



GUIDE TO CO-OPERATIVE HOUSING



CMHC — Home to Canadians

Canada Mortgage and Housing Corporation (CMHC) is the Government of Canada's national housing agency. We help Canadians gain access to a wide choice of quality, affordable homes.

Our mortgage loan insurance program has helped many Canadians realize their dream of owning a home. We provide financial assistance to help Canadians most in need to gain access to safe, affordable housing. Through our research, we encourage innovation in housing design and technology, community planning, housing choice and finance. We also work in partnership with industry and other Team Canada members to sell Canadian products and expertise in foreign markets, thereby creating jobs for Canadians here at home.

We offer a wide variety of information products to consumers and the housing industry to help them make informed purchasing and business decisions. With Canada's most comprehensive selection of information about housing and homes, we are Canada's largest publisher of housing information.

In everything that we do, we are helping to improve the quality of life for Canadians in communities across this country. We are helping Canadians live in safe, secure homes. CMHC is home to Canadians.

Visit us at **www.cmhc.ca**

You can also reach us by phone at 1 800 668-2642
(outside Canada call 613 748-2003)
By fax at 1 800 245-9274
(outside Canada 613 748-2016)

Canada Mortgage and Housing Corporation supports the Government of Canada policy on access to information for people with disabilities. If you wish to obtain this publication in alternative formats, call 1 800 668-2642.

Your Guide to Co-operative Housing

Funding for this project was provided by CMHC under the External Research Program (ERP)

Research by: Biz-Zone Internet Group Inc

Contact:. Julie King, President
905-927-0015 x222
Julie@biz-zone.com

Cette publication est aussi disponible en français sous le titre : **Guide de l'habitation
cooperative, 63927**

This research project was funded by Canada Mortgage and Housing Corporation ("CMHC"). The contents, views and editorial quality of this report are the responsibility of the author(s) and CMHC accepts no responsibility for them or any consequences arising from the reader's use of the information, materials and techniques described herein.

Library and Archives Canada Cataloguing in Publication

Your guide to co-operative housing [electronic resource].

Issued also in French under title: Guide de l'habitation coopérative.

Electronic monograph in PDF format.

Mode of access: World Wide Web.

Cat. no.: NH15-430/2005E-PDF

ISBN 0-662-40650-8

1. Housing, Cooperative--Law and legislation--Canada--Provinces--Popular works.
2. Housing, Cooperative--Law and legislation--Canada—Popular works.
3. Housing, Cooperative--Canada--Management--Handbooks, manuals, etc.
4. Small claims courts--Canada--Provinces--Popular works.
5. Small

claims courts--Canada--Popular works.

I. Canada Mortgage and Housing Corporation

KE680.Y78 2005

346.71'0668

C2005-980152-2

© 2005* Canada Mortgage and Housing Corporation

All rights reserved. No portion of this book may be reproduced, stored in a retrieval system or transmitted in any form or by any means, mechanical, electronic, photocopying, recording or otherwise without the prior written permission of Canada Mortgage and Housing Corporation. Without limiting the generality of the foregoing, no portion of this book may be translated from English into any other language without the prior written permission of Canada Mortgage and Housing Corporation.

Printed in Canada

Produced by CMHC

TABLE OF CONTENTS

INTRODUCTION.....	1
GOVERNING LEGISLATION	3
Provincial and Territorial Laws	3
Human Rights Laws	4
Principles of Natural Justice.....	4
When Tenancy Legislation Applies	4
FORMING AND RUNNING A HOUSING CO-OP	5
Understanding the Key Elements.....	5
Forming a Housing Co-op: 2 Steps.....	5
Once the Co-op has been Formed.....	6
The Membership Process	9
Member Obligations: Payment of Housing Charges	11
When a Member Fails to Meet His or Her Obligations	11
EVICTON / EXPULSION OF MEMBERS	13
Terminating a Membership	13
COLLECTING MONEY OWED.....	14
PROVINCIAL AND TERRITORIAL FACT SHEETS	19
Appendix A: SMALL CLAIMS COURT OVERVIEW	78
Alberta: Small Claims Court Overview	78
British Columbia: Small Claims Court Overview.....	79
Manitoba: Small Claims Court Overview.....	80
New Brunswick: Small Claims Court Overview	81
Newfoundland and Labrador: Small Claims Court Overview.....	82
Northwest Territories: Small Claims Court Overview	83
Nova Scotia: Small Claims Court Overview	84
Nunavut: Small Claims Court Overview	85
Ontario: Small Claims Court Overview.....	86
Prince Edward Island: Small Claims Court Overview.....	87
Quebec: Small Claims Court Overview	88
Saskatchewan: Small Claims Court Overview	89
Yukon: Small Claims Court Overview	90
Appendix B: Further Information.....	91
Marketing	91
Co-op Finances.....	91
Co-op Management and Governance	92
Seniors and Co-op Housing	93
Legal Topics.....	94
Miscellaneous	94

INTRODUCTION

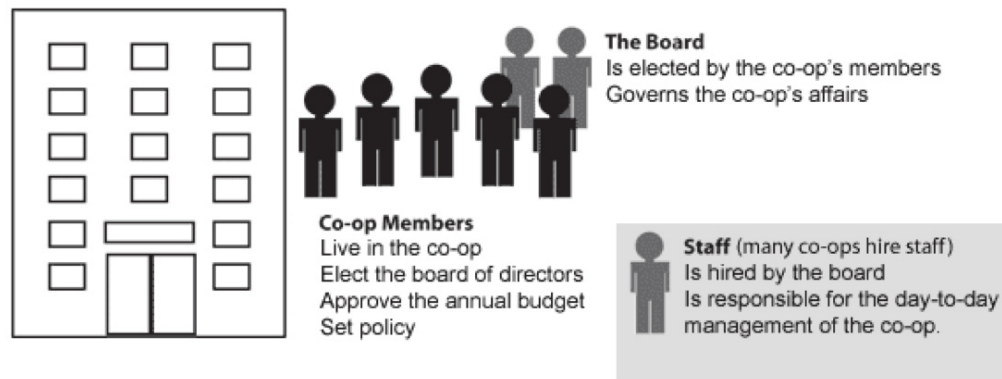
Housing co-operatives (“co-ops”) provide a place for people to live. In 1999 there were over 2000 housing co-ops in Canada with 111,000 members and combined assets of nearly \$5.6 billion.¹

Co-ops come in many different shapes and sizes, ranging from collections of single unit townhouses and small buildings with 4-12 units to large apartment-style buildings with hundreds of units.

What sets co-ops apart from private rental housing is that they are democratic communities where the residents make decisions on how the co-op operates.

Members, the board and staff each have responsibilities to the co-op, as shown in Figure 1 below.

Fig. 1: Housing Co-Operatives



There are two main types of housing co-ops: non-profit and for-profit. While this guide does not look at the differences between the two, many provinces require that housing co-ops operate on a non-profit basis. If the co-op is non-profit, members cannot sell their shares in the co-op. In for-profit housing co-operatives, members own a share of the co-op, but not the individual unit they live in.

¹ Co-operatives in Canada, 1999 Data, Published by the Co-operatives Secretariat, Government of Canada, July 2001

Housing co-ops offer several advantages to members:

Affordability	Housing co-ops are member-owned and controlled organizations. The monthly housing charges are set by the members to cover the costs of running the co-op.
Governance	Governance is about the overall direction of the co-op and is the job of directors and members of the co-op. Co-ops are democratically run and each member has a vote. Members elect the board of directors, approve the annual budget and set policy.
Security of tenure	A member's right to live in the co-op is protected. A member can live in a co-op for as long as he or she wishes as long as he or she follows the rules (by-laws) of the co-op and pays his or her housing charge (rent) on time.
Community	Housing co-ops can also be strong communities, where members actively participate in the business of the co-op. In addition to standard tasks, such as approving the annual budget, members often volunteer with maintenance tasks (e.g. lawn care) and are involved in other community-based projects such as producing a co-op newsletter.

This Guide looks at the following legal aspects of co-operative housing:

- Governing legislation
- Forming and running a housing co-op: understanding the key elements
- Admitting new members
- Obligations of members to the co-op
- Obligations of the co-op to members
- Expulsion of members
- Collecting money owed

The information provided in this guide was gathered in the spring and summer of 2003.

Acknowledgements

We would like to thank the following people who assisted with the creation of this guide:

Bruce D. Woodrow, Barrister & Solicitor, Toronto

Harry Vander Velde, Financial Administrator, Co-operative Housing Federation of Toronto

Information Officer, Régie du logement

Janet Grant, Co-operative Housing Federation of Canada

Julie King, President, Biz-Zone Internet Group Inc.

Karen Valentine, Barrister & Solicitor, Valentine Law Office, Toronto

Karla Skoutajan, Co-operative Services Officer, Co-operative Housing Federation of Canada

Nicholas Gazzard, Director, Sector Development, Co-operative Housing Federation of Canada

Doug Dewling, Manager, Community Based Housing, Newfoundland and Labrador Housing Corporation

Tim Brown, Nunavut Housing Corporation

Sheila Wade, New Brunswick – Housing and Income Support, Family & Community Services

Don Routledge, Director, Business Planning & Special Projects, Yukon Housing

Jim Graham, Department of Community Services, Nova Scotia Housing Services

Monte Carle, Regina Corporations Branch, Saskatchewan

Ian Melzer, Policy and Research Division, Canada Mortgage and Housing Corporation
Leslie Jones, Canadian Housing Information Centre, Canada Mortgage and Housing Corporation
Line Gullison, Assisted Housing, Canada Mortgage and Housing Corporation
Janet Neves, Policy and Research Division, Canada Mortgage and Housing Corporation

GOVERNING LEGISLATION

Landlords and tenants are governed by the tenancy legislation in their province or territory, but this is rarely the case for co-ops. While tenancy legislation places strict requirements on things like allowable deposits, in most co-ops the members are free to determine the rights and obligations of members as long as they comply with applicable legislation.

Most co-ops are registered provincially and are governed by three components of legislation:

1. The co-op act for their province or territory;
2. The human rights legislation for their province or territory; and
3. The principles of natural justice.

In addition, tenancy legislation may apply in specific provinces or territories.

Note: The “rules” or “bylaws” of a co-op are policies and procedures that outline the purpose of the co-op and describe how it is run. These are important legal documents as they outline the rules and policies that members, the board and staff must follow. For this reason, it is important for members to familiarize themselves with their co-op’s bylaws or rules. This is an important step in understanding and enforcing your rights as a member of the co-op.

Provincial and Territorial Laws

Each province and territory has its own co-op act that sets out how co-ops are formed and run. Some acts have a section that specifically applies to housing co-ops, while other acts do not.

Legislation may vary between different provinces and territories, but generally there are many similarities between co-ops across Canada. For example, all co-ops have members, and elect a board of directors. The co-op act directs the creation and maintenance of rules or bylaws, and defines administrative requirements such as filing paperwork with the government and holding an annual general meeting (AGM).

Provincial and Territorial Fact Sheets provide an overview of legal requirements for each province and territory on five topics:

- Admitting new members to a co-op;
- Obligations of members to the co-op;
- Obligations of the co-op to its members;
- Expulsion of members; and
- Collecting money owed.

Human Rights Laws

There are also human rights codes, which forbid discrimination on certain grounds.

Each province and territory has its own laws that make it illegal to deny a person housing because of his or her age, colour, creed, ethnic or national origin, family status, marital status, physical or mental handicap, political belief, race, religion, gender, sexual orientation, or source of income. There are, however, certain permitted age restrictions depending on the type of housing sought.

Children are allowed to live with a member of the co-op, but they do not have the status of members. In most cases, children become members of a co-op usually by applying for membership as set out in the co-op's by-laws when they reach the minimum age for membership. The co-op sets its own minimum age for membership, which is typically 16 years old.

If a person feels that they have been discriminated against by a co-op, they should consult their provincial or territorial human rights commission.

Principles of Natural Justice

One of the basic principles of administrative law is that a person has both the right to be heard and the right to an impartial hearing. These rights are known as the Principles of Natural Justice.

The "Principles of Natural Justice" is a legal term that is difficult to describe exactly as each case is determined on a case-by-case basis. Generally speaking, all parties affected by a decision must have been:

- Given adequate notice of a proposed action, and
- Given the opportunity to present their case before a decision maker.

In addition, proper legal procedures must have been followed and there must be valid grounds e.g. **Eviction/Expulsion of Members**.

When Tenancy Legislation Applies

There are two unique situations where tenancy legislation applies to co-ops in specific provinces:

1. Nova Scotia is unique in that its landlord and tenant legislation does apply to co-ops. Because of this, both the co-op act and the tenancy legislation apply.
2. In Quebec the tenancy authority, the Régie du logement, becomes involved when either the co-op or a member fails to meet its obligations. For example, the Régie du logement will not deal with complaints involving the increase of a housing charge, but it will help a housing co-op collect arrears.

In both Manitoba and Saskatchewan, if a member refuses to leave after his or her membership has been terminated, the co-op applies to the provincial rental authority for an order of possession to regain possession of the unit.

FORMING AND RUNNING A HOUSING CO-OP

Understanding the Key Elements

A co-op is a corporation that is governed by the co-op act of the province or territory where the co-op is located. Most housing co-ops in Canada are not-for-profit corporations. As such members are not entitled to distribute dividends or share in the profits of the co-op.

- As a corporation, housing co-ops must:
- file an annual return to their province/territory;
- have meetings; and
- elect a board of directors.

In a co-op, decisions are made democratically by the members. A majority of the members must support a decision for it to be approved. Therefore:

- when we speak of co-op obligations to its members we are speaking of the collective membership of the co-op; and
- when we speak of member obligations to the co-op we are speaking of the obligations of an individual member to his or her co-op.

As member-run organizations there are several ways that the members become involved with the co-op. This section provides an overview of their main responsibilities as a group. Specific details for each province and territory are provided in the Provincial and Territorial Fact Sheets.

Forming a Housing Co-op: 2 Steps

1. The housing co-op files incorporating documents

Depending on the province or territory, the originating document that creates a housing co-op will be:

- Articles of Incorporation (“Articles”),
- Memorandum of Association (“Memorandum”), or
- Letters of Incorporation (“Letters”).

The originating document sets out the primary objectives of the co-op, the requirements on the distribution of shares, and the prohibition of directors and officers benefiting financially from their position. Things like the number of directors that are required to sit on the board of directors are also identified in these documents. To make a change to the Articles, Memorandum or Letters, the members must pass a special or extraordinary resolution, depending on the province or territory.

2. The housing co-op creates bylaws or rules

The policies and procedures that outline the purpose of the co-op and describe how it is run are called the “rules” in British Columbia and “bylaws” in all other provinces and territories. Co-ops have the ability to create their own bylaws or rules, as long as they are consistent with the co-op act and human rights laws.

By-laws or rules typically address topics such as the deposit amount to be paid by members, the housing charge, and the process for recruiting new members.

Members vote to accept or make a change to the bylaws or rules. In most provinces and territories, co-ops must follow a specific procedure to add to or change their rules or bylaws.

Once the Co-op has been Formed

Once formed, the initial membership is created and members live in the co-op and take responsibility for its overall management. Here is an overview of the principles, documents and processes that are important in the operation of a co-op.

Co-ops Operate on a Co-operative Basis

Co-ops are expected to run on a co-operative basis, which means that they must govern their members and make bylaws or rules following the principles set out in the co-op act.

Bylaws or Rules Set Co-op Policies and Procedures

Using the co-op act as a framework, each co-op creates its own bylaws or rules that outline the purpose of the co-op and how it is to be managed. The bylaws or rules are created by the members, and topics that are commonly addressed in these documents include:

- The process for electing a board of directors
- The process for admitting new members
- Timing of annual meetings, elections
- The process for calling meetings and special meetings
- Notice requirements for meetings and other items
- The process for determining the housing charge and dealing with problems of non-payment
- The process for managing a reserve fund for anticipated capital repairs.

Therefore, to understand how a co-op is run one must look to their bylaws or rules. Since each co-op will have its own unique bylaws or rules, it is impossible to provide a specific summary of how a co-op is run. However, many elements are common amongst all co-ops. Here are some general principals – variations and differences are identified in the [Provincial and Territorial Fact Sheets](#).

Note: There shouldn't be an issue with access to the bylaws or rules, but sometime members will have difficulty accessing a copy. As a democratic organization you can insist on getting access to your bylaws or rules, either by viewing a copy or by getting your own copy. One of the most important actions any co-op member can take is to request a copy of the co-op bylaws or rules and review them carefully.

Members Make Broad Decisions, While an Elected Board Manages More Detailed Issues

Within a co-op the membership as a whole makes decisions about broad-based issues such as co-op policy, changes to the rules or bylaws, and the approval of the annual budget. A board of directors is elected by the membership to take care of more detailed management issues.

The bylaws or rules of the co-op may also set out the voting process for the election of directors; e.g. how and when members vote to elect a board of directors from the general

membership. Elections are normally held at the Annual General Meeting (AGM). The co-op act sets out who can sit on the board of directors and the steps for electing a board of directors – see the [Provincial and Territorial Fact Sheets](#) to review the requirements for your province or territory.

Board members are elected for a specific time period or “term”. Co-ops will often have “staggered terms” for its board members. This helps maintain continuity, as continuing board members will be familiar with outstanding issues and concerns as well as projects that are still in progress. One way to set-up staggered terms is to set a combination of one and two year terms when the first board is elected. This way, not all members will be up for reelection at the same time.

The board is accountable to the members of the co-op. It is very important that the process outlined in the rules or bylaws is followed when notifying members of an upcoming meeting and running a meeting. This is discussed in more detail below. The board of directors must attend the AGM and report to the members about the financial well being of the co-op.

In larger co-ops that have staff, the staff will report to the board of directors. The board will address member complaints, deal with non-payment of housing charges, and is responsible for overseeing the annual budget. The board will also take responsibility for special projects as directed by the members. For example, it is important for the co-op to have a reserve fund that is set aside to cover capital expenses such as replacing the heating system or repaving the parking area. The co-op members may ask their board to do a replacement reserve study to determine how much money the co-op should set-aside to cover future major expenses.

The board of directors, and in particular the board executive, are responsible for familiarizing themselves with and following the procedures outlined in their co-op’s rules or bylaws. If the members are not satisfied with the performance of the board they may call a special meeting to remove a director, more than one director, or the entire board.

Decision Making: Co-op Meetings Must Follow Specific Guidelines

As a democratic organization, meetings are important to the operation of the co-op. Meetings are held to make decisions on co-op policy, the annual budget, and other major issues. They may also be held to consider an appeal from a member who is facing termination or to remove a director, more than one director, or the entire board.

Each co-op must have an annual general meeting (AGM), the timing of which may be related to fiscal year end, and a co-op can set a rule or by-law that will allow its members to meet more often.

Members are expected to attend members' meetings. A members' meeting cannot occur and must be re-scheduled if quorum is not met. (See the **Importance of Proper Meeting Notice and Quorum**).

A co-op will also have:

- General meetings, where members meet to discuss and decide on matters of the housing co-op;
- Special meetings; the co-op act or the bylaws set out who can call a special meeting and the procedure for calling a special meeting, as well as how much notice is required.

The rules or bylaws will set out specific procedures regarding the timing and notice of meetings as well as the management of meetings and voting requirements.

The [Provincial and Territorial Fact Sheets](#) provide more information on meeting requirements.

The Importance of Proper Meeting Notice and Quorum

Co-ops must adhere to their rules or bylaws when holding meetings. It is important that the timing of the meeting, type and length of notice, and the management of the meeting all conform to the rules or bylaws. In many cases the annual meeting must be held no later than 4 months after the end of the fiscal year of the co-op. (A fiscal year is the co-op's financial year.)

In addition to requiring that proper notice be given, most bylaws will require that there is a quorum, which is a specific percentage of the total membership in attendance, for a meeting to continue. A quorum is often 50 per cent of the membership plus one. However, a greater percentage may be required for special meetings or meetings where the co-op's rules or bylaws may be amended.

As an example, if the rules or bylaws require that a general meeting have a quorum of 50 per cent plus 1, and a co-op had 100 members, the co-op could not run a meeting unless 51 or more members were in attendance.

The bylaws or rules should set out the required number or percentage of members to have quorum.

