



Proposed Changes in the Law Addressing Dispute Resolution for Pennsylvanians who are Unit Owners of an Association

**Modifications to PA Law pertaining to 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 remedy.

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Benefits of this Proposal

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

Laws for dispute resolution 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 unit owners unprotected. For the remaining associations that are required by law to develop procedures for dispute resolution, minimal guidance is provided.

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. Washington also provides templates of the “offer” and “response” documents that initiate the 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.

Recommended Changes to PA TITLE 68 for Dispute Resolution in Associations

Proposed Strikes

PA Title 68 SUBPART B. CONDOMINIUMS

~~3321. Alternative dispute resolution in condominiums.~~

PA Title 68 SUBPART C. COOPERATIVES

~~4322. Alternative dispute resolution in cooperatives.~~

PA Title 68 SUBPART D. Planned COMMUNITIES

5321. Alternative dispute resolution in planned communities.

Visual Flow of the Dispute Resolution Proposal for CICs Below

Proposed Replacement:

Title 68 Subpart B Section 3330 and Subpart D Section 5330, respectively. Alternative dispute resolution in condominiums (and Planned Communities). Both will use the same language below.

Title 68 Subpart C Section 4330 will substitute “proprietary lessee” for references to “unit owner” in the language below.

(1) A declarant, association, unit owner, or any other person subject to this chapter may bring an action to enforce a right granted or obligation imposed under this chapter or the governing documents, subject to the following:

(a) Unless provided by Paragraphs 3315/4315/5315 or otherwise by law, this section does not apply to disputes related solely to a member's failure to timely pay an association assessment or any fees, fines, interest, or other costs associated with the levying or collection of an association assessment;

(b) Relief for a claim solely for monetary damages within the jurisdictional limits set forth in Title 246 may be resolved by a small claims action pursuant to Chapter 300;

(c) An association, unit owner, or any other person subject to this chapter may not file an enforcement action in superior court unless the parties have endeavored to submit their dispute to internal dispute resolution and alternative dispute resolution pursuant to this

article. This requirement does not apply to a small claims action brought under subsection (1)(b) of this section;

(d) The hearing and appeals process described by Title 68 Subpart B Section 3330, Subpart C Section 4330, and Subpart D Section 5330 Paragraph 10 must be exhausted before a dispute is initiated related to any enforcement action by the association;

(e) In any civil action pursuant to this section, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party;

(f) Notwithstanding subsection (e) of this section, in connection with any claim in which a unit owner is alleged to have violated a provision of this chapter or the governing documents of the association and in which the court finds that the unit owner prevailed because the unit owner did not commit the alleged violation:

(i) The court shall award the unit owner reasonable attorney fees and costs incurred in asserting or defending the claim; and

(ii) The court shall not award costs or attorney fees to the association. In addition, the association shall be precluded from allocating to the unit owner's account with the association any of the association's costs or attorney fees incurred in asserting or defending the claim.

(g) A unit owner shall not be deemed to have confessed judgment to attorney fees or collection costs.

(h) Notwithstanding the governing documents and any law to the contrary, the court shall apply the same standard of compliance to all parties.

(i) Notwithstanding the governing documents and any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of the governing documents or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

(2) Parties to a dispute arising under this chapter or the governing documents may agree at any time to resolve the dispute by any form of binding or nonbinding alternative dispute resolution.

(3) (a) Notwithstanding any other requirements of this chapter or the association's governing documents, an association shall provide a fair, reasonable, and expeditious procedure for internal dispute resolution within the scope of subsections (3), (4), (5) and (6) of this section.

(b) In developing a procedure pursuant to this article, an association shall make maximum, reasonable use of available local dispute resolution programs involving a neutral third party.

(c) If an association does not provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this section, the procedure provided in subsection (5) of this section applies and satisfies the requirement of subsection (3)(a).

(4) (a) A fair, reasonable, and expeditious dispute resolution procedure shall, at a minimum, satisfy all of the following requirements:

(i) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.

(ii) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure which shall not be more than forty-five (45) days from the date of the request for dispute resolution. The procedure shall also state the maximum time for all parties to meet and confer which shall not be more than ninety (90) days from the date of the request for dispute resolution.

(iii) If the procedure is invoked by a member, the association shall participate in the procedure.

(iv) If the procedure is invoked by the association, the member may elect not to participate in the procedure within forty-five (45) days. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.

(v) A written resolution, signed by both parties, of a dispute pursuant to the procedure that is not in conflict with the law or the governing documents binds the association and is judicially enforceable. A written agreement, signed by both parties, reached pursuant to the procedure that is not in conflict with the law or the governing documents binds the parties and is judicially enforceable.

(vi) The procedure shall provide a means by which the member and the association may explain their positions. The parties may be assisted by an attorney or advocate in explaining their positions at their own expense.

