

No. 1072

ACT

ON RIGHT-OF-OCCUPANCY ASSOCIATIONS

November 28, 1994

Chapter 1

General provisions

Section 1

Scope of application

A non-profit corporation the aim of which is to provide its members with a place to live by assigning to them occupancy rights, as referred to in the Right-of-Occupancy Housing Act(650/90), in one or more buildings owned by the corporation is considered to be a right-of-occupancy association.

A right-of-occupancy association can also engage in operations or be a shareholder or member in some other corporation the aim of which is to provide services connected with the operations referred to in paragraph 1.

Section 2

Member liability

A member of a right-of-occupancy association is not personally liable for the association's obligations.

In addition to the obligation to pay the right-of-occupancy payment and a residence charge, the rules of the association cannot require any payment of a member other than a membership fee.

Chapter 2

Founding

Section 3

Charter

A charter shall be drawn up concerning the founding of a right-of-occupancy association, to which the rules drawn up for the association shall be appended. This charter shall be dated, and signed by the founder or founders. Any natural person acting as a founder shall be legally competent.

Section 4
Rules and name

The rules of a right-of-occupancy association shall state:

- 1) the association's name;
- 2) the Finnish municipality where the association is domiciled;
- 3) a member's duty to pay the association a membership fee;
- 4) the grounds for fixing the residence charge;
- 5) the number, or minimum and maximum number, of members of the association board and of its auditors, and their term of office;
- 6) the association's financial year; and
- 7) how and within what period an association meeting must be convened.

The name of the right-of-occupancy association must include the words 'right-of-occupancy association'. No other association or corporation may use this phrase in its name or corporate title.

Section 5
Registration of a right-of-occupancy association

The National Board of Patents and Registration shall be notified of the founding of a right-of-occupancy association within six months of the charter being signed, as provided separately in the law, so that the relevant entry can be made in the Trade Register.

Section 6
Legal consequences of registration

Before registration, a right-of-occupancy association cannot acquire rights or make commitments, nor is it competent to appear before a court of law or other authority.

Chapter 3
Membership

Section 7
Members

A member of a right-of-occupancy association can be a natural person, a corporation or a foundation, but not another right-of-occupancy association. All natural persons are entitled to become members of a right-of-occupancy association.

A holder of right of occupancy is a member of the association.

Membership cannot be assigned to another party.

Section 8 *Resignation*

A member who does not hold right of occupancy is entitled to resign from a right-of-occupancy association by so notifying the association board in writing. However, it can be stipulated in the rules that resignation only takes effect after some specified period following such notification. This period may not exceed one year.

Section 9 *Suspension of membership rights and dismissal*

If an association member fails to fulfil the obligations he has undertaken on joining the association, the association may suspend that member's entitlement to exercise his rights as a member of the association for a fixed period or until further notice, though not his power of decision in matters concerning the residents' administration. If the member still fails to fulfil his obligations once the fixed period has ended, the suspension of rights shall remain in effect until the situation has been corrected.

A decision regarding suspension of membership rights shall be made by the association board unless otherwise specified in the association rules. The decision must state the reason for the suspension.

The association rules can specify that the association can consider that a member other than a holder of right of occupancy has resigned from the association if that member has failed to pay his membership fee for the period laid down in the rules.

Before the decision referred to in this section is made, the member concerned must be given a chance to explain the matter.

Section 10
Membership list

The board shall keep a list of members of a right-of-occupancy association. This list shall state the member's full name and domicile. It shall also state the date of birth of all natural persons who are members of the association and whether they are holders of occupancy rights. In the case of members that are legal persons, their registration number and the relevant register shall also be stated.

Everyone is entitled to view the membership list, and to obtain a copy of the list or part of it. A reasonable fee approved by the board can be charged for the copy.

Chapter 4
Right-of-occupancy association meeting and delegate body

Section 11
Power of decision in the association

The members of a right-of-occupancy association exercise their power of decision at association meetings. However, the rules can specify that power of decision in certain matters shall be exercised by a delegate body, or in matters other than those mentioned in section 16, by the board. Chapter 6 contains provisions on the exercise of power of decision in matters concerning the residents' administration.

Section 12
Delegate body

If a right-of-occupancy association has a delegate body as referred to in section 11, the rules must state the number of its members or the basis for fixing this number, and the term of office, election procedure, supplementation and functions of the delegate body. The percentage of holders of occupancy rights elected to the delegate body must be at least the same as in the association's total membership.

The rules can stipulate that the delegate body shall be elected at a meeting of the right-of-occupancy association, by postal vote or in separate elections. If the delegate body is elected by postal vote or in separate elections, the rules must include stipulations on the election procedure which safeguard members' voting rights and their right to put up candidates for election.

What this Act provides concerning association meetings also

applies to meetings of delegate bodies, as appropriate.

Section 13
Voting rights

Each member shall have one vote at association meetings. If the decision concerns a duty to make a payment to the association deriving from right of occupancy, or affects such duty, only holders of occupancy rights shall have voting rights. Each right-of-occupancy contract shall then confer one vote.

A member can exercise his voting right at a meeting either in person or by proxy. Members can have an assistant at meetings.

Section 14
Disqualification of a member

A member may not in person, or by proxy, vote at a meeting on a matter which concerns grant of his own discharge from liability, legal action against him, his release from duty to pay compensation for loss or other obligation to the association, cancellation of his right-of-occupancy contract or suspension of his membership rights. Similarly, a member may not vote on a matter which concerns legal action against another person or said person's release from obligation, if the member can anticipate significant advantage from the matter which may conflict with the interests of the association. All provisions concerning members also apply to their proxies.

