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Apartment Associations Act

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Amended by the following acts

Passed	Published	Entry into force
06.06.1996	RT I 1996, 42, 811	01.10.1996
26.06.1996	RT I 1996, 49, 953	26.07.1996
17.06.1998	RT I 1998, 59, 941	10.07.1998
17.02.1999	RT I 1999, 27, 386	27.03.1999
15.11.2000	RT I 2000, 88, 576	29.11.2000
14.11.2001	RT I 2001, 93, 565	01.02.2002
15.05.2002	RT I 2002, 47, 297	01.01.2004
27.09.2006	RT I 2006, 43, 326	22.10.2006 , partially 1.01.2009
06.12.2006	RT I 2006, 61, 456	01.01.2007
29.01.2009	RT I 2009, 13, 78	01.07.2009
29.10.2009	RT I 2009, 54, 363	01.01.2010
02.05.2012	RT I, 25.05.2012, 5	09.01.2013, partially on the tenth day after publication in the Riigi Teataja.

§ 1. Purpose of Act

(1) The Apartment Associations Act provides for the specifications for the legal status, bases of activities and termination of apartment associations.

(2) The provisions of the Non-profit Associations Act apply to issues which are not regulated by this Act with respect to apartment associations.

§ 2. Definition of apartment association

(1) An apartment association is a non-profit association established by apartment owners provided for in the Apartment Ownership Act for the purpose of shared management of the legal shares of the buildings and plot of land which are part of the object of apartment ownership and representation of the shared interests of the members of the apartment association.

(2) For the purposes of this Act, an apartment association is also a non-profit association established by the owners of a right of superficies in apartments for the purpose of shared management of the legal shares of the right of superficies which is part of the object of the rights of superficies in apartments.

§ 3. Foundation of apartment association

(1) An apartment association shall be founded pursuant to the procedure prescribed in the Non-profit Associations Act on the basis of a majority resolution of the apartment owners of an immovable divided into apartment ownerships if the greater part of the building and plot of land belongs to that majority through the legal shares of the object of apartment ownership. A memorandum of association shall not be entered into.

(2) In order to enter an apartment association in the Non-profit Associations and Foundations Register, the following shall be submitted to the registrar:

- 1) an application which contains the information specified in subsection (3) of this section;

- 2) a copy of the minutes of the foundation meeting (upon re-registration from the enterprise register into the Non-profit Associations and Foundations Register, the minutes of the meeting whereby the valid wording of the articles of association of the association was adopted);
- 3) a list of the members containing information specified in subsection (4) of this section;
- 4) a copy of the land register entry concerning the ownership of the apartment ownerships or, in the case specified in subsection 17 (4) of this Act, a document certifying movable property ownership;
- 5) articles of association signed by the members who voted in favour of the adoption thereof;
- 6) [Repealed – RT I 2009, 13, 78 - entry into force 01.07.2009]
- 7) information on the telecommunications of the apartment association;
- 8) certificate on payment of state fee prescribed by the State Fees Act;
- 9) other documents prescribed by law.

(3) The application for entry of an apartment association in the Non-profit Associations and Foundations Register submitted to the registrar shall include the name, location and address of the apartment association, the names and personal identification codes of the members of the apartment association board, rules of the right of joint representation of the members of the apartment association board and the time of approval of the articles of association. The application for entry in the register shall be signed by all members of the apartment association board, and notarised.

[RT I 2006, 61, 456 - entry into force 01.01.2007]

(4) The list of the members of an apartment association shall contain the name, time of becoming a member, personal identification code or registry code, upon the absence of Estonian personal identification code, the date, month and year of birth, and the apartment number of each member, number of votes belonging to the member, the size of contribution of the member and time of payment thereof and information on time of leaving or exclusion.

(5) An apartment association may be formed for the management of the apartment ownerships of one or several houses. If an apartment association includes more than one houses, separation from the apartment association is permitted only by houses. More than one half of the number of the votes of apartment owners of the house desiring separation shall be in favour of the separation resolution. A separation resolution shall be notarised.