Proper notice and the requirement that there is a quorum present ensure that all members are given the chance to participate in decision making, and that a representative number are involved.

The Co-op's Reserve Fund Allows for Building Maintenance and Repairs

Co-ops often maintain a reserve fund, which is money set aside to cover building maintenance and repairs. The reserve fund must be invested in accordance with the co-op's bylaws or rules, the co-op act regulations, and any operating agreement the co-op may have with the government.

The Importance of Maintaining Accurate Records

It is important to put clear guidelines in place when you form a co-op and to make sure that you maintain copies of your bylaws or rules over time. All decisions should be recorded and the board of directors should ensure that accurate records are maintained. If an amendment to the co-op's rules or bylaws is approved, the co-op should update the bylaws or rules and make sure that they have kept an archive of older copies.

In some co-ops, smaller ones in particular, record keeping can be a significant problem. Members may not record decisions or keep their bylaws or rules up-to-date as they believe that they will remember what has been decided. However, as time passes people will forget whether a decision was actually made, and they may disagree over what was decided if the decision was not recorded. This can create serious legal difficulties should the co-op need to enforce a bylaw or rule that is disputed, and is why it is imperative that the co-op maintain accurate records.

Adjusting to an Evolving Legislative Landscape

Co-ops, and in particular the board of directors, also need to keep track of legislative changes that may occur in their province or territory. In recent years there have been significant changes to the co-op acts in British Columbia and Alberta.

When this happens co-ops are expected to bring existing bylaws or rules in line with the new legislation within a specified time period. For example, co-ops in Alberta have until 2005 to ensure that their bylaws are compliant.

Offences Carry a Stiff Penalty

If a person or co-op is guilty of an offence under the co-op act, where that person disobeys the co-op act, the consequences can be quite serious. Fines, imprisonment, or a combination of both may apply. The [Provincial and Territorial Fact Sheets](#) provide more information on this topic.

Admitting New Members

Co-ops are member-driven organizations. They are made up of members, and are also governed by those members.

Generally, co-op acts say little about the acceptance of new members. (The specific admittance requirements for each province and territory are discussed in further detail in the [Provincial and Territorial Fact Sheets](#).)

A co-op has the right to decide who becomes a member, but it must comply with human rights legislation. In addition, the co-op must adhere to any government funding agreements that it has in place.

Note: Several co-op acts have minimum age requirements that prevent individuals under the age of majority from becoming a member of the co-op. While children under the age of majority may live in a co-op they do not have membership status.

A Word about Government Funding and Subsidized Housing

If a co-op receives money from the government (federal and/or provincial/territorial) to help it subsidize a certain number of housing units (apartments), it must also follow the terms of the operating agreement between the co-op and the government. For example, the co-op may be required to offer a certain number or percentage of units as subsidized housing.

Members who live in subsidized units have lower incomes and only pay a part of the housing charge. This is called a subsidized housing charge, where the housing charge is adjusted to the income of the household. This is often referred to as "rent geared to income" or "RGI". If a household qualifies for a subsidy, their housing charge is usually set at about 30 per cent of the household income.

The Membership Process

Provincial and territorial law gives the board the right to approve members. The board must follow the co-op's membership policies when admitting new members, and they are responsible for ensuring that membership policies exist and are applied properly. These policies must not violate human rights laws.

The process for admitting new members is set out in the co-op's by-laws or rules. While most co-ops follow a similar process when they recruit and accept new members, specific parts of the process will differ from co-op to co-op.

In general, a co-op:

- Accepts applications in accordance with their application process
- Conducts a meeting or interview with the applicant(s)
- Puts the applicant on a waiting list (if no units are available)
- Approves the application for membership.

Some co-ops will actively market their co-op to potential members, and may hold information sessions about the co-op. Others will strike a membership committee to handle recruitment and interviews. In some co-ops staff assist the board and/or the membership committee. They may be responsible for the placement of ads, doing credit checks and keeping members' and prospective members' files. Some co-ops even have staff interview applicants and keep files on prospective members.

Waiting Lists for Applicants

When a potential member makes an application to a co-op there is no guarantee that the co-op will be able to offer the applicant a unit. In this case, which is very common, the applicant may be placed on a waiting list. Most co-ops have waiting lists of people who would like to move into the co-op. Applications are usually processed on a first come, first served basis. These lists may be particularly long for people who need subsidized housing.

Note: An applicant may not sell his or her position on a waiting list to another person. You can call the co-op to find out where you are on their waiting list.

New Members Sign an Occupancy Agreement when Joining a Co-op

Applicants may choose to join the co-op once the board has approved their membership application and has offered them a unit. New members of a co-op usually sign an occupancy agreement with the co-op. The occupancy agreement is like a lease. It sets out the rules of the co-op that members accept and agree to follow.

Obligations of Members to the housing Co-op

While tenants in private rental housing sign a **lease**, most co-ops will require new members to sign an **occupancy agreement**. The occupancy agreement is a legal contract between the co-op and the new member that sets out both the rights and the obligations of the member.

The occupancy agreement specifies:

- What the new member agrees to do in exchange for the right to live in the unit. Typically the main stipulations are that the member will pay his or her housing charge on time and follow the rules or bylaws of the co-op.
- What the co-op agrees to do for the member as a resident (e.g. maintain the building in good repair, ensure the proper management of the co-op, adequately maintain the reserve fund).
- The notice a member is required to provide when he or she withdraws from the co-op.

Most co-op legislation does not provide much detail on this topic, leaving it up to the individual co-op to define the obligation of members. However, the rules or bylaws must still be reasonable and must comply with the provincial or territorial co-op act, human rights legislation, and the principals of natural justice.

For example, while provincial legislation does not state that a co-op cannot prohibit members from having a purple front door, a bylaw or rule that allowed a co-op to evict a member on this basis would likely be found to be an unreasonable rule if challenged in the courts.

Note: If the member will receive a subsidy, he/she may also have to sign a form that sets out additional responsibilities. For example, since subsidies are based on a member's income, subsidized members are always required to provide proof of their income.

Member Obligations: Payment of Housing Charges

Members of the co-op must pay monthly housing charges and are expected to make their payments in full and on time.

Most co-ops may also require a new member to pay:

- the first month's housing charge;
- the last month's housing charge;
- a membership fee; and
- a maintenance (damage) deposit.

These payments are normally due when the member moves into the co-op.

Co-ops are allowed to set the amount of the deposit that is collected by the co-op with the exception of Nova Scotia, where the tenancy legislation applies to co-ops (see *Your Guide to Renting a Home* for more information on rules that govern landlords and tenants < <http://www.cmhc.ca/en/bureho/reho/yogureho/index.cfm>>).

The maintenance deposit is kept by the co-op to pay for any required repairs, damages or cleaning after the move out. The balance is refunded once the member has moved out of the co-op and the unit has been inspected.

Democratic Participation

As a democratic organization, members are also expected to participate in the co-op by attending members' meetings.

At a members' meeting, members may be asked to do some or all of the following:

- Elect the board at the Annual General Meeting (AGM).
- Make the final decisions regarding the budget of the co-op. Approve the budget.
- Resolve disputes or disagreements between the board and any committees or individual members.
- Decide what amendments should be made to the by-laws or rules.

When a Member Fails to Meet His or Her Obligations

A member who fails to meet his or her obligations to the co-op may face eviction or expulsion from the co-op. The co-op will respond to each individual situation in accordance with its severity.

Co-ops evict a member by terminating the individual's membership in the co-op. See **Eviction/Expulsion of Members**.

Obligations of the Housing Co-op to its Members

Co-ops are independent legal entities. They have obligations to their members based on the agreements they have signed and the legislation that governs their operation.

A co-op has specific obligations based on the obligations set out in:

- the occupancy agreement signed with each member;
- the applicable provincial or territorial co-op act;
- the applicable human rights legislation; and
- any operating agreement it has signed with the government.

Typically, the main obligations of the co-op to its members relate to:

- property upkeep;
- the payment of all fees and expenses needed to provide for the ongoing operation of the co-op; and
- the supply of basic services such as heat, hot water and electricity.

Note: Basic services are often paid directly by individual member households.

Making a Complaint: When a Co-op Fails to Meet its Obligations

If you think you are not getting the services you have been promised, you need to take the matter up with your co-op's staff or with the board. As a starting point you will want to check your bylaws or rules. Your complaint should be made in writing, and it is helpful to explain how you think your issue could be resolved.

Making a complaint can be stressful. For further information on this topic, including advice on how to protect your interests at a meeting, read the *Co-operative Housing Federation of Canada's* guide to handling disputes, which can be found online at [<http://www.chfc.ca/eng/chf/about_7.htm#dispute>](http://www.chfc.ca/eng/chf/about_7.htm#dispute).

In addition to the legal obligations of a co-op based on signed agreements and legislation, co-ops are also governed by a set of Core Principles. These are essentially theoretical guidelines that provide a philosophical basis for co-op operation.

On September 23, 1995, the International Co-operative Alliance, the body representing co-operatives worldwide, adopted the following new co-operative principles that housing co-ops in Canada have agreed to follow.

Voluntary and Open Membership	Co-operatives are open to all people who are a) able to use their services and b) willing to accept the responsibilities of membership.
Member Control	Co-ops are controlled by their members, who actively participate in setting co-op policies and making decisions. Co-ops are run democratically, with each member having one vote, and the elected representatives being accountable to the membership.
Economic Participation	Each member contributes equally to the capital of their co-operative. Surpluses are allocated to activities that will benefit the co-op and its members. Surpluses are often put into a reserve for further development of the co-op.
Independence	While co-ops may enter into agreements with outside organizations, such as government funders, the terms of these agreements must ensure the members retain control of the co-op.
Education and Training	To enable effective development of the co-op, education and training is provided to members, elected representatives, managers and employees. The co-op will also educate the general public about the nature of co-ops and benefits of participation.
Co-operation Among Co-operatives	Co-ops work together through local, national and international structures in order to effectively serve their members and to strengthen the co-operative movement.
Concern for the Community	Co-ops work to strengthen local communities by passing policies supported by their members.

EVICTIION / EXPULSION OF MEMBERS

A member's right to live in a unit comes from his or her membership in the housing co-op. The right to live in a unit ends when the membership ends.

Co-ops can end or "terminate" a membership under the co-op act for the province or territory in which the co-op is located. This section provides an overview of:

- terminating a membership;
- the principles of natural justice; and
- when landlord and tenant legislation applies.

Terminating a Membership

Terminating a membership is a serious decision, resulting in the loss of someone's home. The process is sometimes called "expulsion", although this word is not in the Act. Expulsion or termination of membership means losing the right to live in a unit owned by the housing co-op.

The process for expelling or terminating a member's membership involves two steps:

1. terminating the member's membership; and
2. getting the unit back from the member once his or her membership has been terminated.

A co-op should use termination of membership as a last resort, only after trying other ways to solve the problem.

The grounds for eviction and the process that must be followed will either be listed in the co-op's rules or bylaws or the provincial/territorial legislation. If the eviction process is specified in the co-op's rules or bylaws, it must comply with applicable legislation.

The co-op, its board and its members must make sure that:

- The member has all of the information about the reasons why the board wants to have him or her evicted. The member must be given enough time to prepare for any meetings.
- The member must have a right to speak at the meeting and to have a representative or lawyer present.
- The co-op, its board and its members are not "biased" or making their decision for personal reasons.

If the co-op, its board and its members do not follow the "principles of natural justice" during any part of the process to evict a member, then the member may be allowed to stay in the co-op.

When terminating a membership, it is important to carefully follow all of the steps required by law. To help both co-ops and members understand their obligations, we have provided a detailed overview of the legal process for each province and territory in the [Provincial and Territorial Fact Sheets](#).

Note: If a member refuses to vacate the premises after being evicted from the co-op, the co-op must take legal steps to remove the member from the housing unit they occupy. In some provinces and territories the co-op must apply to the rental authority for a legal order that gives the co-op the right to take back the unit. The [Provincial and Territorial Fact Sheets](#) have more information on this topic as well.

Members: Check to Ensure that the Correct Procedures are Followed

Members who are having their membership terminated should check their co-op's by-laws and the provincial or territorial co-op act to see if the co-op has followed the correct steps for termination. These documents also say whether the member can appeal the board's decision to the members, and will explain this process.

Talk to a lawyer if you don't understand these rules or you think you are not being treated fairly.

COLLECTING MONEY OWED

Members must pay their monthly housing charge on time. When housing charges are not paid by the date they are due, they are called **arrears**.

Housing co-ops also use the term arrears for all other payments owing to the co-op. In addition to the housing charge, the member may owe money for:

- damages to co-op property;
- fines;
- key charges;
- bank charges for not-sufficient funds (NSF) cheques; and
- maintenance guarantees.

The province's or territory's co-op act and/or the co-op's by-laws or rules set out how arrears are treated by the co-op. Some co-ops will have an arrears collection policy.

Most co-ops have an occupancy by-law and an arrears by-law that deal with collecting money owed to the co-op by the member. The member or the co-op should check with the bylaws or rules to see how arrears are treated by their co-op.

Before Collecting Arrears, First Notify the Person Who Owes the Money

Before going to court to collect any money owed to the co-op, the person owing the money should be contacted by letter setting out the facts and requesting that immediate payment be made. This letter should also claim any interest owing. The co-op must keep a copy of the letter, as well as copies of any arrears, evictions or other notices in order to support its case for collection.

Arrange a Payment Schedule, if possible.

Ideally, the co-op and the member will be able to agree on a payment schedule for the arrears owed. This is referred to as **scheduled arrears** or special payment arrangement.

If the Member Still Fails to Pay the Arrears, Eviction of the Member May be Necessary

When a member is either unable or unwilling to pay their arrears, most co-ops will take steps to evict the member and recover the money owed. (See **Eviction/Expulsion of Members**.)

The co-op can recover money owed from a current or past member. Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

If the member's deposit will not cover the outstanding debt, many co-ops choose to register the debt with a credit agency or use a collection agency. Others will choose to use the small claims court system.

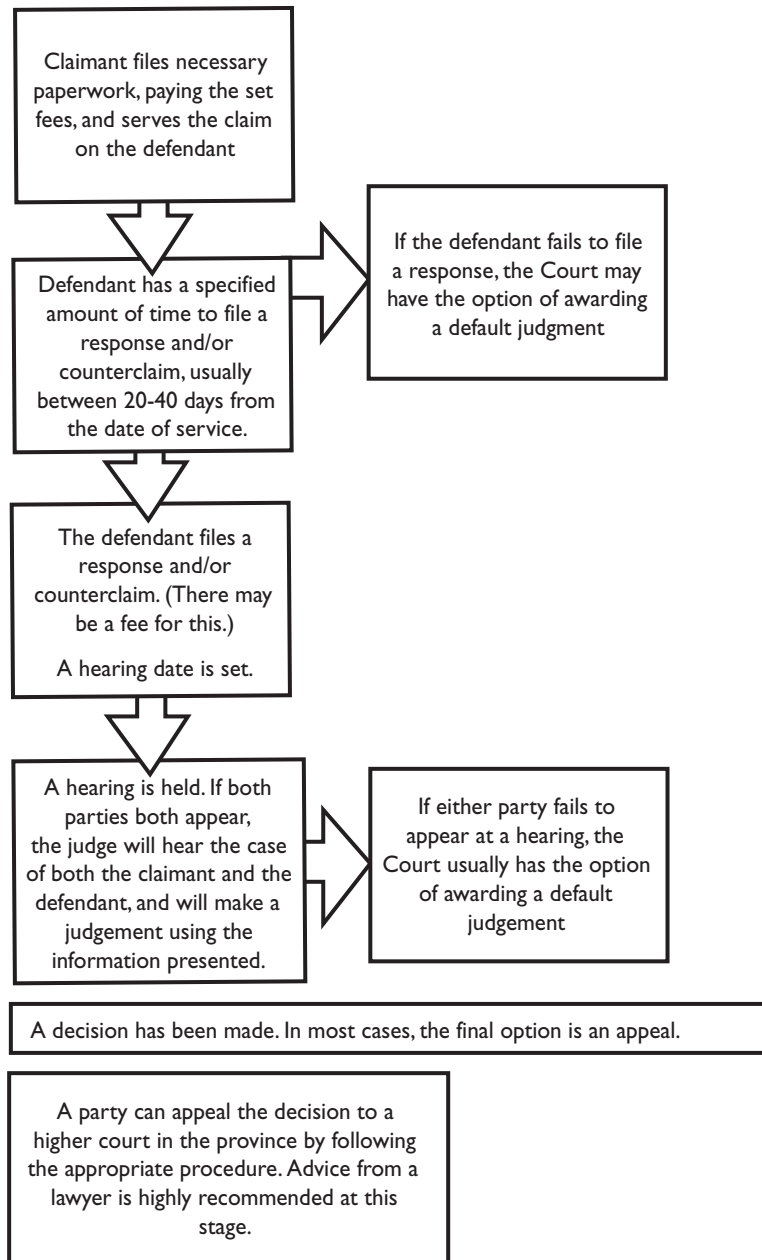
Small Claims Court can be an Effective Way to Collect an Outstanding Debt

If an evicted member does not voluntarily pay any arrears owed to the co-op, the co-op may go to the courts of the province or territory to sue the member for the amount still owing. Small Claims Court offers the co-op a simple and inexpensive method to collect money.

The figure provides an overview of the small claims court guidelines. Further information on small claims court can be found in Appendix A: Provincial / Territorial Small Claims Courts.

Nunavut does not have a small claims division in its court structure. See the **Provincial and Territorial Fact Sheets** for more information on this topic.

Overview of a Typical Small Claims Court Process



GLOSSARY

Arrears: a member's unpaid, overdue debt to the co-op. Arrears are typically the monthly housing charge, but can also include other unpaid debts.

Auxiliary Member: In Quebec, an auxiliary member does not have the same rights and obligations as other members. An auxiliary member has an interest as a user of the co-op services, but cannot vote or be on the board. In Alberta, an auxiliary member is a person who is not, or who is no longer, a full member of a cooperative but has an association with it, as determined by the articles or the bylaws.

Board of Directors: a group of members who are elected to govern the affairs of the co-op.

Bylaws or Rules: written document(s) that outline the rules and regulations that members, the board and staff must follow. Bylaws or rules must comply with provincial or territorial co-op housing Acts and other laws.

Claim: a matter that a person wants the court to decide.

Claimant: a person or an organization that brings the matter to the court, usually in regards to monies owed.

Co-operative basis: the guidelines, principals, and expectations governing how co-ops in a province or territory are run. See the Provincial/Territorial Fact Sheets under Obligations for provincial/territorial specifics.

Counter Claim: a legal charge that a Defendant has raised in addition to his or her response to the legal charge of a Claimant.

Date of service: the date that a document is served on a person or organization.

Defendant: a person or organization who is defending against a legal charge that has been filed against them.

Fiscal Year: the financial year of the co-op.

Housing Charge: a charge the member pays each month in exchange for the right to be a member of the co-op and live in the co-op.

Human Rights Laws: laws that are set out by each province and territory, and that make it illegal to deny a person housing because of his or her age, colour, creed, ethnic or national origin, family status, marital status, physical or mental handicap, political belief, race, religion, sex, sexual orientation, or source of income.

Lease: a contract that allows for the use and/or occupation of property in exchange for a specified rent.

Member: a person who belongs to the co-op, and has both the rights and obligations that are outlined in the co-op bylaws or rules.

Members' Meeting: a meeting that all co-op members can attend and where the entire membership has the right to vote. (Proxy voting may be prohibited in some co-ops.)

Occupancy Agreement: an agreement between a member and the co-op that acts as a contract between the two parties. The occupancy agreement outlines the obligations of the member to the co-op, and the obligations of the co-op to the member.

Occupancy by-law or rule: a bylaw that outlines the rights and obligations of members who live in the co-op.

Proxy Voting: where a member who is entitled to vote at a meeting authorizes another member to vote on his or her behalf at a specific meeting and under

specified circumstances (e.g. in a vote at the annual meeting related to the election of a new board of directors and the passing of the annual co-op budget).

Rent' Geared to Income (RGI): a lower housing charge that is adjusted to the income of the member. If a household qualifies for a subsidy, their monthly housing charge is usually set at 30 per cent of their gross household income.

Reserve Fund: money set aside by the co-op for special circumstances and contingencies.