Section 15
Meeting place

Meetings of right-of-occupancy associations shall be held in suitable facilities in the association's domicile unless the rules stipulate that meetings must or can be held in some other specified locality in Finland. Meetings can be held elsewhere if there is especially weighty cause.

Section 16
Ordinary association meeting

The ordinary meeting of a right-of-occupancy association shall be held within six months of the end of the financial year. Financial statements and an auditors' report shall be presented at the meeting. A report from the residents' committee of a residents' administration area and a supervisor's report, together with the minutes of the residents' meeting

regarding them, shall be available for inspection at the meeting.

The meeting shall decide on the following:

- 1) approval of the profit and loss statement and balance sheet and, in a parent corporation, also a consolidated profit and loss statement and balance sheet;
- 2) any action required in view of the surplus or deficit on the approved balance sheet or parent corporation's consolidated balance sheet;
- 3) grant of discharge from liability to board members, the superintendent, members of the residents' committee and the superintendent of the residents' administration area;
- 4) the budget and that part of the residence charge decided on by the association meeting according to section 49, paragraph 1, subparagraph 2;
- 5) the grounds on which the residents' meeting of a residents' administration area decide on the amount of the residence charge to be made for residents' administration functions; and
- 6) any other business that rests with the ordinary meeting of the association according to the rules.

The rules can stipulate that more than one ordinary meeting shall be held by the association during one financial year. In this case, the matters referred to in paragraph 2, subparagraphs 4 and 6, can be decided at a meeting held later than specified in paragraph 1.

Section 17 *Extraordinary meeting*

An extraordinary meeting of the right-of-occupancy association shall be held when the association meeting so decides or when the board considers there is cause, or when an auditor or at least one tenth of the association's members or some smaller proportion of the members laid down in the rules so request to deal with a matter stated in the request. The request shall be presented to the association board in writing. Invitations to the meeting shall be issued within 14 days of the request being made.

Section 18

Placing a matter before the association meeting

All members of a right-of-occupancy association are entitled to have a matter dealt with by the association meeting, provided that the demand is presented to the board in writing in sufficient time to state the matter concerned in the meeting invitation.

Section 19
Convening a meeting

The board shall convene meetings of a right-of-occupancy association. A board member is entitled to convene a meeting in the case referred to in section 32, paragraph 3. If a meeting which should be held according to this Act, the rules or a decision of the association meeting has not been convened in the prescribed order, the provincial government shall, on the application of a board member, superintendent, auditor or association member, authorize the applicant to convene the meeting at the association's expense.

Section 20
Invitation to a meeting s

Invitations to a meeting of a right-of-occupancy association shall be issued not earlier than four weeks and, if the rules do not specify a longer period, not later than one week before a meeting. If the making of a decision on a matter before a meeting is postponed to a further meeting, a separate invitation to this meeting must be issued if it is to be held on a date more than four weeks later. If the rules state that a decision must be taken at two meetings in order to be valid, the invitation to the second meeting may not be issued before the first has been held. The invitation shall state the decision taken at the first meeting.

Invitations shall be issued in accordance with the rules. If the meeting is to deal with a matter concerning a payment obligation to the association deriving from right of occupancy, or will affect such obligation, a written invitation shall also be sent out to every holder of occupancy rights, to the address given to the association.

The invitation shall state the business to be dealt with at the meeting. The main substance of any proposal to amend the rules must be stated in the invitation.

Section 21
Placing on view of the financial statements

When a right-of-occupancy association meeting is to deal with the financial statements, the documents referred to in section 16, paragraph 1, or copies of them, shall be sent to association members with the meeting invitation or shall be placed on view to members for at least one week before the meeting at the superintendent's or board chairman's premises, or in some other place stated in the meeting invitation. In the last-mentioned case, the meeting invitation must also state the time when the documents can be viewed, unless the association has an office which is open at regular hours.

A copy of the documents shall be sent by post to any association member so requesting. A reasonable fee approved by the board may be charged for this.

Section 22

Effect of an incomplete invitation to a meeting

If the provisions of this Act or of the rules regarding invitations to meetings or the placing on view of a document have not been observed, no decision may be taken on the matter concerned without the consent of the members affected by the omission. If the rules require some matter to be dealt with by the meeting, the meeting may take a decision on it even if it was not mentioned in the invitation.

Section 23

Keeping minutes

The chairman of a meeting of a right-of-occupancy association shall see to it that minutes are kept of decisions taken at meetings. The minutes must be signed by the chairman and by at least one person elected by the meeting to scrutinize them.

If the delegate body is elected by postal vote or in separate elections, the board must see to it that dated minutes signed by the board chairman are kept on the voting procedure, the vote count and the result of the election.

The superintendent or board chairman shall show the minutes to any member so requesting, not later than one month from the meeting. Members have the right to a copy of the minutes or part of them. A reasonable fee approved by the board can be charged for the copy.

The minutes shall be stored in a reliable manner.

Section 24
Decision-making

Unless otherwise provided in this Act, the decision of a right-of-occupancy association meeting shall be the opinion supported by more than half of the votes cast or, if the votes fall even, the opinion favoured by the chairman. In elections, the persons gaining most votes shall be considered elected. However, before an election takes place, a meeting can decide only to elect someone who receives over half of the votes cast. If the votes fall even, the election shall be decided by lot.

The majority requirement laid down in this Act can be tightened in the rules and, in the case of elections, also moderated.

A decision that would change the right of a member to possession of a right-of-occupancy apartment under a right-of-occupancy contract, or alter the intended use of the apartment, requires not only the majority referred to in paragraph 1 but also the consent of the member concerned.

Section 25
Measures to raise the standard of apartments

A meeting of a right-of-occupancy association may not, without the consent of each holder of occupancy rights, take a decision on renovation or modernization aimed solely at raising the standard of the apartments in said persons' possession.

