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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW

Introduced By: Representatives Fellela, Costantino, Serpa, Hull, and J. Lombardi

Date Introduced: February 07, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-36.1-1.02, 34-36.1-1.03. and 34-36.1-3.08 of the General Laws  
2 in Chapter 34-36.1 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 [34-36.1-1.03\(26\) \(special assessments\)](#), 34-36.1-1.05 (separate titles and  
4 taxation), 34-36.1-1.06 (applicability of local ordinances, regulations, and building codes), 34-  
5 36.1-1.07 (eminent domain), 34-36.1-2.03 (construction and validity of declaration and bylaws),  
6 34-36.1-2.04 (description of units), [34-36.1-3.08 \(meetings\)](#), 34-36.1-3.02(a)(1) — (6) and (11) —  
7 (17) (powers of unit owners' association), 34-36.1-3.06(c) — (d) (bylaws), 34-36.1-3.11 (tort and  
8 contract liability), 34-36.1-3.16 (lien for assessments), 34-36.1-3.18 (association records), 34-36.1-  
9 4.09 (resale of units), and 34-36.1-4.17 (effect of violation on rights of action; attorney's fees), §  
10 34-36.1-3.20 (enforcement of declaration, bylaws and rules), and 34-36.1-1.03 (definitions), to the  
11 extent necessary in construing any of those sections, apply to all condominiums created in this state  
12 before July 1, 1982; but those sections apply only with respect to events and circumstances  
13 occurring after July 1, 1982, and do not invalidate existing provisions of the declaration, bylaws,  
14 plats, or plans of 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 **34-36.1-1.03. Definitions.**

1 In the declaration and bylaws, unless specifically provided otherwise or the context  
2 otherwise requires, and in this chapter:

3 (1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under  
4 common control with a declarant.

5 (i) A person "controls" a declarant if the person:

6 (A) Is a general partner, officer, director, or employer of the declarant,

7 (B) Directly or indirectly or acting in concert with one or more other persons, or through  
8 one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing,  
9 more than twenty percent (20%) of the voting interest in the declarant,

10 (C) Controls in any manner the election of a majority of the directors of the declarant, or

11 (D) Has contributed more than twenty percent (20%) of the capital of the declarant.

12 (ii) A person "is controlled by" a declarant if the declarant:

13 (A) Is a general partner, officer, director, or employer of the person,

14 (B) Directly or indirectly or acting in concert with one or more other persons, or through  
15 one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing,  
16 more than twenty percent (20%) of the voting interest in the person,

17 (C) Controls in any manner the election of a majority of the directors of the person, or

18 (D) Has contributed more than twenty percent (20%) of the capital of the person.

19 (iii) Control does not exist if the powers described in this subdivision are held solely as  
20 security for an obligation and are not exercised.

21 (2) "Allocated interests" means the undivided interest in the common elements, the  
22 common expense liability, and votes in the association allocated to each unit.

23 (3) "Association" or "unit owners' association" means the unit owners' association  
24 organized under § 34-36.1-3.01.

25 (4) "Common elements" means all portions of a condominium other than the units.

26 (5) "Common expenses" means expenditures made by or financial liabilities of the  
27 association, together with any allocations to reserves.

28 (6) "Common expense liability" means the liability for common expenses allocated to each  
29 unit pursuant to § 34-36.1-2.07.

30 (7)(i) "Condominium" means real estate, portions of which are designated for separate  
31 ownership and the remainder of which is designated for common ownership solely by the owners  
32 of those portions. Real estate is not a condominium unless the undivided interests in the common  
33 elements are vested in the unit owners.

34 (ii) Provided that each unit owner has a vested, undivided interest in the common elements

1 greater than 0.0 percent, no minimum percentage interest in the common elements is otherwise  
2 required by this chapter.

3 (8) "Conversion building" means a building that at any time before creation of the  
4 condominium was occupied wholly or partially by persons other than purchasers and persons who  
5 occupy with the consent of purchasers.

6 (9) "Declarant" means any person or group of persons acting in concert who:

7 (i) As part of a common promotional plan, offers to dispose of his, her or its interest in a  
8 unit not previously disposed of; or

9 (ii) Reserves or succeeds to any special declarant right.

10 (10) "Declaration" means any instruments, however denominated, that create a  
11 condominium, and any amendments to those instruments.

12 (11) "Development rights" means any right or combination of rights reserved by a declarant  
13 in the declaration to:

14 (A) Add real estate to a condominium,

15 (B) Create units, common elements, or limited common elements within a condominium,

16 (C) Subdivide units or convert units into common elements, or

17 (D) Withdraw real estate from a condominium.

18 (12) "Person with a disability" means any person who is unable to engage in any substantial  
19 gainful activity by reason of any medically determinable physical or mental impairment which can  
20 be expected to result in death or has lasted or can be expected to last for a continuous period of not  
21 less than twelve (12) months or any person having an impairment of mobility or vision which is  
22 expected to be of at least twelve (12) months duration, and is a substantial impediment to his or her  
23 ability to live independently.

24 (13) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or  
25 equitable interest in a unit, but does not include the transfer or release of a security interest.

26 (14) "Executive board" means the body, regardless of name, designated in the declaration  
27 to act on behalf of the association.

28 (15) [Deleted by P.L. 1999, ch. 83, § 80, and P.L. 1999, ch. 130, § 80 which enacted  
29 identical amendments to this section.]

30 (16) "Identifying number" means a symbol or address that identifies only one unit in a  
31 condominium.

