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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 Speakman, and Alzate

Date Introduced: February 28, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-36.1-1.03, 34-36.1-2.07 and 34-36.1-3.03 of the General Laws
2 in Chapter 34-36.1 entitled "Condominium Law" are hereby amended to read as follows:

3 **34-36.1-1.03. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) "Annual budget" means a financial plan that outlines expected income and expenses
8 for a year which determines the annual or monthly condominium fee for unit owners.

9 (4) "Association" or "unit owners' association" means the unit owners' association
10 organized under § 34-36.1-3.01.

11 ~~(4)~~(5) "Capital expense" means money spent by the association to maintain common
12 expense, such as land, buildings and equipment.

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

14 ~~(5)~~(7) "Common expenses" means expenditures made by or financial liabilities of the
15 association, together with any allocations to reserves. This includes, but is not limited to:

16 (i) Insurance;

17 (ii) Shared utilities; or

18 (iii) Site and building maintenance.

19 ~~(6)~~(8) "Common expense liability" means the liability for common expenses allocated to
20 each unit pursuant to § 34-36.1-2.07.

21 ~~(7)~~(9)(i) "Condominium" means real estate, portions of which are designated for separate
22 ownership and the remainder of which is designated for common ownership solely by the owners
23 of those portions. Real estate is not a condominium unless the undivided interests in the common
24 elements are vested in the unit owners.

25 (ii) Provided that each unit owner has a vested, undivided interest in the common elements
26 greater than 0.0 percent, no minimum percentage interest in the common elements is otherwise
27 required by this chapter.

28 ~~(8)~~(10) "Condominium fees" means the amount of money each unit owner contributes
29 toward common expenses.

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

33 ~~(9)~~(12) "Declarant" means any person or group of persons acting in concert who:

34 (i) As part of a common promotional plan, offers to dispose of his, her or its interest in a

1 unit not previously disposed of; or

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

3 ~~(+9)~~(13) “Declaration” means any instruments, however denominated, that create a
4 condominium, and any amendments to those instruments.

5 (14) “Deed-restricted unit” means any unit that qualifies as low- and moderate-income
6 housing as set forth in § 45-53-3.

7 ~~(+11)~~(15) “Development rights” means any right or combination of rights reserved by a
8 declarant in the declaration to:

9 (A) Add real estate to a condominium,

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

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

12 (D) Withdraw real estate from a condominium.

13 ~~(+12)~~(16) “Person with a disability” means any person who is unable to engage in any
14 substantial gainful activity by reason of any medically determinable physical or mental impairment
15 which can be expected to result in death or has lasted or can be expected to last for a continuous
16 period of not less than twelve (12) months or any person having an impairment of mobility or vision
17 which is expected to be of at least twelve (12) months duration, and is a substantial impediment to
18 his or her ability to live independently.

19 ~~(+13)~~(17) “Dispose” or “disposition” means a voluntary transfer to a purchaser of any legal
20 or equitable interest in a unit, but does not include the transfer or release of a security interest.

21 ~~(+14)~~(18) “Executive board” means the body, regardless of name, designated in the
22 declaration to act on behalf of the association.

23 ~~(+15)~~(19) [Deleted by P.L. 1999, ch. 83, § 80, and P.L. 1999, ch. 130, § 80 which enacted
24 identical amendments to this section.]

25 ~~(+16)~~(20) “Identifying number” means a symbol or address that identifies only one unit in a
26 condominium.

27 ~~(+17)~~(21) “Land only units” shall mean units designated as land only units on the plats and
28 plans which units may be comprised entirely or partially of unimproved real property and the air
29 space above the real property. The boundaries of a land only unit are to be described pursuant to §
30 34-36.1-2.05(a)(5). Land only units may, but need not, contain a physical structure. The declaration
31 may provide for the conversion of land only units to other types of units and/or common elements
32 provided the conversion shall be effective only upon the recording of an amendment to the
33 declaration which amendment will include new plats and plans identifying any portion of the land
34 only unit converted to another type of unit and/or common element.

1 ~~(18)~~(22) “Leasehold condominium” means a condominium in which all or a portion of the
2 real estate is subject to a lease the expiration or termination of which will terminate the
3 condominium or reduce its size.

4 ~~(19)~~(23) “Limited common element” means a portion of the common elements allocated
5 by the declaration or by operation of § 34-36.1-2.02(2) or (4) for the exclusive use of one or more
6 but fewer than all of the units.

7 ~~(20)~~(24) “Master association” means an organization described in § 34-36.1-2.20, whether
8 or not it is also an association described in § 34-36.1-3.01.