However, even if not every member's consent is obtained, the meeting can decide to have some measure carried out in the association's name if those holders of occupancy rights who want the measure carried out in their own apartments engage to meet the costs involved. The holders of occupancy rights participating in the measure can agree to share out the required costs between them.

Section 26
Amending the rules

Any amendment of the rules shall be decided by the right-of-occupancy association meeting. If not provided otherwise in this Act or specified otherwise in the rules in accordance with section 24, a decision to amend the rules shall be valid if it is supported by members with at least two thirds of the votes cast.

In order to take a decision to amend the association rules so as to mean that the provisions on a residents' administration are not applied in the association, or that the grounds for determining the residence charge are changed, not only the qualified majority laid down in paragraph 1 must be in favour, but also at least two thirds of all holders of occupancy rights must concur.

A decision to amend the rules so as to mean that the stipulation concerning renouncement of a residents' administration is removed from the rules is valid only if members representing over half of the votes cast are in favour.

Section 27

Registering amendments to the rules

A decision by the association meeting to amend the rules shall be reported for registration without delay and may not be observed before the amendment has been registered.

Section 28

General clause on prohibited decisions

A right-of-occupancy association meeting may not make any decision likely to confer unjustified advantage on a member or other person at the expense of the association or another member.

Section 29

Contesting a meeting decision

If a decision of a right-of-occupancy association meeting has not been taken in the proper manner or if it is otherwise contrary to this Act, the Act on Right-of-Occupancy Housing or the association rules, a member of the association, the association board, a board member or the superintendent may bring a suit against the association to have the decision declared invalid or to have it changed.

The suit shall be brought within three months of the decision having been taken. If a member has had some acceptable reason for delay and allowing the decision to remain in force would obviously be unreasonable for him, the suit may be brought at the latest within one year of the decision having been taken. If no suit is brought within the prescribed period, the decision shall be considered valid unless section 30 or other law require otherwise.

A court ruling to declare a decision invalid or to change it shall be in force also regarding those members who did not endorse the suit. A court can change the decision of a meeting only if it can be shown what the substance of the decision should have been.

Section 30

Nullity of a decision taken at a meeting

Even without a suit for annulment, a decision by the right-of-occupancy association meeting shall be null and void if:

- 1) the decision is one which cannot be taken according to the law, even with the consent of all the members;
- 2) the decision requires the consent of all or certain members under this Act or the rules, and no such consent was given; or
- 3) no invitation was issued to the meeting, or the rules or regulations in force concerning invitations to meetings were materially violated.

An association member, the board, a board member, the superintendent or anyone who considers that a decision as referred to in subparagraph 1 infringes his rights may bring a suit against the association to obtain confirmation that a decision by the meeting is null and void.

Chapter 5

Administration of the association

Section 31

Board

A right-of-occupancy association shall have a board comprising at least three members. The term of office of a board member shall be specified in the rules. The term shall end at the latest in the fourth financial year after election, at the end either of the association meeting electing a new member or of the financial year.

The board is elected by the association meeting. The rules may specify that some board members, though not more than half, shall be elected in some other way.

The provisions of this Act concerning board members shall also apply to deputy members.

Section 32

Resignation of a board member

A board member can resign before the end of his term of office. The board and, if the member resigning was not elected by an association meeting, the party who selected him must be informed of such premature resignation. A board member may be discharged from office by the party who selected him.

If the position of board member becomes vacant in mid-term, or a member becomes disqualified as referred to in section 34 and there is no deputy member, the other members of the board shall see to it that a new member is elected for the remaining term unless the board with its remaining members and deputy members constitutes a quorum. However, the board must make a proposal for the election of a new member at the next ordinary meeting of the association at the latest.

If all the board members resign, each of them shall be held responsible for ensuring that an association meeting is convened to elect a new board.

Section 33 *Superintendent*

The rules of a right-of-occupancy association can stipulate, or the association meeting can decide, that the association shall have a superintendent.

The superintendent shall be appointed and discharged by the board.

Section 34 *Qualifications for a board member and the superintendent*

At least half the board members and the superintendent must be domiciled in the European Economic Area, unless the Ministry of Trade and Industry grants the association a derogation.

No legally incompetent or bankrupt person may be a board member or superintendent.

Section 35 *Powers of the board and superintendent*

The board sees to the administration of the association and the proper organization of operations. If the association has a superintendent, he shall see to the day-to-day administration of the association according to instructions and orders issued by the board.

The board or superintendent may only embark on action that is unusual or far-reaching in effect in view of the association's size and operations, or which has a material impact on housing or housing costs, by decision of the association meeting, except when a decision by the meeting cannot be awaited without substantial detriment to the association's operations. The board shall always decide on taking a mortgage on and pledging the association's assets.

The board shall see to it that the bookkeeping and financial management are properly supervised. The superintendent shall see to it that the bookkeeping is in accordance with the law and that financial management is reliably arranged.

Section 36

How the board comes to order and is convened Presentation of the minutes

The board shall have a chairman. The chairman shall be elected by the board unless the rules specify otherwise or it is decided otherwise when the board is elected. If the votes of the board fall even, the election of the chairman shall be decided by lot. The superintendent may not be the chairman of the board.

The chairman shall see to it that the board meets as necessary. The chairman shall convene the board if a board member or the superintendent so requests. If no chairman has been elected, or if the chairman is prevented from attending to his duties, or if he does not convene a meeting despite being requested to do so, a board member or the superintendent can do so. The superintendent is entitled to attend board meetings and to speak there unless the board decides otherwise in some particular case.

