

2023 -- H 6024

LC001126

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW

Introduced By: Representative Patricia A. Serpa

Date Introduced: March 01, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-36.1-1.02 and 34-36.1-2.19 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 [2.19 \(rights of secured lenders\)](#), 34-36.1-3.02(a)(1) — (6) and (11) — (17) (powers of unit owners'  
7 association), 34-36.1-3.11 (tort and contract liability), 34-36.1-3.16 (lien for assessments), 34-36.1-  
8 3.18 (association records), 34-36.1-4.09 (resale of units), and 34-36.1-4.17 (effect of violation on  
9 rights of action; attorney's fees), § 34-36.1-3.20 (enforcement of declaration, bylaws and rules),  
10 and 34-36.1-1.03 (definitions), to the extent necessary in construing any of those sections, apply to  
11 all condominiums created in this state before July 1, 1982; but those sections apply only with  
12 respect to events and circumstances occurring after July 1, 1982 and do not invalidate existing  
13 provisions of the declaration, bylaws, plats, or plans of those condominiums.

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

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

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

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

33 **34-36.1-2.19. Rights of secured lenders.**

34 (a) The declaration may require that all or a specified number or percentage of the

1 mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of  
2 the unit owners or the association as a condition to the effectiveness of those actions, but no  
3 requirement for approval may operate to:

4 (1) Deny or delegate control over the general administrative affairs of the association by  
5 the unit owners or the executive board, or

6 (2) Prevent the association or the executive board from commencing, intervening in, or  
7 settling any litigation or proceedings, or receiving and distributing any insurance proceeds except  
8 pursuant to § 34-36.1-3.13.

9 (b) When approval of any actions of the unit owners or the association is required of all or  
10 a specified number or percentage of the unit mortgagees by this chapter or the declaration or bylaws  
11 as a condition to the effectiveness of those actions, written requests for approval shall be mailed by  
12 United States Postal Service regular mail and certified mail return receipt requested to unit  
13 mortgagees at the mailing addresses referenced on mortgage documents recorded in the land  
14 evidence records. If a unit mortgagee fails to provide a written denial of approval to the party  
15 requesting approval within sixty (60) days after the mailing of the request, the unit mortgagee shall  
16 be deemed to have approved the request. All written requests for approval to unit mortgagees shall  
17 reference and contain a copy of this section.

18 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 provide that the "rights of secured lenders" provision from § 34-36.1-2.19  
2 be applicable to condominiums created before July 1, 1982 and would create a process for  
3 condominium associations to notify and obtain approval from unit mortgage holders for certain  
4 association actions.

5           This act would take effect upon passage.

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