

2017 -- H 5097 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM DISPUTE RESOLUTION

Introduced By: Representatives Corvese, O'Brien, Coughlin, and Azzinaro

Date Introduced: January 12, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 36.2

4 CONDOMINIUM DISPUTE RESOLUTION

5 **34-36.2-1. Definitions.**

6 (a) As used in this chapter, the term "dispute" means a disagreement between two (2) or
7 more parties that involves:

8 (1) The authority of the board of directors, under this chapter or association documents,
9 to:

10 (i) Require any owner to take any action, or not to take any action, involving that owner's
11 unit or the appurtenances thereto; or

12 (ii) Alter or add to a common area or element.

13 (2) The failure of a governing body, when required by chapter 36.1 of title 34 or an
14 association document, to:

15 (i) Properly conduct elections;

16 (ii) Give adequate notice of meetings or other actions;

17 (iii) Properly conduct meetings; or

18 (iv) Allow inspection of books and records.

19 (b) "Dispute" does not include any disagreement that primarily involves: title to any unit

1 or common element; the interpretation or enforcement of any warranty; the levy of a fee or
2 assessment, or the collection of an assessment levied against a party; the eviction or other
3 removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or
4 claims for damages to a unit based upon the alleged failure of the association to maintain the
5 common elements or condominium property.

6 **34-36.2-2. Arbitration.**

7 Every Rhode Island condominium declaration shall contain the following provisions:

8 (1) Any person, referred to in this section as "the plaintiff" asserting a dispute, as defined
9 in §34-36.2-1, may, at their election, submit the matter to arbitration pursuant to chapter 3 of title
10 10.

11 (2) Selection of arbitrator. - After submission to arbitration by the plaintiff, one arbitrator
12 shall be selected from the list of qualified arbitrators of the court annexed arbitration program of
13 the superior court in the same manner as arbitrators are selected in accordance with the rules of
14 that program. Each party shall share the expenses of arbitration in accordance with the rules of
15 the court annexed arbitration program;

16 (3) Hearings. - The arbitrator shall call a hearing and provide seven (7) days' notice of the
17 time and place of the hearing to the parties. The hearing shall be informal, and shall be subject to
18 the arbitration rules established under §8-6-5 that are not in conflict with this section. Any and all
19 documentary evidence and other data deemed relevant by the arbitrators may be received in
20 evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the
21 attendance and testimony of witnesses, and the production of books, records, and other evidence,
22 relative or pertinent to the issues presented to them for determination. The decision of the
23 arbitrators shall be binding upon the parties unless:

24 (i) In the event that suit has not been instituted, either party reserves their right to a trial
25 by giving notice of this reservation of right to the other party or parties and to the arbitrators
26 within sixty (60) days of the arbitrator's award by certified mail return receipt requested; or

27 (ii) In the event that suit has been instituted, either party files a request for a trial with the
28 court and with notice to the other party or parties within sixty (60) days of the arbitrator's award.
29 If the case proceeds to trial subsequent to arbitration, the decision of the arbitrators shall not be
30 admissible;

31 (4) Statute of limitations. - Notwithstanding the foregoing, a suit shall be instituted in
32 order to bring the action within any applicable statute of limitations, but the suit will be stayed
33 until an arbitrator's award has been made.

34 SECTION 2. Sections 34-36.1-2.05 and 34-36.1-3.06 of the General Laws in Chapter 34-

1 36.1 entitled "Condominium Law" are hereby amended to read as follows:

2 **34-36.1-2.05. Contents of declaration.**

3 (a) The declaration for a condominium must contain:

4 (1) The name of the condominium, which must include the word "condominium" or be
5 followed by the words "a condominium," and the association;

6 (2) The name of every municipality in which any part of the condominium is situated;

7 (3) A legally sufficient description of the real estate included in the condominium;

8 (4) A statement of the maximum number of units which the declarant reserves the right
9 to create;

10 (5) A description of the boundaries of each unit created by the declaration, including the
11 unit's identifying number;

12 (6) A description of any limited common elements, other than those specified in § 34-
13 36.1-2.02(2) and (4), or as provided in § 34-36.1-2.09(b)(10);

14 (7) A description of any real estate (except real estate subject to development rights)
15 which may be allocated subsequently as limited common elements, other than limited common
16 elements specified in § 34-36.1-2.02(2) and (4), together with a statement that they may be so
17 allocated;

18 (8) A description of any development rights and other special declarant rights (§ 34-
19 36.1-1.03(26)) reserved by the declarant, together with a legally sufficient description of the real
20 estate to which each of those rights applies, and a time limit within which each of those rights
21 must be exercised;

22 (9) If any development right may be exercised with respect to different parcels of real
23 estate at different times, a statement to that effect together with:

24 (i) Either a statement fixing the boundaries of those portions and regulating the order in
25 which those portions may be subjected to the exercise of each development right, or a statement
26 that no assurances are made in those regards, and

27 (ii) A statement as to whether, if any development right is exercised in any portion of the
28 real estate subject to that development right, that development right must be exercised in all or in
29 any other portion of the remainder of that real estate;

30 (10) Any other conditions or limitations under which the rights described in subdivision
31 (8) of this section may be exercised or will lapse;

32 (11) An allocation to each unit of the allocated interests in the manner described in § 34-
33 36.1-2.07;

34 (12) Any restrictions on use, occupancy, and alienation of the units, including any

1 housing restrictions as set forth in § 34-39.1-3;

2 (13) The recording data for recorded easements and licenses appurtenant to or included
3 in the condominium or to which any portion of the condominium is or may become subject by
4 virtue of a reservation in the declaration; ~~and~~

5 (14) All matters required by §§ 34-36.1-2.06, 34-36.1-2.07, 34-36.1-2.08, 34-36.1-2.09,
6 34-36.1-2.15, 34-36.1-2.16, and 34-36.1-3.03(d) ~~;~~ and

7 (15) A description of procedures to be utilized to resolve condominium dispute(s)
8 pursuant to chapter 36.2 of title 34.

9 (b) The declaration may contain any other matters the declarant deems appropriate.

10 **34-36.1-3.06. Bylaws.**

11 (a) The bylaws of the association must provide for:

12 (1) The number of members of the executive board and the titles of the officers of the
13 association;

14 (2) Election by the executive board of a president, treasurer, secretary, and any other
15 officers of the association the bylaws specify;

16 (3) The qualifications, powers and duties, terms of office, and manner of electing and
17 removing executive board members and officers and filling vacancies;

18 (4) Which, if any, of its powers the executive board or officers may delegate to other
19 persons or to a managing agent;

20 (5) Which of its officers may prepare, execute, certify and record amendments to the
21 declaration on behalf of the association; ~~and~~

22 (6) The method of amending the bylaws ~~;~~ and

23 (7) Resolution of condominium disputes as defined by §34-36.2-1.

24 (b) Subject to the provisions of the declaration, the bylaws may provide for any other
25 matters the association deems necessary and appropriate.

26 SECTION 3. This act shall take effect on January 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM DISPUTE RESOLUTION

1 This act would establish an arbitration process to resolve certain condominium disputes,
2 in accordance with the provisions of "The Arbitration Act," chapter 3 of title 10. This act also
3 would require that certain information regarding arbitration be included within Rhode Island
4 condominium declarations.

5 This act would take effect on January 1, 2018.

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