

2016 -- H 7204

=====
LC003713
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO PROPERTY -- CONDOMINIUM DISPUTE RESOLUTION

Introduced By: Representatives Corvese, Azzinaro, Winfield, Ucci, and Melo

Date Introduced: January 15, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 36.2

4 CONDOMINIUM DISPUTE RESOLUTION

5 **34-36.2-1. Definitions. --** (a) As used in this chapter, the term "dispute" means a
6 disagreement between two (2) or more parties that involves:

7 (1) The authority of the board of directors, under this chapter or association documents,
8 to:

9 (i) Require any owner to take any action, or not to take any action, involving that owner's
10 unit or the appurtenances thereto; or

11 (ii) Alter or add to a common area or element.

12 (2) The failure of a governing body, when required by chapter 36.1 of title 34 or an
13 association document, to:

14 (i) Properly conduct elections;

15 (ii) Give adequate notice of meetings or other actions;

16 (iii) Properly conduct meetings; or

17 (iv) Allow inspection of books and records.

18 (b) "Dispute" does not include any disagreement that primarily involves: title to any unit
19 or common element; the interpretation or enforcement of any warranty; the levy of a fee or

1 assessment, or the collection of an assessment levied against a party; the eviction or other
2 removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or
3 claims for damages to a unit based upon the alleged failure of the association to maintain the
4 common elements or condominium property.

5 **34-36.2-2. Arbitration.** – Every Rhode Island condominium declaration shall contain the
6 following provisions:

7 (1) Any person, referred to in this section as "the plaintiff" asserting a dispute, as defined
8 in §34-36.2-1, may, at their election, submit the matter to arbitration pursuant to chapter 3 of title
9 10.

10 (2) Selection of arbitrator. - After submission to arbitration by the plaintiff, one arbitrator
11 shall be selected from the list of qualified arbitrators of the court annexed arbitration program of
12 the superior court in the same manner as arbitrators are selected in accordance with the rules of
13 that program. Each party shall share the expenses of arbitration in accordance with the rules of
14 the court annexed arbitration program;

15 (3) Hearings. - The arbitrator shall call a hearing and provide seven (7) days' notice of the
16 time and place of the hearing to the parties. The hearing shall be informal, and the rules of
17 evidence prevailing in judicial proceedings shall be binding. Any and all documentary evidence
18 and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators
19 shall have the power to administer oaths and to require by subpoena the attendance and testimony
20 of witnesses, and the production of books, records, and other evidence, relative or pertinent to the
21 issues presented to them for determination. The decision of the arbitrators shall be binding upon
22 the parties unless:

23 (i) In the event that suit has not been instituted, either party reserves their right to a jury
24 trial by giving notice of this reservation of right to the other party or parties and to the arbitrators
25 within sixty (60) days of the arbitrator's award by certified mail return receipt requested; or

26 (ii) In the event that suit has been instituted, either party files a request for a jury trial
27 with the court and with notice to the other party or parties within sixty (60) days of the arbitrator's
28 award. If the case proceeds to trial subsequent to arbitration, the decision of the arbitrators shall
29 not be admissible;

30 (4) Statute of limitations. - Notwithstanding the foregoing, a suit shall be instituted in
31 order to bring the action within any applicable statute of limitations, but the suit will be stayed
32 until an arbitrator's award has been made or the case reached for trial.

33 SECTION 2. Sections 34-36.1-2.05 and 34-36.1-3.06 of the General Laws in Chapter 34-
34 36.1 entitled "Condominium Law" are hereby amended to read as follows:

1 **34-36.1-2.05. Contents of declaration.** -- (a) The declaration for a condominium must
2 contain:

3 (1) The name of the condominium, which must include the word "condominium" or be
4 followed by the words "a condominium," and the association;

5 (2) The name of every municipality in which any part of the condominium is situated;

6 (3) A legally sufficient description of the real estate included in the condominium;

7 (4) A statement of the maximum number of units which the declarant reserves the right
8 to create;

9 (5) A description of the boundaries of each unit created by the declaration, including the
10 unit's identifying number;

11 (6) A description of any limited common elements, other than those specified in § 34-
12 36.1-2.02(2) and (4), or as provided in § 34-36.1-2.09(b)(10);

13 (7) A description of any real estate (except real estate subject to development rights)
14 which may be allocated subsequently as limited common elements, other than limited common
15 elements specified in § 34-36.1-2.02(2) and (4), together with a statement that they may be so
16 allocated;

17 (8) A description of any development rights and other special declarant rights (§ 34-
18 36.1-1.03(26)) reserved by the declarant, together with a legally sufficient description of the real
19 estate to which each of those rights applies, and a time limit within which each of those rights
20 must be exercised;

21 (9) If any development right may be exercised with respect to different parcels of real
22 estate at different times, a statement to that effect together with:

23 (i) Either a statement fixing the boundaries of those portions and regulating the order in
24 which those portions may be subjected to the exercise of each development right, or a statement
25 that no assurances are made in those regards, and

26 (ii) A statement as to whether, if any development right is exercised in any portion of the
27 real estate subject to that development right, that development right must be exercised in all or in
28 any other portion of the remainder of that real estate;

29 (10) Any other conditions or limitations under which the rights described in subdivision
30 (8) of this section may be exercised or will lapse;

31 (11) An allocation to each unit of the allocated interests in the manner described in § 34-
32 36.1-2.07;

33 (12) Any restrictions on use, occupancy, and alienation of the units, including any
34 housing restrictions as set forth in § 34-39.1-3;

1 (13) The recording data for recorded easements and licenses appurtenant to or included
2 in the condominium or to which any portion of the condominium is or may become subject by
3 virtue of a reservation in the declaration; ~~and~~

4 (14) All matters required by §§ 34-36.1-2.06, 34-36.1-2.07, 34-36.1-2.08, 34-36.1-2.09,
5 34-36.1-2.15, 34-36.1-2.16, and 34-36.1-3.03(d); ~~;~~ and

6 (15) A description of procedures to be utilized to resolve condominium dispute(s)
7 pursuant to chapter 36.2 of title 34.

8 (b) The declaration may contain any other matters the declarant deems appropriate.

9 **34-36.1-3.06. Bylaws.** -- (a) The bylaws of the association must provide for:

10 (1) The number of members of the executive board and the titles of the officers of the
11 association;

12 (2) Election by the executive board of a president, treasurer, secretary, and any other
13 officers of the association the bylaws specify;

14 (3) The qualifications, powers and duties, terms of office, and manner of electing and
15 removing executive board members and officers and filling vacancies;

16 (4) Which, if any, of its powers the executive board or officers may delegate to other
17 persons or to a managing agent;

18 (5) Which of its officers may prepare, execute, certify and record amendments to the
19 declaration on behalf of the association; ~~and~~

20 (6) The method of amending the bylaws); ~~;~~ and

21 (7) Resolution of condominium disputes as defined by §34-36.2-1.

22 (b) Subject to the provisions of the declaration, the bylaws may provide for any other
23 matters the association deems necessary and appropriate.

24 SECTION 3. This act shall take effect on January 1, 2017.

=====
LC003713
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PROPERTY -- CONDOMINIUM DISPUTE RESOLUTION

- 1 This act would establish an arbitration process to resolve certain condominium disputes,
- 2 in accordance with "The Arbitration Act" chapter 3 of title 10.
- 3 This act would take effect on January 1, 2017.

=====
LC003713
=====