

State of Rhode Island: Frequently Asked Questions  
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**GENERAL**

1. What state statutes apply to Common Interest Communities in your state?
  - The Rhode Island Condominium Act – RI General Laws Chapter 34-36.1.
2. Are Common Interest Communities required to incorporate? Can they be incorporated? Advantages/Disadvantages?
  - Pursuant to Chapter 34-36.1-3.01, “The association shall be organized as a profit or nonprofit corporation or as an unincorporated association. In the case of an unincorporated association, a certificate evidencing the names of the executive board members and mailing address for the association shall be recorded with the municipal land records department for the city or town in which the condominium is located, which shall be updated as often as necessary to reflect any changes in the composition of the Executive Board.”
3. Is there a state agency which has authority to regulate and oversee the affairs of Common Interest Communities? What is the scope of its power and authority?
4. On the state level, what are the annual reporting requirement of a Common Interest Community, if any, and to whom?

**MEMBERSHIP MEETINGS**

5. Is an Annual Meeting of members required?
  - Yes. Pursuant to §34-36.1-3.08, a meeting of the association must be held at least once each year.
  - Also, pursuant to §34-36.1-3.03(b), within 30 days after adoption of any proposed budget for the condominium, the Board shall provide a summary of the budget to all unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget.
6. How are Special Meetings of the Members called?
  - Pursuant to §34-36.1-3.08, special meetings of the association may be called by the president, a majority of the board or by unit owners have 20%, or lower percentage as specified in the bylaws, of the votes in the association.
7. What are the Notice Requirements for Membership Meetings?
  - Pursuant to §34-36.1-3.08, not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer shall cause notice to be hand delivered or sent by mail to the mailing address of each Unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the nature of any proposed amendments, any budget changes, and any proposal to remove a board member.
8. What are Quorum Requirements for Membership Meetings?

- Pursuant to §34-36.1-3.09(a), unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association is persons entitled to cast 20% of the votes which may be cast for election of the Board are present in person or by proxy at the beginning of the meeting.
9. Can Members use Proxies? Absentee ballots? Mail ballots?
    - Yes. See answer to above question regarding proxies for quorum purposes.
    - Also, pursuant to §34-36.-3.10(b), votes allocated to a unit may be cast pursuant to a proxy executed by a unit owner.
  10. Can Members Raise Concerns or Issues at a Membership Meeting?
    - See association documents for relevant provisions, if any.
  11. Can Non-Members attend Membership Meetings? (Attorneys of Members? Guests of Members? Local or National Media representatives?)
    - See association documents for relevant provisions, if any.

## **BOARD MEETINGS**

12. Are Boards of Directors required to hold Regular Board Meetings?
  - See association documents for relevant provisions, if any.
13. How are Special Meetings of the Board called?
  - See association documents for relevant provisions, if any.
14. What are the Notice requirements for Board meetings? Are Members required to be notified as well?
  - See association documents for relevant provisions, if any.
15. What constitutes a quorum for Board Meetings?
  - Pursuant to §34-36.1-3.09(b), unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the Board if persons entitled to cast 50% of the votes on that Board are present at the beginning of the meeting.
16. Can Board Members use Proxies?
  - See association documents for relevant provisions, if any.
17. Which meetings of the Board of Directors are open to all homeowners?
  - See association documents for relevant provisions, if any.
18. Does a Member have the right to address the Board of Directors during the meeting?
  - See association documents for relevant provisions, if any.
19. Can the Board of Directors meet in Closed or Executive Session? If so, for what purposes?
  - See association documents for relevant provisions, if any.
20. Are Minutes or Board Meetings required? When can members see the minutes of such meetings

- See association documents for relevant provisions, if any.
21. Does a member have a right to audio- or video-records meetings of the Board? Under what circumstances or conditions?
- See association documents for relevant provisions, if any.
22. Can non-members attend Meetings?
- See association documents for relevant provisions, if any.

## **ADMINISTRATION**

23. Does a Member have a right to review books and records of the association?
- Yes. Pursuant to §34-36.1-3.18, “All financial and other records shall be made reasonably available for examination by any unit owner and his or her authorized agent.”
    - a. If so, what books and records can be reviewed?
    - b. Can the Member obtain copies of the books and records requested?
    - c. Does a Member have to pay for copies of the books and records?
    - d. Are there books and records which the Association can withhold or otherwise prevent a Member from reviewing?
24. What are the reserve requirements in the state? Are reserve studies mandated? What reporting requirements does the Association have with respect to the status of the reserves, the reserve accounts or the funding of the reserves?
- See association documents for relevant provisions, if any.
25. What are the resale disclosure requirements?
- Pursuant to §34-36.1-4.09, a unit owner shall provide to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a copy of the declaration, the bylaws, the rules and regulations, and a certificate containing twelve specific requirements.
  - The association, within 10 days after a request by a unit owner, shall provide a certificate containing the information necessary to allow the unit owner to comply with this section.
26. Does the Membership by vote or the Board of Directors establish the Assessment?
- The board established the assessments, unless the documents specify otherwise.
27. Is a budget required?
- Pursuant to §34-36.1-3.03(b), within 30 days after adoption of any proposed budget for the condominium, the Board shall provide a summary of the budget to all unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget.
28. Is an annual audit required?
- See association documents for relevant provisions, if any.
29. Does the state regulate the collection of assessments?

