

DC Updates: New Condo Act Provisions

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Introduction

Legislation to amend the District of Columbia Condominium Act was signed by Mayor Gray on April 28, 2014, and will go into effect as soon as the mandatory Congressional review period has expired. Hopefully, that will be sometime before June 15, 2014.

The legislation is the product of years of efforts by the D.C. Legislative Action Committee of the Community Associations Institute, which sought this legislation to fix certain shortcomings in the Act and to modernize the statute to allow condominiums to use electronic voting and meeting notification, among other changes. Jane Rogers, who practices in WTP's D.C. office, currently serves as Chair of the D.C. Legislative Action Committee. The following is her summary of the changes. -Ed.

The Condominium Amendment Act of 2014 (D.C. Act 20-308) makes substantial changes to current law and will affect all D.C. condominium associations. Therefore, care should be given to understand the changes and advise unit owners of steps the association will have to take to comply with the statute.

Insurance: Unit owners will now be required to obtain condominium owner's insurance coverage with dwelling (whether residential or commercial) property coverage at a minimum of \$10,000 and condominium owner personal liability insurance coverage at a minimum of \$300,000. These coverage amounts may be increased by the executive board.

Unless the governing documents provide otherwise, if the cause of any damage to a portion of the common elements originates from the common elements, the association's property insurance deductible will be considered a common expense. However, if the damage originates from a unit, the owner of that unit will be responsible for the association's insurance deductible up to \$5,000. This amount may be assessed against the owner's unit.

Electronic communications and votes: The amendments will also allow electronic notice of meetings and electronic voting and proxies. Meetings of the executive board may be conducted by telephone conference or video conference or similar electronic means, provided all in attendance are able to hear and be heard by the other participants.

Open meetings: Meetings of the executive board will have to be open to observation by all unit owners in good standing. The agenda of board meetings must be available for review by unit owners prior to the meeting. Each board meeting must include an open forum section.

Financial and other records: The association is required to maintain financial books and records subject to unit owner examination, with certain exceptions for confidential documents. Minutes of board meetings are reviewable by unit owners upon a written request and five days' notice.

Leasing restrictions: The amendments add certain authority not currently found in the Act.

The association will now have the power to adopt leasing restrictions subject to certain restrictions as to units being leased by existing owners.

Assessments for limited common elements: The amendment clarifies the association's right to specially assess units for costs of maintaining limited common elements. It also authorizes the association to pledge assessment income as collateral for a loan, unless prohibited by the condominium instruments from doing so.

Delinquencies: The statute specifies that condominium liens for unpaid assessments include late fees, interest, expenses and legal fees. It further clarifies the association's authority to convey title upon completion of non-judicial foreclosure under the statute's terms.

"Business Judgment" rule: The statute adopts the business judgment rule as the standard applied to govern decisions of the executive board.

Boundary adjustments: It makes technical amendments to current law to permit the relocation of boundaries and subdivision of units, unless prohibited by the condominium instruments.

Other details regarding the amendments are too numerous to include here. Copies of the Re-enrolled Act are available from our offices and briefings regarding the changes will soon be offered. Details to follow.

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