

THE LAW OF THE KYRGYZ REPUBLIC

On partnerships of homeowners (Condominium)

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The present Law establishes the procedures for creation and operation of condominiums as an organizational legal form of a non-profit organization aimed at operation, maintenance and management of the housing stock of the Kyrgyz Republic.

CHAPTER I GENERAL PROVISIONS

Article 1. Definitions

The following definitions are used in the present Law:

"Condominium" - is organizational legal form of management of real estate, is a partnership of premise owners (both residential and non-residential), and is a non-profit organization aimed at operations, maintenance and management of buildings, premises and common property of all premise owners. A condominium consists of owners of premises and common property.

"Building" - means a structure with two or more residential premises and all amenities, internal engineering networks, facilities and fixtures that, according to the legislation of the Kyrgyz Republic in force are considered to be part of a building.

"Land Parcel" - is a land territory which is in use by the condominium members and is attached to the building through the prescribed procedure for its proper utilization in accordance with legislation of the Kyrgyz Republic.

"Common Property" - means all parts of a building, except premises owned by owners. The common property is in the shared common ownership of all premise owners and cannot be divided. The common property includes common areas of the building, supporting structures, roof, mechanical, electrical and other types of equipment inside or outside of the building and serving more than one premise, as well as land parcels attached to the building.

"Common Property Attached to Premises" - means those parts of the common property which are designated for the exclusive use of the owners of specific premises (storage areas, parking spaces, garages, and others).

"Share of the Common Property" - means each premise owners' undivided share of the right of ownership of the common property. Share of the common property is determined as a ratio of an area of one premise to the total area of all premises.

"Premise" - means a separate residential premise or a separate non-residential premise. The boundaries of each premise shall be the interior unfinished surfaces of the inter-floor slabs, walls, floors, and ceilings of the premises, unless otherwise described in the bylaws.

"Residential Premise" (apartment) - means a separate premise used for residential purposes by citizens, including both living and non-living areas such as kitchens, bathrooms, toilets, corridors and others.

"Non-Residential Premise" - means a separate premise used otherwise than for residential purposes (i.e., store, cafeteria, workshop, and others), with the exception of those parts of a building that are common property.

"Common Expenses" - are expenditures, costs and financial obligations necessary for maintenance of the common property, as well as other expenses approved by General meeting of the condominium.

Article 2. Legislation On Condominium

Legislation on condominium consists of the Civil Code of the Kyrgyz Republic, the present law and other normative legal acts issued in accordance with the above mentioned.

CHAPTER II CREATION OF CONDOMINIUM AND FOUNDATION DOCUMENTS

Article 3. Creation of a Condominium

A condominium may be created by the will of the owners of over 2/3 residential and nonresidential premises in the multi-unit building. The organizational meeting of a condominium may be convened by an initiating group of owners.

No premise owner may be forced to be a member of the condominium, although all premise owners shall be obligated to participate in common expenses in accordance with Article 26 of the present Law. Any premise owner who decides not to become a member, has the right to become a member at a later date, without the approval of the condominium. Non-owners of premises may not be involved as members of the condominium.

Any official forcing home owners to form a condominium shall bear responsibility according to the legislation in force.

Creation of two or more condominiums in one building is generally prohibited.

In the process of condominium foundation and operations, the state's interest in regard to non-privatized premises shall be represented by a specially authorized body.

Article 4. Organizational Meeting of A Partnership of Homeowners (Condominium)

The organizational meeting of a condominium shall decide on the following:

- (1) formation of a condominium and approval of its bylaws;
- (2) election of the condominium chairperson, the executive board and if applicable, the auditing committee.

Any other issues related to the condominium may be considered at the organizational meeting. Minutes of the organizational meeting shall be generated in all cases.

Article 5. Condominium Bylaws

The condominium shall operate according to its bylaws. The condominium bylaws shall include:

- (1) the condominium's legal title, legal address and statement of purpose;
- (2) procedures of condominium management, number of members, and terms of office for the executive board and auditing committee, if applicable;
- (3) any other issues that a general meeting may deem necessary to include in them.

Model bylaws of a condominium shall be established by the Government of the Kyrgyz Republic.

