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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW

Introduced By: Senators McKenney, and Raptakis

Date Introduced: March 01, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 34-36.1-1.02 and 34-36.1-3.13 of the General Laws in Chapter 34-  
2 36.1 entitled "Condominium Law" are hereby amended to read as follows:

3           **34-36.1-1.02. Applicability.**

4           (a)(1) This chapter applies to all condominiums created within this state after July 1, 1982,  
5 except that any condominium created within this state prior to July 1, 1982, may voluntarily accept  
6 the provisions of this chapter in lieu of the provisions under which it was originally organized.  
7 Acceptance shall be evidenced by an agreement in writing executed by and in behalf of the  
8 condominium association and by all of the owners of all of the individual condominium units within  
9 the condominium, in which agreement it is clearly stated that they all accept the provisions of this  
10 chapter in lieu of those in the statute under which the condominium was organized and wish to be  
11 governed in the future by the provisions of this chapter. The agreement shall be recorded in the  
12 land evidence records of each and every town or city where all or any part of the land in the  
13 condominium concerned may be located and shall become effective when first so recorded. The  
14 acceptance shall only apply to the governance of the condominium concerned as to all matters  
15 which are prospective or executory in nature; and nothing herein shall be deemed to abrogate,  
16 amend, limit, effect, or impair the continued effectiveness, legality, or validity of all actions  
17 lawfully taken by or in behalf of the condominium prior to the effective date of the acceptance,  
18 including, but without limitation, the condominium declaration and all amendments thereto, the by-  
19 laws of the condominium and/or of its association, all deeds, mortgages, leases and any further

1 documents affecting the titles or rights of unit owners, or of the condominium or the prior lawful  
2 acts or deeds of any kind, of the condominium association, its officers, directors, or members.

3 (2) Sections 34-36.1-1.05 (separate titles and taxation), 34-36.1-1.06 (applicability of local  
4 ordinances, regulations, and building codes), 34-36.1-1.07 (eminent domain), 34-36.1-2.03  
5 (construction and validity of declaration and bylaws), 34-36.1-2.04 (description of units), 34-36.1-  
6 3.02(a)(1) — (6) and (11) — (17) (powers of unit owners' association), 34-36.1-3.11 (tort and  
7 contract liability), [34-36.1-3.13\(d\) \(unit owner responsibility for master policy deductibles\)](#), 34-  
8 36.1-3.16 (lien for assessments), 34-36.1-3.18 (association records), 34-36.1-4.09 (resale of units),  
9 and 34-36.1-4.17 (effect of violation on rights of action; attorney's fees), § 34-36.1-3.20  
10 (enforcement of declaration, bylaws and rules), and 34-36.1-1.03 (definitions), to the extent  
11 necessary in construing any of those sections, apply to all condominiums created in this state before  
12 July 1, 1982; but those sections apply only with respect to events and circumstances occurring after  
13 July 1, 1982 and do not invalidate existing provisions of the declaration, bylaws, plats, or plans of  
14 those condominiums.

15 (3) A condominium created as an additional phase by amendment of a condominium  
16 created prior to July 1, 1982, if the original declaration contemplated the amendment, shall be  
17 deemed to be a condominium created prior to July 1, 1982; provided, however, the provisions of  
18 subdivision (a)(2) shall apply as defined therein.

19 (4) Section 34-36.1-3.21 (foreclosure of condominium lien) applies, with respect to all  
20 condominiums created in this state prior to June 19, 1991, only with respect to events and  
21 circumstances occurring after June 18, 1991, does not invalidate existing provisions of the  
22 declarations, bylaws, plats, or plans of those condominiums, and applies in all respects to all  
23 condominiums created in this state after June 18, 1991.

24 (b) The provisions of the Condominium Ownership Act, chapter 36 of this title, do not  
25 apply to condominiums created after July 1, 1982 and do not invalidate any amendment to the  
26 declaration, bylaws, plats, and plans of any condominium created before July 1, 1982 if the  
27 amendment would be permitted by this chapter. The amendment must be adopted in conformity  
28 with the procedures and requirements specified by those instruments and by chapter 36 of this title.  
29 If the amendment grants to any person any rights, powers, or privileges permitted by this chapter,  
30 all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.

31 (c) This chapter does not apply to condominiums or units located outside this state, but the  
32 public offering statement provisions (§§ 34-36.1-4.02 — 34-36.1-4.07) apply to all contracts for  
33 the disposition thereof signed in this state by any party unless exempt under § 34-36.1-4.01(b).

34 **34-36.1-3.13. Insurance.**

1 (a) Commencing not later than the time of the first conveyance of a unit to a person other  
2 than a declarant, the association shall maintain, to the extent reasonably available:

3 (1) Property insurance on the common elements insuring against all risks of direct, physical  
4 loss commonly insured against or, in the case of a conversion building, against fire and extended  
5 coverage perils. The total amount of insurance after application of any deductibles shall be not less  
6 than eighty percent (80%) of the actual cash value of the insured property at the time the insurance  
7 is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items  
8 normally excluded from property policies; and

9 (2) Liability insurance, including medical payments insurance, in an amount determined  
10 by the executive board, but not less than any amount specified in the declaration, covering all  
11 occurrences commonly insured against for death, bodily injury, and property damage arising out  
12 of, or in connection with, the use, ownership, or maintenance of the common elements and any  
13 property owned or leased by the association.