Minutes shall be kept of board meetings and signed by the meeting chairman and one member of the board chosen to do so or by the superintendent if he was present at the meeting. Board members and the superintendent are entitled to have a dissenting opinion entered in the minutes. The minutes must be numbered consecutively and stored in a reliable manner.

At the latest within one month of a meeting, the superintendent or board chairman shall show the minutes to any member so requesting. Members have the right to a copy of the minutes or part of them. A reasonable fee approved by the board can be charged for the copy.

Section 37
Quorum of the board

The board has a quorum when more than half of its elected members are present, unless the rules call for a higher number. A decision may not be taken, however, unless all the board members are given an opportunity to take part in dealing with the matter as possible. If a board member is prevented from attending to his duties, the deputy member taking his place shall be given this opportunity to take part in dealing with the matter.

Unless the rules call for a qualified majority, the board's decision shall be the opinion supported by more than half of those present or, if the votes fall even, the opinion favoured by the chairman.

Section 38
Disqualification of a board member and the superintendent

A board member or superintendent may not be involved in dealing with a matter concerning:

- 1) an agreement or other legal transaction between him and the association; or
- 2) an agreement or other legal transaction between the association and a third party if he can expect to gain from it significant advantage that may conflict with the association's interests.

Such disqualification also applies to acting as an attorney and other exercise of the right to speak for the association in the situations referred to in paragraph 1, subparagraphs 1 and 2.

Section 39
Representing and signing for the association

The board represents the association and signs on its behalf. The superintendent is entitled to represent the association in any matter that is part of his functions in accordance with section 35.

The association rules can specify that a board member or the superintendent is entitled to sign for the association or that the board can confer this right on one of its members, the superintendent or some other person. The provisions of section 34, paragraph 2, and section 38 shall apply to such person. The right to sign for the association can be restricted in such a way that only two or more persons

together are entitled to sign for the association. No other restriction may be entered in the trade register. The board may revoke the right it has granted to sign for the association at any time.

A summons or any other notification shall be considered delivered to the association when it has been served to a board member, the association's superintendent or some other person entitled to sign for the association alone or jointly with another person. If the association entry in the trade register does not specify any board member, superintendent or other person entitled to sign for the association jointly or severally, what is provided in chapter 11, section 7, of the code of judicial procedure shall be applied to the association, as appropriate.

Section 40
Prohibited action

A board member, superintendent or other representative of the association as referred to in section 39 may not embark upon any legal action or other measure likely to confer unjustified advantage on an association member or other party at the expense of the association or one of its members.

Section 41
Prohibition on the implementation of an invalid decision

A board member, superintendent or other representative of the association as referred to in section 39 may not comply with a decision of the association meeting, board or superintendent which is invalid in that it is contrary to this Act or the rules.

Chapter 6
Residents' administration

Section 42
Application regarding residents' administrations

Right-of-occupancy associations shall apply the provisions of this chapter regarding residents' administrations unless the association rules specify that there is to be no residents' administration in the association.

Section 43
Functions of residents' administrations

It is the function of a residents' administration to see to

the upkeep and management of all right-of-occupancy buildings, real estate, and other buildings within its area administered by a right-of-occupancy association. A residents' administration can also decide on renovation or modernization aimed at raising real estate and buildings in the area to meet the standard requirements of the time.

What is provided in paragraph 1 shall not prevent a right-of-occupancy association meeting from deciding to carry out an individual task of upkeep and management, or the renovation or modernization referred to in paragraph 1.

Section 44

Residents' administration area

The right-of-occupancy association meeting shall decide whether the association's right-of-occupancy buildings should be divided up into several residents' administration areas.

Decisions taken by the residents' meeting or residents' committee of a residents' administration area in matters within its competence shall be binding on the association. The association is responsible for agreements and other legal transactions decided on by the representatives of a residents' administration area within their competence.

Residents' administration areas shall be entered in the Trade Register as separately provided.

Section 45

Residents' meeting

The association's power of decision in matters resting with the residents' administration in a residents' administration area is exercised by those members with a valid right-of-occupancy agreement concerning an apartment in a right-of-occupancy building in the area in question. The holders of occupancy rights exercise their power of decision in matters resting with the residents' administration at the residents' meeting.

A decision made at a residents' meeting must be referred to the right-of-occupancy association meeting for approval if at least one third of the holders of occupancy rights present at the residents' meeting or one tenth of all the holders of occupancy rights in the residents' administration area so request. A right-of-occupancy association meeting can only approve or reject a decision so referred.

An ordinary residents' meeting shall be held within three months of the end of the financial year. Otherwise, what is provided regarding right-of-occupancy association meetings, placing documents on view and the decisions of meetings shall likewise apply to residents' meetings, placing documents on view and the decisions of meetings. However, in the case of a residents' meeting, no third party has the right to contest a decision referred to in section 30 above.

Section 46
Residents' committee

The residents' meeting shall elect a residents' committee to see that functions resting with the residents' administration are carried out in practice as decided by the residents' meeting and to represent a residents' administration area. The number of members and term of office of the residents' committee are decided by the residents' meeting, unless otherwise specified in the association rules. Otherwise, what is provided regarding the right-of-occupancy association board shall likewise apply to a residents' committee.

The members of a residents' committee must be entered in the Trade Register as separately provided.

Each financial year, the residents' committee shall compile a report on matters relevant to the evaluation of the operations and financial standing of the residents' administration area and events of significance to the residents' administration. This report shall be submitted to the supervisor of the residents' administration area at least one month before the residents' meeting which will deal with it. What is provided in section 58 concerning the association's annual report shall apply to the residents' committee report, as appropriate. The residents' committee shall compile a budget for the residents' administration area for each financial year.