(5) (a) This section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable, and expeditious within the meaning of this article.

(b) Either party to a dispute within the scope of this article may invoke the following procedure:

(i) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in the form of a record.

(ii) A member of an association may refuse a request to meet and confer. The association shall not refuse a request to meet and confer.

(iii) The board shall designate one director to meet and confer.

(iv) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute. The parties may be assisted by an attorney or another person during such a conference at their own expense.

(v) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the association.

(c) A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:

(i) The agreement is not in conflict with law or the governing documents of the association.

(ii) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

(d) A member shall not be charged a fee to participate in the internal dispute resolution process.

(6) Neither an association, nor a Unit Owner may file a civil action regarding a dispute in which either party has requested dispute resolution unless the aggrieved party has complied with:

(a) subsection (4) of this section by engaging in good faith in the internal dispute resolution procedures after a member invokes those procedures; and

(b) subsection (7) of this section by engaging in mediation or arbitration

(7) (a) Any party to a dispute may initiate the process required by subsection (c) of this section by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall include all of the following:

(i) A brief description of the dispute between the parties.

(ii) A summary of the relief sought during the internal dispute resolution procedure prescribed by subsections (3)(4)(5) of this section or, in the appropriate case, the failure of the other party to respond and/or participate in good faith in such procedure.

(iii) Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

(iv) A request for mediation, except that a request for binding or non-binding arbitration may be substituted if the parties have agreed to such substitution in a record.

(v) A notice that the party receiving the Request for Resolution is required to respond within thirty (30) days of receipt.

(vi) If the party on whom the request is served is a member, a copy of this article.

(b) A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

(c) An aggrieved party shall serve on the responding party a written demand to participate in presuit mediation in substantially the following form:

STATUTORY OFFER TO PARTICIPATE IN PRESUIT MEDIATION

The alleged aggrieved party, _____, hereby demands that _____, as the responding party, engage in mandatory presuit mediation in connection with the following disputes, which by statute are of a type that are subject to presuit mediation:

[List specific nature of the dispute or disputes to be mediated and the authority supporting a finding of a violation as to each dispute.]

Pursuant to PA 3330, 4330, and 5330, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in presuit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, a suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in presuit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists the [Pennsylvania Council of Mediators](#), all of which are believed to be neutral and qualified to mediate the dispute. If multiple mediators or mediation services are listed, you have the right to select any one of them. The fact that one party may be familiar with one or more of

the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:

[List the names, addresses, telephone numbers, and hourly rates or fixed fees of the mediators or mediation services. Other pertinent information about the background of the mediators may be included as an attachment.]

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party.

Unless otherwise agreed by the parties, PA 3330 requires that the parties share the costs of presuit mediation equally, including the fee charged by the mediator. An average mediation may require three to four hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment of some or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in presuit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within 20 days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first-class mail to the address shown on this demand.

RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.

AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in presuit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:

[List acceptable mediator or mediators.]

I/we further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

Signature of responding party #1

Telephone contact information

Signature and telephone contact information of responding party #2 (if applicable)(if property is owned by more than one person, all owners must sign)

(d) Service of the Request for Resolution shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, to the address of the responding party as it last appears on the books and records of the association. A courtesy copy of such service shall be transmitted electronically to the responding party if its electronic address is known by the aggrieved party. An association shall accept service at any of:

- (i) its primary mailing address*
- (ii) the address of its registered agent*
- (iii) the address of its attorney and/or law firm of record*

(e) The responding party has 30 days from the date of the mailing of the statutory demand to serve a response to the aggrieved party in writing. The response shall be served by certified mail, return receipt requested, to the address shown on the statutory demand. A courtesy copy of such response shall be transmitted electronically to the aggrieved party if its electronic address is known by the responding party.

(f) Notwithstanding the foregoing, once the parties have agreed on a mediator, the mediator may schedule phone conferences, consultations with the parties individually, and other communications to ensure that the parties have all the necessary information and documents to engage in a productive mediation and may reschedule the mediation for a date and time mutually convenient to the parties, except that the mediator shall schedule the mediation to occur within 60 days. The mediator must send written notice of the time, date, and location of the mediation session to the parties at least 14 days prior to the mediation session. At a minimum, the notice must contain:

- (i) A statement that the parties may be represented in the mediation session by an attorney or other advocate;*

(ii) A statement that a person with authority to agree to a resolution, including a proposed settlement, must be present either in person or on the telephone or videoconference during the mediation session; and

(iii) A statement that the parties have a duty to mediate in good faith and that failure to mediate in good faith will prevent recovery of attorneys' fees and impair alternatives to litigation.

The parties and the mediator must meet in person for the mediation session unless agreed otherwise by consent of the parties.

After the mediation session commences, the mediator may continue the mediation session once, and any further continuances must be with the consent of the parties.