Article 6. Registration of Condominium As a Legal Entity

Condominium as a legal entity is subject to state registration according to the procedures established by law by the Ministry of Justice of the Kyrgyz Republic. A condominium acquires the rights of a legal entity from the date of state registration. The following documents shall be presented for the registration of a condominium as a legal entity:

- an application signed by the chairperson of the condominium;
- an excerpt from the minutes of the general meeting containing the decision on condominium formation and approval of its bylaws;
- the condominium bylaws adopted by the general meeting of condominium members, indicating the formula for determination of the share of the common property of all premise owners;
- copies of right-establishing documents for all members of the condominium;
- other documents, required by legislation as well as other legal norms and acts.

Article 7. Registration of Condominium In Immovable Property Registration System

Once a condominium is formed as a legal entity, it shall prepare a document entitled Notice of Condominium Formation and shall submit the Notice to BTI for registration. Upon receipt of the Notice, BTI shall make a note indicating the formation of the condominium on the technical passport or inventory folder for the building or buildings

comprising the condominium. BTI shall file a copy of the Notice in the records relating to the building or buildings. BTI shall have no discretion to approve or disapprove the Notice as long as it complies with the requirements of Article 8 of this Law. If a new immovable property registration system is implemented in the Kyrgyz Republic, the Notice shall be registered in the office responsible for registration under the new system, according to the procedures described in applicable legislation.

Article 8. Notice of Condominium Formation

A Notice of Condominium Formation shall include the following information:

- the address of the building or buildings comprising the condominium;
- the address of the condominium, if different;
- description of every premise (independent of whether or not it's been privatized) including its number, as well as the percentage share in the common property for every premise;
- description of common property including the parts which are common property attached to remises;
- description of any restrictions for premise use rights;
- methodology for premise owners' share in common property calculation.

A model form of Notice of Condominium Formation shall be approved by the Government of the Kyrgyz Republic.

In case of premises being added or separated from a condominium, the shares in common property shall be recalculated in accordance with the present Law and the Notice of Condominium Formation shall be amended accordingly.

Article 9. Transfer of Common Property from Enterprises and Organizations to Premise Owners

Upon formation of a condominium in a building which is whether in state or communal ownership, the common property of the building shall be transferred to the condominium as shared common property on acceptance - transfer act, free of charge.

Upon formation of a condominium in a building where part of common property is owned by legal or physical entities, the common property shall be transferred to the condominium for use on a contract basis.

Transfer of common property of a building to a condominium shall be executed on the basis of acceptance - transfer act. The common property of the building upon the decision of the condominium should be put in appropriate order with normal operation of the utility providing system to the building by the party transferring the common property.

Neither the owners of premises, nor the condominium as a legal entity, shall be liable for any debts of the enterprise or organization that are unrelated to the building.

CHAPTER III RIGHTS AND LIABILITIES OF PREMISE OWNERS IN THE CONDOMINIUM

Article 10. Rights and Liabilities of the Owners of Premises in the Condominium

The owner of a premise has the right to sell, lease, bequeath, mortgage, or otherwise use it in accordance with legislation of the Kyrgyz Republic. In case of transfer of ownership of a premise, the share in the common property shall be transferred simultaneously.

A premise owner cannot alienate his share in the common property separate from his ownership of the premise.

Residing in a different location and transfer of a right to use the premise, do not result in a transfer of voting power and responsibilities, imposed by the present Law and the bylaws.

Article 11. The Right of Premise Owners to Use Common Property

A premise owner has the right to use the common property in accordance with its purpose as well as other owners.

Possession and use of condominium common property shall be exercised upon the consent of all the owners, in case of no-consent - shall be determined by court on claim from any of the owners.

Disposal of common property shall be exercised upon the consent of all the owners. Restrictions may be imposed only by the bylaws or agreement of the owners executed in accordance with the bylaws.

Article 12. Rights and Obligations of the Founder as a Premise

Owner

A founder of the condominium shall have the same rights and responsibilities related to ownership of a premise and the corresponding shares in the common property as any other owner.