32 (17) "Land only units" shall mean units designated as land only units on the plats and plans  
33 which units may be comprised entirely or partially of unimproved real property and the air space  
34 above the real property. The boundaries of a land only unit are to be described pursuant to § 34-

1 36.1-2.05(a)(5). Land only units may, but need not, contain a physical structure. The declaration  
2 may provide for the conversion of land only units to other types of units and/or common elements  
3 provided the conversion shall be effective only upon the recording of an amendment to the  
4 declaration which amendment will include new plats and plans identifying any portion of the land  
5 only unit converted to another type of unit and/or common element.

6 (18) "Leasehold condominium" means a condominium in which all or a portion of the real  
7 estate is subject to a lease the expiration or termination of which will terminate the condominium  
8 or reduce its size.

9 (19) "Limited common element" means a portion of the common elements allocated by the  
10 declaration or by operation of § 34-36.1-2.02(2) or (4) for the exclusive use of one or more but  
11 fewer than all of the units.

12 (20) "Master association" means an organization described in § 34-36.1-2.20, whether or  
13 not it is also an association described in § 34-36.1-3.01.

14 (21) "Offering" means any advertisement, inducement, solicitation, or attempt to  
15 encourage any person to acquire any interest in a unit, other than as security for an obligation. An  
16 advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium  
17 to the general public, of a condominium not located in this state, is not an offering if the  
18 advertisement states that an offering may be made only in compliance with the law of the  
19 jurisdiction in which the condominium is located.

20 (22) "Person" means a natural person, corporation, business trust, estate, trust, partnership,  
21 association, joint venture, government, governmental subdivision or agency, or other legal or  
22 commercial entity. (In the case of a land trust, however, "person" means the beneficiary of the trust  
23 rather than the trust or the trustee.)

24 (23) "Purchaser" means any person, other than a declarant or a person in the business of  
25 selling real estate for his or her own account, who by means of a voluntary transfer acquires a legal  
26 or equitable interest in a unit other than:

- 27 (i) A leasehold interest including renewal options of less than twenty (20) years, or
- 28 (ii) As security for an obligation.

29 (24) "Real estate" means any leasehold or other estate or interest in, over, or under land,  
30 including structures, fixtures, and other improvements and interests which by custom, usage, or law  
31 pass with a conveyance of land though not described in the contract of sale or instrument of  
32 conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces  
33 that may be filled with air or water.

34 (25) "Residential purposes" means use for dwelling or recreational purposes, or both.

1           ~~(26)~~ (27) “Special assessment” means an assessment that is not part of the association budget,  
2           (§ 34-36.1-3.03).

3           ~~(26)~~(27) “Special declarant rights” means rights reserved for the benefit of a declarant to:

4           (i) Complete improvements indicated on plats and plans filed with the declaration, (§ 34-  
5           36.1-2.09),

6           (ii) To exercise any development right, (§ 34-36.1-2.10),

7           (iii) To maintain sales offices, management offices, signs advertising the condominium,  
8           and models, (§ 34-36.1-2.15),

9           (iv) To use easements through the common elements for the purpose of making  
10           improvements within the condominium or within real estate which may be added to the  
11           condominium, (§ 34-36.1-2.16),

12           (v) To make the condominium part of a larger condominium or a planned community, (§  
13           34-36.1-2.21),

14           (vi) To make the condominium subject to a master association, (§ 34-36.1-2.20),

15           (vii) Or to appoint or remove any officer of the association or any master association or  
16           any executive board member during any period of declarant control, (§ 34-36.1-3.03(d)).

17           ~~(27)~~(28) “Time share” means a right to occupy a unit or any of several units during five (5)  
18           or more separated time periods over a period of at least five (5) years, including renewal options,  
19           whether or not coupled with an estate or interest in a condominium or a specified portion thereof.

20           ~~(28)~~(29) “Unit” means a physical portion of the condominium designated for separate  
21           ownership or occupancy, the boundaries of which are described pursuant to § 34-36.1-2.05(a)(5).

22           ~~(29)~~(30) “Unit owner” means a declarant or other person who owns a unit, or a lessee of a  
23           unit in a leasehold condominium whose lease expires simultaneously with any lease, the expiration  
24           or termination of which will remove the unit from the condominium, but does not include a person  
25           having an interest in a unit solely as security for an obligation.

26           **34-36.1-3.08. Meetings.**

27           (a) A meeting of the association must be held at least once each year. Special meetings of  
28           the association may be called by the president, a majority of the executive board or by unit owners  
29           having twenty percent (20%), or any lower percentage specified in the bylaws, of the votes in the  
30           association. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the  
31           secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent  
32           prepaid by United States mail to the mailing address of each unit or to any other mailing address  
33           designated in writing by the unit owner. The notice of any meeting must state the time and place of  
34           the meeting and the items on the agenda, including the general nature of any proposed amendment

1 to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

2 (b) Unless authorized in the declaration or bylaws pursuant to subsection (c) of this section,  
3 all association meetings shall take place in a physical location located in the city or town or, if not  
4 possible, in the county where the condominium is located.

5 (c) In the alternative, if authorized in the declaration or bylaws, all association meetings  
6 need not take place in a physical location but rather may take place entirely remotely as provided  
7 in subsection (d) of this section.

8 (d) If authorized in the declaration or bylaws, unit owners shall have the right to be counted  
9 in order to establish a quorum and to communicate with all other unit owners participating and to  
10 vote at association meetings using systems that support image, voice and data transfer over digital  
11 networks or telephone circuits using formats determined by the executive board with notice thereof  
12 to the unit owners.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PROPERTY -- CONDOMINIUM LAW

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1           This act would provide that amendments to §§ 34-36.1-1.03 and 34-36.1-3.08 are  
2 applicable to condominiums created before July 1, 1982, would provide a definition for the term  
3 “special assessment” and would allow, if authorized in declarations or bylaws, unit owners to  
4 participate in association meetings remotely.

5           This act would take effect upon passage.

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