- No. The collection of assessment is regulated by the association pursuant to the relevant statutory provisions and the governing documents of the Association.
    - a. What happens if a member is delinquent in the payment assessments?
    - b. How can an association increase annual assessments?
    - c. Under what circumstances can an association levy special assessments?
    - d. Are there provisions related to additional assessments or adjustments in the budget or assessment level in the event of a deficit?
30. What authority does the association have to access a Unit or Lot? Under what circumstances?
- See association documents for relevant provisions, if any.
31. Does the Association have the authority to adopt rules and regulations? By law or by statute?
- Yes. Pursuant to §34-36.1-3.02(a)(1), the Association may adopt and amend bylaws and rules/regulations. However, you should also see your association's documents for specific provisions relative to this matter.
32. Does the Association have the authority to assess charges or fines for violations by Members? Does the association have the right to suspend the right of use of the common elements or common areas in the event of a violation? To suspend the right of a member to vote or otherwise participate in the Association in the event of a violation?
- Pursuant to §34—36.1-3.02(a)(11), the Association has the authority to impose charges for late payments of assessments, and after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association.
  - Pursuant to §34-36.1-3.20(a), the board may impose and assess fines against a unit owner as a method to enforce the association's declaration, bylaws, and rules and regulations. Such fines may include, but are not limited to, daily fines for continued violative conduct. Notice and opportunity for a hearing must be provided to an alleged violator before a fine is imposed and assessed. Subsection (b) also states that daily fines imposed and assessed shall be no more than \$100.00 per day for residential condominiums, and no more than \$500.00 per day for commercial condominiums.
33. Is there a requirement to have an internal administrative Complaint or Dispute Process? Is it mandatory and/or a prerequisite to other legal action?
- Yes, as noted above, notice and opportunity for a hearing must be provided to an alleged violator before a fine is imposed and assessed.
34. Does any applicable statute provide for the removal of a Board Member, several Board members of the entire Board? Under what conditions? Who decides upon their successors and when?
- Yes. Pursuant to §34-36.1-3.03(g), unit owners, by 2/3 vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the declarant.

35. Can an association be placed into receivership by a Court under state law?
36. Does state statute provide for condemnation of common property?
- Chapter 34-36.1-1.07(c) contains the relevant provisions: “If part of the common elements is acquired by eminent domain the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the unit to which that limited common element was allocated at the time of acquisition.”

#### **UNIT/LOT OWNER ISSUES**

37. What action(s) can an association take in the event of non-payment of association assessments? Is foreclosure an option? Under what circumstances? (Please address judicial and non-judicial foreclosure.)
- Pursuant to §34—36.1-3.02(a)(11), the Association has the authority to impose charges for late payments of assessments.
  - Pursuant to §34-36-1-3.16(a) the association has a lien on a unit for any assessment levied against the unit or fines imposed. The association’s lien may be foreclosed in accordance with the provisions of §34-36.3-3.21.
  - Attorneys’ fees, charges, late charges, fines and interest are enforceable as assessments.
  - Pursuant to §34-36.1-3.16(b) a lien for assessments is prior to any mortgage to the extent of six months worth of common expense assessments, including any costs and reasonable attorneys’ fees not to exceed \$2,500.00, incurred in the collection of any delinquent assessment, and all costs of foreclosure.
  - When any portion of the unit owner’s common expenses has been delinquent for at least 60 days, the association shall send a notice to the unit owner. The association shall also send a notice to the first mortgage of record.
  - Pursuant to §34-36.1-3.21, the association may foreclose upon the defaulting unit owner.
38. Are there state laws that regulate whether a member can be assessed a charge or otherwise fined by my association for violations? What violations trigger this authority? What procedures must be followed?
- Pursuant to §34—36.1-3.02(a)(11), the Association has the authority to impose charges for late payments of assessments, and after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association.
  - Also see answer to question 32 above.
    - a. What actions can the association take to collect these charges or fines;
      - Pursuant to §34-36-1-3.16(a) the association has a lien on a unit for any assessment levied against the unit or fines imposed. The association’s lien may be foreclosed in accordance with the provisions of §34-36.3-3.21. Attorneys’ fees, charges, late charges, fines and interest are enforceable as assessments.
    - b. Can my association foreclosure on my property for non-payment of these charges or fines?
      - Yes. See above answer.
39. What, if any, other internal administrative enforcement options can the association take in the event of a violation of the state statute, association’s governing documents, or the rules and regulations of the association?

40. Does any applicable statute regulate the flying of the American Flag?
41. Does any applicable statute regulate solar panels? Clotheslines?
42. What are the rules regarding placement of satellite dishes or antennas on my property? (Link to the OTARD Fact Sheet.)
43. What dispute resolution options do I have if I have a problem with the board?
  - See association documents for relevant provisions, if any.
44. What is the state law regarding recalling board members?
  - Pursuant to §34-36.1-3.03(g), unit owners, by 2/3 vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the declarant.

#### **AMENDMENT OF DOCUMENTS**

45. Does state statute provide for the amendment of the association's documents?
  - Yes. Chapter 34-36.1-2.17 contains the relevant provisions.
    - a. What percentage of the owners must approve?
      - The declaration may be amended by vote or agreement of unit owners of units to which at least 67% of the votes in the association are allocated, or any larger majority the declaration specifies.
    - b. Is percentage based on those voting or totality of the number of owners?
      - The percentage is based on the totality of the number of owners, unless the documents specify otherwise.
    - c. Is the vote taken at a meeting or is it required to be by written consent?
      - There are no provisions in the statute relative to this. See association documents for relevant provisions.
    - d. Is mortgagee approval required? Is there a statutory process for obtaining mortgagee approval or providing for a presumptive mortgagee approval?

#### **USE OF TECHNOLOGY**

46. Other than a written document or by voting at a meeting, can an association use the most advanced technology, including e-mail or the internet to:
  - See association documents for relevant provisions, if any, and answer to question 7 relative to notice provisions.
    - a. Provide notice to members of any meeting?
    - b. Obtain votes of the members?
    - c. Obtain the consents, acknowledgements or ratifications of members?
    - d. Obtain the electronic signatures of members?