The participants in mediation must address the issues that may enable them to reach a resolution. To assist the parties in addressing these issues, the mediator may require the participants to consider any relevant material including, but not limited to potential risks, including costs and time required to litigate the dispute.

(g) The parties may be assisted by an attorney or another person in explaining their positions at their own expense, but shall otherwise share the costs of presuit mediation equally, including the fee charged by the mediator, if any, unless the parties agree otherwise. The mediator may require advance payment of its reasonable fees and costs.

(h) A violation of the duty to mediate in good faith shall constitute the failure or refusal to participate in the mediation process and shall operate as an impasse in the presuit mediation by such party, entitling the other party to proceed in court and to seek an award of the costs and fees associated with the mediation. Additionally, notwithstanding the provisions of any other law or document, persons who fail or refuse to participate in the entire mediation process may not recover attorney's fees and costs in subsequent litigation relating to the dispute. If any presuit mediation session cannot be scheduled and conducted within 100 days after the offer to participate in mediation was filed, an impasse shall be deemed to have occurred unless both parties agree to extend this deadline in a record. A violation of the duty to mediate in good faith as required under this section may include:

(i) failure to timely respond to a demand or response pursuant to this section without good cause;

(ii) failure to agree upon a mediator;

(iii) failure to make payment of fees and costs within the time established by the mediator;

(iv) failure to appear for a scheduled mediation session without the approval of the mediator;

(v) failure to provide any documentation pursuant to the mediator's instructions; or

(vi) failure to designate representatives with adequate authority to fully settle, compromise, or otherwise reach resolution

The mediator must send the parties a written certification of any violation of the duty to mediate in good faith.

If the mediator reasonably believes a party will not attend a mediation session based on the party's conduct, such as the lack of response to the mediator's communications, the mediator may cancel a scheduled mediation session and send a written cancellation notice to the parties stating the reason for such cancellation.

Within seven business days after the conclusion of the mediation session, the mediator must send the parties a written certification of:

- (i) The date, time, and location of the mediation session;*
- (ii) The names of all persons attending in person and by telephone or videoconference, at the mediation session;*
- (iii) Whether a resolution was reached by the parties;*
- (iv) Whether the parties participated in the mediation in good faith; and*
- (v) If a written agreement was not reached, a description of any net present value test used, along with a copy of the inputs, including the result of any net present value test expressed in a dollar amount.*

(i) Placeholder – Washington refers to their general law regarding mediation here (RCW 7.07. PA does not have an equivalent.

(j) Persons who are not parties to the dispute may not attend the presuit mediation conference without the consent of all parties, except for the designated counsel or advocate for the parties and a corporate representative designated by the association.

(k) When mediation is attended by a quorum of the board, such mediation is not a board meeting for purposes of notice and participation set forth in this chapter.

(l) In any dispute subject to presuit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the presuit mediation requirements of this section. After any issues regarding emergency or temporary relief are resolved, the court may either refer the parties to a mediation program administered by the courts or require mediation under this section. An arbitrator or judge may not consider any information or evidence arising from the presuit mediation proceeding except in a proceeding to impose sanctions for failure to attend a presuit mediation session or to enforce a mediated settlement agreement.

(m) Settlement agreements resulting from mediation shall not have precedential value in proceedings involving parties other than those participating in the mediation to support either a claim or defense in other disputes.

(8) (a) If presuit mediation as described in in this section is not successful in resolving all issues between the parties, the parties may file the unresolved dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration pursuant to the procedures set forth in subsection 7(a)(b)(d)(e) and 8 of this section.¹

(b) If the parties have agreed to arbitration, the costs of the arbitration proceedings shall be borne equally by the parties and all parties shall assume their own costs for counsel, discovery and any other representation and/or services incurred to prepare for and/or participate in arbitration.

(c) The parties shall select an arbitrator from the [PA Council of Mediators](#).

(d) At the request of any party to the arbitration, the arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the PA Title 231 Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the PA Title 231 Rules of Civil Procedure. The arbitrator may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules or for the failure of a party to comply with a reasonable nonfinal order which is not under judicial review.

(e) The arbitration decision shall be rendered within 30 days after the hearing and presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the association is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute.

(f) The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing shall be subject to review by the circuit court of competent jurisdiction.

(g) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney fees.

¹ (8)(a) refers to the Washington Superior Court Mandatory Arbitration Rules for which there is no apparent equivalent in Pennsylvania

(h) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the association is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(i) If all parties do not agree to arbitration proceedings following an unsuccessful presuit mediation, any party may file the dispute in court. A final order resulting from nonbinding arbitration is final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days after entry of the order.

(9) As to any issue or dispute that is not resolved at presuit mediation, and as to any issue that is settled at presuit mediation but is thereafter subject to an action seeking enforcement of the mediation settlement, the prevailing party in any subsequent arbitration or litigation proceeding shall be entitled to seek recovery of all costs and attorney's fees incurred in the presuit mediation process.

