

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

CONDOMINIUM ACT, 1998

CONDOMINIUM RETURNS

DEFINITIONS

Definitions

1. In this Regulation,

“annual return” means an annual return mentioned in paragraph 3 of subsection 9.2 (1) of the Act; (“rapport annuel”)

“electronic database” means the electronic database required by subsection 9.7 (1) of the Act; (“base de données électronique”)

“initial return” means an initial return mentioned in paragraph 1 of subsection 9.2 (1) of the Act; (“rapport initial”)

“transitional return” means a return described in section 6; (“rapport transitoire”)

“turn-over return” means a turn-over return mentioned in paragraph 2 of subsection 9.2 (1) of the Act. (“rapport de transfert des pouvoirs”)

RETURNS

Contents of all returns

2. (1) An initial return, a turn-over return, an annual return and a transitional return shall each contain the following information in respect of the corporation as of the date of delivery of the return:

1. The date of the registration of the declaration and description.

2. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
3. The type of corporation as described in subsections 6 (1) and (2) of the Act.
4. The address for service for the corporation.
5. The municipal address for the corporation.
6. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation.
7. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
8. In the case of a common elements condominium corporation, the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection (2).
9. The names of the directors of the corporation.
10. The name and address for service of,
 - i. the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services, and
 - ii. any other person responsible for the management of the property.
11. The start date and the end date of the corporation's fiscal year.

(2) In determining the maximum number of votes that could be counted at a meeting of owners under the Act in the case of a common elements condominium corporation, subsections 42 (8), 49 (1) and 51 (1) and (6) of the Act do not apply.

(3) An initial return, a turn-over return, an annual return and a transitional return of a corporation may set out an electronic mail address for the corporation.

Initial return

3. (1) A corporation is not required to file an initial return unless the corporation is created on or after the day section 9.2 of the Act comes into force.

(2) In addition to the information that section 2 requires be contained in an initial return of a corporation, the return shall contain the name of the declarant in respect of the corporation as of the date of delivery of the return.

(3) A corporation required to file an initial return shall do so no later than 90 days after the corporation is created.

Turn-over return

4. (1) A corporation is not required to file a turn-over return unless the corporation holds a turn-over meeting under section 43 of the Act on or after the day section 9.2 of the Act comes into force.

(2) In addition to the information that section 2 requires be contained in a turn-over return of a corporation, the return shall contain the following information in respect of the corporation as of the date of delivery of the return:

1. The name of the declarant.
2. The date of the turn-over meeting held under section 43 of the Act in respect of the corporation.

(3) A corporation required to file a turn-over return shall do so no later than 90 days after the day the turn-over meeting to which the return relates is held and the owners elect a new board.

Annual return

5. (1) In addition to the information that section 2 requires be contained in an annual return of a corporation, the return shall contain the following information in respect of a corporation as of the date of delivery of the return:

1. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
2. The date of the last annual general meeting.

(2) A corporation shall file an annual return with the Registrar by,

- (a) no later than 90 days after the corporation is created, if it is created on or after January 1 and not later than March 31 in the year to which the return relates; or
- (b) March 31 of each year, but no earlier than January 1 of that year, if clause (a) does not apply.

Transitional return

6. (1) A transitional return is prescribed for the purposes of paragraph 4 of subsection 9.2 (1) of the Act.

(2) A corporation is not required to file a transitional return unless the corporation was created before the day section 9.2 of the Act comes into force.

(3) In addition to the information that section 2 requires be contained in a transitional return of a corporation, the return shall contain the following information in respect of the corporation as of the date of delivery of the return:

1. If the corporation has not held a turn-over meeting under section 43 of the Act, the name of declarant.
2. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
3. The date of the last annual general meeting.

(4) A corporation required to file a transitional return shall do so no later than 90 days after this section comes into force.

Notice of change

7. (1) The following information is prescribed for the purposes of clause 9.3 (1) (b) of the Act:

1. Every change in the address for service for the corporation.
2. Every change in the municipal address for the corporation.

3. Every change in the electronic mail address for the corporation if the corporation submitted an electronic mail address in the return that it has most recently filed under Part II.1 of the Act.
4. In the case of a corporation that is not a common elements condominium corporation, every change in the total number of units in the corporation.
5. In the case of a corporation that is not a common elements condominium corporation, every change in the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
6. In the case of a common elements condominium corporation, every change in the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
7. Every change in,
 - i. the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services, or
 - ii. any other person responsible for the management of the property.
8. Every change in the address for service of,
 - i. the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services, or
 - ii. any other person responsible for the management of the property.
9. Every change in the statement made regarding whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and every change in the name and business address of the inspector or administrator, as the case may be.
10. Whether the corporation has sent, for registration, a notice under subsection 122 (1) or 123 (7) of the Act terminating the government of the property by the Act to the land registry office in which the description of the corporation is registered.
11. Whether the corporation has sold the property and has complied with subsection 124 (3) of the Act.