Unless the rules of the right-of-occupancy association specify otherwise, the residents' committee can issue the permit referred to in section 11 of the Act on Right-of-Occupancy Housing on behalf of the association, exercise the right referred to in section 13, and accept the notifications referred to in sections 11 and 15.

Section 47
Superintendent

The rules of a right-of-occupancy association can prescribe, or a residents' meeting can decide, that a residents' admin-

istration area must have a superintendent. The superintendent is appointed and discharged by the residents' committee. Otherwise, what is provided regarding the superintendent of a right-of-occupancy association shall likewise apply to the superintendent of a residents' administration area.

The superintendent of a residents' administration area shall be entered in the Trade Register as separately provided.

What is provided regarding a residents' committee in section 46, paragraph 4, shall likewise apply to a superintendent.

Section 48

Supervisor

The residents' meeting shall elect at least one supervisor for a residents' administration area, to inspect and oversee the management of its finances and administration. The supervisor's term of office is decided by the residents' meeting, unless this is specified in the right-of-occupancy association rules.

The relevant provisions in sections 10, 21 and 23-26 of the Auditing Act (936/94) regarding an auditor's eligibility, attendance at meetings, independence, disqualification, confidentiality duty, and dismissal and resignation shall apply to supervisors.

The supervisor shall provide a report on his supervision of the residents' administration area for each financial year, for consideration by the residents' meeting. This report shall comment on the residents' committee's operations during the financial year and the committee's report on the financial year. The supervisor's report shall be submitted to the residents' committee and, for their information, to the association board and auditor, at least two weeks before the residents' meeting at which it is to be dealt with.

During the financial year, the supervisor shall also provide the residents' meeting and residents' committee, and the association board and auditor, with all information in his possession on the residents' administration area that is significant in terms of supervision of the area's administration and financial management. The supervisor is entitled to obtain from the bodies of the association and its subsidiary corporations all the information he needs to carry out his functions.

Section 49

Residence charge

In a right-of-occupancy association, the residence charge comprises:

- 1) a charge decided on by the residents' meeting, to cover expenses arising from the functions of the residents' administration; and
- 2) a charge decided on by the association meeting, to cover the association's other expenses in accordance with section 16 of the Act on Right-of-Occupancy Housing.

The residents' meeting shall decide on the size of the residence charge provided for in subparagraph 1 according to grounds approved by the right-of-occupancy association meeting. Before an ordinary meeting of the right-of-occupancy association, and within one month of the end of the financial year, the board shall send the residents' committee a proposal for the grounds for the residence charge.

The residence charge shall be paid to the right-of-occupancy association, which shall place at the residents' administration area's disposal that part of the residence charge due to it.

Section 50

Failure to perform residents' administration functions

If functions resting with the residents' administration are not properly performed, the association meeting can, if no rectification takes place despite an admonition, withhold the residence charge and place the functions concerned in the association's hands until further notice. The decision shall be immediately reported to the Trade Register for entry.

Chapter 7

Audit

Section 51

Election of auditors

What is provided in this chapter and in the Auditing Act shall apply regarding the audit of a right-of-occupancy association's accounts.

Right-of-occupancy associations shall have at least one auditor, elected by the association meeting. The association meeting may also elect one or more deputy auditors.

Section 52

Auditor's term of office

The term of office of an auditor shall be specified in the association rules. The duties of the auditor end at the conclusion of the ordinary association meeting held after the last financial year covered by his term of office or, if he was elected for an indefinite period, when a new auditor is elected to replace him.

Section 53

Qualifications for auditors

A person elected as an auditor must be an auditor authorized by the Central Chamber of Commerce or a local chamber of commerce, or a corporation referred to in sections 5 and 6 of the Auditing Act, if:

- 1) the association has made at least 100 right-of-occupancy contracts; or
- 2) at least one tenth of all the association's members or one third of the members present at a meeting so request at the association meeting where the auditor is to be elected.

On notification, the provincial government shall appoint for the association an auditor meeting the eligibility conditions if:

- 1) the association meeting has not, despite the situation referred to in paragraph 1, subparagraph 1, elected an auditor as referred to in the provision; or
- 2) the association meeting has not, despite the demand referred to in paragraph 1, subparagraph 2, elected the auditor referred to in the provision.

Anyone may make the notification to the provincial government under paragraph 2, subparagraph 1, and any member under subparagraph 2. In the latter case, the notification must be made within a month of the association meeting. The board is required to make the notification if the association meeting does not elect a qualified auditor without delay.

Before the provincial government appoints an auditor, the association board must be given an opportunity to be heard. The appointment shall remain in force until such time as an auditor has been elected for the association in the proper manner, to replace the auditor appointed by the provincial government.

Section 54

Special audits

A member of a right-of-occupancy association can request that a special audit be held on the association's administration and bookkeeping for a given completed period, or on specific measures or matters. A proposal to this effect must be made at an ordinary association meeting or at the meeting where the matter is to be dealt with according to the meeting invitation. If the proposal is supported by at least one tenth of all the members or by one third of the members present at the meeting, the member can apply within one month of the meeting for the provincial government to appoint an auditor.

The provincial government shall provide the association board with an opportunity to be heard. If the application concerns the actions of a specific person, he must also be given such opportunity. The request must be agreed to if there are considered to be weighty reasons for an audit. The provincial government can appoint one or more auditors. Auditors are entitled to a fee from the association.

The provisions of this Act and the Auditing Act concerning auditors shall apply to such auditors. However, the association meeting cannot discharge them.

A report must be made on the audit to the association meeting, and also sent to any member on request. For at least one week before the association meeting, the superintendent or board chairman must provide any member that so requests with an opportunity to study the report. The report shall be available for inspection at the association meeting.