Resolution: the written idea of a member, including a director, that is suggested to the co-op to be agreed upon and adopted by the membership

Rules: see Bylaws or Rules.

Scheduled arrears: an arrangement between the co-op and a member that outlines when a member will make payments to clear up any money owed (arrears) to the co-op.

Share Subscription Agreement: an agreement between a member and the co-op that outlines the terms and conditions that apply to the member as a shareholder in the co-op.

Special resolution: a resolution that is submitted to a meeting of the co-op or a meeting of the directors and passed at the meeting by more than a simple majority of members. The percentage of required votes is different for each

province and territory. In some, the resolution will pass with at least 2/3 of the votes cast, while in others the resolution will only pass with at least 3/4 of the votes cast.

Subsidy: financial assistance provided by the government or government agency that is granted to a member.

Subsidized Housing: financial assistance usually offered through a government program to qualifying low-income members.

Subsidized Housing Charge: the housing charge paid by low-income members who live in subsidized units and have a portion of their housing charge paid for by someone else, usually the government or a government agency. If a household qualifies for a subsidy, their monthly housing charge is usually set at 30 per cent of the household income.

Unscheduled arrears: money owed for which there is no repayment schedule.

Vacant possession: when the previous member moves out of his or her unit, so that the co-op can regain possession of the unoccupied unit.

Writ of possession: an order issued by the courts or rental authority that gives the sheriff the right to peacefully remove a co-op member from a unit in order to restore possession of the unit to the co-op.

PROVINCIAL AND TERRITORIAL FACT SHEETS

Introduction

These Fact Sheets note things that are unique to individual provinces and territories relating to the topics in this Guide.

Please note: These fact sheets are intended to provide information that is specific to each province and territory. However, laws change from time to time in every province and territory. This guide is not intended to provide legal advice. If you require specific legal advice, contact a lawyer.

Alberta

NAME OF ACT / REGULATIONS

Cooperatives Act C. C-28.1

Part 18, Division 1 deals specifically with housing co-ops.

<http://www.qp.gov.ab.ca/documents/acts/C28P1.cfm>

Cooperatives Regulation AR 55/2002 Cooperatives

http://www.qp.gov.ab.ca/documents/Regs/2002_055.cfm

Admitting New Members

If the co-op wishes to admit a member who is younger than 18, they must create a bylaw that allows them to do this.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

The Co-op Act imposes special limitations on non-profit housing co-ops. Key limitations, which must be included in the co-op's articles, are:

- the activities of the housing co-op must be carried out without the purpose of gain for its members;
- upon dissolution and after paying its debts and liabilities, the remaining property of the co-op must be transferred, or distributed among, one or more housing co-ops, non-profit organizations or charitable organizations;
- the co-op may not distribute any of its property or pay any money to its members, unless permitted by the Co-op Act;
- the co-op cannot distribute shares or dividends to its members;
- the co-op may only allocate among or credit its members all or part of the surplus arising from the operations of the co-op in a financial year as a patronage return;
- the co-op may not amend its articles to change from a non-profit housing co-op to any other type of co-operative or corporation.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. The articles of a non-profit housing co-op must include:

- the name of the housing co-op (including the term "housing", "mobile home" or "homes" in combination with the word "cooperative", "co-operative", "coop", "co-op" or another grammatical form of any of these words as part of its name) and its address;
- a statement that the primary objective of the co-op is to carry on business as a non-profit continuing housing co-op and to provide housing or housing-related facilities to its members together with ancillary services and facilities to individuals who are:
 - members of the co-op;
 - ordinarily residents in housing units; and
 - occupy the housing unit
- the special limitations that apply to housing co-ops in Alberta (see Co-operative Basis).

Bylaws

Bylaws must be consistent with the Co-op Act. The Co-op Act has restrictions that apply specifically to non-profit housing co-ops. The restrictions address:

- providing members with gains;
- dissolving the co-op;
- paying back any money owed to members.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** no later than 4 months after the end of the **fiscal** year of the co-op.

Voting is usually done by a show of hands, unless five or more members at a general meeting demand a vote by ballot. Proxy voting is not allowed.

Board of Directors

The Co-op Act specifies that a director must:

- be an individual;
- be at least 18;
- is not a dependent adult as defined in the Dependent Adult Act or is the subject of a certificate of incapacity under that Act;
- is not a formal patient according to the Mental Health Act;
- is not the subject of an order under the Mentally Incapacitated Persons Act;
- not be found to be of unsound mind;
- not have declared bankruptcy;
- any other qualification or disqualification as set out in the bylaws.
-

The bylaws of the co-op may also set out the voting process for the election of directors. Elections are normally held at the Annual General Meeting (AGM).

Other: Surplus Allocation

The directors of a housing co-op must set aside not less than 5 per cent of surplus in a reserve fund. However, if the reserve is equal to or more than 20 per cent of the total assets of the co-op, the directors do not have to set aside part of the surplus in a reserve fund.

Offences

A person or co-op is guilty of an offence where that person or co-op disobeys the Co-op Act. A person can be fined up to \$5,000 or liable to imprisonment of no more than 6 months or to both a fine and imprisonment.

A co-op that disobeys the Co-op Act can be fined up to \$25,000.

Eviction/Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

The directors of the co-op can evict a member from the co-op only if:

- The member disobeyed an agreement he or she made with the co-op or disobeyed a bylaw that deals with living in the housing unit or with his or her use of the property, and the member has failed to fix the problem within a reasonable time of receiving a written notice from the co-op to do so;
- The member owes money to the co-op;
- The member has caused significant problems in a shared housing unit; or
- The member has, on more than one occasion, disobeyed the bylaws, even after receiving written notice of the problem by the co-op.

The termination process

Termination begins with a written complaint about a member, his or her family member or a guest of the member, submitted to the board.

The complaint is discussed at a board meeting, at which time it is decided if termination is warranted. If the board decides that termination is necessary, the directors of the co-op must:

- Make a resolution to terminate the member's membership;
- Hold a meeting to discuss and vote on the resolution; and
- Give proper notice to the affected member so that he or she may attend the meeting to discuss the proposed resolution.

The individual whose membership is being considered for termination must have the opportunity to respond to the allegations against him or her. The board must give the member at least 14 days written notice of the meeting and the notice must state:

- the resolution to be considered at the meeting;
- the reasons for evicting the member from the co-op; and
- what the member's appeal options are.

The member can attend the board meeting alone, or with a lawyer or other representative to respond to the resolution.

In order for the resolution to terminate to be carried, the directors must vote at a meeting that was called to consider the termination, and at least 3/4 of the directors must vote in favour of the resolution.

If the directors vote to terminate the member, the member must be given written notice within 7 days after passing the resolution to terminate the member. The directors can give 3 days notice if the member is not allowed to appeal their decision.

Member's right of appeal

A member cannot appeal an eviction if the member:

- failed to pay his or her housing charges or other fees owed to the co-op;
- vandalized or destroyed co-op property;
- engaged in an illegal activity while living in the unit;
- threatened the safety of other co-op members;
- is a physical danger to other co-op members or other residents; or
- disobeyed a bylaw that deals with how a unit is leased to a non-member.

If the member plans to appeal, he or she must file a notice of appeal with the co-op within 7 days of receiving the notice of termination.

The member's appeal must be heard at the next members' meeting. However, the issue may be discussed only if there is a quorum of at least 70 per cent of the members while the issue is being considered.

The member and the board present their case to the membership, and then both parties leave the meeting so that the members can discuss the issue. The members can decide to evict a member only if the member has broken or continuously breaks the share subscription agreement, the articles, the bylaws or the policies of the co-op or any agreements between the member and the co-op.

The members can pass an ordinary resolution, requiring a simple majority, to confirm (support) or quash (overturn) the directors' decision to evict the member. If the members vote against the directors' decision to evict the member, the member can continue to be a member of the co-op.

The member does not have to move from the co-op until a final decision has been made to terminate membership. Once the membership is terminated, the member and his or her family are no longer allowed to live in the co-op. However, if the member refuses to leave, the co-op must obtain a writ of possession (discussed below) to remove the member.

Obtaining a writ of possession to remove the terminated member

If a member refuses to leave after his or her membership has been terminated, the co-op must get a writ of possession to remove the member.

To do this the co-op must:

- make an application for a writ of possession to the Court of Queen's Bench; and
- serve a copy of the application on the evicted member at least 4 days before returning the original application to the court.

The application must explain:

- why the co-op wants the writ of possession; and
- how the terminated member can dispute the application for the writ of possession.

Other laws that may apply

The Residential Tenancies Act does not apply to non-profit continuing housing co-ops and its members, unless and to the extent that the co-op's bylaws make the Residential Tenancies Act apply to the co-op. Therefore, a co-op or a member should read the sections of the bylaws that deal with eviction to determine whether the Residential Tenancies Act applies to their situation.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$25,000.

The co-op can recover costs from a current or past member for:

- occupying the unit after his or her membership has been terminated;
- unpaid housing charges and unpaid utilities;
- damages to the member unit;
- any costs associated with getting vacant possession of the housing unit, including legal costs.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$25,000, the claimant must take the claim to the Court of Queen's Bench and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

Alberta Courts

<http://www.albertacourts.ab.ca/>

Provides links to all of the courts in Alberta

Alberta Human Rights and Citizenship Commission

<http://www.albertahumanrights.ab.ca/>

Provides useful information on how to bring a claim to the commission.

Co-operative Info-Guide

<http://www.cbsc.org/alberta>

Offers general information about co-ops in Alberta such as how to create a co-op and how co-ops are run.

Northern Alberta Co-operative Housing Association (NACHA)

www.nacha.ca

Provides a summary of the co-operative principles and a note on applying for membership in a housing co-op. The general contact information of housing co-ops in Northern Alberta and the dates of information sessions are also listed.

Southern Alberta Co-operative Housing Association (SACHA)

www.sacha-ab.ca

Provides general information about the organization, membership requirements and upcoming events.

Rural Education and Development Association

<http://www.compumart.ab.ca/ruraled/>

This non-profit organization serves agricultural organizations, co-ops and credit unions since 1959.

British Columbia

NAME OF ACT / REGULATIONS

Cooperative Association Act R.S.B.C. 1999, c. C-28.

Part 11, Division 1 deals specifically with housing co-ops.

http://www.qp.gov.bc.ca/statreg/stat/C/99028_01.htm#part11_division1

Cooperative Association Regulation B.C. Reg. 391/2000

http://www.qp.gov.bc.ca/statreg/reg/C/CoopAssn/391_2000.htm

Admitting New Members

If the co-op wishes to admit a member who is younger than 19, they must create a rule that allows them to do this.

Obligations of the Members to the Co-op and of the Co-op to its Members

Co-operative basis

All co-ops are expected to run on a co-operative basis, which means that they must govern their members and make rules following the principles set out in the Co-op Act:

- membership in the co-op is open in a non-discriminatory manner to persons who can use the services of the co-op and have accepted the responsibilities of membership;
- members have only one vote and no member may vote by proxy;
- members may not derive a gain from the co-op; and
- surplus funds arising from the co-op's operation are used:
 - to develop the co-op;
 - to provide or improve services to members;
 - to establish reserves;
 - to community welfare or to spread co-op efforts; and
 - to educate members, officers, staff and the public about co-op principles.

Memorandum of Association

A memorandum of association ("memorandum") is the originating document that creates a housing co-op. A memorandum includes the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op. Members must follow the memorandum of the co-op. Members can vote to make changes to the memorandum by passing a special resolution. A co-op may change its name, location or the number of directors on the board of directors by special resolution.

Rules

Rules must be consistent with the Co-op Act. The Co-op Act has restrictions that apply specifically to housing co-ops and that address:

- dissolving the co-op;
- paying back any money owed to members; and
- issuing shares to members.

Meetings

A housing co-op must hold at least one members' meeting called an annual general meeting (AGM) no later than 4 months after the end of the fiscal year of the co-op.

The co-op can agree to meet more often if permitted by the rules.

The Co-op Act states that the members must be given 14 days notice of an AGM or a general meeting to hear a special resolution. For a general meeting where a special resolution will not be heard, at least 7 days notice must be given to members, unless the members make a rule requiring more than 7 days notice. The notice must state:

- the place;
- the day;
- the hour; and
- in the case of a special resolution, the general nature of the matter to be considered.

Voting is usually done in person unless the rules provide for an alternative method.

Proxy voting is not allowed.

Board of Directors

The Co-op Act sets out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director the legislation specifies that the member must:

- be at least 18;
- be of sound mind;
- not be an undischarged bankrupt;
- not have been convicted of an offence involving fraud or an offence involving the promotion, formation or management of a corporation; and
- meet any other restriction set by the co-op in its rules.

Reserve Fund

The reserve fund must be invested in accordance with the Co-op Act, Co-op Act regulation, operating agreement and any of its rules.

Directors must set aside at least 10 per cent of the co-op's surplus in each fiscal year.

Access to Information

A co-op must allow its members to examine documents of the co-op, excluding confidential documents and in camera minutes of meetings, during regular business hours. The co-op can impose reasonable restrictions on what information can be examined by members.

Offences

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$25,000.

Eviction / Expulsion of Members

Grounds for terminating (evicting) a member from the co-op

A member loses the right to occupy a unit or dwelling in the co-op when his or her membership is terminated.

A co-op can terminate a member's membership for any of the following reasons:

- outstanding housing charges or other money owed to the co-op,
- if the board has reasonable grounds to believe that a member has breached a material condition of the occupancy agreement relating to his or her use of the unit or the co-op's property, or
- if a member has done something that is detrimental to the co-op.

Before the co-op can terminate a member's membership, it must give the member a reasonable amount of time to fix the problem.

The termination process

To remove (evict) a member, the co-op must first terminate the membership of the individual. Once the termination process is complete, if the member fails to vacate the unit then the co-op may obtain an order of possession to remove the member.

The termination process starts with a written complaint about an individual member, or his or her family member or his or her guest. The complaint is discussed at a board meeting and a decision on how to proceed is made by a resolution.

In most circumstances the co-op must first give the member written notice explaining the situation and demanding that the member rectify the problem. However, if the grounds for termination are conduct detrimental to the co-op, the co-op can choose to send a notice to fix the problem or a notice of eviction.

If the problem continues, the next step is for the board to consider the termination of membership. In this case, the board must send another notice to the member stating that the board plans to meet to decide on whether to terminate the member's membership.

The member who is facing termination must be given proper notice and the opportunity to respond to the allegations against him or her. The board must give the member at least 7 days written notice of the meeting. The notice can be sent by ordinary mail, delivered in person, or as otherwise stated in the rules. Notice of the meeting must state:

- a. the resolution to be considered at the meeting,
- b. the reason for evicting the member from the co-op,
- c. the date, time and place of the directors' meeting,
- d. how the member may appeal any decision to evict him or her from the co-op, and
- e. that the member can attend the board meeting alone, or with a lawyer or someone else.

After meeting with the member, the board may still decide to evict the member by passing a resolution to that effect. In order for the resolution to terminate to be carried, at least 3/4 of all directors (not just 3/4 of those present at the meeting) must vote in favour of terminating the member. (For example, if a co-op has 8 directors, at least 6 directors must vote in favour of termination.) Therefore, it is possible to have a quorum of directors at the meeting and still not have enough directors present to vote to evict a member from the co-op.

Following the meeting to consider the termination of a member's membership, the co-op must notify the member of the outcome, in writing, within 7 days.

The notice should also state the date by which the unit must be vacated. The co-op must give the member a reasonable amount of time to leave, usually 1 month.

The co-op must send this notice the same way it sent the first notice of the meeting to consider the resolution to evict the member.

Member's right of appeal

The member has 7 days to appeal from the date he or she received the notice of termination. The member must file a notice of appeal with the co-op. The appeal will be heard at:

- the next general members' meeting; or
- a special members' meeting called by the directors to hear the appeal.

The member does not have to move from the co-op until a final decision is made.

The member can attend the members' meeting alone or with a lawyer or other representative.

The members can pass an ordinary resolution, requiring a simple majority, to confirm or overturn the directors' decision to evict the member. If they vote against the directors' decision to evict the member, then the member can continue to be a member of the co-op. The member does not have to move from the co-op until a final decision has been made to evict the member from the co-op.

The co-op rules may require more than a simple majority of votes, if the member is being evicted for:

- not paying housing charges or other money owed to the co-op; or
- breach of a material condition of the occupancy agreement.

The co-op must promptly give written notice to the member of its decision to evict. The notice must tell the member that he or she may appeal the decision to the BC Supreme Court within 30 days from the date of receipt of the eviction notice.

The member is no longer considered to be a member of the co-op once the members decide at the general meeting to terminate the membership. The member loses his or her rights and responsibilities as a member. The member may stay in the unit if he or she appeals the co-op's decision to the BC Supreme Court. The member must continue to comply with the occupancy agreement or lease that he or she has with the co-op.

The member must use the proper forms of the BC Supreme Court to appeal the members' decision to evict the member.

The appeal can be on the following grounds:

- the principles of natural justice were not followed;
- the decision to evict is not based on the facts; or
- the decision to evict does not follow the steps for evicting a member as set out in the Co-op Act.

If the member appeals the decision to evict to the BC Supreme Court, the co-op can give its reasons for the decision to evict at a new hearing in court, called an appearance.

A member who decides to appeal the eviction to the court can ask the co-op to issue a cheque payable to the BC Supreme Court Registry to cover the cost of court fees. The request must be made in writing and must be given to the co-op within 10 days from the date that the member received the members' decision to evict the member.

If this request is made on time, the co-op must pay the fees unless the member owes money to the co-op. If money is at issue between the co-op and the member, the court may require the member to pay the filing fee on his or her own. The court does not refund the fee. If the court agrees with the co-op's decision to evict the member, the co-op is allowed to recover the cost of the fee from the member.

The member or co-op can appeal a decision of the BC Supreme Court to the Court of Appeal if a judge allows it. The member can remain in the unit until the court gives an order to move from the co-op.

Obtaining an order of possession to remove the terminated member

If the member has been evicted from the co-op but does not leave the unit, the co-op may apply to the BC Supreme Court for an order of possession. An order of possession lets the co-op take over the unit.

The court will listen to any information given by the member and the co-op. The court will also consider any other information it thinks is important. Before giving the order, the court must be satisfied that the co-op followed the principles of natural justice; otherwise the court may decide not to give the order of possession to the co-op.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$10,000.

The co-op can recover from a current or past member any money owed to the co-op.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$10,000, the claimant must take the claim to the Supreme Court and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

BC Housing

<http://www.bchousing.org/>

BC Housing is a government agency. Provides extensive information on the government's social housing programs (commonly known as affordable housing programs) for low-income families.

BC Human Rights Tribunal

<http://www.bchrt.bc.ca/>

Provides useful information on how to bring a claim to the commission.

BC Non-Profit Housing Association

<http://www.bcnpha.bc.ca/>

Provides information about the organization and its services.

Courts of British Columbia

<http://www.courts.gov.bc.ca/>

Provides links to all of the courts in British Columbia.

Co-operative Housing Federation of British Columbia (CHF BC)

<http://www.chf.bc.ca/>

The website of CHF BC, a co-operative association whose members are housing co-ops and related organizations in British Columbia.

Effective Governance for BC Coops: Guide to the Co-operative Act

<http://www.chf.bc.ca/pdf/coopactguide.pdf>

Published in April 2003, this comprehensive study covers such topics as membership, directors, meetings, voting at meetings, auditors and records as they relate to housing co-ops in British Columbia.

BC Cooperative Association

<http://www.ccabc.bc.ca/>

Website of one of the British Columbia affiliate of the CCA. Provides information about the association and how to become a member of the association,

Manitoba

NAME OF ACT / REGULATIONS

The Cooperatives Act CCSM c.C223

Part 12 deals specifically with housing co-ops.

<http://web2.gov.mb.ca/laws/statutes/ccsm/c223e.php>

Cooperatives Regulation C223-M.R. 95/99

Part 3 deals specifically with housing co-ops.