9 ~~(21)~~(25) “Offering” means any advertisement, inducement, solicitation, or attempt to
10 encourage any person to acquire any interest in a unit, other than as security for an obligation. An
11 advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium
12 to the general public, of a condominium not located in this state, is not an offering if the
13 advertisement states that an offering may be made only in compliance with the law of the
14 jurisdiction in which the condominium is located.

15 ~~(22)~~(26) “Person” means a natural person, corporation, business trust, estate, trust,
16 partnership, association, joint venture, government, governmental subdivision or agency, or other
17 legal or commercial entity. (In the case of a land trust, however, “person” means the beneficiary of
18 the trust rather than the trust or the trustee.)

19 ~~(23)~~(27) “Purchaser” means any person, other than a declarant or a person in the business
20 of selling real estate for his or her own account, who by means of a voluntary transfer acquires a
21 legal or equitable interest in a unit other than:

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

24 ~~(24)~~(28) “Real estate” means any leasehold or other estate or interest in, over, or under
25 land, including structures, fixtures, and other improvements and interests which by custom, usage,
26 or law pass with a conveyance of land though not described in the contract of sale or instrument of
27 conveyance. “Real estate” includes parcels with or without upper or lower boundaries, and spaces
28 that may be filled with air or water.

29 ~~(25)~~(29) “Residential purposes” means use for dwelling or recreational purposes, or both.

30 (30) “Special assessment” means an unexpected expense that is not included in the
31 association annual budget.

32 ~~(26)~~(31) “Special declarant rights” means rights reserved for the benefit of a declarant to:

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

- 1 (ii) To exercise any development right, (§ 34-36.1-2.10),
2 (iii) To maintain sales offices, management offices, signs advertising the condominium,
3 and models, (§ 34-36.1-2.15),
4 (iv) To use easements through the common elements for the purpose of making
5 improvements within the condominium or within real estate which may be added to the
6 condominium, (§ 34-36.1-2.16),
7 (v) To make the condominium part of a larger condominium or a planned community, (§
8 34-36.1-2.21),
9 (vi) To make the condominium subject to a master association, (§ 34-36.1-2.20),
10 (vii) Or to appoint or remove any officer of the association or any master association or
11 any executive board member during any period of declarant control, (§ 34-36.1-3.03(d)).

12 ~~(27)~~(32) “Time share” means a right to occupy a unit or any of several units during five (5)
13 or more separated time periods over a period of at least five (5) years, including renewal options,
14 whether or not coupled with an estate or interest in a condominium or a specified portion thereof.

15 ~~(28)~~(33) “Unit” means a physical portion of the condominium designated for separate
16 ownership or occupancy, the boundaries of which are described pursuant to § 34-36.1-2.05(a)(5).

17 ~~(29)~~(34) “Unit owner” means a declarant or other person who owns a unit, or a lessee of a
18 unit in a leasehold condominium whose lease expires simultaneously with any lease, the expiration
19 or termination of which will remove the unit from the condominium, but does not include a person
20 having an interest in a unit solely as security for an obligation.

21 **34-36.1-2.07. Allocation of common element interest, votes, and common expense**
22 **liabilities.**

23 (a) The declaration shall allocate a fraction or percentage of undivided interests in the
24 common elements and in the common expenses of the association, and a portion of the votes in the
25 association, to each unit including land only units and state the formulas used to establish those
26 allocations. Those allocations may not discriminate in favor of units owned by the declarant, but
27 may discriminate in favor of units subject to a housing restriction as set forth in § 34-39.1-3. Except
28 as set forth in § 34-36.1-1.03(7), no minimum percentage interest in the common elements is
29 otherwise required.

30 (1) Notwithstanding subsection (a) of this section, in associations where the minority, less
31 than fifty percent (50%), of the units are deed restricted units, increases in monthly common
32 expenses may not exceed five percent (5%) of the previous year’s monthly common expenses.

33 (2) In associations where the minority, less than fifty percent (50%), of the units are deed
34 restricted units and an association must impose a special assessment to cover unforeseen costs not

1 included in the association's approved annual budget for common expenses, the special assessment
2 attributed to deed-restricted units is limited to fifty percent (50%) of the full assessment. The fifty
3 percent (50%) limitation is calculated based on what the per unit share would have had the cost
4 been equally distributed across units in the association. Associations must allow owners of deed-
5 restricted units the option to enter into a monthly payment plan, at no additional charge, where the
6 payment is not in excess of one-twelfth (1/12) of the special assessment.