§ 4. Articles of association of apartment association

(1) The articles of association of an apartment association are adopted by the foundation meeting and amended by the general meeting of the members. More than one half of the total number of votes shall be in favour of adoption or amendment of the articles of association.

(2) In addition to that provided for in the Non-profit Associations Act concerning articles of association, the articles of association of an apartment association shall also provide for the distribution of votes at a general meeting and the bases of and procedure for payment of management expenditure for the legal shares of the object of apartment ownership by members of the apartment association.

§ 5. Members of apartment association

(1) All apartment owners of an immovable or immovables divided into apartment ownerships are members of the apartment association if the resolution to form an apartment association is made pursuant to the procedure provided for in this Act. Other persons shall not be members of the apartment association.

(2) Upon transfer of the apartment ownership of an apartment owner who is a member of the apartment association, the date of transfer of the right of ownership shall be deemed to be the date the acquirer becomes a member of the apartment association.

(3) The date of opening of a succession shall be deemed to be the date a successor who accepts the succession becomes a member of the apartment association.

(4) If an apartment association acquires an apartment ownership the legal shares of the object of which it was founded to manage, the apartment association shall not be deemed to be a member of the apartment association.

(5) If an apartment ownership belongs to several owners, one owner becomes member of the apartment association according to a written agreement between the owners. Disputes of apartment owners concerning becoming a member are resolved by a court.

§ 5¹. Transfer of rights and obligations of apartment association members

Upon the transfer or succession of an apartment ownership in the case where an apartment association exists, the rights and obligations of an apartment association member which belong to the transferor or bequeather of the apartment ownership transfer to the acquirer of the apartment ownership at the time of transfer of the apartment ownership.

§ 6. Assets of apartment association

- (1) An apartment association as a non-profit association may acquire assets necessary for performance of the functions specified in the articles of association. The assets of an apartment association are created by the contributions of the members thereof, income received from the activities of the association and other revenue.
- (2) An apartment association shall not acquire apartment ownership the legal shares of the object of which it was founded to manage if thereby the number of members of the apartment association decreases to below three.
- (3) An apartment association shall have share capital.

§ 7. Contribution

- (1) The amount of contribution of a member of an apartment association to the assets of the apartment association shall be proportional to the size of the member's legal share of the building and plot of land which is part of the object of apartment ownership unless otherwise provided for in the articles of association of the apartment association. Payment of contribution is mandatory. Contribution is determined to all members of an apartment association on equal bases.
- (2) Upon transfer or succession of an apartment ownership, its value shall be assessed together with the financial obligations of the member of the apartment association with regard to the apartment association and contribution to the assets of the apartment association.
- (3) Upon transfer or succession of an apartment ownership, the transferee of the apartment ownership is required to pay the apartment association for management costs and other payments which were not paid by the transferor or bequeather of the apartment ownership.
- (4) Upon delay of payment of management costs, the apartment association board may demand from an apartment owner a fine for delay of up to 0.07 per cent of the amount due for each calendar day the payment is delayed from the first date of the month following the month of payment of the management costs.

§ 8. Special requirements for apartment association capital

- (1) The share capital of an apartment association shall be comprised of contributions of the members of the apartment association and shall not be less than one month's expenditure forecast in the annual operations plan of the apartment association in its founding year.
- (2) Apartment owners may make advance payments to the apartment association for the repair of the legal shares in the possession of the apartment association and in order to cover other costs prescribed in the articles of association of the apartment association.

§ 9. Securing right of claim of apartment association

- (1) The members of an apartment association shall secure the claims for expenditure made for management of the legal shares of the objects of apartment ownership by a mortgage equal to six times the contribution, for the benefit of the apartment association, entered in the first vacant ranking of the apartment ownership.
- (2) An apartment association may demand satisfaction of a claim secured by a mortgage after expiry of a three month advance notice term.
- (3) The provisions of subsection (2) of this section also applies if an apartment ownership is in the compulsory administration of another mortgagee.

