

2020 -- H 7152

LC002991

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM ADMINISTRATION

Introduced By: Representatives Corvese, Canario, Azzinaro, and Ucci

Date Introduced: January 16, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-3.03 of the General Laws in Chapter 34-36.1 entitled
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-3.03. Executive board members and officers.**

4 (a) Except as provided in the declaration, the bylaws, subsection (b), or in other
5 provisions of this chapter, the executive board may act in all instances on behalf of the
6 association. In the performance of their duties, the officers and members of the executive board
7 owe a fiduciary duty to their unit owners. ~~are required to exercise:~~

8 ~~(1) If appointed by the declarant, the care required of fiduciaries of the unit owners; and~~

9 ~~(2) If elected by the unit owners, ordinary and reasonable care.~~

10 (b) The executive board may not act on behalf of the association to amend the declaration
11 (§ 34-36.1-2.17), to terminate the condominium, or to elect members of the executive board or
12 determine the qualifications, powers and duties, or terms of office of executive board members,
13 but the executive board may fill vacancies in its membership for the unexpired portion of any
14 term.

15 (c) Within thirty (30) days after adoption of any proposed budget for the condominium,
16 the executive board shall provide a summary of the budget to all the unit owners, and shall set a
17 date for a meeting of the unit owners to consider ratification of the budget not less than fourteen
18 (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a
19 majority of all the unit owners or any larger vote specified in the declaration reject the budget, the

1 budget is ratified, whether or not a quorum is present. In the event the proposed budget is
2 rejected, the periodic budget last ratified by the unit owners shall be continued until such time as
3 the unit owners ratify a subsequent budget proposed by the executive board.

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

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

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

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

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

18 (e) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the
19 units which may be created to unit owners other than a declarant, at least one member and not
20 less than twenty-five percent (25%) of the members of the executive board must be elected by
21 unit owners other than the declarant. Not later than sixty (60) days after conveyance of fifty
22 percent (50%) of the units which may be created to unit owners other than a declarant, not less
23 than one-third (1/3) of the members of the executive board must be elected by unit owners other
24 than the declarant.

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

29 (g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit
30 owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the
31 unit owners at which a quorum is present, may remove any member of the executive board with
32 or without cause, other than a member appointed by the declarant.

1 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 increase the duty of care owed by condominium officers and executive
- 2 board members to their unit owners from ordinary and reasonable care to a fiduciary duty.
- 3 This act would take effect upon passage.

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