

2024 -- S 2645

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW

Introduced By: Senators McKenney, and Raptakis

Date Introduced: March 01, 2024

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-36.1-1.2 and 34-36.1-3.3 of the General Laws in Chapter 34-36.1
2 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 3.02(a)(1) — (6) and (11) — (17) (powers of unit owners' association), [34-36.1-3.03 \(executive](#)
7 [board members and officers\)](#), 34-36.1-3.11 (tort and contract liability), 34-36.1-3.16 (lien for
8 assessments), 34-36.1-3.18 (association records), 34-36.1-4.09 (resale of units), and 34-36.1-4.17
9 (effect of violation on rights of action; attorney's fees), § 34-36.1-3.20 (enforcement of declaration,
10 bylaws and rules), and 34-36.1-1.03 (definitions), to the extent necessary in construing any of those
11 sections, apply to all condominiums created in this state before July 1, 1982; but those sections
12 apply only with respect to events and circumstances occurring after July 1, 1982 and do not
13 invalidate existing 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 **34-36.1-3.03. 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)(1) Within thirty (30) days after adoption of any proposed budget for the condominium,
11 the executive board shall provide a summary of the budget to all the unit owners, and shall set a
12 date for a meeting of the unit owners to consider ratification of the budget not less than fourteen
13 (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority
14 of 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 (2) Any provision in any declaration or bylaws that limits an increase in the total amount
19 of any association annual assessment relative to the prior annual assessment by a percentage
20 amount or otherwise shall be void.

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

- 25 (i) Sixty (60) days after conveyance of eighty percent (80%) of the units which may be
26 created to unit owners other than a declarant;
- 27 (ii) Two (2) years after all declarants have ceased to offer units for sale in the ordinary
28 course of business; or
- 29 (iii) Two (2) years after any development right to add new units was last exercised.

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

1 (e) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units
2 which may be created to unit owners other than a declarant, at least one member and not less than
3 twenty-five percent (25%) of the members of the executive board must be elected by unit owners
4 other than the declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of
5 the units which may be created to unit owners other than a declarant, not less than one-third ($\frac{1}{3}$) of
6 the members of the executive board must be elected by unit owners other than the declarant.

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

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

15 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 eliminate unreasonable and fiscally irresponsible constraints of budget caps
- 2 created in some condominium documents by developers to help sell units.
- 3 This act would take effect upon passage.

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