§ 10. [Repealed – RT I 1999, 27, 386 - entry into force 27.03.1999]

§ 10¹. Participation in general meeting

An apartment association member or representative of a member who is granted an unattested authorisation document may participate and vote in the general meeting. The articles of association shall not restrict the right of the member of the apartment association for appointing a representative. The articles of association may prescribe the maximum number of the members of the apartment association represented by the same person. [RT I 2009, 13, 78 - entry into force 01.07.2009]

§ 11. Restriction of right to vote

- (1) Each apartment ownership has one vote at a general meeting of the members of an apartment association unless otherwise provided by the articles of association of the apartment association.

(2) A legal person who is a member of an apartment association shall not have more than one-half of the votes when participating in a general meeting of the members of the apartment association, regardless of the number of apartment ownerships belonging to the person unless otherwise provided by the articles of association of the apartment association.

(3)-(4) [Repealed –RT I 1999, 27, 386 - entry into force 27.03.1999]

§ 12. Requirement to call extraordinary general meeting

A member of an apartment association who owned more than one-half of all apartment ownerships upon foundation of the apartment association shall, within two weeks after the date the number of the member's votes decreases to below one-half of all votes due to a transfer of apartment ownership, call an extraordinary general meeting in order to decide on amendments to the articles of association and membership of the apartment association board.

§ 13. Resolutions of apartment association

(1) A resolution of the general meeting of the members of an apartment association enters into force at the time the resolution is made unless otherwise decided by the general meeting.

(2) A resolution of an apartment association board enters into force on the tenth day after the date it is made known to all members of the apartment association pursuant to the procedure provided by the articles of association.

(3) A member of an apartment association has the right of recourse to a court in order to annul an unlawful resolution of the general meeting of the apartment association within three months after the date the member becomes aware of the resolution.

(4) Resolutions of an apartment association concerning the performance of acts necessary for the management and life of the residential building and the covering of management costs are mandatory to all members of the apartment association.

§ 14. Issue of statement

(1) An apartment association shall issue to its members and to persons with limited real rights in the apartment ownerships, at their request, a statement corresponding to the standard form approved by the Government of the Republic indicating the proprietary rights and obligations of the members of the apartment association with respect to the apartment association.

(2) An apartment association may collect a fee to cover expenditure relating to the issuance of a statement.

§ 15. Annual operations plan and annual report

(1) Each year, an apartment association board shall prepare and present an annual operations plan for the apartment association to the general meeting of the members of the apartment association for approval, which contains:

- 1) forecast revenue and expenditure for management of the legal shares of the object of apartment ownership;
- 2) obligations of the members of the apartment association for bearing earmarked expenses and encumbrances;
- 3) information concerning the quantity and cost of fuel, heat, water and electricity consumed in the apartment association.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

(2) At least two weeks before discussion of an annual operations plan, an apartment association board shall give each member of the apartment association a draft of the plan together with the report and balance sheet for the preceding year for examination.

(3) The articles of association of an apartment association may prescribe that the auditor's report be appended to the annual report.

(4) An apartment association shall submit the annual report without information concerning the principal activity in accordance with subsections 36 (5) and 78 (3) of the Non-profit Associations Act.

[RT I 2009, 54, 363 - entry into force 01.01.2010]

§ 15¹. Management costs

(1) For the purposes of this Act, management costs mean the necessary expenses of an apartment association related to the maintenance and repair of dwellings and of the residential building and the surroundings thereof in proportion to the total area of the dwellings, and remuneration for the services provided and obtained by the apartment association for the management of the residential building, including ordering of energy audit and energy performance certificate, calculated per one square meter of the total area of the dwellings unless the articles of association of the apartment association prescribe otherwise.

(2) For the purposes of this Act, maintenance of dwelling means the work done to maintain the residential building in a habitable state and to ensure the maintenance of the surroundings of the residential building. For the purposes of this Act, repair of dwelling is deemed to be the installation, removal, replacement or restoration of building structures, utility systems or parts thereof. During repair works, the level of provision of public services and amenities in a residential building may be improved and additional fixtures may be installed.
[RT I 2006, 43, 326 - entry into force 22.10.2006]

§ 15². Ordering of energy performance certificate

The energy performance certificate of a building shall be ordered by the apartment association board on its own initiative or at the request of at least one member of the apartment association within one month as of the submission of the request.
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

§ 16. Foundation of apartment association upon privatisation of dwellings

(1) The foundation of apartment associations in residential buildings with privatised dwellings shall be based on the provisions of § 15 of the Privatisation of Dwellings Act.