Chapter 8

Financial statements and use of association funds

Section 55

Duty to compile financial statements

Financial statements shall be compiled on each financial year, comprising financial statements in accordance with the Accounting Act (655/73) and an annual report. The financial statements shall be drawn up in accordance with the Accounting Act and the provisions of this chapter. The Accounting Board can issue instructions and opinions on how the financial statements of a right-of-occupancy association shall be compiled, as laid down in the Accounting Act.

A proposal for the association's profit and loss account and balance sheet shall be sent to the residents' committee of the residents' administration area within one month of the end of the financial year.

The auditors shall be provided with the documents comprising the financial statements at least one month before the ordinary meeting of the association.

Section 56

Signing the financial statements and comparison data

Financial statements shall be dated and signed by the board and superintendent. If a board member or the superintendent has expressed a dissenting opinion about the financial statements, a note to this effect shall be appended to the statements at said member's or superintendent's request.

The financial statements shall include a profit and loss statement and balance sheet for the year preceding the one reported on. If the itemization of the profit and loss statement or balance sheet was changed during the financial year, the data in the earlier financial statements must be adjusted as far as possible to make them comparable with the later financial statements.

Section 57

Information to be appended to the financial statements

In addition to what is provided otherwise, the profit and loss statement or balance sheet, or an appendix to them, shall provide the following data:

- 1) the apartments in the association's possession the occupancy rights of which have been redeemed;
- 2) stocks and shares in other corporations owned by the association; and
- 3) any permanent easements on the association's assets, together with any mortgages and information on the present whereabouts of the mortgaged debt instruments.

Section 58

Annual report

The annual report shall be drawn up in accordance with sound accounting practice. It shall provide information on any matters important for assessing the state of the association and its operations which are not explained in the profit and loss statement or balance sheet, and on events of significance to the association, even if they took place after the end of the financial year.

The annual report shall state the average number of persons in the association's employ during the financial year. It

must also state the total sum of wages and remuneration paid to the board and the superintendent during the financial year, and any part-fees paid to them separately. The report must provide information on:

- 1) use of the residence charge;
- 2) implementation of the budget; and
- 3) any matters of importance concerning the state of the association and buildings that are not explained in the profit and loss account or balance sheet.

The association shall provide a report on any material changes that have taken place in the association's operations during the previous financial year, and give an estimate of how operations will develop during the new financial year. If the association has acquired authority in another corporation during the financial year, a report on this must be given in the annual report.

In the annual report, the board shall make a proposal for action with regard to the association's surplus or deficit.

Section 59 *Building reserve*

All right-of-occupancy payments made to the association, and any sum that has to be transferred to the building reserve according to the rules or by decision of the association meeting, shall be transferred to the building reserve.

The building reserve can only be reduced in order to redeem occupancy rights as referred to in section 23 of the Act on Right-of-Occupancy Housing.

Section 60 *Prohibition on lending and provision of security*

Associations may not make cash loans to their members, to members of the board or the residents' committee, to the association or residents' administration area superintendent, auditor or supervisor, or to a person who is related by blood or affinity to such persons as referred to in section 24, paragraph 1, subparagraph 3, of the Auditing Act. The same applies to the provision of security for debt.

In the case of persons other than those mentioned in paragraph 1, the association can provide a cash loan or security for a debt only if this is necessary in order to be able to maintain or use an association building or real estate.

Section 61
Consolidated financial statements

In addition to what is provided in the Accounting Act, the provisions of section 55, paragraph 3, and sections 56 and 57 shall be observed, as applicable, when consolidated financial statements are drawn up.

As applicable, the explanations referred to in section 58 shall be provided regarding the group in a parent corporation's annual report. A report on the operations of a subsidiary corporation shall state the name of the parent corporation.

Chapter 9
Right-of-occupancy association redemption guarantee fund

Section 62
Redemption guarantee fund

To ensure that holders of occupancy rights can have their occupancy rights redeemed in the case referred to in section 23 of the Act on Right-of-Occupancy Housing, there shall be a right-of-occupancy association redemption guarantee fund.

Each right-of-occupancy association that has made a right-of-occupancy contract is a member of the redemption guarantee fund. Any other corporation owning a right-of-occupancy building is also entitled to become a member of the fund. Such corporation wishing to become a member shall incorporate its entire right-of-occupancy building stock into the system within five years of becoming a member or within some shorter fixed period specified by the redemption guarantee fund.

The redemption guarantee fund can acquire rights and make commitments, and be a party to proceedings in a court of law or before an authority.

Section 63
Founding the redemption guarantee fund and starting up operations

When two right-of-occupancy associations have been entered in the trade register, they shall found the redemption guarantee fund. The fund can also be founded by some other corporation owning right-of-occupancy buildings as referred to in section 62, paragraph 2.

The registry authority shall notify the associations referred

to in paragraph 1 of their obligation to found a redemption guarantee fund, and inform the Ministry of the Environment that they have been so notified.

The founders shall draw up a charter on the foundation of the right-of-occupancy association redemption guarantee fund, dated and signed by the founders, with rules fulfilling the demands laid down in section 64 appended. The founders shall elect the fund's first board and auditors, and provide the Ministry of the Environment with the fund's rules for approval. The action required of the founders under this paragraph shall be carried out within six months of the associations being entered in the Trade Register.

If the associations fail to fulfil their duties as laid down in this section, the Ministry of the Environment can prescribe a conditional fine as a punitive sanction. The Ministry of the Environment shall order payment of the fine.