Article 13. Obligations of Tenants (Lessees) of Condominium Premises

Lessees and tenants of residential and non-residential premises who are not owners and are not authorized by the owners do not have the right to vote or participate in the management of the condominium, but are obliged to comply with all the rules applicable to the condominium.

Article 14. Rights and Obligations of Premise Owners that are Allocated Common Property Attached to Premises

Premise owners that received a portion of the common property allocated to a premise for their individual use have the right to use it under conditions stipulated in the bylaws. An owner shall not have the right to alienate this portion of the common property.

Article 15. Relations Among Owners of Residential and Non-Residential Premises in Buildings

An individual or legal entity as an owner of a non-residential premise in a condominium shall have the same rights and obligations of an owner of a residential premise. An owner of a non-residential premise shall be liable for all obligations associated with that premise whether or not the owner has leased the premise or allowed another person or legal entity to occupy or use the premise.

Relations among owners of residential and non-residential premises regarding common expenses related to use of the common property shall be provided for in the bylaws.

Article 16. Rights of Multiple Owners of a Premise

If a premise is owned by more than one owner, all owners shall be jointly and separately liable for obligations related to that premise. The relationship among such owners is regulated by their mutual agreement. In the absence of such agreement (written or verbal) the rights and responsibilities of each shall be equal and indivisible.

Article 17. Rights to the Land Parcel of the Condominium

Upon formation of a condominium, the right to permanent use of the land parcel allocated to the building or buildings included in the condominium shall be deemed to be transferred to the premise owners and shall not be a subject to eminent domain.

CHAPTER 4 PURPOSES AND POWERS OF A CONDOMINIUM

Article 18. Condominium as a Non-Profit Organization

A condominium is a non-profit organization and shall not distribute revenues to members of the condominium.

A condominium has the right to engage in production and other business activities as necessary for the maintenance, repair and improvement of the building and other purposes established in the bylaws.

Article 19. Powers of the General Meeting of the Condominium

Condominium's general meeting is the highest administrative body of condominium. The general meeting of the condominium has the exclusive authority to decide on the following:

- (1) approval and alteration of the bylaws;
- (2) election and dismissal of the condominium executive board, chairperson, and members of the auditing committee, if applicable;
- (3) approval of the annual report of the executive board;

- (4) approval of the annual budget;
- (5) issuance of special authorization on obtaining a credit exceeding 10% of the expenditures for maintenance of the condominium's common property;
- (6) capital expenditures associated with improvements of common property;
- (7) reconstruction of condominium's building after damage or destruction by any natural disaster of more than 50% of the building;
- (8) approval of rates of fines for premise owners for delinquencies in payment of common expenses;
- (9) approval of special fees not included in the annual budget;
- (10) termination of condominium.

Each premise owned by a member of the condominium shall have one vote at the general meeting of the condominium, unless the bylaws provide otherwise. If a premise is owned by more than one person, they must agree on how to cast their vote. If they fail to agree, their vote shall be counted as an abstention.

The general meeting shall be deemed to be authorized to make decisions if no less than 51% of the votes are present.

Decisions of the general meeting of the condominium shall be authorized by the majority vote of condominium members attending the meeting except that for decisions to be made on items (1), (6), (7) and (10) at least 75 percent of the votes in attendance are required, and on item (5) consent of all members of the condominium is required.

In case of a tie vote, the vote of the chairman of the condominium shall be determinative.

Decisions made by the general meeting in accordance with the present article shall be obligatory for all of the owners including those absent at the meeting regardless of the reason for their absence.

The general meeting of a condominium has the right to discuss other issues. At the demand of at least 20% of those present at the meeting of condominium (or their proxies) voting procedure for the general meeting shall be by secret ballot.

Article 20. Terms of Conducting Meetings of the Condominium

General meetings of the condominium shall be held at least once a year at a time fixed by the executive board. Special meetings of the condominium shall be convened upon the request of the executive board, at the demand of the auditing committee, if there is one, or by the initiative of at least 10% of the votes of condominium members.

The executive board shall provide notice to condominium members of any general meeting of the condominium. Notice shall be made in writing and shall be delivered to each member of the condominium with confirmation of delivery by signature or by registered mail. Notification shall be made at least 10 days prior to the date of the general meeting.