<http://web2.gov.mb.ca/laws/regs/pdf/c223-095.99.pdf>

Cooperatives Regulation, amendment Regulation 81/2002

<http://web2.gov.mb.ca/laws/regs/2002/pdf/081-c223.02.pdf>

Cooperative Regulation, amendment Regulation 150/2003

<http://web2.gov.mb.ca/laws/regs/2003/pdf/150-c223.03.pdf>

The Residential Tenancies Act, CCSM c. R119

[http://web2.gov.mb.ca/laws/statutes/ccsm/r119e.php#157\(2\)](http://web2.gov.mb.ca/laws/statutes/ccsm/r119e.php#157(2))

Landlord/tenant legislation applies to housing co-ops in only one situation. Specifically, when a member's right to possess and occupy a unit in a housing co-op has been terminated and he or she does not move out of the unit, the co-op must apply for an order of possession. The Residential Tenancies Act of Manitoba sets out the steps for getting an order of possession.

Admitting New Members

The process for admitting new members is set out in the co-op's by-laws.

If the co-op wishes to admit a person who is 16, they must create a by-law that allows them to do this.

Unless the bylaws state otherwise, a person becomes a member of the co-op once:

- his or her application for membership is approved by the board or a committee that has the authority to approve the application;
- he or she has paid a membership fee; and
- he or she meets all other conditions set out in the by-laws.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means that they are organized and operated and carry on business in the following way:

- open membership in a non-discriminatory manner to persons who can use the services of the co-op and have accepted the responsibilities of membership;
- each member has only one vote;
- surplus funds arising from the co-op's operation are used:
 - to develop the co-op;
 - to provide or improve services to members;
 - to establish reserve funds; and

- for community welfare or to spread co-op efforts;
- to educate its members, officers, staff and the public about co-op principles and techniques.

Special limitations apply to not-for-profit housing co-operatives. Key limitations include:

- that they cannot issue investment shares;
- in each year, they must conduct 90 per cent of their business with their members;
- they cannot be continued under any other laws or jurisdiction;
- they may not amend their articles to change from a not for profit housing co-op to any other form of co-op; and
- upon dissolution, once all debts and liabilities have been paid, the remaining property must be transferred to or distributed among:
 - one or more housing co-ops;
 - other co-ops with similar objectives and limitations; or
 - charitable organizations with similar purposes.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op; and must state that the business of the co-op is restricted to providing housing to its members.

The articles of a not-for-profit co-op must include the words:

- "non-profit";
- "not for profit";
- "not-for-profit".

Members must adhere to the articles of the co-op. Members can vote to make changes to the articles by passing a **special resolution**. The Co-op Act sets out what changes can be made by the members. For example, members can vote to amend the name of the co-op subject to the above restrictions.

By-laws

The Co-op Act provides a framework for housing co-ops to create by-laws. Housing co-op by-laws must address:

- the payment of housing charges;
- how disputes between members, or between members and the co-op, will be handled;
- the maintenance of adequate reserve funds and insurance to protect the co-op from loss;
- how the co-op will pay any money owed to a member if:
 - the member withdraws his or her membership;
 - the member has been evicted from the co-op; or
 - the co-op is dissolved; and
- the process for setting-off or collecting any money owed to the co-op by a member.

The co-op may also make a by-law to allow its directors to create a system for providing subsidies for housing charges to its members, and other rules relating to the occupancy of a housing unit. Directors must treat all members in a fair and equal manner when administering these rules.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting**

(AGM) no later than 18 months after the co-op is formed and no later than 15 months after the first meeting, and every year thereafter.

It is important that the co-op give members enough notice of the meeting. Directors can set how much notice of the meeting must be given to members.

Board of Directors

The board of directors is the elected representative of the members. Members vote to elect a board of directors from the general membership. The Co-op Act sets out who can sit on the board of directors and the process for electing members to the board of directors. Essentially, to be a director, the legislation specifies that a director must:

- be an individual;
- be at least 18;
- be of sound mind;
- not have an undischarged bankruptcy; and
- any other qualification or disqualification set by the co-op in its bylaws, subject to human rights laws.

Elections are held at the AGM. Members vote by a show of hand or by secret ballot if there are more candidates than there are positions on the board of directors.

Offences

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$5,000.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

In evicting a member, the co-op must first terminate the membership of the individual. If the individual fails to vacate the unit, the co-op may then obtain an order of possession.

The termination process

The termination process starts with a written complaint about an individual member to the board.

The complaint is discussed at a board meeting and a decision on how to proceed is made by a resolution.

If the board decides that termination is necessary, the directors of the co-op must:

- Make a resolution to terminate the member's membership.
- Hold a meeting to discuss and vote on the resolution.
- Give proper notice to the affected member so that he or she may attend the meeting to discuss the proposed resolution.

In addition to the notice, the co-op must give the member:

- a notice informing the member of his or her right to appeal the decision of the board; and
- a copy of the notice of appeal in the form approved by the Registrar under the Co-op Act.

The individual whose membership is being considered for termination must have the opportunity to respond to the allegations against him or her. The board must give the member at least 7 days written notice of the meeting and the notice must state:

- the resolution to be considered at the meeting;
- the reasons for evicting the member from the co-op; and
- how the member may appeal the decision to evict him or her from the co-op.
-

The member can go to the meeting alone or with an agent or lawyer to defend against the eviction.

In order to evict the member, the directors must pass a special resolution. If the directors vote to terminate the member's membership, the directors must give the member written notice that his or her membership has been terminated within 7 days of the vote. Notice must be delivered:

- by pre-paid ordinary mail addressed to the person at his or her latest address shown in the cooperative's records; or
- by delivering the notice to that address.

Member's right of appeal

The member has 7 days, excluding weekends and holidays, from the date he or she received the notice of his or her membership termination to submit a written notice of appeal to the Registrar under the Co-op Act. The appeal must set out the reasons why the resolution should be set aside.

Once the Registrar receives a notice of appeal, the Registrar must immediately notify the co-op; and the member and the co-op must give written submissions to support their positions to the Registrar within seven days from the date they received notice of the appeal.

An appeal tribunal consisting of co-op members is created to hear the matter within 14 days, excluding weekends and holidays, from the date the Registrar received the notice of appeal. The Registrar will provide the panel with written submissions of the member and the co-op. The member and the co-op will also get a copy of each other's submissions.

The appeal hearing is a closed hearing, which means that only the member, the board, and their lawyers or representatives, and witnesses of the parties can attend the hearing. No one is permitted to record the hearing electronically, but the parties and the members of the appeal panel may take notes.

First, the co-op, or its counsel, will present its arguments. The co-op must give its reasons for terminating the member's membership and may call witnesses to support its position.

Next the member, or his or her counsel, must give reasons why the membership should not be terminated and may call witnesses to support this position.

Each party to an appeal may cross-examine the other party or any of the witnesses of the other party. The appeal panel may also choose what evidence to accept and to ask questions of the parties and the witnesses.

When making its case to the panel, the co-op must demonstrate that:

- it provided the member with at least 7 days notice of the meeting to consider the termination of membership;
- the member was given the reasons for the termination; and
- the member knows that he or she is entitled to appear at the meeting, either personally or by or with an agent or a lawyer, and to make submissions at the meeting.

The panel will decide whether the decision to terminate the membership complied with the bylaws regarding termination of membership and whether the actions or conduct of the member, or of other persons living with the member, constitute sufficient grounds under the co-op bylaws for terminating the membership.

The panel can confirm or set aside the directors' decision to terminate the membership and must, within 7 days, excluding weekends and holidays, after hearing of the appeal, give its decision to the Registrar, the member, and the co-op.

The panel will set aside the directors' decision to terminate a membership if it finds that the co-op failed to follow the required process.

The member continues to be a member of the co-op until the termination of the membership is confirmed by the appeal tribunal.

The decision of the appeal tribunal is final. A terminated member can be re-admitted to the co-op only by a special resolution of the members.

Obtaining an order of possession to remove the terminated member

If the terminated member does not vacate the unit, the co-op can apply to the Residential Tenancies Branch of the Consumer and Corporate Affairs Division of Manitoba Finance for an order of possession. An order of possession permits the co-op to take over the unit and is generally granted if the member:

- did not pay housing charges on time;
- did not maintain the housing unit in a clean condition;
- did not repair any damages caused to the unit or complex by the tenant or the tenant's guests;
- endangered the safety of others;
- disturbed others;
- did not comply with reasonable terms and conditions of an occupancy agreement;
- did not move out after giving notice; or
- gave false or fraudulent information on their membership application.

The decision of the Residential Tenancies Branch can be appealed to the Court of Appeal.

Collecting Money Owed

In Manitoba, co-ops treat all moneys payable by the member as a debt owed to the co-op. This means that the co-op can use any money that it has on deposit for the member until the member's debts to the co-op are paid off. If the member leaves the co-op, he or she is still required to pay all arrears. The by-laws of the co-op give the co-op the right to recover any money owed by the member to the co-op.

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$7,500.

The co-op can recover from a current or past member:

- any money owed; and
- charges related to occupation of the unit after his or her membership has been terminated.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$7,500, the claimant must take the claim to the Court of Queen's Bench and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

CHFC's Manitoba office

http://www.chfc.ca/eng/chf/feds_4_1.htm

Provides general information about CHF Manitoba's office.

Manitoba Courts

<http://www.manitobacourts.mb.ca/>

Provides links to all the courts in Manitoba.

The Manitoba Human Rights Commission

<http://www.gov.mb.ca/hrc/english/>

Provides information on bringing a complaint under the human rights code.

Manitoba Family Services and Housing

<http://www.gov.mb.ca/fs/index.html>

Information on the resources and services available to housing co-ops, including brief overviews of the program, the eligibility criteria and contact information, for:

Complementary Assistance Program

<http://www.gov.mb.ca/fs/housing/cap.html>

Index-Linked Mortgage Co-operative Housing Program

<http://www.gov.mb.ca/fs/housing/ilmcoophousing.html>

Co-operative Housing Program

<http://www.gov.mb.ca/fs/housing/coophousing.html>

Manitoba Cooperative Council Inc. (MCCI)

<http://www.coopcouncil.mb.ca/>

This is the provincial association of co-operative organizations.

New Brunswick

NAME OF ACT / REGULATIONS

Co-operative Associations Act c. C-22.1

The Co-op Act does not have a section that specifically addresses housing co-ops.

<http://www.gnb.ca/0062/acts/acts/c-22-1.htm>

Co-operative Associations Act Reg. 82-58 (O.C. 82-289)

<http://www.gnb.ca/0062/regs/82-58.htm>

Landlord and tenant legislation does not apply to housing co-ops.

Admitting New Members

The process for admitting new members is set out in the co-op's bylaws.

A person will become a member of a co-op once:

- his or her application for membership is approved by the board of directors; and
- he or she has paid a membership fee on such terms and conditions as set out in the bylaws.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means they are organized, operated and administered according to the following principles:

- each member has one share;
- each member has only one vote;
- no member may vote by proxy; and
- the co-op operates as closely as possible at cost and any surplus is used for:
 - the maintenance or improvement of services to its members;
 - community welfare; or
 - the spread of co-operative principles to members of the co-op.

Letters of Incorporation

Letters of incorporation ("letters") are the originating documents that create a housing co-op. Letters include the name of the housing co-op (including the word "Co-operative" as part of its name and the word "Limited" or the contraction (Ltd.) as the last word in its name) and the names and addresses of the founding members of the co-op. Members must follow the letters of the co-op.

Bylaws

A copy of the bylaws must be given to the members upon demand. Members can make changes to the bylaws, subject to the approval of the Inspector, who is appointed by the Lieutenant-Governor in Council.

Meetings

A housing co-op must hold at least one member's meeting called an **annual general meeting (AGM)** no later than 4 months after the end of the **fiscal** year of the co-op.

The co-op must keep a record, known as minutes, of all of the discussions that take place at a meeting. Minutes are normally in writing.

Board of Directors

Members who are at least 16 years of age vote to elect a board of directors from the general membership. The Co-op Act regulations and bylaws set out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director, the legislation specifies that the member must:

- be at least 16 years of age; and
- any other qualification as set out in the by-laws.

Elections are normally held at the AGM. A director serves for a term of 3 years. The terms of directors are staggered so that not all director positions are newly filled at one time.

Access to Information

The minutes of any annual or special meeting of a co-op must be kept at the co-op's office. The office must be open at least two hours in each business day for the inspection of the minutes by any member without charge.

Offences

An individual that is guilty of an offence under the Co-op Act can be fined up to \$2,500.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$5,000.

Eviction / Expulsion of Members

Grounds for terminating (evicting) a member from the co-op

The board of directors can evict a member from the co-op if the member breaks a co-op regulation, contract or by-law, which may include:

- late payment of housing charges; or
- being deemed unfit for membership.

The termination process

The co-op creates its own bylaws for evicting a member.

The board sends a notice of eviction to the member by registered mail. The notice of eviction must set out:

- why the member is being evicted; and
- the date of the eviction, which cannot be earlier than one month from the date that the notice was mailed to the member.

Member's right to appeal

The member can, any time before the eviction date, ask the board of directors to place the matter on the agenda for the members to consider during the next special or annual meeting of the members. The member can attend the meeting to explain why he or she should not be evicted from the co-op. The decision of the members is final.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$6,000.

The co-op can recover from a current or past member any money owed to the co-op.

The co-op can use a member's deposit to off-set the member's debt.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$6,000, the claimant must take the claim to the Court of Queen's Bench and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

New Brunswick Business Service

http://www.cbasc.org/nb/english/display.cfm?code=7147&coll=NB_PROVBIS_E

Addresses the principles and objectives of co-operatives and how they are formed.

Brunswick Co-operative Housing (BRUNCH)

http://www.chfc.ca/eng/chf/feds_1_4.htm

Provides general information about BRUNCH.

New Brunswick Human Rights Commission

<http://www.gnb.ca/hrc-cdp/e/>

Explains how to bring a complaint to the commission.

Newfoundland and Labrador

NAME OF ACT / REGULATIONS

Co-operatives Act S.N.L. c. C-35.1
Part 20 deals specifically with housing co-ops.
<http://www.gov.nf.ca/hoa/statutes/C35-1.htm>

Co-operative Societies Regulation under the Co-operative Societies Act (O.C. 96-288)
<http://www.gov.nl.ca/hoa/sr/>

Landlord and tenant legislation does not apply to housing co-ops. The Co-op Act of Newfoundland and Labrador states that landlord and tenant legislation cannot be used to determine the rights, responsibilities and obligations between housing co-ops and its members, particularly in the following areas:

- units of the housing co-op that members live in;
- the amount of housing charges to be paid by members; and
- the eviction of members.

Admitting New Members

Co-ops in Newfoundland and Labrador set the process for admitting new members in their by-laws. Membership is open to individuals who are willing to accept the responsibilities of living in a co-op.

If the co-op wishes to admit as a member a person who is younger than 19, it must create a by-law that allows this.

Typically, a person becomes a member of the co-op once:

- his or her application for membership is approved by the board; and
- he or she agrees to follow the bylaws dealing with membership, usually by signing an occupancy agreement.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means they are organized, operated and administered according to the following principles:

- each member has one share;
- each member has only one vote;
- no member may vote by proxy; and
- the co-op operates as closely as possible at cost and any surplus is used to:
 - develop the co-op;
 - provide or improve services to members; and/or
 - establish reserves.

Articles of Incorporation

Articles of incorporation ("articles") are the originating documents that create a housing co-op.

Articles include the name of the housing co-op (including the word "Co-operative" in its name) and the address of the co-op. Members must follow the articles of the co-op.

Bylaws

Bylaws must be consistent with the Co-op Act. The Co-op Act has restrictions that apply specifically to housing co-ops. The restrictions address:

- that the co-op's purpose must be to provide non-profit housing accommodations to its members;
- that members cannot derive a financial gain from the co-op; and
- how money owed to a member must be paid back.

The members of a housing co-op vote to accept the bylaws or to make changes to the bylaws.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** no later than 4 months after the end of the **fiscal** year of the co-op.

The Co-op Act states that the co-op must give members at least 10 days, but not more than 30 days, notice of a general meeting. Notice should state:

- time; and
- where applicable, the purpose of a special meeting.

Board of Directors

Members who are at least 16 years of age vote to elect a board of directors from the general membership. The Co-op Act regulations and bylaws set out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director, the legislation specifies that the member must:

- be at least 19 years of age; and
- have any other qualification as set out in the by-laws.

Elections are normally held at the AGM. The terms of directors are staggered so that not all director positions are newly filled at one time. Voting is usually done by a show of hands or by secret ballot if there are more persons running for positions than the number of positions available on the board of directors. Proxy voting is not allowed.

The board of directors must hold its first meeting within 30 days after the annual general meeting at which they were elected.

Access to Information

A housing co-op must allow its members to examine documents of the co-op except where the documents are considered by the board of directors to be confidential.

Offences

An individual that is guilty of an offence under the Co-op Act can be fined up to \$5,000, face imprisonment for a term of no more than 6 months, or both.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$25,000.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

The termination process

The co-op will have bylaws that describe how a member is to be evicted from a co-op. The co-op must first terminate the membership of the individual that they wish to remove. If the individual fails to vacate the unit, the co-op may obtain an order for possession from the Trial Division court.

The terminating process starts with a written complaint about an individual member, his or her family or a guest. This complaint is discussed at a board meeting and the decision on how to proceed is made by a resolution.

If the board decides that termination is necessary, the directors of the co-op must:

- make a resolution to terminate the member's membership;
- hold a meeting to discuss and vote on the resolution; and
- give proper notice to the member.

For a resolution to pass, 3/4 of all elected directors (not just 3/4 of the directors present at the meeting) must vote in favour of termination. It may be possible to have a quorum of directors at the meeting and still not have enough directors present to pass a motion of termination.

The member must get at least 14 days notice of the meeting along with the reasons for the termination. The member can go to the meeting to explain why his or her membership should not be terminated.

If the resolution to terminate the member passes, the co-op must give the member written notice of termination, in the same manner they gave notice of the meeting to consider the termination, within 7 days after the passing of the resolution to terminate the member. The termination takes effect 30 days after the member receives the notice of termination.

Member's right of appeal

The member has 7 days from the date he or she received the notice of termination to appeal the decision. The member must file a notice of appeal with the co-op.

The appeal must be heard at the next general members' meeting. The member does not have to move from the co-op until a final decision is made. The member who is appealing the termination is allowed to attend the general meeting alone or with a lawyer or an agent.

The members must follow the principles of natural justice when deciding whether to terminate a member. The members can pass an ordinary resolution, requiring a simple majority, to confirm (support) or quash (overturn) the directors' decision to terminate the member. The co-op can make a by-law that a resolution requires more than a majority to confirm or quash the directors' decision.

If members quash the directors' decision to terminate, the member can continue to be a member of the co-op.

The co-op must promptly give written notice to the member of its decision to terminate. The member is no longer considered to be a member of the co-op once the members decide at the general meeting to terminate the membership. When this happens the member loses his or her rights and responsibilities as a member.

Obtaining an order of possession

If the terminated member does not leave the unit, the co-op may apply to the court for an **order of possession**. An order of possession lets the co-op take over the unit. The court may also make the following orders:

- for payment of arrears of housing charges,
- for payment of charges for living in the unit up to the day the co-op recovers the unit from the member, and
- to remove the member's belongings from the unit.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$3,000.

The co-op can recover costs from a current or past member related to:

- unpaid housing charges;
- compensation for use and occupation of the unit to the date the co-op regained the unit; and
- removing the member's belongings from the unit.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$3,000, the claimant must take the claim to the Trial Division and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

CHFC - CHANAL

http://www.chfc.ca/eng/chf/feds_1_1.htm

Provides general information about the co-op housing association of Newfoundland and Labrador.

Canada Business Service Centres – Newfoundland Co-operatives

<http://bsa.cbasc.org/gol/bsa/interface.nsf/engdoc/5.6.6.html>

This government website compares co-operatives with other business structures and discusses how co-operatives are formed

Newfoundland – Labrador Federation of Co-operatives (NLFC)

<http://www.nlfc.nf.ca/>

This is the provincial organization that represents co-operatives in Newfoundland and Labrador.

Human Rights Commission Newfoundland and Labrador

<http://www.gov.nf.ca/hrc/>

Explains how to bring a complaint to the commission.

Northwest Territories

NAME OF ACT / REGULATIONS

Co-operative Associations, R.S.N.W.T. 1988, c. C-19

The Co-op Act does not have a section that deals specifically with housing co-ops.

<http://www.canlii.org/nt/sta/pdf/type59a.pdf>

Co-operative Associations Fees Regulation RRNWT 1990, c. 2 (Supp.)