14 (b) In the case of a building containing units having horizontal boundaries described in the  
15 declaration, the insurance maintained under subdivision (a)(1), to the extent reasonably available,  
16 shall include the units, but need not include improvements and betterments installed by unit owners.

17 (c) If the insurance described in subsections (a) and (b) is not reasonably available, the  
18 association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United  
19 States mail to all unit owners. The declaration may require the association to carry any other  
20 insurance, and the association in any event may carry any other insurance it deems appropriate to  
21 protect the association or the unit owners.

22 (d) Insurance policies carried pursuant to subsection (a) must provide that:

23 (1) Each unit owner is an insured person under the policy with respect to liability arising  
24 out of the owner's interest in the common elements or membership in the association;

25 (2) The insurer waives its right to subrogation under the policy against any unit owner or  
26 member of the owner's household;

27 (3) No act or omission by any unit owner, unless acting within the scope of his or her  
28 authority on behalf of the association, will void the policy or be a condition to recovery under the  
29 policy; and

30 (4) If, at the time of a loss under the policy, there is other insurance in the name of a unit  
31 owner covering the same risk covered by the policy, the association's policy provides primary  
32 insurance. Provided, however, a unit owner's insurance policy shall become the primary insurance  
33 policy with respect to any amount of loss [to their unit](#) covered by the association's policy but not  
34 payable under the association's policy because of the application of the deductible. [The failure of](#)

1 [a unit owner to maintain a unit owner's policy to fill this primary obligation relative to the master](#)  
2 [policy deductible applicable to their unit will not alleviate the unit owner of their responsibility for](#)  
3 [that association deductible. The association shall give unit owners at least thirty \(30\) days written](#)  
4 [notice of any change in the deductible applicable to the association's policy and their unit.](#)

5 (e) Any loss covered by the property policy under subdivision (a)(1) and subsection (b)  
6 must be adjusted with the association, but the insurance proceeds for that loss are payable to any  
7 insurance trustee designated for that purpose, or otherwise to the association, and not to any  
8 mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold  
9 any insurance proceeds in trust for unit owners and lien holders as their interests may appear.  
10 Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or  
11 restoration of the damaged property, and unit owners and lien holders are not entitled to receive  
12 payment of any portion of the proceeds unless there is a surplus of proceeds after the property has  
13 been completed, repaired or restored, or the condominium is terminated.

14 (f) An insurance policy issued to the association does not prevent a unit owner from  
15 obtaining insurance for his or her own benefit.

16 (g) An insurer that has issued an insurance policy under this section shall issue certificates  
17 or memoranda of insurance to the association and, upon written request, to any unit owner,  
18 mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or  
19 refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has  
20 been mailed to the association, each unit owner, and each mortgagee or beneficiary under a deed  
21 of trust to whom a certificate or memorandum of insurance has been issued at their respective last  
22 known addresses.

23 (h) Any portion of the condominium for which insurance is required under this section that  
24 is damaged or destroyed shall be repaired or replaced promptly by the association unless: (1) The  
25 condominium is terminated; (2) Repair or replacement would be illegal under any state or local  
26 health or safety statute or ordinance; or (3) Eighty percent (80%) of the unit owners, including  
27 every owner of a unit or assigned, limited common element that will not be rebuilt, vote not to  
28 rebuild unless insurance proceeds are adequate to rebuild. The cost of repair or replacement in  
29 excess of insurance proceeds, after the application of the association's policy deductible, is a  
30 common expense, unless the declaration [or bylaws provide](#) ~~provides~~ otherwise. If the entire  
31 condominium is not repaired or replaced, (1) The insurance proceeds attributable to the damaged  
32 common elements must be used to restore the damaged area to a condition compatible with the  
33 remainder of the condominium; (2) The insurance proceeds attributable to units and limited  
34 common elements that are not rebuilt must be distributed to the owners of those units and the

1 owners of the units to which those limited common elements were allocated, or to lienholders, as  
2 their interests may appear; and (3) The remainder of the proceeds must be distributed to all the unit  
3 owners or lienholders, as their interests may appear, in proportion to the common element interests  
4 of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are  
5 automatically reallocated upon the vote as if the unit had been condemned under § 34-36.1-1.07(a)  
6 and the association promptly shall prepare, execute, and record an amendment to the declaration  
7 reflecting the reallocations. Notwithstanding the provisions of this subsection, § 34-36.1-2.18  
8 governs the distribution of insurance proceeds if the condominium is terminated.

9 (i) In the event a unit owner sustains damage to the owner's unit as a result of an event that  
10 is covered under the insurance coverage purchased in accordance with this section, then upon  
11 written request to the condominium association, the unit owner shall be entitled to a written copy  
12 from the condominium association of the insurance company damage appraisal or any damage  
13 appraisal in regard to damage to the owner's unit, within fourteen (14) calendar days of the date of  
14 the unit owner's request, or within fourteen (14) days of the association's receipt of the damage  
15 appraisal, whichever is later. If coverage for the damage to a unit is denied for any reason or is  
16 deemed to be valued below the policy deductible, then the unit owner shall also be entitled to  
17 receive, from the association, a copy of the letter detailing the determination.

18 (j) The provisions of this section may be varied or waived in the case of a condominium  
19 all of whose units are restricted to nonresidential use.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would require associations to provide unit owners with thirty (30) days notice of  
2 any increase in the deductible application to the association's policy ensuring that unit owners will  
3 have coverage relating to their responsibility for the master policy deductible applicable to their  
4 unit.

5           This act would take effect upon passage.

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