The notification shall contain the following information:

- place and time of the meeting;
- agenda.

The general meeting shall not discuss those issues, not stated in the agenda.

In case of non-quorum situation, the executive board shall establish the new date and place for the meeting. A re-scheduled meeting may be held no sooner than 48 hours but within 30 days from the moment of the unsuccessful general meeting.

If a member of condominium cannot be present at the general meeting, he may authorize a proxy. At the commencement of the meeting the chairperson shall introduce all present authorized agents. The proxy shall be made in writing, shall bear a date and the signatures of all the owners of a premise. The proxy expires after the first meeting at the stated date or after the date.

Decisions made at a general meeting of the condominium not in compliance with the present article shall not be effective.

Article 21. The Executive Board and Chairperson of Condominium

The executive board manages the condominium between the meetings and shall consist of condominium members only. Members of the board shall be elected for two years. The number of members and procedure of performing functions of the executive board shall be specified in the condominium's bylaws. The executive board may exercise all powers of the condominium except for those which are reserved for the exclusive authority of the general meeting according to the present law and the bylaws. The chairman of the condominium is authorized to represent the condominium in court, arbitration court, state and other organs, without receiving a power of attorney.

Article 22. The Auditing Committee of the Condominium

A condominium may form an auditing committee comprised of condominium members for two years to conduct a financial inspection of any activity of the condominium. The auditing committee shall review the annual report and the budget submitted by the executive board of the condominium. The auditing committee shall not include members of the executive board or members of their families. The auditing committee shall report to the general meeting of the condominium.

Article 23. Protection of the Rights and Interests of Condominium Members

If a decision made by the general meeting, or by the chairperson, executive board or auditing committee of a condominium contradicts the present law, other legislation of the Kyrgyz Republic, or the bylaws, a condominium member has the right to appeal to court.

Article 24. Resolution of Disputes in a Condominium

Disputes between the condominium and its members as well as between the condominium and other citizens or legal entities shall be resolved in the order provided by law.

Article 25. Annual Budget

The executive board shall submit the annual budget sufficient to cover estimated expenses for maintenance and functioning of the common property for approval at the annual condominium meeting as well as financial statements for each fiscal year. The annual budget may include an item for the establishment of a reserve fund to be used for capital repairs of the building, emergency situations, or other purposes approved by the members of the condominium.

Article 26. Participation of Premise Owners in Common Expenses

Owners of premises are obliged to participate in common expenses of the condominium in proportion with their share in the common property. Payments shall be made on a monthly basis in the manner stipulated in the bylaws of the condominium. Expenses caused by the disproportionate use of the common property by owners of non-residential premises shall be covered by such owners at their own expense. The expenses of premise owners related to the individual use of common property attached to premises shall be borne by such owners.

Revenues generated from the use of the common property belong to the condominium and shall be used for condominium operational purposes in accordance with the present law and the bylaws of the condominium.

Article 27. Condominium Rights to Enforce Premise Owners' Obligations

According to the Civil Code of the Kyrgyz Republic and the bylaws of the condominium, the condominium may impose fines for delinquent payments towards common expenses in an amount up to 30 percent of the total debt.

In case of a premise owner's failure to meet obligations, the condominium shall be authorized to take action in court against the owner demanding fulfillment of such obligations, and payment of any delinquencies and fines provided for by the bylaws and civil legislation. The condominium has the right to apply to a court.

Article 28. Pledge and Mortgage

Premise owners have the right to pledge or mortgage their premises in accordance with the Civil Code and other laws of the Kyrgyz Republic. The condominium shall give prompt written notice to any lender having a pledge or mortgage on any premise in the following cases:

(1) any taking of the land parcel by the government for state or public needs (eminent domain) according to land legislation of the Kyrgyz Republic;

(2) any delinquency of more than 60 days in the payment of common expenses by the owner of a premise subject to a mortgage;

(3) any alteration or termination of the terms of insurance on the common property; or

(4) any decision of the condominium to initiate an action in court under Article 27 of the present law.

Upon receipt of a notice from a condominium that it intends to enforce its rights against a premise, a mortgage lender shall have 30 days from the date of such notice in which to pay the condominium any amounts due with respect to the premise. If the mortgage lender pays the amounts due to the condominium, and continues to make payments with

respect to the premise as they become due, the condominium shall refrain from taking any further action with respect to the premise.