Section 64

Rules of the redemption guarantee fund

The rules of the redemption guarantee fund and any amendments to them shall be approved by the Ministry of the Environment. The rules must state:

- 1) the fund's domicile;
- 2) the grounds on which the fund members appoint representatives, and when these representatives are quorate;
- 3) how an invitation to meetings of representatives is issued;
- 4) the number and term of board members and deputy members, when the board is quorate, and its functions;
- 5) who can sign for the redemption guarantee fund;
- 6) the number and term of office of the auditors;
- 7) when the representatives shall meet to decide on the fund payment and other matters resting with the representatives;
- 8) how the financial statements must be approved, and release from liability decided on; and
- 9) in what manner the representatives shall decide on any amendment of the redemption guarantee fund rules.

Section 65

Administration of the redemption guarantee fund

The authority of the redemption guarantee fund shall be exercised by the representatives unless this Act or the fund rules assign authority to the board. Each fund member shall appoint a number of representatives, each with a deputy, in accordance with principles laid down in the fund rules. The

representatives' term of office is the calendar year.

The fund shall have a board, whose members and deputy members are elected by the representatives.

The fund shall have at least two auditors and deputy auditors elected by the representatives. At least two of the auditors shall be auditors or audit corporations approved by the Central Chamber of Commerce.

Section 66

Supervision of the redemption guarantee fund

The operations of the redemption guarantee fund shall be supervised by the State Treasury. The State Treasury is entitled to obtain from the fund and its auditors the documents, information and reports needed for supervision. The redemption guarantee fund shall supply the State Treasury with a copy of the financial statements and the auditors' report on it within four months of the end of the financial year.

The redemption guarantee fund shall provide the State Treasury with information on the persons authorized to sign for the fund and their personal data.

If the State Treasury finds that the redemption guarantee fund board has acted contrary to the law or the fund rules, or that it has failed to perform its functions as laid down in this Act, it can order the board to take action to correct the matter or prohibit the execution of an incorrect decision. The State Treasury can order a conditional fine on the members of the fund board as a punitive sanction on the order or prohibition. The provincial government of the redemption guarantee fund's domicile shall order payment of the fine.

Section 67

Fund payment

Fund members shall make the fund a payment of at least five per cent of new right-of-occupancy payments made to them each year.

However, the representatives can decide, if at least two thirds of those present are in favour, that fund members must make an extraordinary fund payment at some time specified in the decision.

The amount of the fund payment shall be approved annually by the representatives, and the grounds for determining it shall

be the same for all members.

The fund payment and any penalty interest can be collected by distraint without a court ruling or decision, according to what is provided in the Act on the collection by distraint of taxes and charges (367/61).

Section 68

Redemption using fund assets

Money from the redemption guarantee fund assets can be allocated for the redemption of occupancy rights for a member of the fund if meeting the redemption demands made on the member would be an unreasonably heavy payment burden on the member. The board of the fund shall decide on such use of assets for redemption.

When occupancy rights redeemed using redemption guarantee fund assets are re-assigned, the right-of-occupancy payment made by the assignee shall be transferred to the redemption guarantee fund.

Section 69

Indivisibility of the redemption guarantee fund

No member of the redemption guarantee fund shall be entitled to demand that the payments it made to the fund or any other share of the fund be detached for its own use or assigned to another party. Such shares cannot be interpreted as the assets of a fund member.

Section 70

Investment of assets

The redemption guarantee fund's assets shall be invested safely and in a manner that ensures the fund's liquidity.

Section 71

Redemption guarantee fund's bookkeeping

The redemption guarantee fund is required to keep accounts. What is provided in the Accounting Act and Auditing Act shall apply, as appropriate, to the fund's bookkeeping, financial statements and audit. The fund's financial year is the calendar year.

Chapter 10

Dissolution

Section 72

Terminating operations and assigning property

A decision to dissolve an association is only valid if all the holders of occupancy rights concur, and members representing at least two thirds of the votes cast are in favour. A decision to assign a right-of-occupancy building owned by an association, or real estate in its ownership or possession containing a right-of-occupancy building, is valid only if all the holders of occupancy rights living in the right-of-occupancy building concerned concur, and members representing at least two thirds of the votes cast are in favour. If the assignment concerns some part of real estate that is to remain unbuilt or other building or real estate, neither the above-mentioned concurrence nor a qualified majority shall be required.

The concurrence of all holders of occupancy rights is likewise not required for the decision referred to in paragraph 1 if continuation of the association's operations would cause the association significant loss. A decision is then valid if at least four fifths of the holders of occupancy rights concerned concur.

Sections 46 and 47 of the Act on Right-of-Occupancy Housing contain provisions on the official permit needed for dissolution and assignment as referred to in this section.

Section 73

Liquidation procedure

When an association has decided to dissolve itself and has acquired the permit referred to in section 72, paragraph 3, the board shall see to the liquidation procedure consequent to dissolution, unless the association has elected one or more receivers for the procedure instead of the board. The financial operations of an association that has decided to dissolve itself may only continue on the scale required for essential maintenance of its real estate and buildings. The receivers shall request a public summons to be served on debtors and shall be entitled to file for the association to be declared bankrupt. The receivers shall compile a final account of the dissolution. The association shall be considered terminated when an entry on the dissolution has been made in the Trade Register.

When an association is dissolved, its debts shall first be paid and thereafter the right-of-occupancy payments returned to those surrendering their occupancy rights. Any association

assets remaining after all debts have been paid and the right-of-occupancy payments returned shall be transferred to the redemption guarantee fund referred to in section 62.

Section 74

Contesting the liquidation procedure

If one tenth of the association members wish to contest action by the receivers, they shall bring a suit against them within six months of presentation of the final report. The suit must be brought in a court of law in the association's domicile.

Section 75

Association bankruptcy

The association board shall decide on filing for the association to be declared bankrupt.

If the State Treasury so proposes, a court of law shall also appoint one person proposed by the State Treasury as a trustee.

