

2019 -- H 5756

LC000479

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW -- MANAGEMENT CONTRACTS

Introduced By: Representatives Solomon, Caldwell, Johnston, Vella-Wilkinson, and O'Brien

Date Introduced: February 27, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-3.2 of the General Laws in Chapter 34-36.1 entitled  
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-3.02. Powers of unit owners' association.**

4 (a) Except as provided in subsection (b), and subject to the provisions of the declaration,  
5 the association, even if unincorporated, may:

6 (1) Adopt and amend bylaws and rules and regulations;

7 (2) Adopt and amend budgets for revenues, expenditures, and reserves and collect  
8 assessments for common expenses from unit owners;

9 (3) Hire and discharge managing agents and other employees, agents and independent  
10 contractors;

11 (4) Institute, defend, or intervene in litigation or administrative proceedings in its own  
12 name on behalf of itself or two (2) or more unit owners on matters affecting the condominium;

13 (5) Make contracts and incur liabilities; provided, however, that any property  
14 management company or agent retained by the association under contract to provide  
15 condominium management services, including the control of or disbursement of funds of the  
16 association, shall maintain an "acts or omissions" or "fidelity bond" insurance policy in effect  
17 with respect to the fiduciary relationship between the management agent and condominium  
18 association. The officers of the unit owners' association shall be personally liable for their failure  
19 to ensure such a policy is in place.

1 (6) Regulate the use, maintenance, repair, replacement and modification of common  
2 elements;

3 (7) Cause additional improvements to be made as a part of the common elements;

4 (8) Acquire, hold, encumber, and convey in its own name any right, title or interest to real  
5 or personal property, but common elements may be conveyed or subjected to a security interest or  
6 mortgage only pursuant to § 34-36.1-3.12;

7 (9) Grant easements, leases, licenses and concessions through or over the common  
8 elements;

9 (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of  
10 the common elements other than limited common elements described in § 34-36.1-2.02(2) and (4)  
11 and for services provided to unit owners;

12 (11) Impose charges for late payment of assessments and, after notice and an opportunity  
13 to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and  
14 regulations of the association as provided in § 34-36.1-3.20;

15 (12) Impose reasonable charges for the preparation and recordation of amendments to the  
16 declaration, resale certificates required by § 34-36.1-4.09 or statements of unpaid assessments;

17 (13) Provide for the indemnification of its officers and executive board and maintain  
18 directors' and officers' liability insurance;

19 (14) Borrow funds including the right to assign and/or pledge its right to future income,  
20 including the right to receive common expense assessments;

21 (15) Exercise any other powers conferred by the declaration or bylaws;

22 (16) Exercise all other powers that may be exercised in this state by legal entities of the  
23 same type as the association; and

24 (17) Exercise any other powers necessary and proper for the governance and operation of  
25 the association.

26 (b) The declaration may not impose limitations on the powers of the association to deal  
27 with the declarant that are more restrictive than the limitations imposed on the power of the  
28 association to deal with other persons.

29 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 require condominium unit owners' association officers to verify that  
2 management agents or companies retained by the association are insured with respect to the  
3 services they provide to the condominium.

4           This act would take effect upon passage.

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