(2) The members of an apartment association may liquidate the apartment association when more than half of the apartment ownerships have been privatised and select any other form of maintenance of the legal shares of the object of apartment ownership. An obligated subject of privatisation does not participate in such voting and shall agree with the majority decision.

(3) [Repealed – RT I 2000, 88, 576 - entry into force 29.11.2000]

(4) The current manager of a residential building is required to transfer to an apartment association, within three months of entry in the register of the apartment association, documentation concerning the residential building listed pursuant to the procedure prescribed by the Government of the Republic. Upon the absence of necessary documentation, the current manager of a residential building shall restore such documentation using the repair funds of the corresponding residential building and transfer the documentation to the apartment association. All contracts entered into for the management of the residential building expire within three months from the transfer of the contracts to the apartment association unless the apartment association extends such contracts. If the repair funds of the residential building in total are not sufficient to cover the restoration costs of the documentation, the apartment association shall compensate for the restoration costs of the documentation of the apartment association. An apartment association has the right to waive the demand for the restoration of such documents by a decision of the general meeting of the apartment association.

(5) In the cases where an apartment association is founded on the initiative of an obligated subject of privatisation of a dwelling, the obligated subject shall appoint an authorised person who shall be responsible for the foundation of the apartment association. If the dwelling has not been privatised, the authorised person shall represent the obligated subject in the apartment association in which the obligated subject is a member.

§ 17. Application of Act on privatisation of dwellings as movables

(1) The provisions of this Act apply to an apartment association founded for the shared possession and use of the legal shares of a residential building privatised or partially privatised as a movable.

(2) Obligated subjects of privatisation of dwellings are members of the apartment association specified in subsection (1) of this section in the part which concerns dwellings which have not been privatised.

(3) Upon transfer of an apartment privatised as a movable and any other corresponding legal share of the residential building, the proprietary rights and obligations of the member of the apartment association with respect to the apartment association shall also transfer and the right of pre-emption of other members of the apartment association shall not extend to the transfer.

(4) In order to register an apartment association founded for management of the legal shares of a residential building privatised as a movable, a document certifying movable property ownership which sets out information concerning the owner of an apartment and any other corresponding legal share of the residential building shall be submitted instead of a copy of the land register entry.

(5) Until establishment of apartment ownership, the owners of an apartment and any other corresponding legal share of a residential building as a movable shall secure the claims provided for in subsection 9 (1) of this Act by a pledge for the benefit of the apartment association pursuant to the procedure provided for in § 13² of the Law of Property Act Implementation Act.

(6) Upon foundation of an apartment association on the basis of this section, the apartment association may be founded based on privatised apartments of one or several houses.

(7) Apartment associations shall be formed on the basis of housing associations pursuant to the procedure provided for in §§ 21⁸ and 21⁹ of the Privatisation of Dwellings Act, and until 1 January 2001, pursuant to the procedure provided for in §18 of the Apartment Ownership Act and § 21⁹ of the Privatisation of Dwellings Act, except in the case provided for in this section. Upon the termination of the activities of a housing association, the owners may found an apartment association for the joint management of the residential building or select any other form of management of the legal shares of the residential building.

(8) The provisions of §§ 16 and 17 of this Act concerning dwellings privatised as movables apply to dwellings returned or transferred into ownership on the basis of subsection 3 (1) of the Return of and Compensation for Apartments of Members of Former Apartment Associations Act.
[RT I 2002, 47, 297 - entry into force 01.01.2004]

§ 18. Implementation of Act

(1) Apartment associations founded before the entry into force of this Act shall bring their articles of association into compliance with the Apartment Associations Act within two months after the entry into force of this Act.

(2) In an apartment association where not all apartments are privatised, an apartment owner is required to inform the apartment association of the transfer of the right of ownership after the date on which the right of ownership is transferred.

§ 19. Entry into force of Act

[Repealed - RT I, 25.05.2012, 5 - entry into force 09.01.2013]