If a right-of-occupancy association is declared bankrupt and some assets remain after the bankruptcy is concluded, the board shall convene a meeting of the association as soon as possible to decide whether the association will continue to operate or whether it should be dissolved. If the association meeting decides to continue operating, the board shall immediately make the relevant notification for registration purposes.

If no assets remain when the bankruptcy is concluded, the association shall be dissolved when the bankruptcy administrators have issued a final account. The administrators shall immediately make a notification on the dissolution of the association for registration purposes.

Chapter 11

Miscellaneous provisions

Section 76

Duty to pay compensation for loss

Members of boards and residents' committees, superintendents of associations and residents' administration areas, auditors and supervisors shall be required to compensate for any losses that they have caused a right-of-occupancy association deliberately or through negligence in the course of their

activities. The same applies to any losses caused to an association member or other party through an infringement of this Act or the association rules. What is provided separately shall apply to the compensation duty of a person who is an employee.

What is provided in chapters 2 and 6 of the Damages Act (412/74) shall apply concerning adjustment of compensation for loss and sharing liability for loss between two or more liable persons.

A suit against the association for compensation for loss can also be brought in a court of law in the association's domicile.

Section 77

Right of a minority to bring suit for compensation

Even if the meeting of a right-of-occupancy association has granted release from liability or otherwise decided not to bring suit for compensation, such suit can nonetheless be taken on the association's behalf if at least one tenth of all the members or one third of those present at the meeting vote against the decision.

One tenth of the members, or at least a number of members corresponding to one third of all members present at the meeting in accordance with paragraph 1, can bring suit. If a member drops the suit after it has been brought, the other members supporting the suit can nonetheless proceed with it.

Suit must be brought within three months of an association meeting decision or, if performance of the audit referred to in section 54 is requested, of when the report on the audit has been presented at an association meeting or when an application for appointment of an auditor has been rejected.

The members bringing suit shall answer for any legal costs that they are ordered to pay. However, they are entitled to compensation for these from the association insofar as the assets won for the association through the legal process suffice.

Section 78

Period for bringing suit

Unless the action derives from a punishable offence, a suit on the association's account shall be brought:

1) against a member of the board or residents' committee, or

the superintendent of the association or residents' administration area, within three years of the end of the financial year in which the decision was made or the measure was embarked upon from which the suit derives; and
2) against an auditor and inspector, within three years of presentation of the auditor's report or inspector's report from which the suit derives.

A minority can also bring a suit later against the persons mentioned in paragraph 1, subparagraph 1, if a majority at an association meeting prevented a decision from being made in a matter referred to in section 77, paragraph 1.

Section 79

When a legal transaction is binding on the association

If a member of a right-of-occupancy association board or residents' committee, the superintendent of an association or residents' administration area, or some other representative of the association exceeds his authority in performing a legal transaction on behalf of the association, said transaction shall not be binding on the association if the party affected by it knew, or should have known, that the authority was exceeded.

Section 80

Prohibition on restriction of right of selection

The right of a right-of-occupancy association to select a developer or supplier of goods needed by the association may not be restricted by arrangements deriving from membership of or an interest in some other corporation, from an agreement or from any other commitment. The corresponding right of selection of a residents' meeting or residents' committee may not be restricted in the right-of-occupancy association rules or through arrangements deriving from an agreement or any other commitment. Any order, condition or commitment contrary to this prohibition shall be null and void.

Section 81

Right to appeal to a contract on construction or repairs

The right-of-occupancy association is entitled to appeal to a contract concerning the construction of right-of-occupancy buildings and real estate for it, or the upkeep, management, renovation or other modernization of buildings and real estate in its possession, even if it was not a party to such contract.

Section 82

Putting up and releasing security for construction

A developer is required to ensure that security during the construction phase and thereafter is put up in favour of the right-of-occupancy association for fulfilment of a building contract in accordance with this section. The security must be a bank deposit, a bank guarantee or suitable insurance.

When the offering of occupancy rights begins, the construction-phase security must be equivalent to at least ten per cent of the contract price according to the building contract, or some larger percentage laid down by decree. The security must remain valid until the association releases it. However, the security must be valid for at least three months after the building in question has been approved for use.

When the construction-phase security ends, it must be replaced by post-construction phase security, which shall be equivalent to at least two per cent of the contract price according to the building contract or some higher percentage laid down by decree. The security shall remain valid until the association releases it. However, security shall remain valid for at least a year from such time as the construction-phase security ends.

If the association has failed to release security without good cause, or its consent cannot be obtained without unreasonable inconvenience or delay, a court of law can, on application, give permission for the security to be released either completely or in part.

Section 83

Right-of-occupancy association violation

Whosoever

- 1) violates the provisions concerning the duty to supply minutes of meetings of the association or board, or a residents' meeting or residents' committee;
- 2) provides a cash loan or security contrary to section 60;
- 3) fails to keep a membership list or neglects the duty to supply said list;
- 4) violates the provisions of this Act concerning the compilation of financial statements or consolidated financial statements, or a final account on liquidation of the association; or
- 5) uses the term 'right-of-occupancy association' in his own business name or otherwise in his operations contrary to section 4, paragraph 2, and section 85, shall be sentenced to a

fine for a *right-of-occupancy association violation*, unless the act was of minor significance or more severe punishment is provided for it elsewhere.

Chapter 12

Implementing and transitional provisions

Section 84

Entry into force

This Act comes into force on March 1, 1995.

Section 85

Transitional provision

When the Act comes into force, an association entered in the register of associations whose name includes the phrase 'right-of-occupancy association' may keep its name without alteration, notwithstanding what is provided in section 4, paragraph 2.