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## Increasing Protection For Condo Owners In Ontario

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The Ontario Liberal Government recently introduced new legislation intended to overhaul the province's outdated condominium laws. With an estimated 1.3 million condo owners in Ontario and condos making up more than half of new homes being built, the condominium landscape has changed drastically since the Condominium Act came into force in 1998. Accordingly, condo owners and prospective purchasers in today's market face problems not contemplated by existing condo laws. The new bill, known as the "Protecting Condominium Owners Act," aims to enhance the protection of condo owners through increased oversight of condo boards and managers, regulations to reduce the occurrence of fraud, and also creates a new mechanism for alternative dispute resolution.

The proposed bill comes as a result of two years of governmental consultation and review, and focuses on protecting the financial interests of condo owners and purchasers by imposing stricter disclosure obligations on condo boards. The legislation also seeks to enhance the accountability of condo boards to owners regarding ongoing operating costs. Increased disclosure requirements are also intended to promote financial transparency and alert prospective purchasers to unexpected costs that might arise post-closing.

For owners of existing condos, the mismanagement of condo corporation finances has become a frequent problem. There has been a steady rise in the number of court-appointed administrators taking control where condo boards have failed to maintain adequate reserve funds. This can result in condo owners incurring extra expenses for the replacement and repair of common elements, which is something that reserve funds are intended to cover. The new legislation will impose strict regulations on condo boards to ensure that reserve funds are kept at adequate

levels and will set higher standards for the financial management of condo corporations. Furthermore, the legislation provides for the establishment of an independent licensing authority for condo managers, requiring minimum qualifications and mandatory training. These new provisions aim to regulate the growing industry of condo managers. The licensing system should also reduce the prevalence of fraud in the management of condo finances.

Perhaps the most salient feature of the new legislation is the creation of a new mechanism for dispute resolution. An independent administrative tribunal called the "Condo Authority" will be an arms-length, self-funded alternative to traditional litigation involving condo disputes. It will allow for quicker, lower-cost dispute resolution, making it easier for condo owners to settle complaints while avoiding lengthy and costly litigation. A charge of \$1 per month per condo, collected as part of monthly condo fees, will be imposed to fund the Condo Authority. While some condo owners will be opposed to the new fee, it pales in comparison to the hefty costs usually associated with condo disputes.

Despite the need for reform, the new bill fails to address some important areas of concern for condo owners. For example, it neglects to provide a framework for relief in situations where purchasers are unhappy with substandard construction or condo developers do not deliver on their promises. The new provisions are instead centred on the prevention of condo mismanagement and fraud through enhanced regulation and oversight mechanisms. The proposed reforms are long-awaited, and upon successful implementation, should bolster the protection of condo owners. If passed, the Government expects that the new legislation will come into effect in 2016, with the Condo Authority to be up and running by 2017.



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## About the Author

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