12. Whether the corporation has received a notice of intention to expropriate the property under the *Expropriations Act*.
13. Whether the corporation has made an application under subsection 128 (1) of the Act or commenced any other legal action for an order described in subsection 128 (2) of the Act.
14. Whether the corporation has received written notice of an application under subsection 128 (1) of the Act or any other legal action for an order described in subsection 128 (2) of the Act.
15. In the case of a leasehold condominium corporation,
 - i. whether the corporation has received written notice of an application described in subsection 173 (2) of the Act or any other legal action for an order described in subsection 173 (1) of the Act,
 - ii. whether the corporation has received a written notice of intention not to renew all the leasehold interests in the units in the corporation, as described in clause 174 (1) (b) of the Act, or
 - iii. whether the corporation has given a notice described in subsection 174 (6) of the Act to the lessor.

(2) The notice required for a change described in subsection (1) shall specify what changes have taken place and the dates of the changes.

(3) A corporation shall file a notice of change that is required under subsection 9.3 (1) of the Act with the Registrar no later than 30 days after the change occurs.

Manner of filing

8. (1) Subject to subsection (2), a corporation that is required to file a return or a notice of change shall deliver it to the Registrar electronically or by another method that the Registrar approves if the Registrar is of the opinion that delivering it electronically would cause undue hardship to the corporation.

(2) A return or notice delivered electronically shall be delivered in accordance with the procedures established by the Registrar.

Late filing fee

9. The late filing fee described in section 9.6 of the Act is payable if a corporation files a return or notice under Part II.1 of the Act after the time set out in this Regulation for filing it.

REGISTRAR'S DATABASE

Electronic database

10. (1) In maintaining the electronic database, the Registrar,

- (a) shall take reasonable measures to protect against unauthorized access to information contained in the database; and
- (b) shall establish policies regarding the removal of information from the database that is no longer current.

(2) For the purposes of clause 9.7 (1) (b) of the Act, the Registrar shall include the following information in the electronic database:

1. If the Registrar or the Licence Appeal Tribunal has made a compliance order under section 134.1 of the Act directing a corporation or a director or officer of that corporation to comply with any provision of Part II.1 of the Act and if there is no possibility of it being replaced under subsection 134.1 (5) of the Act,
 - i. the date that the order is made,
 - ii. the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act,
 - iii. the name of the directors or officers of the corporation who the order directs to so comply,
 - iv. the provisions of Part II.1 of the Act that the Registrar or the Tribunal making the order believes on reasonable grounds that the corporation, director or officer has contravened, and
 - v. a description of the order.
2. If the Registrar determines that, in respect of a corporation, the Act has ceased to govern the property, a statement that the corporation no longer exists.

No publication of database

11. The Registrar is exempt from subsection 9.7 (2) of the Act.

Confidentiality

12. The following is a prescribed entity or organization for the purposes of clause 9.8 (c) of the Act:

1. The administrative authority within the meaning of the *Condominium Management Services Act, 2015*.

Amendments

13. (1) Paragraph 3 of subsection 2 (1) of this Regulation is amended by adding “and whether the corporation is a phased condominium corporation” at the end.

(2) Section 11 is revoked and the following substituted:

Publication of database

11. (1) For the purposes of subsection 9.7 (2) of the Act, the Registrar shall make the following information about every corporation contained in the electronic database available to the public:

1. The name of declarant.
2. The date of the registration of the declaration and description.
3. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
4. The type of corporation as described in subsections 6 (1) and (2) of the Act.
5. The address for service for the corporation.
6. The municipal address for the corporation.
7. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation.
8. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
9. In the case of a common elements condominium corporation, the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
10. The names of the directors of the corporation.
11. The name and address for service of,

- i. the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services, and
 - ii. any other person responsible for the management of the property.
12. The start date and the end date of the corporation's fiscal year.
13. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be.
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
14. The date of the last annual general meeting.
15. The information described in paragraph 1 of subsection 10 (2) until the corporation, director or officer has complied with the order mentioned in that paragraph.
16. The information described in paragraph 2 of subsection 10 (2).

(2) Subject to subsection (3), for information that a corporation is required to include in an annual return, the Registrar shall make available to the public under subsection (1) only the information that is contained in the return that the corporation has most recently filed under Part II.1 of the Act.

(3) If a corporation has filed a notice of change under section 9.3 of the Act for any information listed in subsection (1), the version of that information that the Registrar is required to make available to the public under that subsection shall be the information as updated by the notice of change.

(4) The Registrar shall make available to the public the information that this section requires the Registrar to make available to the public by,

- (a) posting it on the Internet on the website of the condominium authority; and
- (b) using any other means that the Registrar considers appropriate.

(5) The Registrar shall not disclose in bulk to any person the information that this section requires the Registrar to make available to the public except as authorized under subsection 9.8 of the Act.

(6) The Registrar shall not make available to any person the information that this section requires the Registrar to make available to the public unless the person has agreed to use the information for personal purposes only.

Summaries or analyses

11.1 (1) The Registrar may publish summaries or analyses of the data contained in the electronic database for non-commercial purposes only.

(2) The summaries or analyses mentioned in subsection (1) shall not contain information about an identifiable corporation.

(3) Paragraph 4 of subsection 11 (1) of this Regulation, as remade by subsection (2), is amended by adding “and whether the corporation is a phased condominium corporation” at the end.

Commencement

14. [Commencement].