<http://www.canlii.org/nt/regu/pdf/REG508.pdf>

Co-operative Associations Standard By-laws R.R.N.W.T. 1990, c. C-17.

<http://www.canlii.org/nt/regu/pdf/REG050.pdf>

Admitting New Members

The process for admitting new members is set out in the co-op's by-laws.

Unless the bylaws provide otherwise, a person who has reached the age of 16 years may be a member.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board; and
- he or she has complied with the by-laws governing admission of members.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

The Co-op Act does not state that housing co-ops must run on a co-operative basis.

Memorandum of Association

The memorandum of association ("memorandum") is the originating document that creates a housing co-op. The memorandum includes the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op.

Members must follow the memorandum of the co-op. Members can vote to make changes to the memorandum by passing an **extraordinary resolution**, subject to the approval of the Supervisor of Co-operative Associations.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** following the end of each fiscal year of the co-op.

Board of Directors

The Co-op Act sets out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director, the member must:

- be at least 19 years of age.

The board of directors meet at least once every three months.

Offences

An individual that is guilty of an offence under the Co-op Act can be fined up to \$500, be imprisoned for no more than 2 months, or both.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$1,000.

Eviction / Expulsion of Members

Grounds for terminating (evicting) a member from the co-op

A co-op can evict a member for failing to obey the Co-op Act or its bylaws.

The termination process

The co-op by-laws set out how a member can be evicted from a co-op.

Typically, the termination process starts with a written complaint about an individual member, his or her family member or guest. A special general meeting of the members is called to consider the termination.

The individual whose membership is being considered for termination must have an opportunity to respond to the allegations made against him or her. The co-op must give the member notice of the meeting, and an opportunity to attend the meeting to respond to the proposed termination.

The member can attend the meeting alone or with a lawyer or other representative to respond to the resolution.

In order for the resolution to terminate to be carried, at least 2/3 of the members present at the special general meeting must vote in favour of the eviction.

Member's right to appeal

The bylaws will state:

- whether the member has a right to appeal; and
- if so, how he or she may appeal the members' decision to evict.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$5,000.

The co-op can recover money owed to it by a current or past member.

Accepting payment of arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$5,000, the claimant must take the claim to the Supreme Court and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

The Northwest Territories Housing Corporation

<http://nwthc.gov.nt.ca>

Provides general information about housing programs in NWT.

Northwest Territories – Co-operatives

<http://bsa.cbasc.org/gol/bsa/interface.nsf/engdoc/6.6.6.html>

Provides information on how co-operatives are formed in the Northwest Territories.

Northwest Territories Human Rights Commission

<http://www.assembly.gov.nt.ca/HumanRightsAct.html>

Provides information on recently enacted human rights legislation in the Northwest Territories. The Human Rights Act replaces the previous Fair Practices Act.

Nova Scotia

NAME OF ACT / REGULATIONS

Co-operative Associations Act R.S.N.S. 1989, c. 98.

Housing co-ops are addressed in section 61.

<http://www.canlii.org/ns/sta/csns/20030618/r.s.n.s.1989c.98/whole.html>

Co-operative Associations Regulations, N.S. Reg. 155/78

<http://www.canlii.org/ns/regu/rns/20030618/n.s.reg.155-78/whole.html>

Residential Tenancies Act, R.S.N.S. 1989, c. 401.

<http://www.canlii.org/ns/sta/csns/20030618/r.s.n.s.1989c.401/whole.html>

Residential Tenancies Regulations, N.S. Reg. 190/89.

<http://www.canlii.org/ns/regu/rns/20030618/n.s.reg.190-89/whole.html> Co-operatives Associations Act,

Housing co-ops must also follow the landlord and tenant law of Nova Scotia as set out in the Residential Tenancies Act. The Residential Tenancies Act deals with:

- the rights, responsibilities and obligations of housing co-ops and its members;
- occupancy agreement requirements;
- restrictions on increases to housing charges;
- deposits; and
- how to evict a member.

The Residential Tenancies Board, the body that hears landlord and tenant matters, will not become involved in a dispute between a co-op and its member, if the dispute can be dealt with under the by-laws of the co-ops. This is because the relationship between a co-op and its members is contractual. The member agrees to follow the by-laws of the co-op when he or she became a member of the co-op.

A housing co-op or its member can have the Residential Tenancy Board deal with matters that cannot be dealt with successfully within the co-op. For example, although a housing co-op can increase the housing charge paid by a member, the increase cannot exceed the amount permitted under the Residential Tenancies Act.

For more information on Nova Scotia's residential tenancy legislation please visit *Your Guide to Renting a Home: Nova Scotia Fact Sheet*.

Admitting New Members

The process for admitting new members is set out in the co-op's by-laws.

A person becomes a member once:

- his or her written application is approved by the board of directors; and
- he or she has paid a membership fee.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means they are organized, operated and administered according to the following principles:

- each member has only one vote;
- no member may vote by proxy;
- the co-op operates as closely as possible at cost and any surplus is:
 - used to maintain or improve the services to its members;
 - donated for community welfare; or
 - used to spread co-operative principles.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op.

Members must follow the articles of the co-op. Members can make changes to the articles by passing an **extraordinary resolution**, subject to the approval of the province's Inspector of Co-operative Associations. A co-op may change its name, location or the number of directors on the board of directors by special resolution.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting** no later than 4 months after the end of the **fiscal** year of the co-op.

Access to Information

A housing co-op must allow its members to examine documents of the co-op, excluding confidential documents and minutes of in-camera meetings, free of charge.

Offences

If a person fails to give an Inspector under the Co-op Act any book or document or fails to answer any questions relating to the business of the co-op, then he or she can be fined up to \$100.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$5,000.

Other: Landlord and Tenant Legislation

Housing co-ops must also follow the Residential Tenancies Act which is the law that governs landlord and tenant relations in Nova Scotia.

Landlord and tenant legislation sets out the obligations of the housing co-op to provide members with a copy of the bylaws of the housing co-op and a signed occupancy agreement, where applicable, and to maintain the premises in a good state of repair. Members are also entitled to quiet enjoyment of their unit. The co-op must also provide members with notice of any increase to the housing charge.

Members are obligated under landlord and tenant legislation to pay their housing charges on time.

Your Guide to Renting a Home provides an overview of how the Residential Tenancy Act affects landlords and tenants. Please visit the Nova Scotia fact sheet for information on landlord and tenant legislation in Nova Scotia:

http://www.cmhc.ca/en/bureho/reho/yogureho/fash/fash_006.cfm

Eviction / Expulsion of Members

Grounds for terminating (evicting) a member from the co-op

A member may be evicted from the co-op for disobeying a regulation or by-law of the co-op.

The termination process

The co-op must first terminate the membership of the individual that they wish to evict. It may then remove the individual from the unit.

The termination process starts with a written complaint to the board about an individual member. At a board meeting the board discusses the complaint and decides how to proceed.

Generally, the board must give the member written notice explaining the situation and demanding that the member rectify the problem by a specified date.

If the problem continues, the board must send another notice to the member. The notice should state:

- that the directors plan to meet to decide on whether to terminate the member;
- the date of the meeting;
- the proposed date of the eviction; and
- the reasons for the eviction.

The notice is sent by registered mail to the member's last known address.

The meeting must be held at least one month from the date that the notice was mailed to the member.

The individual whose membership is being considered for termination must be given an opportunity to respond to the allegations against him or her. The member may choose to speak on his or her own behalf or to be represented by a lawyer or an agent.

Member's right to appeal

If the board decides to evict the member, the board must give the member notice of its decision to evict. After the member receives the notice, the member can ask the board to place the matter on the agenda for the members to consider during the next special or general meeting of the members. The member may do this at any time before the eviction date.

The member who is appealing the termination is allowed to attend the general meeting alone or with a lawyer or an agent. The member has the right to give reasons why he or she should not be evicted.

The members must vote whether or not to evict the member. Their decision is final and the member has no further appeal mechanisms within the co-op. However, because landlord and tenant legislation applies to co-ops the member or the co-op can appeal the members' decision to the Residential Tenancies Program. To do this they would file an Application to Director along with an application fee. A hearing is scheduled and the other party must be served with copies of the application and the notice of hearing. Once the other party is served, an Affidavit of Service must be filed with the Residential Tenancies Program as proof of service.

The parties can agree to settle the matter through mediation once they have been served with the notice of hearing. Mediation is an alternative way to solve a problem between the co-op and a member, but both parties have to agree to mediation. If a settlement or agreement is made between the parties, Minutes of Settlement are drafted and signed by the parties, and no hearing takes place.

Each party must prepare for the hearing and is permitted to present evidence to support its case. The hearing is heard by a Residential Tenancy Officer, who will issue a decision within 14 calendar days of the hearing.

The losing party can appeal to the Small Claims Court the decision of the Residential Tenancy Officer within 10 calendar days of the date of the Director's Order.

When a member is evicted, the co-op must return any money owed to the member, less any amount that the evicted member owes to the co-op.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$10,000.

The co-op can recover from a current or past member any money owed to the co-op. Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$10,000, the claimant must take the claim to the Supreme Court and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

Nova Scotia CBSC - Co-operatives Info-Guide

<http://www.cbsc.org/ns>

Provides an overview of co-operatives and how they are formed in Nova Scotia.

Nova Scotia Co-operative Council

<http://www.nscouncil.ns.ca/>

This is the provincial development arm of the co-operative and credit union system.

Nova Scotia Human Rights Commission

<http://www.gov.ns.ca/humanrights/default.htm>

Provides information on how to bring a human rights complaint to the commission.

Service Nova Scotia – Residential Tenancies – For Nova Scotia

<http://www.gov.ns.ca/snsmr/consumer/resten/>

This website is part of Service Nova Scotia and Municipal Relations website dealing with the Residential Tenancies program. Provides answers to frequently asked questions, forms and contact information.

The Courts of Nova Scotia

<http://www.courts.ns.ca/>

Provides links to courts in Nova Scotia.

Nunavut

NAME OF ACT / REGULATIONS

Co-operative Associations Act (Nunavut), R.S.N.W.T. 1988, c. C-19.

The Co-op Act does not have a section that deals specifically with housing co-ops.

http://www.nunavutcourtofjustice.ca/library/consolidated/1999_CSNu_037_Cooperative_Associations.pdf

Co-operative Associations Fees Regulation, R.R.N.W.T. 1990, c. 2 (Supp.) as amended.

<http://www.canlii.org/nu/regu/cons/pdf/Reg508.pdf>

Co-operative Associations Standard By-laws, R.R.N.W.T. 1990, c. C-17 as amended.

<http://www.canlii.org/nu/regu/cons/pdf/Reg050.pdf>

Admitting New Members

The process for admitting new members is set out in the co-op's bylaws.

Unless the bylaws provide otherwise, a person who has reached the age of 16 years may be a member.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board; and
- he or she has complied with the by-laws governing admission of members.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

The Co-op Act does not state that housing co-ops are expected to run on a co-operative basis.

Memorandum of Association

The memorandum of association ("memorandum") is the originating document that creates a housing co-op. The memorandum includes the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op. Members must follow the memorandum of the co-op. Members can vote to make changes to the memorandum by passing an **extraordinary resolution**, which is subject to the approval of the Supervisor of Co-operative Associations.

Meetings

A housing co-op must hold each year at least one members' meeting called an **annual general meeting (AGM)** in accordance with the by-laws.

Board of Directors

The Co-op Act sets out who can sit on the board of directors and the steps for electing a board. Essentially, to be a director, the legislation specifies that the member must:

- be at least 19 years of age.

Elections are normally held at the AGM. Members vote by casting ballots.

Offences

An individual that is guilty of an offence under the Co-op Act can be fined up to \$500, or be imprisoned for a term of no more than 2 months, or both.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$1,000.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

A co-op can evict a member for failing to obey the Co-op Act or the by-laws.

The termination process

The co-op makes its own by-laws which set out how a member can be terminated.

Typically, the termination process starts with a written complaint about an individual member, his or her family member or guest. A special general meeting of the members is called to consider the termination.

The individual whose membership is being considered for termination must have an opportunity to respond to the allegations made against him or her. The co-op must give the member notice of the meeting to consider his or her termination; and an opportunity to attend the meeting to respond to the proposed termination.

The member can attend the meeting alone or with a lawyer or other representative to respond to the resolution.

In order for the resolution to terminate to be carried, at least 2/3 of the members present at the special general meeting must vote in favour.

Member's right to appeal

The bylaws will state:

- whether the member has a right to appeal; and
- if so, how he or she may appeal the member's decision to terminate.

Collecting Money Owed

Nunavut does not currently have a small claims division in its court structure.

The Nunavut Court of Justice is a unified court. All civil claims are commenced through it.

A task force is looking into establishing a small claims court system and the territory is tracking all claims under \$10,000 to identify claims that may one day be in a Small Claims Court.

Related Links

No information was found online for the territory of Nunavut.

Ontario

NAME OF ACT / REGULATIONS

Co-operative Corporations Act, R.S.O. 1990, c. C35.

Section 171 deals with non-profit housing co-ops.

The Co-op Act states that landlord and tenant legislation does not apply to housing co-ops.

However, if a legal claim was made by or against the co-op under the landlord and tenant legislation instead of under the Co-op Act, the court will decide whether or not it will continue to hear the claim as a landlord and tenant matter.

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90c35_e.htm

Co-operative Corporations Act, R.R.O. 1990, Reg. 178 amended to O. Reg. 318/98

http://www.e-laws.gov.on.ca/DBLaws/Regs/English/900178_e.htm

Admitting New Members

The process for admitting new members is set out in the co-op's bylaws.

A person who has reached the age of 16 years may become a member of the co-op. Once a person living in the co-op becomes 16 years of age, he or she must apply for membership in the co-op.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board of directors; and
- he or she agrees to follow the by-laws dealing with the admission of members.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means they are organized, operated and administered according to the following principles:

- each member has only one vote;
- no member may vote by proxy;
- the co-op operates as closely as possible at cost and any surplus is:
 - used to maintain or improve the service to its members;
 - donated for community welfare; or
 - used to spread co-operative principles.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op.

The articles of a non-profit housing co-op must state that:

- the primary object of the co-op is to provide housing to its members;

- the co-op's activities must be carried on without the purpose of gain for its members; and
- on the dissolution of the co-op and after it has paid its debts and liabilities, the remaining property must be transferred to or distributed among one or more non-profit housing co-ops or charitable organizations.

Members of a non-profit housing co-op can make changes to the articles by passing a special resolution, provided that they do not try to change the legal status of the co-op from a non-profit housing co-op.

By-laws

The Co-op Act provides a framework for housing co-ops to create bylaws. A bylaw is created when:

- it is passed by the board of directors; and
- it is confirmed by at least 2/3 of votes cast by the members at a general members' meeting.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** during each fiscal year of the co-op. The board can also call other general members' meetings at other times.

The Co-op Act states that the articles or bylaws of a co-op may not provide for less than 10 days notice of a meeting and in no case can a co-op give members more than 50 days notice of a meeting.

A members meeting cannot occur if **quorum** is not met. In other words, a certain number of members must be present for decisions to be approved. The Co-op Act and the rules will set out the required number of members needed to have quorum.

Board of Directors

The Co-op Act sets out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director, the legislation specifies that the member must:

- be at least 18 years of age;
- cannot have an undischarged bankruptcy; and
- cannot be mentally incompetent.

Members can remove a director from the board by resolution passed by a majority of its members at a general meeting called for this purpose.

Access to Information

A housing co-op must allow its members to examine certain documents of the co-op during normal business hours and members are allowed to make copies of the documents without charge. These documents include:

- a copy of the articles;
- the co-op's bylaws, resolutions and special resolutions;
- the membership register;
- the register of directors;
- the minutes of all meetings of members and committees; and
- the register of all transfers of securities.

A co-op may designate other times and locations for members to examine accounting records, directors' resolutions and the minutes of the board of directors and any executive committee.

Withdrawal from Membership

A housing co-op allows a member to withdraw its membership according to the by-laws of the co-op.

Offence

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$100,000.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

In Ontario, both the membership and occupancy rights of a member must be terminated at the same time.

To do this a majority of the board of directors must vote at a board meeting to terminate the member's membership and occupancy rights. Prior to the meeting the member must be given at least 10 days written notice that the board of directors will consider the termination. Grounds for termination must meet one of the following two conditions:

- the member ceases to occupy a member unit; or
- the member fails to meet an obligation set out in the by-laws, provided that the requirements in the bylaws are not unreasonable or arbitrary.

The notice must be signed by a director and, unless different requirements are set out in the bylaws, must:

- state the time and place of the board meeting;
- explain the reasons for the proposed eviction;
- identify the unit to which the member has occupancy rights;
- specify the date of the proposed eviction;
- tell the member that he or she does not have to leave the unit immediately but that the co-op may obtain possession of the unit by obtaining a writ of possession after the member's membership and occupancy rights have been terminated;
- tell the member that he or she can attend and/or be requested to attend the board meeting to explain why he or she should not be evicted; and
- advise the member that he or she may appeal the board's decision to the members.

The member can attend the board meeting alone or with a lawyer or other representative to respond to the allegation.

At the scheduled meeting, the board decides whether to continue with the eviction of the member and must give the member written notice of their decision within 5 days. The notice must be signed either by the secretary of the co-operative or by another authorized person as set out in the by-laws.

A co-op cannot:

- a. withhold reasonable supply of any vital services, such as heat, fuel, electricity, gas, water, food or other vital service, that it is the co-operative's obligation to supply under the by-laws, or deliberately interfere with the supply of these services;
- b. substantially interfere with the member's enjoyment of his or her unit in order to force the member to give up his or her premises; or

- c. take the property of a member for non-payment of housing charges or any other money owed to the co-op.

Appeal of Board's Decision to Members

The member can appeal the board's decision to the members within 7 days, or a longer period if provided in the bylaws, after he or she receives notice of the board's decision.

If a member appeals the decision, a members' meeting must be held, at least fourteen days after appeal notice is received, to consider the appeal. The board's decision is suspended until the appeal is either decided at the members' meeting or abandoned by the evicted member.

The member can submit written arguments (a letter and/or other documents not exceeding 5,000 words) to support the appeal with the notice of appeal. These submissions must not deal with unrelated matters. The co-op must give the members a copy of the written submissions before the meeting. If the board of directors refuses to distribute copies of a member's arguments, the board must give the co-op members written notice of its refusal to supply the arguments to the members. Along with this notice the board must provide a written explanation of the reasons for not distributing the arguments. This must be given to the member within ten days after the written arguments are received.

Should this occur, the affected member can apply to the Superior Court of Justice to:

- suspend the members' meeting that is scheduled to consider the appeal; and
- to make any further order that the Court thinks fit.

Alternatively, the board of directors or any other person referenced in the member's written arguments may apply to the Superior Court of Justice for an order that allows the board to refuse to distribute the member's written submission.

The member can attend the members' meeting alone or with a lawyer or other representative.

The appeal is decided by a majority vote of the members. If no decision is made by the members or if there are not enough members present to vote, the board's decision stands.

Expiration of Membership

Generally, membership and occupancy rights of a member cannot expire unless the member consents, in writing, to their expiration. The co-op cannot terminate membership and occupancy rights on the ground that their term has expired without such written consent.

Short Fixed Terms

If the membership and occupancy rights of a member are for a fixed term of less than one year and the co-operative gives the member written notice of the expiry of the term, the following will apply:

1. The membership and occupancy rights of the member expire unless the member notifies the co-operative, in writing, that he or she wishes to continue his or her membership and occupancy rights.
2. The member must be given 30 days notice that the term will expire. More notice may be required if a longer period is set out in the by-laws.
3. If the member does notify the co-op that he or she wishes to have both membership and occupancy rights continue, then:
 - the membership and occupancy rights continue;

- the membership and occupancy rights may only be terminated in accordance with the bylaws, for example for non-payment of the member's housing charge, and not on the grounds that their term has expired; and
- the co-op may require the member to move, at the end of the fixed term, to a comparable or superior member unit with comparable housing charges.

Obtaining a Writ of Possession to remove a terminated member

A co-op must make an application to a judge of the Superior Court of Justice for a writ of possession:

- i. after a member's membership and occupancy rights are terminated; or
- ii. if there is no member occupying the unit.

