



Disputes, Remedies and Sunshine for Pennsylvania Common Interest Communities

Common Interest Communities (CICs) AKA “Community Associations”

Abstract

For most homeowners, their home is their largest and sometimes only asset. However, for those who live in associations, their boards and property management companies, often lacking training and accountability, can make decisions that negatively impact this asset without the homeowners’ knowledge, permission or simple remedy.

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Introduction to the Proposed Changes and Their Benefits

[In Pennsylvania, 1.357 million people live in Common Interest Communities \(CIC\) communities \(about 10.4% of the resident population\).](#) Common Interest Communities (AKA: HOAs, Condos, Coops, etc.) have powers over unit owners similar to those of local governments. Frequently, the assessment amounts of CICs exceed the taxes of local governments. CICs can also place a lien on the owners' units for nonpayment of assessments. While these powers are necessary, they should be subject to the same checks and balances as those of local governments. [Washington](#), [Maryland](#), [Colorado](#), and [Georgia](#) have recently modernized their legislation for Common Interest Communities. Pennsylvania law governing CICs needs to be improved to empower Pennsylvanians who reside in CICs.

PA Tile 68 [3321](#), [4322](#), [5321](#). Alternative Dispute Resolution

Laws for dispute resolution and filing complaints with the PA Consumer Protection Bureau were established in 2018 for Pennsylvania Owner Associations. Unfortunately, they are highly restrictive in terms of who may use them and when. In [3321](#), [4322](#), and [5321](#), associations are grandfathered out from the requirement if they were established before the enactment of the law, leaving many owners unprotected. Washington state (and several other states) has established a baseline law for dispute resolution, which all associations are required to adopt upon the law's passage. If they wish to refine the law for their governing documents, they may do so; however, all associations must adhere to the baseline law for mediation. We will recommend that Pennsylvania replace its Alternative Dispute Resolution law with a modified version of Washington State's.

This will provide all unit owners in Pennsylvania with immediate access to dispute resolution. By settling more association disputes at this level, the number of complaints to the Consumer Protection Bureau will be reduced, and the number of association-related lawsuits will also be reduced. The proposed changes to Alternate Dispute Resolution include the following benefits to stakeholders:

- All associations will automatically adopt the sample dispute resolution process that is incorporated into the new law. Associations that were previously grandfathered are brought into compliance, and those unit owners will now also have access.
- If an association wants to create its own dispute resolution process, the law provides the baseline minimum language so that these associations need not start from scratch.

- The new law opens up dispute resolution to hundreds of thousands of Pennsylvanians who were previously excluded by the grandfathering of their associations.
- Disputes can be easily resolved without submitting claims to the AG.

[Visual Flow of the Dispute Resolution Proposal for CICs](#)

[Text for Proposed Changes](#)

PA Title 68 [3322](#), [4323](#), [5322](#). Complaints filed with the Bureau of Consumer Protection

This law was also passed in 2018. It is very limiting in who may use it and when. We will recommend removing these limitations, but adding other threshold limitations, such as requiring a percentage of stakeholders to be impacted by an association action.

Advantages of the proposed law:

- Unit owners can only file a complaint on behalf of multiple unit owners.
- Complaints are no longer limited to specific sections of association law.
- Damages must be in excess of \$10,000.
- Complaints for the BCP are limited to multiple owners in an association and must have significant financial consequences.

[Text for Proposed Changes](#)

PA Title 65 Chapter 7 Section 3 (PA Sunshine Law)

Boards of residential associations have the authority to make decisions without owner approval, assess both budgeted and unbudgeted fees, impose fines on owners, and place liens on the property of unit owners. These powers are at the same level as a township in Pennsylvania, but the township must operate in the light of day. We will recommend that Community Associations be included in this law.

Advantages of the Proposed Law:

- Unit owners will be aware of important decisions early
- Board members cannot do business in secret
- Owners can voice their concerns early in the process

[Text for Proposed Changes](#)

Summary

Many other areas of Pennsylvania Law need improvement for Community Associations, and we will address these at a future time. In the meantime, these three changes will go a long way toward enforcing accountability to associations to their owners. The financial stability of ten percent of Pennsylvanians who are unit owners in Community Associations will be more secure.

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