(10) If a Request for Resolution is served before the end of the applicable time limitation for commencing an enforcement action, the time limitation is tolled during the following periods:

(a) The period provided in subsection (7)(e) of this section for response to a Request for Resolution.

(b) If the Request for Resolution is accepted, the period provided by subsection (7)(f) of this section for completion of alternative dispute resolution, including any extension of time required by a mediator, arbitrator, or stipulated by the parties pursuant to this section.

(11) (a) At the time of commencement of a civil action, the party commencing such action shall file with the initial pleading a certificate stating that one or more of the following conditions are satisfied:

(i) Internal dispute resolution and alternative dispute resolution have been completed in compliance with this article.

(ii) One of the parties failed to respond and/or participate in internal dispute resolution, presuit mediation, or, in the appropriate case, arbitration previously agreed by the parties.

(iii) One of the parties to the dispute did not accept and/or fulfill the terms agreed in a resolution or other agreement stipulated by mediation and/or arbitration.

(b) Failure to file a certificate pursuant to subsection (a) is grounds for a motion to strike or dismissal without prejudice unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

(12) An association shall annually provide its members a summary of the provisions of this section that specifically includes a summary of the internal dispute resolution process specified in subsection (3) and the alternative dispute resolution process specified in subsection (7). The summary shall include the following language:

“Failure of a member of the association to comply with the dispute resolution requirements of PA 3330 may result in the loss of the member’s right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.”

(13) (a) The attorney general may bring an action against an association or an individual board member of an association if the attorney general finds that:

(i) there is a willful violation of any provision of this chapter;

(ii) The association's funds have been knowingly or intentionally misappropriated or diverted; or

(iii) a board member has knowingly or intentionally used the board member's position on the board to commit fraud or a criminal act against the association or the association's members.

(b) The attorney general may issue a cease and desist letter to any declarant, unit owners' association, managing agent of a unit owners' association, or other agent of a unit owners' association to restrain and prevent a pattern of failure to follow the requirements of this chapter. If the recipient of a cease and desist letter does not comply within ten (10) business days of receipt of the letter, the attorney general may file an action in superior court at any time thereafter to enforce the cease and desist letter.

(c) If the court finds that the declarant, unit owners' association, managing agent of a unit owners' association, or other agent of a unit owners' association violated this chapter and failed to comply with a cease and desist letter, the court shall enjoin the declarant, unit owners' association, managing agent of a unit owners' association, or other agent of a unit owners' association from engaging in conduct that violates this chapter and shall impose a civil penalty of not more than \$5,000 per violation of the cease and desist letter.

(d) In any successful action to enforce a cease and desist letter under this chapter, the court shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees. The remedies under this subsection are in addition to any other remedies a court may order.

(14) (a) An association, board, managing agent, resident manager, unit owner, or any person acting on behalf of an association or a unit owner shall not retaliate against a unit owner, board member, managing agent, resident manager, or association employee who, through a

lawful action in an effort to address, prevent, or stop a violation of this chapter or governing documents of the association:

- (i) Complains in good faith about any alleged violation of any provision of this chapter or the governing documents of the association*
- (ii) Causes a complaint or report of an alleged violation to be filed with the association, the commission, or other appropriate entity;*
- (iii) Participates in or cooperates with an investigation of a complaint or report filed with the association, or other appropriate entity;*
- (iv) Otherwise acts in furtherance of a complaint, report, or investigation concerning an alleged violation; or*
- (v) Recommends the selection or replacement of an attorney, community manager or vendor; or*
- (vi) Exercises or attempts to exercise any right under this chapter or the governing documents of the association.*

(b) A unit owner, board member, managing agent, resident manager, or association employee may file a dispute or action alleging a violation of this section. A court may issue an injunction or award damages, court costs, attorneys' fees, or any other relief the court deems appropriate.

(c) As used in this section, "retaliate" means to take any action that is not made in good faith and is unsupported by the association's governing documents or applicable law and that is intended to, or has the effect of, being prejudicial in the exercise or enjoyment of any person's substantial rights under this chapter or the association's governing documents.

(d) An association that violates this Chapter or its governing documents is liable to the unit owner for actual damages, shall pay a civil penalty to the unit owner in an amount not to exceed \$1,000, and the court shall award reasonable attorneys' fees and costs to any prevailing unit owner.

(c) In addition, the court may award punitive damages to a prevailing unit owner in any case where an association, board member, managing agent, resident manager, attorney, unit owner, or any person acting on behalf of an association or a unit owner has demonstrated willful disregard for this Chapter or its governing documents.

NOTE: We would like to express our gratitude to Steve Horvath, co-founder of HOAUnited.org and a catalyst for changes in association laws in several states, including Washington, Colorado, and Maryland, among others.