The co-op and the affected member may each be represented by a lawyer or an agent.

The judge must determine the applicant's claim and may make an order:

- declaring the membership and occupancy rights terminated;
- declaring that there is no member occupying a unit; and/or
- issuing a writ of possession of the unit to the co-op.

If the Court does not issue a writ of possession and the respondent remains in possession of the member unit, then the respondent's membership and occupancy rights have not been terminated.

When a member with occupancy rights withdraws those rights in writing, the co-op may file a copy of the withdrawal with the local registrar of the Superior Court of Justice. The co-op must do this no later than 30 days after the withdrawal or surrender is effective and their filing must be verified by an affidavit. If these conditions are met, the local registrar will sign an order directing that a writ of possession be issued. The effective date of the writ of possession cannot be earlier than the date that the withdrawal or surrender is effective.

The member's withdrawal becomes void and of no effect unless, no later than 30 day after the effective date specified in the withdrawal, one of the following occurs:

- the member gives up possession of his or her unit; or
- the co-op applies to the local registrar for a writ of possession, as outlined above.

Appeal from Registrar's Order of Possession

Upon receiving a copy of the writ of possession granting possession of the unit to the co-op, a member may, within four days, apply to a judge to have the order set aside. If the judge supports the request to have the registrar's order set aside, the judge will hold a hearing to determine the co-op's claim. A further appeal of this judge's decision may be made to the Divisional Court.

Court Determination of Possession/Arrears

Money held by the local registrar is paid to the party entitled to it when instructed to do so by a judge of the Superior Court. The judge may decide to do this once:

- an order become final; and
- any party makes an application to the Superior Court.

Court Refusal to Grant Co-operative Application

When the court receives a co-op's application for a writ of possession, a judge may, despite any other provision of the Act or the by-laws, refuse to grant the application if he or she is satisfied

that it would be unfair to grant it. The judge could instead order that the enforcement of the writ of possession be delayed for up to one week.

The judge will also refuse to grant the application if he or she is satisfied that:

- the co-operative has disobeyed the law or the co-op's articles or by-laws and that this contravention is material and relevant to the application;
- one reason for the application is that the person against whom the order is sought:
 - has complained to any governmental authority of the co-operative's violation of any statute or municipal by-law dealing with health or safety standards including any housing standard or by-law;
 - has attempted to secure or enforce his or her legal rights; or
 - has children in the unit, provided that the unit is suitable for children and is not overcrowded.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$10,000.

The co-op can recover money owed by a current or past member after a person's membership and occupancy rights are terminated or if the member no longer occupies the unit. The co-op must make an application to a judge of the Ontario Superior Court of Justice for an order that the person pay the arrears of housing charges or other amounts owing. This process is complex, and so it is recommended that the co-op get help from a lawyer.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$10,000, the claimant must take the claim to the Superior Court Of Justice and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

Central Ontario Co-operative Housing Federation (COCHF)

http://www.chfc.ca/eng/chf/feds_3_3.htm

Provides general information about the federation and a link to COCHF's website. COCHF is the federation of housing co-ops in Kitchener-Waterloo, Cambridge, Guelph and Brantford, Ontario.

Central Ontario Co-operative Housing Federation (COCHF)

<http://www.cochf.coop/>

Provides information about the federation, vacancies and its services.

Co-operative Housing Federation of Eastern Ontario (CHASEO)

http://www.chfc.ca/eng/chf/feds_3_1.htm

Provides general information about the federation and a link to CHASEO's website. CHASEO is the federation of housing co-ops located in and around the Ottawa area.

Co-operative Housing Federation of Eastern Ontario (CHASEO)

<http://www.chaseo.org>

Provides information about the federation, a calendar of events, a vacancy report and links to other sites and resources.

Co-operative Housing Federation of Toronto (CHFT)

<http://www.coophousing.com>

Provides information and advice about co-operative housing

Golden Horseshoe Co-operative Housing Federation (GHCHF)

http://www.chfc.ca/eng/chf/feds_3_4.htm

Provides general information about the federation and a link to GHCHF's website. GHCHF is the federation of housing co-ops located in Hamilton, St. Catharines and the Niagara Region.

Golden Horseshoe Co-operative Housing Federation (GHCHF)

<http://www.ghcjf.ca>

Provides definition of housing co-ops, vacancies and how to apply for membership.

Lakeridge Co-operative Housing Federation

http://www.chfc.ca/eng/chf/feds_3_5.htm

Provides general information about the federation. Lakeridge is the federation of housing co-ops located in the Peterborough region.

Ministry of the Attorney General – Small Claims Court

<http://www.attorneygeneral.jus.gov.on.ca/english/courts/scc/>

Explains the process for bringing an action to small claims court.

Ontario Co-operative Association

<http://www.ontario.coop/>

Provides general information about housing co-ops, how to start a co-op and how to become a member of the association.

Ontario Human Rights Commission

<http://www.ohrc.on.ca/>

Provides information on how to bring a human rights complaint to the commission.

Peel-Halton Co-operative Housing Federation

http://www.chfc.ca/eng/chf/feds_3_8.htm

Provides general information about the federation. Peel-Halton Co-operative Housing Federation is the federation of housing co-ops located in the Peel-Halton region.

Seaway Valley Co-op Organization (SVCO)

<http://tmoz.com/svco/>

Provides general information about the organization and links to SVCO members.

South Western Ontario Co-operative Housing Federation (SWOCHF)

http://www.chfc.ca/eng/chf/feds_3_7.htm

Provides basic information about the association.

Prince Edward Island

NAME OF ACT / REGULATIONS

Co-operative Associations Act c. C-23

The Co-op Act has a section that deals with how housing co-ops are formed.

<http://www.gov.pe.ca/law/statutes/pdf/c-23.pdf>

Landlord and tenant legislation does not apply to housing co-ops.

Admitting New Members

Co-ops in Prince Edward Island set the process for admitting new members in their bylaws.

If the co-op wishes to admit a member younger than 18 years of age, it must create a bylaw that allows it to do this.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board; and
- he or she agrees to follow the by-laws dealing with membership.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means that they must govern their members and make bylaws following the principles set out in the Co-op Act:

- each member has only one vote;
- no member may vote by proxy;
- the co-op operates as closely as possible at cost; and
- any surplus funds arising from the business of the co-op is used for:
 - the maintainance or improvement of services to its members;
 - community welfare; or
 - the spread of co-operative principles to members of the co-op.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op. Members must follow the articles of the co-op. Members can vote to make changes to the articles by passing an **extraordinary resolution**. A co-op may change its name, location or the number of directors to sit on the board of directors by special resolution.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** no later than 4 months after the end of the **fiscal** year of the co-op. The co-op can agree to meet more often if permitted by the rules.

Board of Directors

Elections are normally held at the AGM. Voting is usually done by ballot. Proxy voting is not allowed.

The board of directors must meet regularly to manage the business of the co-op.

Access to Information

A housing co-op must allow its members to examine documents of the co-op free of charge except where the documents are reasonably considered by the members to be confidential.

Offences

A person or co-op is guilty of an offence where that person or co-op disobeys the Co-op Act. A person can be fined up to \$2,500. A co-op can be fined up to \$5,000.

Eviction / Expulsion of Members**Grounds for terminating (evicting) a member from the co-op**

The co-op makes its own bylaws which set out how a member can be evicted from a co-op. The board of directors can evict a member for failing to obey any of the co-op's rules and regulations as set-out in its bylaws.

The termination process

The termination process starts with a written complaint to the board about an individual member. The board meets to discuss the complaint.

Generally, the co-op must give the member written notice explaining the situation and demanding that the member rectify the problem within a specific, reasonable amount of time

The board's decision to evict is made by resolution. The board sends a notice to the member by registered mail to the last known address of the member. The notice must state the date of eviction, which cannot be earlier than one month after the date of the notice was mailed to the member.

Member's right of appeal

A member can appeal his or her eviction to the members if he or she is not satisfied with the board's decision to evict. The board may, at any time before the proposed eviction date, place the matter on the agenda for the next special or general meeting of the members in order for members to consider the eviction.

The member has the right to attend the special or general meeting of the members to give reasons why he or she should not be evicted. After the member has been given an opportunity to speak to the members, the members vote on whether to evict the member.

The decision of the members is final.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$8,000.

The co-op can recover money owed by a current or past member.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$8,000, the claimant must take the claim to the General Trial Division and follow the Rules of Court of that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

Prince Edward Island Human Rights Commission Guide to Complaint Process

http://www.gov.pe.ca/photos/original/hrc_comp_proc.pdf

This booklet is a plain language guide to bringing a complaint to the Human Rights Commission

Prince Edward Island - Human Rights Commission

<http://www.gov.pe.ca/humanrights/>

Provides links to various services of the Human Rights Commission of PEI.

Canada/PEI Business Service Centre Info-Guide on Cooperatives

<http://www.cbsc.org/pe>

Provides general information about co-ops.

Regional Cooperative Development Centre

<http://www.rcdc.coop>

Provides information about the co-op and its services.

Quebec

NAME OF ACT / REGULATIONS

Cooperatives Act, R.S.Q. C-67.2

Chapter 4 of Title 2 – Special Provisions on Certain Cooperatives deals specifically with housing co-ops. This part does not set out specific steps for accepting new members or evicting members.

<http://www.canlii.org/qc/sta/csqc/20040210/c-67.2/whole.html>

Cooperatives Act, Regulation under the, R.Q. C-67.2,r.1

<http://www.canlii.org/qc/regu/crqc/20040210/c-67.2r.1/whole.html>

Housing co-ops must also follow the landlord and tenant law of Quebec as set out in the Quebec Civil Code. (See Landlord and Tenant Legislation below.)

Admitting New Members

The process for admitting new members is set out in the co-op's bylaws.

Minors who are at least 16 years of age may become a member. The co-op may make a bylaw that allows it to admit members who are at least 14 years of age. If the co-op admits a member who is 14 or older then that person will have the full responsibilities and obligations.

A person becomes a member of the co-op once:

- the application for membership is approved by the board;
- he or she signs an agreement promising to obey the bylaws;
- he or she pays a membership fee.

A new member of a co-op may be subject to a trial period of not more than 3 months. During that time, the person is known as an auxiliary member. An auxiliary member cannot vote or be a director.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

The co-operative and its members are subject to the following rules:

- membership in the co-op is subject to the member's using the co-op's services and to the co-op's ability to provide its members with the services;
- each member has only one vote;
- no member may vote by proxy;
- the payment of interest on the capital stock must be limited;
- a reserve must be established;
- any surplus must be paid into the reserve;
- members and the co-op must co-operate; and
- the co-op may provide co-operative education to members, executive officers and employees of the co-op.

Articles

Articles are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op. Members must follow the articles of the co-op.

Members can vote to make changes to the articles by passing a **special resolution**. A co-op may change its name, location or the number of directors to sit on the board of directors by special resolution.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** no later than 4 months after the end of the **fiscal** year of the co-op.

Access to Information

A housing co-op must allow its members to examine certain documents of the co-op during normal business hours and members are allowed to make copies of the documents without charge. These documents include:

- the articles;
- the co-op's bylaws;
- member agreement not to elect directors, where applicable;
- the register of directors;
- the minutes of all meetings of members and committees;
- the register of all transfers of securities;
- the resolutions of its general meetings; and
- a list of members.

Offences

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$4,000 and up to \$10,000 for repeated offences.

Landlord and Tenant Legislation

Housing co-ops must also follow the landlord and tenant law of Quebec as set out in the Quebec Civil Code. The Régie du logement, the body that deals with landlord and tenant matters, will not deal with matters surrounding housing charges or matters covered in the bylaws of the housing co-op since members vote democratically and agree to abide by the bylaws.

However, the Régie du logement will deal with issues surrounding a housing co-op's failure to meet its obligations to its members and members failing to meet their obligations to the housing co-op. For example, although the Régie du logement will not deal with complaints involving the increase of a housing charge, the Régie du logement will help a housing co-op collect housing charge arrears from a member or former member.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

The co-op makes its own by-laws which sets out how a member can be evicted from a co-op.

The co-op can evict a member for:

- breaking the by-laws;
- owing money to the co-op;
- failing to carry out his or her obligations to the co-op;

If the member is on the board of directors, he or she cannot be suspended or evicted until he or she is removed from office.

The termination process

The termination process starts with a complaint about an individual member. This complaint is submitted in writing to the board. At a board meeting the board discusses the complaint. The decision on how to proceed is made by a resolution.

The co-op must first give the member written notice stating the reasons for the suspension or eviction along with the date and time of the meeting of the board of directors where they will decide the complaint. The notice must be given in accordance with same the guidelines as when giving notice for a meeting.

The member has the choice of either going to the meeting, where he or she is allowed to explain why he or she should not be suspended or evicted, or sending a letter to be read at the meeting by the chairperson.

The cooperative must give the member written notice of its decision within 15 days of the decision.

A member who has been evicted loses his or her rights as a member.

A member cannot be suspended for longer than six months. A member who has been suspended loses, during the suspension, all of his or her rights as a member unless the board of directors decides otherwise.

Member's right of appeal

A member can appeal the decision to suspend his or her right to vote within 15 days of receiving the notice by the board of directors. The member must submit a written appeal to the co-op.

The board of directors must:

- examine the grounds raised in the member's appeal;
- make a decision; and
- inform the member in writing of their decision.

Recourse through the Régie du logement is available to members who wish to appeal a termination if such a procedure is not covered in the co-op by-laws.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$7,000.

The co-op can recover unpaid housing charges from a current or past member as well as any other monies owed to the co-op by the member.

Accepting payments for arrears, costs, and interest, where applicable, stops the co-op from terminating membership or taking back the unit.

The co-op can apply to the Régie du logement to terminate the member's membership if the member is over three weeks late in paying his or her housing charge or if he or she is

continuously late in paying their housing charge, causing prejudice to the co-op as a result.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$7,000, the claimant must take the claim to the Court of Quebec and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer.

Related Links

GSCrentals.com

<http://www.quebec.gscrentals.com/AboutUs/>

Conseil de la coopération du Québec

<http://www.coopquebec.coop/>

Commission des droits de la personne et des droits de la jeunesse (English)

<http://www.cdpcj.qc.ca/en/home.asp?noeud1=0&noeud2=0&cle=0>

Provides information on how to bring a human rights complaint to the Quebec Human Rights Commission.

Fédération coop-habitat estrie (FCHE)

http://www.chfc.ca/eng/chf/feds_2_1.htm

Provides basic information about the association.

Fédération des coopératives d'habitation montréalaises (FECHAM)

http://www.chfc.ca/eng/chf/feds_2_2.htm

Provides basic information about the association.

Fédération des coopératives d'habitation du Royaume Saguenay Lac St-Jean (FÉCHAS)

http://www.chfc.ca/eng/chf/feds_2_3.htm

Provides basic information about the association.

Fédération des coopératives d'habitation intermunicipale du Montréal métropolitain – FÉCHIMM

http://www.chfc.ca/eng/chf/feds_2_4.htm

Provides basic information about the association.

Fédération des coopératives d'habitation de la Mauricie et du centre du Québec (FÉCHMACQ)

http://www.chfc.ca/eng/chf/feds_2_5.htm

Provides basic information about the association.

Fédération des coopératives d'habitation de l'Outaouais (FECHO)

http://www.chfc.ca/eng/chf/feds_2_6.htm

Provides basic information about the association.

Fédération des coopératives d'habitation de Québec Chaudière-Appalaches (FÉCHAQC)

http://www.chfc.ca/eng/chf/feds_2_8.htm

Provides basic information about the association.

Saskatchewan

NAME OF ACT / REGULATIONS

The Co-operatives Act, 1996 C-37.3

Part 23 deals specifically with housing co-ops.

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/C37-3.pdf>

The Co-operatives Regulations, 1998

<http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/C37-3R1.pdf>

Saskatchewan Human Rights Code Regulations

<http://www.qp.gov.sk.ca/documents/English/Regulations/Regulations/s24-1r1.pdf>

Landlord/tenant legislation does not apply to housing co-ops.

Admitting New Members

Co-ops in Saskatchewan set the process for admitting new members in their by-laws.

If the co-op wishes to admit a member who is younger than 16, they must create a by-law that allows them to do this.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board;
- he or she agrees to follow the by-laws dealing with membership, usually by signing an occupancy agreement; and
- he or she has paid the membership fee.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

All co-ops are expected to run on a co-operative basis, which means that they must govern their members and make rules following the principles set out in the Co-op Act:

- membership in the co-op is open in a non-discriminatory manner to persons who can use the services of the co-op and have accepted the responsibilities of membership;
- each member has only one vote and no member may vote by proxy;
- the co-op's business is carried on primarily for the benefit of its members;
- membership in the co-op is voluntary and open in a non-discriminatory manner to persons who can use its services and is willing to accept the responsibilities of membership;
- members may not derive a gain from the co-op;
- surplus funds arising from the co-op's operation are:
 - used to develop the co-op;
 - used to provide or improve services to members;
 - used to establish reserves;
 - used for community welfare or to spread co-op efforts;
 - used to educate members, officers, staff and the public about co-op principles; or
 - distributed to non-profit, charitable or benevolent organizations.

Housing Charges

The co-op must give its members at least 3 months notice of an increase to the housing charges.

Articles of Incorporation

Articles of Incorporation ("articles") are the originating documents that create a housing co-op. Articles include the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op. Members must follow the articles of the co-op. Members can vote to make changes to the articles by passing a **special resolution**. A co-op may change its name, location or the number of directors to sit on the board of directors by special resolution.

By-laws

The bylaws of a housing co-op must include or provide for the following:

- the co-op must give every member a copy of the bylaws and occupancy agreement;
- each member is entitled to have quiet enjoyment of his or her unit;
- either the co-op or the member is responsible for:
 - the maintenance of the residential unit in a safe, habitable and reasonable state of repair;
 - the repair or replacement of fixtures; and
 - any damage to the unit;
- the co-op and its agent, except in the case of an emergency, must give reasonable notice to a member before entering the member's unit;
- the co-op must allow candidates for public office to access the common areas of the co-op;
- the co-op must give three months' notice of any increase in housing charges except where:
 - the registrar approves a shorter notice; or
 - the members unanimously approve the increase at a general meeting;
- the co-op must give a minimum of 30 days' notice to a member of the termination of his or her membership except where the member has broken any bylaws governing:
 - ordinary cleanliness of the unit after having received written notice of the violation;
 - the use of the premises for prohibited purposes; or
 - payment of housing charges.

The bylaws of housing co-ops must also address:

- the manner in which each member may be required to contribute money towards co-operative purposes;
- the payment of housing charges or other services;
- the manner for establishing the amount of housing charges;
- a method or methods to resolve disputes between members and the co-op;
- the manner in which a member may withdraw his or her membership and how he or she may be required to repay any money owed to the co-op; and
- the rules governing the leasing of housing units by members to non-members.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** no later than 6 months after the end of the **fiscal** year of the co-op.

Board of Directors

The Co-op Act sets out who can sit on the board of directors and the steps for electing a board of directors. Essentially, to be a director, the legislation specifies that he or she must be an individual that is:

- at least 18 years of age;
- of sound mind; and
- not have an undischarged bankruptcy.

Elections are normally held at the AGM. Voting is usually done by a show of hands, unless five or more members at a general meeting demand a vote by ballot.

Reserve Fund

The directors must set aside at least 5 per cent of any surplus in a reserve, except if the reserve fund is equal to or more than 20 per cent of the co-op's total assets as shown in its financial statement.

The reserve fund must be invested in the following:

- a credit union, the Saskatchewan Co-operative Credit Society Limited or a chartered bank;
- bonds of Canada, of Saskatchewan or of any other province or territory of Canada;
- bonds or debentures of other co-operatives; or
- securities authorized in *The Trustee Act*.

Access to Information

A housing co-op must allow its members to examine documents of the co-op, excluding confidential documents and minutes of in-camera meetings, during regular business hours and to take copies of the documents without charge.

Offence

A person or a co-op is guilty of an offence where the person or co-op makes an untrue statement in a filing required by the Co-op Act. A person can be fined up to \$5,000, jailed for up to 6 months, or both.

A co-op can be fined up to \$50,000, and any director involved may be fined up to \$5,000, jailed for up to 6 months, or both.

