

2025 -- H 5585

LC001471

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW

Introduced By: Representatives Voas, Casey, Casimiro, McEntee, Alzate, Solomon,
Finkelman, O'Brien, Kazarian, and Serpa

Date Introduced: February 26, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Sections 34-36.1-1.02 and 34-36.1-3.13 of the General Laws in Chapter 34-36.1 entitled "Condominium Law" are hereby amended to read as follows:

34-36.1-1.02. Applicability.

(a)(1) This chapter applies to all condominiums created within this state after July 1, 1982, except that any condominium created within this state prior to July 1, 1982, may voluntarily accept the provisions of this chapter in lieu of the provisions under which it was originally organized. Acceptance shall be evidenced by an agreement in writing executed by and in behalf of the condominium association and by all of the owners of all of the individual condominium units within the condominium, in which agreement it is clearly stated that they all accept the provisions of this chapter in lieu of those in the statute under which the condominium was organized and wish to be governed in the future by the provisions of this chapter. The agreement shall be recorded in the land evidence records of each and every town or city where all or any part of the land in the condominium concerned may be located and shall become effective when first so recorded. The acceptance shall only apply to the governance of the condominium concerned as to all matters which are prospective or executory in nature; and nothing herein shall be deemed to abrogate, amend, limit, effect, or impair the continued effectiveness, legality, or validity of all actions lawfully taken by or in behalf of the condominium prior to the effective date of the acceptance, including, but without limitation, the condominium declaration and all amendments thereto, the by-laws of the condominium and/or of its association, all deeds, mortgages, leases, and any further

documents affecting the titles or rights of unit owners, or of the condominium or the prior lawful acts or deeds of any kind, of the condominium association, its officers, directors, or members.

(2) Sections 34-36.1-1.05 (separate titles and taxation), 34-36.1-1.06 (applicability of local ordinances, regulations, and building codes), 34-36.1-1.07 (eminent domain), 34-36.1-2.03 (construction and validity of declaration and bylaws), 34-36.1-2.04 (description of units), 34-36.1-3.02(a)(1) — (6) and (11) — (17) (powers of unit owners' association), 34-36.1-3.06(c) — (d) (bylaws), 34-36.1-3.11 (tort and contract liability), [34-36.1-3.13\(d\) and \(k\) \(unit owner responsibility for master policy deductibles\)](#), 34-36.1-3.16 (lien for assessments), 34-36.1-3.18 (association records), 34-36.1-4.09 (resale of units), and 34-36.1-4.17 (effect of violation on rights of action; attorney's fees), § 34-36.1-3.20 (enforcement of declaration, bylaws and rules), and 34-36.1-1.03 (definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this state before July 1, 1982; but those sections apply only with respect to events and circumstances occurring after July 1, 1982, and do not invalidate existing provisions of the declaration, bylaws, plats, or plans of those condominiums.

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

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

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

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

34-36.1-3.13. Insurance.

1 (a) Commencing not later than the time of the first conveyance of a unit to a person other
2 than a declarant, the association shall maintain, to the extent reasonably available:

3 (1) Property insurance on the common elements insuring against all risks of direct, physical
4 loss commonly insured against or, in the case of a conversion building, against fire and extended
5 coverage perils. The total amount of insurance after application of any deductibles shall be not less
6 than eighty percent (80%) of the actual cash value of the insured property at the time the insurance
7 is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items
8 normally excluded from property policies; and

9 (2) Liability insurance, including medical payments insurance, in an amount determined
10 by the executive board, but not less than any amount specified in the declaration, covering all
11 occurrences commonly insured against for death, bodily injury, and property damage arising out
12 of, or in connection with, the use, ownership, or maintenance of the common elements and any
13 property owned or leased by the association.

14 (b) In the case of a building containing units having horizontal boundaries described in the
15 declaration, the insurance maintained under subdivision (a)(1), to the extent reasonably available,
16 shall include the units, but need not include improvements and betterments installed by unit owners.

17 (c) If the insurance described in subsections (a) and (b) is not reasonably available, the
18 association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United
19 States mail to all unit owners. The declaration may require the association to carry any other
20 insurance, and the association in any event may carry any other insurance it deems appropriate to
21 protect the association or the unit owners.