CHAPTER V MAINTENANCE AND REPAIR

Article 29. Maintenance of Individual Premises

Each owner of a premise must maintain it according to existing norms at his own expense. Such maintenance shall be carried out so as to avoid any effect on another premise or the common property.

Article 30. Maintenance of the Common Property

The condominium shall maintain the common property based on the condominium's annual budget. Upon receipt of a timely notice, an owner must provide access to the premise for a representative of the condominium, as necessary to inspect the conditions of the common property or repair and replace some components of common property which are most accessible from the inside of a premise. The condominium shall reimburse the premise owner for any damage to the premise resulting from maintenance of the common property.

Article 31. Improvement and Replanning of a Premise

A premise owner may improve or re-plan a premise without the consent of the condominium as long as such improvement or replanning do not affect the common property or the structural integrity of the building. Any improvements or alterations that affect the common property or the structural integrity of the building must be approved by the condominium. All improvements and replanning must be done according to existing norms and upon approval of the state architecture and construction authorities.

Article 32. Altering Boundaries Between Adjoining Premises, As Well As Between a Premise and Common Property

The alteration of boundaries between adjoining premises may be made based on the mutual agreement of the owners of these premises and only requires the consent of the condominium if it affects the common property or the structural integrity of the building.

The condominium documents shall be amended to show the change in the boundaries as well as the corresponding adjustment in shares of the common property. The alteration of boundaries between a premise and the common property shall be made only upon appropriate amendments to the condominium documents with the consent of 75% of the condominium members.

Article 33. Causing Damage to Common Property or Other Premises

If a premise owner or any other person acting on behalf of such owner damages the common property or any premise, he shall reimburse the losses he caused.

Article 34. The Risk of Damage to Common Property of the Condominium

The risk of damage to the common property is borne by all premise owners.

Article 35. Insurance

Premise owners may insure their premises. The condominium may obtain insurance on the common property.

In the event of damage or destruction to the common property, any insurance proceeds shall be paid to the condominium. All insurance proceeds shall be used first for the restoration or reconstruction of the common property, unless the condominium members vote to terminate the condominium in accordance with this Law. If the condominium is terminated, the insurance proceeds shall be held by the condominium on its bank account and disbursed first to any mortgage lenders in proportion to their interests in the premises. Any remainder of the proceeds shall be disbursed to the premise owners in proportion to their share of the common property.

CHAPTER VI
TERMINATION OF CONDOMINIUM

Article 36. Termination of Condominium

A condominium may be terminated in the following cases:

- (1) upon the decision of the members of the condominium (in the manner described in Article 19 of the present law);
- (2) in case of damage or destruction by any natural disaster of more than 50% of the building and upon a decision of the general meeting approved in accordance with Article 19 of the present Law;
- (3) by court resolution in accordance with procedures established by law.

The assets of the condominium that remain after paying the debts of the condominium shall be distributed among the condominium members in proportion to their shares in the common property. Termination of a condominium shall be registered in the same manner as in case of formation of a condominium. Upon termination of the condominium, the premise owners may agree on some other form of ownership. If they fail to agree, the common property shall belong to them as their shared common property.

CHAPTER VII
RELATIONSHIP BETWEEN PARTNERSHIPS OF HOMEOWNERS
(CONDOMINIUMS) AND LOCAL AUTHORITIES

Article 37. Local Authorities

Condominiums shall collaborate with relevant local administration bodies based on contractual agreements.

Local administrations shall provide organizational, technical and financial support to condominiums on a contractual basis and shall assist groups wishing to convert their building or buildings to condominiums, or shall adopt other incentives to encourage condominium formation.

CHAPTER VIII
ASSOCIATIONS OF CONDOMINIUMS

Article 38. Associations of Condominiums

Condominiums have the right to join in associations with the purpose of coordinating their activities, presenting and protecting common interests and other non-commercial activities. An association shall be formed and shall conduct its activities in accordance with legislation and bylaws of the association.

President of the Kyrgyz Republic A.Akayev