Eviction / Expulsion of Members

Grounds for Terminating (evicting) a member from the co-op

The co-op makes its own bylaws which set out how a member can be evicted from a co-op. Landlord/tenant legislation will apply to the eviction of members only if the bylaws expressly say that landlord/tenant legislation will apply to the eviction of members.

In evicting a member, the co-op must first terminate the membership of the individual.

The termination process

The termination process starts with a written complaint to the board about an individual member. At a board meeting, the board discusses the complaint. A decision on how to proceed is made by a resolution.

In order for the resolution to terminate to be carried, at least $\frac{3}{4}$ of the directors on the board must vote in favour of the eviction. The secretary of the co-op must inform the member within 10 days of the co-op's decision to terminate his or her membership. Once a person's membership in the co-op is terminated, he or she loses the right to occupy the unit.

Member's right of appeal

The member can appeal the decision of the board to the next general meeting of the members by giving written notice of his or her intention to appeal to the secretary within 30 days.

The member continues to be a member and does not lose his or her right to occupy the unit during the appeal.

During the general members' meeting, members vote to either confirm (support) or quash (overturn) the directors' resolution to terminate. This can be done with an ordinary resolution that requires a simple majority, unless the by-laws require otherwise.

If members quash the board's decision to evict the member, the member can continue to be a co-op member. If the members vote to confirm the board's decision to terminate the member, the secretary of the co-op must tell the member of the decision within 10 days of the decision being made.

The evicted member can appeal the members' decision to the registrar as long as he or she has not:

- failed to pay housing charges on time,
- failed to fulfill any other financial obligations,
- vandalized or destroyed co-op property,
- used the housing unit for illegal purposes, or
- disobeyed a by-law regulating the leasing of a housing unit to a non-member.

The member continues to be a member of the co-op until the termination of his or her membership is confirmed by the registrar.

Obtaining an order of possession to remove the terminated member

If a member refuses to vacate the unit after having his or her membership terminated, the co-op must make an application for an order of possession to the Rentalsman or to the Court of Queen's Bench.

After Termination

The co-op has up to 1 year from the date of termination to pay the member all money held on his or her behalf, with interest. However, if the co-op cannot, after all reasonable efforts have been exhausted, locate the member after he or she has moved from the co-op, the co-op must transfer the money owed to the former member into a reserve fund.

If the member was terminated or he or she moved from or abandoned the unit formerly occupied by the member and has left property in the housing unit, the co-op can apply to the Rentalsman for an order to remove the member's property and sell or otherwise dispose of the property. The Rentalsman must first be satisfied that the co-op has made a reasonable effort to find the former member.

The proceeds of the sale or disposition of the property must be paid to the Rentalsman in trust for the former member after deducting costs incurred for the disposition and any arrears of housing charges and damage that the Rentalsman allows. If the former member does not claim the remaining proceeds held by the Rentalsman within three months after the day the moneys were paid to the Rentalsman, the Rentalsman will then forward the money to the Minister of Finance to be deposited in the general revenue fund.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$5,000.

The co-op can recover costs from a current or past member for unpaid housing charges.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is more than \$5,000, the claimant must take the claim to the Court of Queen's Bench and follow the Rules of the Court applicable to that court. The Rules of the Court tend to be very complex and involved and it is suggested that the claimant consult a lawyer.

Related Links

Office of the Rentalsman

<http://www.saskjustice.gov.sk.ca/provmediation/rentalsman/default.shtml>

University of Saskatchewan – Centre for the Study of Co-operatives

<http://coop-studies.usask.ca/>

Offers useful resources and studies in the area of co-operatives.

Saskatchewan Co-operative Association

<http://www.sask.coop/>

Provides information about the association and co-ops.

Saskatchewan Human Rights Commission

<http://www.gov.sk.ca/shrc/default.html>

Provides information on how to bring a human rights complaint to the commission.

Yukon

NAME OF ACT / REGULATIONS

Cooperative Associations Act c. 43.

The Co-op Act does not have a specific section that deals with housing co-ops.

<http://www.canlii.org/yk/sta/doc/ch43.doc>

Cooperative Associations Regulation

Landlord and tenant legislation does not apply to housing co-ops.

Admitting New Members

The process for admitting new members is set out in the co-op's bylaws.

Unless the bylaws provide otherwise, a person who has reached the age of 16 years may be a member.

A person becomes a member of the co-op once:

- his or her application for membership is approved by the board; and
- he or she has complied with the by-laws governing admission of members.

Obligations of the members to the co-op and of the co-op to its members

Co-operative Basis

The Co-op Act does not require housing co-ops to run on a co-operative basis.

Memorandum of Association

The memorandum of association ("memorandum") is the originating document that creates a housing co-op. The memorandum includes the name of the housing co-op (including the word "co-operative" in its name) and the address of the co-op.

Members must follow the memorandum of the co-op. Members can vote to make changes to the memorandum by passing an **extraordinary resolution**, subject to the approval of the registrar of cooperative associations.

Meetings

A housing co-op must hold at least one members' meeting called an **annual general meeting (AGM)** in accordance with the by-laws.

Board of Directors

The Co-op Act sets out who can sit on the board of directors. Essentially, to be a director the legislation specifies that the member must:

- be at least 18 years of age.

The board of directors meet at least once every three months.

Access to Information

A housing co-op must allow its members to examine its membership records, excluding confidential documents and in-camera minutes of meetings, at a place and times designated by the co-op.

Offences

An individual that is guilty of an offence under the Co-op Act can be fined up to \$500 or be imprisoned for a term of no more than 2 months, or both.

A co-op that is guilty of an offence under the Co-op Act can be fined up to \$1,000 for each offence.

Eviction / Expulsion of Members**Grounds for Terminating (evicting) a member from the co-op**

A member can be evicted from a co-op for failing to obey the Co-op Act or the by-laws.

The termination process

The co-op makes its own by-laws which set out how a member can be evicted from a co-op. Typically, the termination process starts with a written complaint to the co-op about an individual member, his or her family member or guest. A special general meeting of the members is called to consider the termination.

The individual whose membership is being considered for termination must have an opportunity to respond to the allegations made against him or her. The co-op must give the member notice of the meeting to consider his or her termination, and an opportunity to attend the meeting to respond to the proposed termination.

The member can attend the meeting alone or with a lawyer or other representative to respond to the resolution.

In order for the resolution to terminate to be carried, at least 2/3 of the members present at the special general meeting must vote in favour.

Member's right to appeal

The bylaws will state:

- whether the member has the right to appeal; and
- how he or she may appeal the members' decision to evict.

Collecting Money Owed

Allowed claim amounts for Provincial (small claims) Court:

- up to and including \$5,000.

The co-op can recover unpaid housing charges from a current or past member.

Accepting payment for arrears does not stop the co-op from terminating membership or taking back the unit.

For an overview of the small claims court process for each province and territory, see Appendix A: An Overview of the Small Claims Court System.

If the amount claimed is greater than \$5,000, the claimant must take the claim to the Supreme Court and follow the Rules of Court applicable to that court. The Rules of Court tend to be very complex and it is suggested that the claimant consult a lawyer

Related Links

Yukon Business Service - International Co-operative Alliance – Statement on the Co-operative Identity

http://www.cbasc.org/yukon/english/display.cfm?Code=4067&coll=FE_FEDSBIS_E

This Info-Guide restates the co-operative principles that housing co-ops agreed to follow.

Yukon Business Service - International Co-operative Alliance – Glossary

http://www.cbasc.org/yukon/english/display.cfm?Code=4069&coll=FE_FEDSBIS_E

Provides a glossary of the terms used with respect to housing co-ops.

Yukon Business Service

http://www.cbasc.org/yukon/english/display.cfm?Code=4073&coll=FE_FEDSBIS_E

Provides an overview of the process for how housing co-ops are run in the Yukon: meetings, electing a board of directors, notice and quorum of meetings, committee, co-op documents and record keeping, incorporating documents, bylaws, keeping minutes and other financial documents, audits, financial reporting and the filing of annual returns.

Canada – Yukon Business Service Centre

http://www.cbasc.org/yukon/english/display.cfm?Code=2900&coll=FE_FEDSBIS_E

Explains what a co-op is, the steps for forming a co-op, the advantages and disadvantages of a co-op, the legal status of a co-op, federal incorporation, taxation and additional information.

Yukon Human Rights Commission

<http://www.yhrc.yk.ca/>

National (Canada-Wide) Information

Canada Mortgage and Housing Corporation (CMHC)

<http://www.cmhc-schl.gc.ca>

Wealth of information on Canada's housing market. Resources available on housing co-operatives include:

Tenant Involvement in Housing Co-operatives

<http://www.cmhc-schl.gc.ca/en/imquaf/afho/afadv/opma/intedema/case1.cfm>

This study compares the operating costs of co-operative housing and compares them to those of private and public non-profits and public housing financed under different CMHC programs.

Capital Replacement Manual for Co-operative and Non-Profit Housing Providers

http://www.cmhc-schl.gc.ca/en/prfias/otaspr/otaspr_001.cfm

This guide assists housing co-ops and non-profit housing providers create a sound capital replacement manual to deal with the high costs associated with major repairs and replacements. A downloadable software is also available on this website.

Conseil Canadien de la Coopération

<http://www.ccc.coop/>

The Conseil Canadien de la Coopération supports the French-speaking cooperative movement across Canada.

Co-op Zone

<http://www.coopzone.coop/>

Co-op Zone is a national support system for cooperative organizations and developers.

Co-operative Housing Federation of Canada (CHFC)

<http://www.chfc.ca>

Information on the Canada-wide federation and regional federations. General information about co-operative housing is also provided.

Co-operative Secretariat

http://www.agr.gc.ca/policy/coop/sitemap_e.phtml

Provides general information about the secretariat's role and function; namely, as an intermediary between the federal government and co-operatives.

Canadian Co-operative Association (CCA)

<http://www.coopcca.com/>

Provides general information about this umbrella organization of co-operatives and credit unions.

Canadian Co-op Network

<http://www.canconet.com/>

Provides little information on housing co-ops but has an on-line application for co-op housing and some tips for interviewing with a co-op.

Canadian Housing and Renewal Association

<http://www.chra-achru.ca/>

This association provides research and networking opportunities for affordable housing.

Appendix A: SMALL CLAIMS COURT OVERVIEW

Alberta: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. The claimant files a civil claim form and dispute note, and serves these on the defendant.</p> <p>For claims of \$7,500 or less the filing fee is \$100. For claims more than \$7,500 the filing fee is \$200.</p>	<p>This is done when the action is initiated.</p>
<p>The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a dispute note with the clerk.</p>	<p>Within 20 days if service occurs within Alberta. Within 30 days if service occurs outside Alberta.</p>
<p>Application for default judgment. If the defendant does not file a dispute note with the clerk, the claimant can apply to have a default judgment.</p>	<p>After the timeframe noted above for the filing of a dispute note by a defendant.</p>
Possible Outcomes	Timeline
<p>Withdrawal of the claim or counterclaim. Either party can withdraw the claim or counterclaim at any time before the hearing. The party that the withdrawal favoured may make an application for costs.</p>	<p>An application for costs can be made within 30 days after the notice of withdrawal is sent by the clerk.</p>
<p>Award of a default judgment. If either party fails to appear on the date set for the hearing or a pre-trial conference, the court may award a default judgment in regards to the claim.</p>	<p>When a claimant or defendant fails to appear at a hearing or pre-trial conference.</p>
<p>Judgment. Judgments may be rendered at the end of the trial, however, sometimes, depending on the complexity of the matter and the evidence provided, a judge may reserve the rendering of his or her decision until as soon as possible after the hearing.</p>	<p>On the date of the hearing.</p>
Further Options	Timeline
<p>Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the date set for the hearing or a pre-trial conference (in respect to the claim filed) can apply to have this judgment set aside.</p>	<p>Upon learning of the judgment</p>
<p>Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Court of Queen's Bench.</p>	<p>Following the judgment.</p>

British Columbia: Small Claims Court Overview

Action	Timeline
File and serve claim. The claimant files a notice of claim and blank reply form, and serves these on the defendant. For claims of \$3,000 or less the filing fee is \$100. For claims more than \$3,000 the filing fee is \$156.	This is done when the action is initiated.
The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a reply with the registrar. The defendant can also file a counter-claim.	Within 14 days if service occurs within British Columbia. Within 30 days if service occurs outside British Columbia.
The registrar will serve a copy of the reply on the claimant.	Within 21 days of receiving the defendant's reply.
Application for default judgment. If the defendant does not file a reply with the registrar, the claimant can apply to have a default judgment.	After the timeframe noted above for the filing of a reply by a defendant.
Settlement conference The claimant and the defendant must attend a settlement conference	Before a trial date is set.
Possible Outcomes	Timeline
Settlement A party offers to settle by serving the other party with an offer to settle.	Within 30 days of a settlement conference.
To accept the offer to settle, the other party must complete and serve an offer to accept on the other party	Within 28 days after being served with the offer to settle.
Withdrawal of the claim or counterclaim. The claimant can withdraw his or her claim and the defendant can withdraw his or her counterclaim.	Any time before the hearing.
Dismissal of the claim If the claimant fails to appear on the date set for the hearing or a pre-trial conference, the court may dismiss the claim.	When a claimant fails to appear at a hearing or pre-trial conference.
Award of a default judgment.	When the defendant fails to appear at a hearing or settlement conference.
Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.	Verbally at the end of hearing (or at a later date). A written decision will take effect on the day it is filed with the registrar.
Further Options	Timeline
Application to set aside a default judgment. The defendant can ask the court to cancel the default order and allow him or her to file a reply.	Upon learning of the judgment
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Supreme Court.	Within 40 days of receiving the judgment.

Manitoba: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. The claimant files a Small Claim and a blank copy of a Notice of Intention to Appear with the court and serves these on the defendant.</p> <p>After serving the defendant, the claimant must file a Declaration of Service with the court.</p> <p>The fee is \$20.00.</p>	<p>Small Claim must be served on the defendant within 30 days that the claim was filed at the court. The court will set a date for the hearing within 60 days after the date of filing the claim or at such other time as the judge sees fit.</p>
<p>The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a Notice of Intention to Appear.</p> <p>The defendant can also file a counterclaim against the claimant. The counterclaim must be served on the claimant.</p>	<p>At least 7 days before hearing date.</p> <p>Immediately.</p>
<p>Application for default judgment. If the defendant does not file a Notice of Intention to Appear, the claimant can apply to have a default judgment</p>	<p>After the timeframe noted above for the filing of a response by the defendant.</p>
Possible Outcomes	Timeline
<p>Withdrawal of the claim.</p> <p>At any time, if no response has been filed, or with the written consent of all parties or with the leave of the court, either party can file a notice of withdrawal (Form 5) with the clerk.</p>	<p>Any time before the hearing.</p>
<p>Award of a default judgment.</p> <p>If the defendant does not appear on the date set for the hearing, the court may award a default judgment in regards to the claim.</p>	<p>When a defendant fails to appear at a hearing.</p>
<p>Judgment.</p> <p>If there is a trial and both parties appear, the judge will hear the case, and render a judgment using the information presented by the claimant and defendant.</p>	<p>On (or after) the date of the hearing.</p>
Further Options	Timeline
<p>Application to set aside a default judgment.</p>	<p>Upon learning of the default judgment.</p>
<p>Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Court of Appeal.</p>	<p>Within 30 days after the date of the filing of the adjudicator's decision.</p>

New Brunswick: Small Claims Court Overview

Action	Timeline
File and serve claim. The claimant files and then serves a claim (Form 1) and response (Form 2) on the defendant. For claims of \$3,000 or less the filing fee is \$50. For claims of more than \$3,000 the filing fee is \$100.	The claim must be served within one year of filing with the clerk.
The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file the original response with the clerk of the judicial district where the claim was filed. The defendant pays a fee of \$25. If the response contains a counterclaim the filing fee is \$50 where the counterclaim is for \$3,000 or less and \$100 where the counterclaim is for an amount over \$3,000.	Within 30 days after the date of service.
Application for default judgment. If the defendant does not file a response, the claimant can apply to have a default judgment.	After the timeframe noted above for the filing of a response by the defendant.
Possible Outcomes	Timeline
Settlement A mediator may contact the parties to discuss settlement of the claim. If parties settle, they must sign and file a settlement agreement and/or a notice of withdrawal with the court.	Any time before the hearing.
Withdrawal of the claim or counterclaim. A claimant may withdraw the claim, if no response has been filed or with written consent of the parties or with leave of the court, if a response has been filed.	At any time.
Award of a default judgment. If the defendant fails to appear on the date set for the hearing, the court may award a default judgment in regards to the claim and dismiss the counterclaim, if any has been filed by the defendant.	When a defendant fails to appear at a hearing.
Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a written judgment using the information presented.	At the hearing. The judge can also decide to submit a written judgment to both parties and court as soon as possible after the hearing.
Further Options	Timeline
Application to set aside a default judgment. Defendant files with the clerk an Application for Order by Small Claims Court (Form 23) which tells the court why he or she did not file a response and Affidavit to Set Aside Default or Interim Order (Form 8), and serves these on the claimant.	Upon learning of the default judgment.
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can file a notice of appeal (using application Form 17) with the clerk of the Court of Queen's Bench for a fee of \$75.	Within 30 days after the date of the filing of the adjudicator's decision.

Newfoundland and Labrador: Small Claims Court Overview

Action	Timeline
File and serve claim. The plaintiff files a statement of claim and reply, and serves these on the defendant. The filing fee is \$20.	Within 12 months of filing the claim with the court.
The defendant has the opportunity to respond. The defendant may pay the amount claimed directly to the plaintiff, admit all or part of the claim and propose a payment schedule, or dispute the claim and/or counterclaim. If the defendant disputes the claim, he or she has a set amount of time to file a reply with the court.	Within 10 days after receiving the statement of claim.
Application for default judgment. If the defendant does not file a reply with the court, the plaintiff can apply to have a default judgment.	After the timeframe noted above for the filing of a reply by a defendant.
Settlement Conference The parties must attend a settlement conference to try to settle the claim. The parties must be served with the notice of the settlement conference by the court	Before a trial date is set. Notice must be sent by the court at least 14 days before the settlement conference.
Possible Outcomes	Timeline
Withdrawal of the claim or counterclaim. A party who wishes to withdraw his or her claim must serve a notice of withdrawal with the court and on the other party.	At any time.
Award of a default judgment. If the defendant does not appear on the date set for the settlement conference or the hearing, the court may award a default judgment in regards to the claim.	When a defendant fails to appear at a settlement conference or hearing.
Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.	At, or as soon as possible after, the hearing.
Further Options	Timeline
Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the date set for the settlement conference or hearing (in respect of the claim filed) can apply to have this judgment set aside.	Upon learning of the default judgment.
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Trial Division.	Within 30 days of the judgment or order.

Northwest Territories: Small Claims Court Overview

Action	Timeline
File and serve claim. The plaintiff files a claim (Form 1) with the clerk of the Territorial Court nearest the place where the action arose and serves the defendant with a copy of the claim and defence (Form 4). For a claim of \$500 or less the filing fee is \$15. For claims more than \$500 the filing fee is \$30.	This is done when the action is initiated. No time limit is specified as to when a defendant must be served after the claim is filed.
The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a defence with the clerk. The defendant may counterclaim against the plaintiff.	Within 25 days of service of the claim.
Application for default judgment. The plaintiff must issue a notice of trial and pay the set fee of \$5. If the defendant fails to file a reply with the clerk of the court within the prescribed time, the claimant can apply for a default judgment.	After the timeframe noted above for the filing of a defence by a defendant.
Possible Outcomes	Timeline
Withdrawal of the claim or counterclaim. Either party can serve notice of a withdrawal of a claim or counterclaim.	At any time.
Award of a default judgment. If either party fails to attend the hearing, the Court can award a default judgment.	At any time before a judgment is made.
Offer to settle. Either party can offer to settle the claim.	At any time before a judgment is made.
Judgment If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.	On, or as soon as possible after, the date of the hearing.
Further Options	Timeline
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Supreme Court.	After the court makes a judgment.

