

2017 -- H 5693

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LC001887
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PROPERTY -- CONDOMINIUM LAW--CREATION, ALTERATION, AND
TERMINATION OF CONDOMINIUMS

Introduced By: Representative Kenneth A. Marshall

Date Introduced: March 01, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-2.18 of the General Laws in Chapter 34-36.1 entitled
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-2.18. Termination of a condominium.**

4 (a) Except in the case of a taking of all the units by eminent domain § 34-36.1-1.07, a
5 condominium may be terminated only by agreement of unit owners of units to which at least
6 ~~eighty percent (80%)~~ ninety percent (90%) of the votes in the association are allocated, or any
7 larger percentage the declaration specifies. ~~The declaration may specify a smaller percentage only~~
8 ~~if all of the units in the condominium are restricted exclusively to nonresidential uses.~~

9 (b) An agreement to terminate must be evidenced by the execution of a termination
10 agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit
11 owners. The termination agreement must specify a date after which the agreement will be void
12 unless it is recorded before that date. A termination agreement and all ratifications thereof must
13 be recorded in every municipality in which a portion of the condominium is situated, and is
14 effective only upon recordation.

15 (c) In the case of a condominium containing only units having horizontal boundaries
16 described in the declaration, a termination agreement may provide that all the common elements
17 and units of the condominium shall be sold following termination. If, pursuant to the agreement,
18 any real estate in the condominium is to be sold following termination, the termination agreement

1 must set forth the minimum terms of the sale.

2 (d) In the case of a condominium containing any units not having horizontal boundaries
3 described in the declaration, a termination agreement may provide for sale of the common
4 elements, but may not require that the units be sold following termination, unless the declaration
5 as originally recorded provided otherwise or unless all the unit owners consent to the sale.

6 (e) The association, on behalf of the unit owners, may contract for the sale of real estate
7 in the condominium, but the contract is not binding on the unit owners until approved pursuant to
8 subsections (a) and (b). If any real estate in the condominium is to be sold following termination,
9 title to that real estate, upon termination, vests in the association as trustee for the holders of all
10 interests in the units. Thereafter, the association has all powers necessary and appropriate to effect
11 the sale. Until the sale has been concluded and the proceeds thereof distributed, the association
12 continues in existence with all powers it had before termination. Proceeds of the sale must be
13 distributed to unit owners and lien holders as their interests may appear, in proportion to the
14 respective interests of unit owners as provided in subsection (h). Unless otherwise specified in the
15 termination agreement, as long as the association holds title to the real estate, each unit owner and
16 his or her successors in interest have an exclusive right to occupancy of the portion of the real
17 estate that formerly constituted his or her unit. During the period of that occupancy, each unit
18 owner and his or her successors in interest remain liable for all assessments and other obligations
19 imposed on unit owners by this chapter or the declaration.

20 (f) If the real estate constituting the condominium is not to be sold following termination,
21 title to the common elements and, in a condominium containing only units having horizontal
22 boundaries described in the declaration, title to all the real estate in the condominium, vests in the
23 unit owners upon termination as tenants in common in proportion to their respective interests as
24 provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common
25 exists, each unit owner and his or her successors in interest have an exclusive right to occupancy
26 of the portion of the real estate that formerly constituted his or her unit.

27 (g) Following termination of the condominium, the proceeds of any sale of real estate,
28 together with the assets of the association, are held by the association as trustee for unit owners
29 and holders of liens on the units as their interests may appear. Following termination, creditors of
30 the association holding liens on the units, which were recorded prior to termination, may enforce
31 those liens in the same manner as any lien holder. All other creditors of the association shall be
32 treated as if they had perfected liens on the units immediately prior to termination.

33 (h) The respective interests of unit owners referred to in subsections (e), (f), and (g) are as
34 follows:

1 (1) Except as provided in subdivision (h)(2), the respective interests of unit owners are
2 the fair market values of their units, limited common elements, and common elements interests
3 immediately before the termination, as determined by one or more independent appraisers
4 selected by the association. The decision of the independent appraisers shall be distributed to the
5 unit owners and becomes final unless disapproved within thirty (30) days after distribution by
6 unit owners of units to which a majority of the votes in the association are allocated. The
7 proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair
8 market value of that unit owner's unit and common element interest by the total fair market values
9 of all the units and common elements.

10 (2) If any unit or any limited common element is destroyed to the extent that an appraisal
11 of the fair market value thereof prior to destruction cannot be made, the interests of all unit
12 owners are their respective common element interests immediately before the termination.

13 (i) Except as provided in subsection (j), foreclosure or enforcement of a lien or
14 encumbrance against the entire condominium does not of itself terminate the condominium, and
15 foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other
16 than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure
17 or enforcement of a lien or encumbrance against withdrawable real estate does not of itself
18 withdraw that real estate from the condominium, but the person taking title thereto has the right to
19 require from the association, upon request, an amendment excluding the real estate from the
20 condominium.

21 (j) If a lien or encumbrance against a portion of the real estate comprising the
22 condominium has priority over the declaration, and the lien or encumbrance has not been partially
23 released, the parties foreclosing the lien or encumbrance may upon foreclosure, record an
24 instrument excluding the real estate subject to that lien or encumbrance from the condominium.

25 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 increase the percentage of unit owners needed to consent to the
- 2 termination of a condominium from eighty percent (80%) to ninety percent (90%).
- 3 This act would take effect upon passage.

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