

What is the MCIOA and should our Community Association opt-in?

The Minnesota Common Interest Ownership Act (MCIOA) is the Minnesota version of the Uniform Common Interest Ownership Act, a model act approved by the National Commissioners on Uniform State Laws. MCIOA addresses creation, development and management of condominiums, cooperatives and planned communities, including townhouses and other common law forms of communal living. MCIOA parallels the Uniform Condominium Act in most respects.

Is our Community Association governed by MCIOA?

All common interest communities formed on and after June 1, 1994 are governed by MCIOA. Existing condominiums formed before that date under the Uniform Condominium Act or the Minnesota Condominium Act are automatically covered by MCIOA in whole or in part, respectively. Other common interest communities will not be covered unless they opt-in. If your Association opted in, both the declaration and bylaws of your Association would need to have been amended to comply with MCIOA.

Your Association may also be exempt from MCIOA. The two major exemptions are: 1) planned communities that consist of two units utilizing a CIC plat, that are not subject to any rights to subdivide or covert or to add additional real estate, and that are not subject to a master Association; and 2) common interest communities where the units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, and where an Association or a master Association has no obligation to maintain any building containing a dwelling or any agricultural building.

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Should our Community Association opt in to MCIOA?

The chief advantage of opting in to MCIOA is the "statutory authority" and clarity it provides to the Association, through its board of directors. MCIOA also creates statutory assessment and lien powers that were previously available only for condominiums. It provides a statutory basis for charging late fees and fines, assessing certain common expenses only to some units but not others, accelerating dues, and gives the Association a lien to secure these amounts without filing a lien statement. This lien in turn protects the Association in the event of bankruptcy. The statutory lien under MCIOA also provides priority over most other kinds of liens against the property, except for first mortgages and tax liens, and allows an Association to foreclose its lien by advertisement (as opposed to by action) without limiting the Association's right to attorneys' fees in the same way mortgage companies' rights are limited.

Certain other aspects of MCIOA might be deemed a disadvantage to the Association, including a requirement to provide for adequate reserve funds and insurance to cover the replacement of any part of the property that the Association is obligated to replace, and a requirement to have an annual review of its financial statements by an independent certified public accountant, unless enough of the members were to vote against such a review at each annual meeting.

Each Association is unique, and often the process of opting into MCIOA involves carving out exceptions and providing tailored language to deal with the issues of your individual Association.



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