22 (d) Insurance policies carried pursuant to subsection (a) must provide that:

23 (1) Each unit owner is an insured person under the policy with respect to liability arising
24 out of the owner's interest in the common elements or membership in the association;

25 (2) The insurer waives its right to subrogation under the policy against any unit owner or
26 member of the owner's household;

27 (3) No act or omission by any unit owner, unless acting within the scope of his or her
28 authority on behalf of the association, will void the policy or be a condition to recovery under the
29 policy; and

30 (4) If, at the time of a loss under the policy, there is other insurance in the name of a unit
31 owner covering the same risk covered by the policy, the association's policy provides primary
32 insurance. Provided, however, a unit owner's insurance policy shall become the primary insurance
33 policy with respect to any amount of loss [to their unit](#) covered by the association's policy but not
34 payable under the association's policy because of the application of the deductible. [If a unit owner](#)

fails to comply with obligations pursuant to subsection (k) of this section, the unit owner shall have the obligation for expenses related to the owner's unit after a unit loss in the amount of the deductible of the association property insurance applicable to the unit. The association shall provide written notice to the unit owners setting forth the amount of deductible for the association property insurance for their units at least thirty (30) days after notice to the association by the insurance carrier of any change in the association property insurance deductible. The notice shall include a statement asserting the unit owner's legal obligation to notify its mortgagee of the change in any deductible.

(e) Any loss covered by the property policy under subdivision (a)(1) and subsection (b) must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or restoration of the damaged property, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completed, repaired or restored, or the condominium is terminated.

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his or her own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(h) Any portion of the condominium for which insurance is required under this section that is damaged or destroyed shall be repaired or replaced promptly by the association unless: (1) The condominium is terminated; (2) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (3) Eighty percent (80%) of the unit owners, including every owner of a unit or assigned, limited common element that will not be rebuilt, vote not to rebuild unless insurance proceeds are adequate to rebuild. The cost of repair or replacement in excess of insurance proceeds, after the application of the association's policy deductible, is a common expense, unless the declaration ~~provides~~ or bylaws provide otherwise. If the entire

1 condominium is not repaired or replaced, (1) The insurance proceeds attributable to the damaged
2 common elements must be used to restore the damaged area to a condition compatible with the
3 remainder of the condominium; (2) The insurance proceeds attributable to units and limited
4 common elements that are not rebuilt must be distributed to the owners of those units and the
5 owners of the units to which those limited common elements were allocated, or to lienholders, as
6 their interests may appear; and (3) The remainder of the proceeds must be distributed to all the unit
7 owners or lienholders, as their interests may appear, in proportion to the common element interests
8 of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are
9 automatically reallocated upon the vote as if the unit had been condemned under § 34-36.1-1.07(a)
10 and the association promptly shall prepare, execute, and record an amendment to the declaration
11 reflecting the reallocations. Notwithstanding the provisions of this subsection, § 34-36.1-2.18
12 governs the distribution of insurance proceeds if the condominium is terminated.

13 (i) In the event a unit owner sustains damage to the owner's unit as a result of an event that
14 is covered under the insurance coverage purchased in accordance with this section, then upon
15 written request to the condominium association, the unit owner shall be entitled to a written copy
16 from the condominium association of the insurance company damage appraisal or any damage
17 appraisal in regard to damage to the owner's unit, within fourteen (14) calendar days of the date of
18 the unit owner's request, or within fourteen (14) days of the association's receipt of the damage
19 appraisal, whichever is later. If coverage for the damage to a unit is denied for any reason or is
20 deemed to be valued below the policy deductible, then the unit owner shall also be entitled to
21 receive, from the association, a copy of the letter detailing the determination.

22 (j) The provisions of this section may be varied or waived in the case of a condominium
23 all of whose units are restricted to nonresidential use.

24 (k) If the association maintains property insurance on the units, unit owners shall maintain,
25 to the extent reasonably available, the following insurance:

26 (1) Property insurance for improvements and betterments installed in their units after the
27 first conveyances of the units to persons other than a declarant, if the association does not maintain
28 such coverage.

29 (2) Insurance for any amount of loss covered by the association property insurance policy
30 but not payable under the association property insurance policy because of the application of the
31 deductible. There shall be no obligation on an association to apply common expenses related to a
32 unit after a unit loss if the unit owner fails to comply with this section.

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 require associations to provide unit owners within thirty (30) days notice
2 of any increase in the deductible application to the association's policy ensuring that unit owners
3 will have coverage relating to their responsibility for the master policy deductible application to
4 their unit.

5 This act would take effect upon passage.

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