7 (b) If units may be added to or withdrawn from the condominium, the declaration must
8 state the formulas to be used to reallocate the allocated interests among all units included in the
9 condominium after the addition or withdrawal.

10 (c) The declaration may provide: (i) That different allocations of votes shall be made to the
11 units on particular matters specified in the declaration; (ii) For cumulative voting only for the
12 purpose of electing members of the executive board; and (iii) For the class voting on specified
13 issues affecting the class if necessary to protect valid interests of the class. A declarant may not
14 utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants
15 by this chapter, nor may units constitute a class because they are owned by a declarant.

16 (d) Except for minor variations due to rounding, the sum of the undivided interests in the
17 common elements and common expense liabilities allocated at any time to all the units must each
18 equal one if stated as fractions or one hundred percent (100%) if stated as percentages. In the event
19 of discrepancy between an allocated interest and the results derived from application of the
20 pertinent formula, the allocated interest prevails.

21 (e) The common elements are not subject to partition, and any purported conveyance,
22 encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in
23 the common elements made without the unit to which that interest is allocated, is void.

24 (f) Subject to the provisions of the declaration and other provisions of law, and except as
25 provided in § 34-36.1-2.12 which provides for the relocation of boundaries between adjoining units,
26 the owners of any two (2) or more units may apply for a reallocation of their respective allocated
27 interests to the executive board; but their application shall not attempt to alter common element
28 interests except as they relate to the proposed reallocation of unit interests. Unless the executive
29 board determines within thirty (30) days, that the reallocations are unreasonable, the association
30 shall prepare an amendment that identifies the units involved, states the reallocations, is executed
31 by those unit owners, contains words of conveyance between them, and upon recordation, is
32 indexed in the name of the grantor and the grantee.

33 **34-36.1-3.03. Executive board members and officers.**

34 (a) Except as provided in the declaration, the bylaws, subsection (b), or in other provisions

1 of this chapter, the executive board may act in all instances on behalf of the association. In the
2 performance of their duties, the officers and members of the executive board are required to
3 exercise:

- 4 (1) If appointed by the declarant, the care required of fiduciaries of the unit owners; and
- 5 (2) If elected by the unit owners, ordinary and reasonable care.

6 (b) The executive board may not act on behalf of the association to amend the declaration
7 (§ 34-36.1-2.17), to terminate the condominium, or to elect members of the executive board or
8 determine the qualifications, powers and duties, or terms of office of executive board members, but
9 the executive board may fill vacancies in its membership for the unexpired portion of any term.

10 (c) Within thirty (30) days after adoption of any proposed budget for the condominium, the
11 executive board shall provide a summary of the budget to all the unit owners, and shall set a date
12 for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14)
13 nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of
14 all the unit owners or any larger vote specified in the declaration reject the budget, the budget is
15 ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the
16 periodic budget last ratified by the unit owners shall be continued until such time as the unit owners
17 ratify a subsequent budget proposed by the executive board.

18 (d)(1) Subject to subsection (e), the declaration may provide for a period of declarant
19 control of the association, during which period a declarant, or persons designated by him, may
20 appoint and remove the officers and members of the executive board. Regardless of the period
21 provided in the declaration, a period of declarant control terminates no later than the earlier of:

22 (i) Sixty (60) days after conveyance of eighty percent (80%) of the units which may be
23 created to unit owners other than a declarant;

24 (ii) Two (2) years after all declarants have ceased to offer units for sale in the ordinary
25 course of business; or

26 (iii) Two (2) years after any development right to add new units was last exercised.

27 (2) A declarant may voluntarily surrender the right to appoint and remove officers and
28 members of the executive board before terminations of that period, but in that event he or she may
29 require, for the duration of the period of declarant control, that specified actions of the association
30 or executive board, as described in a recorded instrument executed by the declarant, be approved
31 by the declarant before they become effective.

32 (e) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units
33 which may be created to unit owners other than a declarant, at least one member and not less than
34 twenty-five percent (25%) of the members of the executive board must be elected by unit owners

1 other than the declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of
2 the units which may be created to unit owners other than a declarant, not less than one-third ($\frac{1}{3}$) of
3 the members of the executive board must be elected by unit owners other than the declarant.

4 (f) Not later than the termination of any period of declarant control, the unit owners shall
5 elect an executive board of at least three (3) members, at least a majority of whom must be unit
6 owners. The executive board shall elect the officers. The executive board members and officers
7 shall take office upon election.

