

# Now & Next

Cooperatives & Condominiums Alert

August 22, 2024

## Condominiums can assist data center financing and development

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Increasing demand for data processing, storage, and transmission for various applications, such as artificial intelligence, is leading to the rapid expansion of larger-scale development data centers.



### What's the impact?

- To meet rising demand, developers are building new data center facilities across the United States, which sometimes include utility service units constructed to limit the strain on local energy sources.
- The condominium structure is ideal for data centers—it allows operators to share the costs and benefits of the utilities provided by the common infrastructure while retaining ownership and control of their individual units.
- The condominium structure maximizes optionality for financing data center facilities among one or more operators, allowing condo units to be financed separately.

Data center facilities are essential for the growing demand for data-intensive computing, such as artificial intelligence (AI), but they also pose challenges for the local utility grids and resources. To

address these challenges, some data center developers are building their own energy substations, water filtration systems, and other external utility service units that serve multiple data centers in a single development. However, this model can create access and ownership issues for the data center operators.

## **Using condominium structure for data center operations**

A condominium structure can offer a solution by allowing the data center operators to share the costs and benefits of the common infrastructure while retaining ownership and control of some or all of the individual units. A condominium structure can also enable data center operators to customize their units according to their specific needs and preferences, such as power density, security, and sustainability. Moreover, a condominium structure can streamline the development process for data center facilities, as most municipalities have concrete processes and procedures for the formation of condominiums, thereby allowing operators to enter the market faster and more efficiently.

Finally, a condominium structure can maximize optionality for financing data center facilities and, potentially, structuring take-out financings of each data center separately. In addition, it allows for a more flexible financing structure that does not require local zoning approval, which subdivision of a parcel would require. Like its use in affordable housing development, a condominium structure allows for the allocation of different types of financing and tax incentives for what would otherwise be one building or project.

## **Condominium laws in states with large data centers**

In the United States, condominium laws are established at the state level, and virtually every state has enacted legislation governing the creation, management, and operation of condominiums, including the rights and responsibilities of unit owners and the governance of common areas. Here is a general overview of condominium laws in some key states that house some of the largest data centers in the country:

### **VIRGINIA**

The Virginia Condominium Act (Title 55.1, Chapter 19 of the Code of Virginia) covers the various aspects of condominium creation, management, and termination.

### **CALIFORNIA**

The Davis-Stirling Common Interest Development Act governs condominiums and other common interest developments. It outlines the legal framework for the creation and management of these communities.

## **TEXAS**

The Texas Uniform Condominium Act (Chapter 82 of the Texas Property Code) standardizes condominium laws across the state, addressing issues such as property rights, association governance, and financial management.

## **NEW YORK**

The New York Condominium Act (Article 9-B of the Real Property Law) sets forth the requirements for the formation and operation of condominiums in the state and Article 23-A of the New York General Business Law, which regulates the offer and sale of condominiums to the public.

## **ILLINOIS**

The Illinois Condominium Property Act (765 ILCS 605) governs condominiums in Illinois, providing guidelines for association governance, unit owner rights, and financial management.

## **OTHER STATES**

These are just a few examples, and similar laws exist in other states across the country. If you require detailed information about condominium laws in a specific state or need assistance with a particular legal matter involving the condominium structure for data centers, please contact your Nixon Peabody attorney or

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