) Where there has been a determination that there has been substantial damage to 25 per cent, or such greater percentage as is specified in the declaration, and owners who own 80 per cent of the common elements, or such greater percentage as is specified in the declaration, vote for repair within sixty days of the determination, the corporation shall repair. 1967, c. 12, s. 17.

TERMINATION

18.—(1) Where on a vote the owners do not vote for repair, the corporation shall, within ten days of the vote, register a notice of termination in the prescribed form.
(2) Where there has been no vote within sixty days of the determination that there has been substantial damage under subsection 1 of section 17, the corporation shall, within ten days after the expiry of the sixty-day period, register a notice of termination in the prescribed form.

(3) Upon the registration of a notice of termination under subsection 1 or 2,

(a) the government of the property by this Act is terminated;

(b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;

(c) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;

(d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description, and have the same priority they had before the registration of the notice of termination; and

(e) all claims against the property created after the registration of the declaration and description, other than the encumbrances mentioned in clause d, are extinguished. 1967, c. 12, s. 18.

19.—(1) Sale of the property or any part of the common elements may be authorized,

(a) by a vote of owners who own 80 per cent, or such greater percentage as is specified in the declaration, of the common elements; and

(b) by the consent of the persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description.

(2) A deed or transfer shall be executed by all the owners and a release or discharge shall be given by all the persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description.
(3) Upon the registration of the instruments mentioned in subsection 2,

(a) the government of the property or of the part of the common elements by this Act is terminated;

(b) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered; and

(c) claims against the property or the part of the common elements created after the registration of the declaration and description are extinguished.

(4) Subject to subsection 5, the owners share the proceeds of the sale in the same proportions as their common interests.

(5) Where a sale is made under this section, any owner who dissented may elect to have the fair market value of the property at the time of the sale determined by arbitration under The Arbitrations Act by serving notice to that effect on the corporation within ten days after the vote, and the owner who served the notice is entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by the arbitration.

(6) Where the proceeds of the sale are inadequate to pay the amount determined under subsection 5, each of the owners who voted for the sale is liable for a portion of the deficiency determined by the proportions of their common interests.

20.—(1) Termination of the government of the property by this Act may be authorized,

(a) by a vote of owners who own 80 per cent, or such greater percentage as is specified in the declaration of the common elements; and

(b) by the consent of the persons having registered claims against the property created after the registration of the declaration and description.

(2) Where termination of the government of the property by this Act is authorized under subsection 1, the corporation shall register a notice of termination in the prescribed form, executed by all the owners and all the persons having registered claims against the property created after the registration of the declaration and description.

(3) Upon registration of a notice of termination under subsection 2,

(a) the government of the property by this Act is terminated;
(b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;

(c) claims against the land and the interests appurtenant to the land described in the description created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;

(d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description and have the same priority as they had before the registration of the notice of termination; and

(e) all other claims against the property created after the registration of the declaration and description are extinguished. 1967, c. 12, s. 20.

Termination by S.C.O.

21.—(1) A corporation, any owner, or any person having an encumbrance against a unit and common interest may apply to the Supreme Court for an order terminating the government of the property by this Act.

(2) The court may order that the government of the property by this Act be terminated if the court is of the opinion that the termination would be just and equitable, and, in determining whether the termination would be just and equitable, the court shall have regard to,

(a) the scheme and intent of this Act;

(b) the probability of unfairness to one or more owners if termination is not ordered; and

(c) the probability of confusion and uncertainty in the affairs of the corporation or the owners if termination is not ordered.

Ancillary matters

(3) Where an order of termination is made under subsection 2, the court may include in the order any provisions that the court considers appropriate in the circumstances. 1967, c. 12, s. 21.

VOTING BY MORTGAGEES

22. Where a mortgage or charge of a unit and common interest contains a provision that authorizes the mortgagee or chargee to exercise the right of the owner to vote or to consent, the mortgagee or chargee may exercise the right, and, where two or
more such mortgages or charges contain such a provision, the
correct may be exercised by the mortgagee or chargee who has
priority. 1967, c. 12, s. 22.

PERFORMANCE OF DUTIES

23. — (1) Where a duty imposed by this Act, the declaration or
the by-laws is not performed, the corporation, any owner, or any
person having an encumbrance against a unit and common
interest may apply to the Supreme Court for an order directing
the performance of the duty.

(2) The court may by order direct performance of the duty, Idem
and may include in the order any provisions that the court
considers appropriate in the circumstances.

(3) Nothing in this section restricts the remedies otherwise available for failure to perform any duty imposed by this
Act. 1967, c. 12, s. 23.

APPLICATION OF THE PLANNING ACT

24. — (1) Section 26 and clause b of subsection 1 of section 27 of
The Planning Act do not apply in respect of dealings with units
and common interests.

(2) Subject to subsection 3, the provisions of section 28 of The
Planning Act that apply to plans of subdivision apply mutatis
mutandis to descriptions under this Act, and a description shall
not be registered unless approved or exempted by the Minister of
Municipal Affairs.

(3) Before making an application under subsection 1 of section Exemption
28 of The Planning Act, the owner of a property or someone
authorized by him in writing may apply to the Minister to have
the description or any part of the description exempted from such
section 28, or from any provision thereof, and where in the opinion
of the Minister such exemption is appropriate in the circum-
stances, he may grant the exemption.

(4) Section 29 of The Planning Act does not apply in respect R.S.O. 1970,
to descriptions made for the purposes of this Act. 1967, c. 12, c. 349, s. 29,
s. 24.

REGULATIONS

25. — (1) The Lieutenant Governor in Council may make Regulations
regulations,

(a) classifying properties for the purposes of the regula-
tions;

(b) prescribing the duties of officers appointed under The R.S.O. 1970,
Land Titles Act or The Registry Act for the purposes of 
this Act;
(c) governing the method of describing in instruments a property or any part of a property;

(d) governing surveys, structural plans, descriptions and diagrams, and prescribing procedures for their registration and amendment;

(e) requiring, in respect of any class of properties, in lieu of or in addition to the requirements of section 4, surveys of the properties showing the units and common elements;

(f) respecting the registration and recording of declarations, descriptions, by-laws, notices of termination and other instruments;

(g) respecting the names of corporations;

(h) respecting additions to the common elements;

(i) requiring the payment of fees to officers appointed under The Land Titles Act or The Registry Act, and prescribing the amounts thereof;

(j) prescribing forms and providing for their use;

(k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Any provision of any regulation may be made to apply to all properties or to any class of properties. 1967, c. 12, s. 25.