8 (g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit
9 owners, by a two-thirds ($\frac{2}{3}$) vote of all persons present and entitled to vote at any meeting of the
10 unit owners at which a quorum is present, may remove any member of the executive board with or
11 without cause, other than a member appointed by the declarant.

12 (h) Any executive board established after June 30, 2026, containing deed-restricted units
13 within its association, shall be comprised of members proportionate with the number of deed-
14 restricted units and market-rate units. Any calculation yielding a fractional person on the board
15 shall be allocated to a market-rate owner.

16 SECTION 2. Chapter 34-36.1 of the General Laws entitled "Condominium Law" is hereby
17 amended by adding thereto the following section:

18 **34-36.1-13. Allocation of common element interest, votes and common expense**
19 **liabilities.**

20 (a) To increase transparency of operations and association management, every association
21 established under chapter 36.1 of title 34, is hereby required to do the following:

22 (1) Register as an association with the department of housing by December 31, 2026, or
23 within thirty (30) days of establishment; and

24 (2) Submit the following materials within thirty (30) days of adoption or amendment:

25 (i) Annual budget, including monthly and annual condominium fees;

26 (ii) Board list and officers;

27 (iii) All financial documents including, condominium fees for the last five (5) years,
28 funding reserves and any tax filing information;

29 (iv) Date of next officer election; and

30 (v) Association by-laws and any other relevant governing documents.

31 (b) Failure to comply with this section is subject to the jurisdiction of the department of
32 housing pursuant to § 42-64.34-2.

33 SECTION 3. Section 42-64.34-2 of the General Laws in Chapter 42-64.34 entitled "The
34 Department of Housing" is hereby amended to read as follows:

1 **42-64.34-2. Powers and duties.**

2 (a) The department of housing shall be the state’s lead agency for housing, homelessness,
3 and community development in the state of Rhode Island.

4 (b) The secretary of housing shall have the following powers and duties:

5 (1) All powers and duties pursuant to this chapter;

6 (2) To supervise the work of the department of housing and to act as its chief administrative
7 officer;

8 (3) To coordinate the administration and financing of various departments or offices within
9 the department of housing;

10 (4) To serve as the governor’s chief advisor and liaison to federal policymakers on housing,
11 homelessness, and community development as well as the principal point of contact on any such
12 related matters;

13 (5) To coordinate the housing, homelessness, and community development programs of
14 the state of Rhode Island and its departments, agencies, commissions, corporations, and
15 subdivisions;

16 (6) To employ such personnel and contracts for such consulting services as may be required
17 to perform the powers and duties conferred upon the secretary of housing;

18 (7) To oversee and direct the administration of funds that may be appropriated from time
19 to time to the department of housing; ~~and~~

20 (8) Creation of a written guide for consumers relating to the rights and duties of landlords
21 and tenants pursuant to chapter 18 of title 34, which the secretary shall update at minimum on an
22 biennial basis. The guide shall be posted on the website of the department of housing and shall be
23 published in both English and Spanish; and

24 (9) Coordinate a central depository of information regarding condominium associations,
25 investigate complaints related to condominium associations in accordance with chapter 35 of title
26 42 ("administrative procedures").

27 (c) In addition to such other powers as may otherwise be delegated elsewhere to the
28 department of housing, the department is hereby expressly authorized, by and through the secretary
29 of housing:

30 (1) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use, and
31 otherwise deal in and with, real or personal property, or any interest in real or personal property,
32 wherever situated;

33 (2) To accept any gifts or grants or loans of funds or property or financial or other aid in
34 any form from the federal government or any agency or instrumentality of the federal government,

1 or from the state or any agency or instrumentality of the state, or from any other source and to
2 comply, subject to the provisions of this chapter, with the terms and conditions of the gifts, grants,
3 or loans;

4 (3) Subject to the provisions of § 37-2-1 et seq., to negotiate and to enter into contracts,
5 agreements, and cooperative agreements with agencies and political subdivisions of the state, not-
6 for-profit corporations, for-profit corporations, and other partnerships, associations, and persons
7 for any lawful purpose necessary and desirable to effectuate the purposes of the department of
8 housing; and

9 (4) To carry out this chapter and perform the duties of the general laws and public laws
10 insofar as those provisions relate to any regulatory areas within the jurisdiction of the department
11 of housing.

12 SECTION 4. This act shall take effect on July 1, 2026.

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

1 This act would restrict increases in monthly common expenses and limit special
2 assessments to cover unforeseen costs not included in the condo association's approved annual
3 budget for common expenses in associations where the minority of the units are deed-restricted
4 units.

5 This act would take effect on July 1, 2026.

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