Nova Scotia: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. The claimant files a Notice of Claim (Form 1) and a blank Defence/Counterclaim (Form 2) with the clerk of the court and serves these on the defendant.</p> <p>For a claim of \$5,000 or less the filing fee is \$75. For claims of more than \$5,000, the filing fee is \$150.</p>	<p>This is done when the action is initiated.</p>
<p>The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a Defence/Counterclaim (Form 2) with the clerk.</p>	<p>Within 10 days or within any additional time allowed by the clerk or adjudicator.</p>
<p>Application for default judgment. If the defendant does not file a Defence/Counterclaim (Form 2) with the clerk, the claimant can apply to have a default judgment.</p>	<p>After the timeframe noted above for the filing of a Defence/Counterclaim (Form 2) by a defendant.</p>
Possible Outcomes	Timeline
<p>Withdrawal of the claim or counterclaim. Either party can withdraw the claim or counterclaim. The party that the withdrawal favoured may make an application for costs.</p>	<p>Before the date of the hearing.</p>
<p>Award of a default judgment. If the defendant has not filed a defense within the time limit, or does not appear at the hearing, the adjudicator can award a default judgment.</p>	<p>When a defendant fails to attend a hearing.</p>
<p>Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.</p> <p>The winning party may apply to the Court for an execution order to compel payment. The fee for the order is \$75.</p>	<p>Within 60 days after the hearing.</p>
Further Options	Timeline
<p>Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal either an order or a determination of an adjudicator to the Nova Scotia Supreme Court.</p>	<p>Within 30 days after the order or determination of the adjudicator has been filed with the court.</p>

Nunavut: Small Claims Court Overview

Nunavut does not currently have a small claims division in its court structure. The Nunavut Court of Justice is a unified court. All civil claims are commenced through the Supreme Court Rules of the Northwest Territories.

A task force is looking into establishing a small claims court system and the territory is tracking all claims under \$10,000, to identify claims that may one day be in Small Claims Court.

Ontario: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. Plaintiff must:</p> <p>A. file the claim with the clerk;</p> <p>B. serve claim on on the defendant; and</p> <p>C. file an affidavit of service with the clerk after serving the defendant.</p>	<p>This is done when the action is initiated.</p> <p>Plaintiff's claim must be served on the defendant within 6 months after clerk issues claim.</p>
<p>The defendant has the opportunity to respond. From the date of service, the defendant can pay the full amount of the claim, or dispute the claim and/or file a counterclaim against the plaintiff.</p> <p>The filing fee to dispute the claim is \$25. The filing fee is \$50 if the defendant wishes to counterclaim.</p>	<p>Within 20 days of receiving the plaintiff's claim.</p>
<p>Application for default judgment. If a defendant does not file a defence with the clerk, the plaintiff can apply to have a judgment order.</p>	<p>After the timeframe noted above for the filing of a defence by a defendant.</p>
Possible Outcomes	Timeline
<p>Withdrawal of the claim or counterclaim. Either party can withdraw the claim or counterclaim. The party that the withdrawal favoured may make an application for costs.</p>	<p>On or before the date of the hearing.</p>
<p>Award of a default judgment. If either party fails to appear on the date set for the hearing, the court may award a default judgment in regards to the claim.</p>	<p>When a claimant or defendant fails to appear at a hearing.</p>
<p>Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.</p>	<p>On, or as soon as possible following, the date of the hearing.</p>
Further Options	Timeline
<p>Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the date set for the hearing can apply to have the judgment set aside.</p>	<p>Upon learning of the judgment</p>
<p>Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Superior Court of Justice if the action is \$500 or more.</p>	<p>Following the judgment</p>

Prince Edward Island: Small Claims Court Overview

Action	Timeline
File and serve claim. The plaintiff files a Notice of Claim and Dispute Note with the registrar, and serves these on the defendant. The fee is \$25.	This is done when the action is initiated.
The defendant can pay the claim in full or file a Dispute Note with the registrar.	Within 20 days from the date of service, if service within Prince Edward Island. Within 40 days from the date of service, if service outside Prince Edward Island.
Application for default judgment. If the defendant does not file a Dispute Note, the plaintiff can apply to have a default judgment.	After the timeframe noted above for the filing of a Dispute Note by a defendant.
Possible Outcomes	Timeline
Withdrawal of the claim or counterclaim. A party may withdraw his or her Notice of Claim or counterclaim by filing a notice of withdrawal with the registrar.	Any time before the hearing.
Award of a default judgment. If the defendant fails to appear on the date set for the hearing, the court may award a default judgment in regards to the claim.	When a defendant fails to appear at a hearing.
Settlement Conference All parties must attend a settlement conference and be prepared with all their evidence. A settlement conference is held to try to settle the matter before the hearing. If the parties cannot agree during the settlement conference then a hearing is scheduled. The registrar must serve a notice of settlement conference on the parties.	Before a hearing date is set. Notice must be sent to the parties at least 10 days before the date set for the settlement conference.
Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.	Within 30 days of the date of the hearing.
Further Options	Timeline
Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the date set for the hearing can apply to have the judgment set aside.	Upon learning of the judgment.
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Appeal Division. The appellant must serve a notice of appeal, with proof of service with the registrar.	Within 30 days after the date of the filing of the judgment or order. Within 10 days after service.

Quebec: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. The claimant files a statement of claim, and serves it on the defendant.</p> <p>For claims of \$100 or less the filing fee is \$50. For claims more than \$100 the filing fee is \$98.</p>	<p>This is done when the action is initiated. Most claims must be filed within a period of three years.</p>
<p>The defendant has the opportunity to respond. The defendant can pay the amount claimed or make a settlement with the plaintiff, dispute the plaintiff's claim and/or counterclaim.</p> <p>For counterclaims, the filing fee is \$84.</p>	<p>Within 20 days of receiving the statement of claim.</p>
<p>Application for default judgment. If the defendant does not respond to the clerk after receiving notice of the statement of claim, a default judgment may be made.</p>	<p>After the timeframe noted above for the defendant to respond to the clerk.</p>
Possible Outcomes	Timeline
<p>Withdrawal of the claim or counterclaim. Either party can withdraw the claim or counterclaim.</p>	<p>At any time before the hearing.</p>
<p>Award of a default judgment.</p>	<p>If the defendant fails to appear at the hearing.</p>
<p>Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.</p>	<p>Within 4 months of the hearing if the claim was contested. Within 30 days for an uncontested claim.</p>
Further Options	Timeline
<p>Application to set aside a default judgment.</p> <p>Where there is a default judgment, the party who failed to appear at the date set for the hearing must provide reasonable cause for having failed to appear.</p> <p>For claims of \$100 or less the filing fee is \$32. For claims of more than \$100 the filing fee is \$50.</p>	<p>Within 15 days of learning of the judgment.</p>
<p>Appeal to a higher court. There is no appeal from Small Claims Court.</p>	

Saskatchewan: Small Claims Court Overview

Action	Timeline
File and serve claim. The plaintiff files a summons and Statement of Plaintiff's Claim, and serves these on the defendant. For claims of \$2,000 or less the filing fee is \$20. For claims more than \$2,000 the filing fee is 1 per cent of the amount claimed.	This is done when the action is initiated.
The defendant has the opportunity to respond. The defendant can pay the full amount required to settle the claim, defend against the claim, or serve a notice of counterclaim on the plaintiff and with the court. The defendant need not file any documents and can defend orally at the trial. This is also true of any counter claim the defendant may wish to file.	
Mediation The court may require the parties to attend a mediation session.	Before the date of the trial.
Application for default judgment. n/a	
Possible Outcomes	Timeline
Withdrawal of the claim or counterclaim.	At any time up to the date of the hearing.
Award of a default judgment. If either part fails to appear at the hearing, the court may reschedule the trial or give a default judgment.	When a claimant or defendant fails to appear at a hearing.
Judgment. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.	On, or as soon as possible following, the date of the hearing.
Further Options	Timeline
Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the hearing can apply to have the judgment set aside.	Upon learning of the judgment.
Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Court of Queen's Bench.	Within 30 days of the judgment of the court.

Yukon: Small Claims Court Overview

Action	Timeline
<p>File and serve claim. The claimant files a claim and reply form with clerk of the court, and serves these on the defendant.</p> <p>For claims of \$3,000 or less the filing fee is \$50 and for claims of more than \$3,000 the filing fee is \$100.</p>	<p>This is done when the action is initiated. The claimant must serve the claim on the defendant within one year from the date the claim was filed in court.</p>
<p>The defendant has the opportunity to respond. From the date of service, the defendant has a set amount of time to file a reply with the clerk.</p>	<p>Within 20 days if service occurs within the Yukon. Within 30 days if service occurs outside the Yukon.</p>
<p>Application for default judgment. If the defendant does not file a reply with the clerk, the claimant can apply to have a default judgment.</p>	<p>After the timeframe noted above for the filing of a reply by a defendant.</p>
Possible Outcomes	Timeline
<p>Mediation The parties can choose to have the claim mediated rather than tried. A notice of election for mediation must be filed with the clerk</p>	<p>Before the date of the hearing.</p>
<p>Withdrawal of the claim or counterclaim. Either party can withdraw their claim or counterclaim by serving a notice of withdrawal with the clerk and on all of the parties.</p>	<p>At any time.</p>
<p>Award of a default judgment. If the defendant fails to appear at the hearing, the court may award a default judgment in regards to the claim. If the claimant fails to appear at the hearing, the claim can be dismissed.</p>	<p>On the hearing date.</p>
<p>Judgment at the hearing. If there is a trial and both parties appear, the judge will hear the case of both the claimant and the defendant, and will make a judgment using the information presented.</p>	<p>On, or as soon as possible following, the date of the hearing.</p>
Further Options	Timeline
<p>Application to set aside a default judgment. When there is a default judgment, the party who failed to appear at the date set for the hearing can apply to have the judgment set aside.</p>	<p>Upon learning of the judgment.</p>
<p>Appeal to a higher court. The appellant, or party who appeals the decision of the lower court, can appeal to the Supreme Court</p>	<p>Within 30 days of receiving the judgment.</p>

Appendix B: Further Information

Marketing

Central Ontario Co-operative Housing Federation (COCHF). (2002). Marketing Your Co-op: Tools for getting and keeping members.

Canada - This publication is designed to assist co-ops in understanding some basic marketing principles, developing a marketing plan, and how to market the co-op effectively. A section of this publication provides tools and resources such as worksheets, checklists, organizational charts and other materials to assist co-ops to market themselves effectively.

Co-op Finances

Co-operative Housing Federation of Toronto (CHFT). (1998). Managing Arrears.

Canada - This book is a valuable resource for housing co-ops to help control arrears. It is written in plain language. This book defines arrears, suggests strategies to control arrears, and discusses related by-laws. Its appendix includes an arrears worksheets, performance agreements for arrears and late payments and a checklist to be used with the sample arrears by-laws.

Co-operative Housing Federation of Toronto (CHFT). (1989). Financial Management.

Canada + Ontario - This book was created as a text for a course on Financial Management. It is a useful reference book that a co-op's finance committees and board can use. Topics include "Organizing Financial Management", "Controlling Finances", "Planning Finances", "Reporting Finances", "Legal Requirements", and "Educating Members about Finances". It includes sample balance sheets, budgetary income statements, summary arrears reports and cash flow projections.

Co-operative Housing Federation of Toronto (CHFT). (1989). Preparing a Budget.

Canada - This book is a plain language guide that was designed for a workshop on Budget Preparation. It is useful for finance committees and boards on how and when to prepare the co-op's budget and to make revisions to the budget. The book also addresses ways to involve the membership in preparing the budget. The appendix includes a sample budget package and a list for capital replacements.

Co-operative Housing Federation of Toronto (CHFT). (2003). Your Co-op and the GST.

This book provides an overview of GST and housing co-ops. It deals with tax rules that apply to co-ops in each province and territory. The book is written in plain language. The appendix of resources includes forms that are useful for housing co-ops and bookkeepers.

Co-operative Housing Federation of Toronto (CHFT). (1990). Understanding your Co-op's Audit.

Canada – This book is a manual for understanding the co-op's financial audit. It explains the importance of understanding why the co-op's audit is necessary and then explains how to read the audit and how the actual accounting system works. It is a useful plain language guide that is particularly relevant to the housing co-op's staff and board.

Co-op Management and Governance

Canada Mortgage and Housing Corporation (CMHC). (2003). Crisis Situations in Cooperatives: Better Interventions Hinge on a Better Understanding.

Canada - This research highlight summarizes the key findings of a research project that examined the origin of crisis in co-ops, the conditions that led to the crisis, and solutions that can be adopted to help prevent the development of crisis situations.

Co-operative Housing Federation of British Columbia (CHFBC). (1995). An Introduction to Co-op Housing Management.

Canada - This manual was written for employees and managers of non-profit housing co-ops. It is an introduction to co-op housing management and discusses highlights key aspects of sound co-op management, different ways to offer management services, and ways to improve the working relationship with a co-op.

Co-operative Housing Association of Ontario (CHAO). (1993). Good Management in your Co-op.

Canada – This book is written in plain language to assist a co-op's board of directors to develop a new co-op or hire staff for an existing co-op. The book describes how to manage a co-op using paid staff, and addresses the need for good management in co-ops, working effectively with employees or an operational services company, and helps a co-op develop reasonable standards of performance by staff.

Co-operative Housing Federation of Toronto (CHFT). (2002). Board of Directors.

Canada - This booklet provides an introduction to co-op housing and the roles and responsibilities of its board of directors. It is written in plain language and refers to the legislation of each province and territory.

Co-operative Housing Federation of Toronto (CHFT). (1990). Effective Elections.

This book is designed to help co-ops plan, organize and carry out effective elections efficiently. It provides a procedural guide for holding a successful election. It is written in plain language. The appendix covers job descriptions, as well as examples of how a co-op board should conduct itself.

Co-operative Housing Federation of Toronto (CHFT). (2002). A New View of Participation.

Canada – This book examines ways to encourage participation, democracy and a sense of community in co-op housing. Written in plain language, it offers ideas and suggestions to encourage participation. This manual also includes the experience of three different communities in Newfoundland, Toronto and Calgary.

Co-operative Housing Federation of Toronto (CHFT). (2000). Conflict of Interest.

Canada + Ontario - This plain language booklet discusses what conflict of interest is, provides examples of conflict of interest, and suggests ways to reduce the risk of this situation. In addition, this resource offers a model bylaw that all co-ops across Canada can adapt and use.

Co-operative Housing Federation of Toronto (CHFT). (1990). Better Meetings.

Canada – This book provides information that can assist co-ops to have effective members' meetings, board meetings and committee meetings. It draws on the experiences of many co-ops in organizing meetings. The first part of the book focuses on planning an effective members' meeting while the second part focuses on planning a good board or committee meeting. This book is written in plain language.

Co-operative Housing Federation of Toronto (CHFT). (2000). Evaluating Staff.

Canada - This guide can help housing co-ops and their staff to create and use effective staff evaluations and encourages healthy staff relations in housing co-ops. It is written in plain language and also covers issues of bias.

Co-operative Housing Federation of Toronto (CHFT). (1989). On-Call Committee.

Canada - This book is a guide for on-call committees. The first few chapters deal with forming an on-call committee. The last two chapters cover emergency situations and provides useful resources that can be adopted by a housing co-op. It is written in plain language.

Co-operative Housing Federation of Toronto (CHFT). (1993). New Members in Your Co-op.

Canada - This book is a guide to the membership process in housing co-ops. Written in plain language, this book covers the broad range of topics related to new members in co-op housing. Sections on how people become members, processing applications, waiting lists, and welcoming the new member prove useful for both management and members considering living in co-op housing.

Co-operative Housing Federation of Toronto. (2001). Plain Language and Clear Design: A Co-op Writer's Guide.

This book is designed to help those who write for housing co-ops write in a way and style that best communicates the point and information to co-op members.

Seniors and Co-op Housing

Co-operative Housing Federation of Canada (CHF Canada). (2001). Alzheimer's and other Forms of Dementia: The Challenge for Housing Co-ops.

Canada - This booklet is a plain language guide that addresses the challenges that co-ops may face in dealing with Alzheimer's and other forms of mental illness. It is designed to provide assistance to co-ops with large senior populations that seek to manage these issues. It provides basic information on specific mental illnesses and its symptoms as well as insight on sensitive issues such as when and how to ask a member to leave without violating human rights legislation.

Co-operative Housing Federation of Canada (CHF Canada). (2001). Seniors Housing Co-ops: Making them work, keeping them strong.

Canada - This book discusses ways to maintain seniors' co-ops by providing useful strategies for co-ops to deal with an aging population. The first part of this publication highlights some of the challenges that seniors' co-ops may face, however, the majority of this book provides solutions that seniors' co-ops have already adopted or intend to adopt. This book is written in plain language.

Rahder, Barbara Loevinger. (1990). A Comparison of Co-operatives and Private Non-Profit Housing Options for Older Canadians.

Ontario - This study compares three seniors' housing co-ops and three seniors' private non-profit accommodations located in Toronto. It assesses how well the needs of seniors are met by examining the physical design and location of the buildings as well as their access to needed services. In addition, this report examines social life within the two different accommodations.

Legal Topics

Co-operative Housing Federation of Toronto (CHFT). (2001). A Review of Evictions in Ontario.

Ontario – This publication reviews co-op housing evictions in Ontario since the Ontario Co-operative Corporations Act was amended. It explains relevant sections of the act that deals with eviction and can be used by a co-op that is deciding to evict a member and by a member that is facing eviction. It is written in plain language. It simplifies Ontario's Co-operative Corporations Act which is very thorough and complex.

Co-operative Housing Federation of Toronto (CHFT). (1993). Going to Court.

Ontario – This book provides a step-by-step guide for co-ops to follow in a court action. It is written in plain language, but may not now be up to date.

Co-operative Housing Federation of Toronto (CHFT). (1996). Your Co-op and the Law.

Ontario - It is written in plain language so that co-ops in Ontario can understand their legal and corporate obligations. Examples of relevant laws include The Co-operative Corporations Act and The Employment Standards Act.

Miscellaneous

Canada Mortgage and Housing Corporation (CMHC). (1990). Research Report: Consultation Paper on the Federal Co-operative Housing Program.

Canada - This consultation paper poses specific questions to interested parties concerning co-op housing and the reasons for federal government involvement and how the government plays a role in co-ops. Topics include 'the role of cooperative within the framework of national policy directions', 'Federal Assistance to Non-Core-Need Co-operative Members' and 'Program Delivery and Administration'.

Co-operative Housing Federation of Canada (CHF Canada). (1997). Creating Healthy Communities.

Canada - This book offers and explores practical ideas about community life in housing co-ops. The book addresses how members can work together to form strong communities. This book suggests activities that members can plan and initiate to increase community development in housing co-ops. This book is written in plain language.

Co-operative Housing Federation of Toronto (CHFT). (1997). Diversity Action Kit.

This is designed as a tool to help co-ops develop respect and tolerance in order to build a more inclusive co-op movement. This book ends with a glossary and tips on how to encourage dialogue. The text is plain language.

Co-operative Housing Federation of Toronto (CHFT). (1993). Energy for Your Co-op.

This book arises out of discussion among co-ops that used electrical heat in 1992 / 1993 that were concerned about the rising cost of energy. It gives a basic understanding of different energy systems and can help a co-op decide which energy alternative is best to use. It suggests that co-ops use an energy conservation program. The language may be somewhat technical in some areas, although generally it is easy to follow.

Co-operative Housing Federation of Toronto (CHFT). (1995). Property Inspections.

This is a guide for carrying out annual inspections of the co-op's property. It provides methods that can be used for both moving-out and moving-in inspections. It also provides resources of sample scheduling of inspections, lists of responsibilities, and notice of inspection letters to moving-in members.

Co-operative Housing Federation of Toronto (CHFT). (1997). Taking Action on Co-op Diversity.

This publication is a collection of articles on diversity issues written for co-op housing members. They deal with the issues of racism, sexism, homophobia and other forms of discrimination in co-ops and how to create a positive environment to combat discrimination. This booklet is written in plain language.

Co-operative Housing Federation of Toronto (CHFT). (1997). Words, Words, Words: The Co-op Housing Dictionary.

Canada - This dictionary defines words and terms used by co-ops. It can be used in all provinces and territories.

Co-operative Housing Federation of Canada (CHF Canada). (1994). Your Co-op – Make it Green.

Canada – This book is a comprehensive and useful guide that provides strategies and information on how to make housing co-ops environmentally-friendly. The book highlights some of the activities that some co-ops have been involved in and provides resources that are available to communities that seek to protect the environment.

