

(H. B. 1874)  
(Conference)

**(No. 129-2020)**

(Approved August 16, 2020)

## **AN ACT**

To establish the “Puerto Rico Condominium Act,” in order to update the rules that govern coexistence in condominiums; repeal Act No. 104 of June 25, 1958, as amended, known as the “Condominiums Act; and for other related purposes.

### **STATEMENT OF MOTIVES**

Condominiums submitted to the Horizontal Property Regime are governed by Act No. 104 of June 23, 1958, as amended, known as the “Condominiums Act.” The purpose of the “Condominiums Act,” is to establish a legal regime that facilitates coexistence and promotes housing availability within a limited area of land. Act No. 104, *supra*, has undergone several substantial amendments over the years following its approval for the purpose of tempering the Act with our society’s needs and changes. The most substantial amendments were incorporated through Act No. 103-2003 over fifteen (15) years ago. Such amendments were made after it had been repealed by Act No. 153-1995 and subsequently restored by Act No. 43-1996.

The social changes that Puerto Rican society has experienced in the last few years require the statute to be revised. The need to update said Act has become evident in several ways, to wit, the case law of the Supreme Court regarding controversies arising from the implementation of the Act; the sixteen (16) Bills introduced by this Legislative Assembly to amend the “Condominiums Act”; the claims made by different sectors in connection with condominiums demanding for

an overhaul of the Act to adjust it to our current reality; and last, but not least, Puerto Rico's experiences after hurricane Maria. The changes that the "Condominiums Act" require are so compelling that the Government of Puerto Rico included the amendments thereto in the Fiscal Plan submitted to the Financial Oversight Board as one of its economic development tools.

The various Bills introduced seek to amend several Sections of the "Condominiums Act" to update it. All of the Bills were considered and many of the concerns voiced were gathered in this Act.

The Supreme Court has served as an important authority due to its interpretation of this Act on various and varied controversies that have arisen over the years. Comprehensive Horizontal Property Regime regulations were adopted upon the approval of the "Condominiums Act," in order to promote this kind of development so that families living in overpopulated urban areas, where the cost of housing is higher, could acquire their own home and, at the same time, to make better use of the limited land available in those areas. *Arce v. Caribbean Construction Corp.*, 108 DPR 225 (1978). There is a clear public policy in Puerto Rico directed toward stimulating the use of lands and the construction of multistory buildings that are governed by the Horizontal Property Regime. *Maldonado v. Consejo de Titulares*, 111 DPR 427 (1981).

Recently, in a ruling that has stirred great controversy, our Highest Forum correctly interpreted the text of the law in effect in *Marimar Pérez Riera v. Consejo de Titulares del Condominio Marymar Condado*, 197 DPR 197 (2017):

[A]lthough not expressly provided, Section 38(d)(3) of the Condominiums Act, it clearly maintains the unanimous vote requirement for approving improvement works when the funds are insufficient to cover the costs thereof, or when, as it occurs in the case

at bar, the funds are available, but it was decided that it would be defrayed upon the imposition of a special assessment.

Thus, this Act clearly provides that a unanimous vote shall only be required in cases where improvement works warrant a special assessment.

In a response to the Supreme Court Holding and the rigidity of the current “Condominiums Act,” the Puerto Rico Fiscal Agency and Financial Advisory Authority (FAFAA) included the amendments to the “Condominiums Act” in the Fiscal Plan for Puerto Rico as one of its regulatory reform initiatives. It specifically establishes that the Act must be amended to eliminate the unanimous vote requirement for carrying out improvement works because it discourages investment in new condominium construction. It further adds that the development of rental properties must be incentivized to increase population density.

All of the foregoing prompted the Legislative Assembly to establish a task force to revise the “Condominiums Act” and hold a roundtable to begin such work in February 2018. The task force met on several occasions to discuss Act No. 104, *supra*, the new trends, and the required changes. This New Condominium Act is the result of such collaboration.

This New Condominium Act incorporates a series of changes that promote coexistence in condominiums. Upon evaluation, modern technology trends as well as the lessons learned from the financial crisis and the emergencies we experienced in the wake of hurricane Maria were included in this Act.

This Act provides that the consent of two thirds ( $\frac{2}{3}$ ) of all the owners that, in turn, hold two thirds ( $\frac{2}{3}$ ) of the percentage of interest in the common elements shall be required to carry out various types of works as well as for the Council of Owners to make determinations. Likewise, it maintains the unanimous vote requirement to dissolve the Horizontal Property Regime and to change the use of an apartment from residential to non-residential purposes and vice-versa. This new

Act provides that the necessary works for the maintenance and safety of the property shall only require the approval of a simple majority of the owners; provided, that such work does not adversely affect the property's common elements. In such a case, the consent of two thirds ( $\frac{2}{3}$ ) of all the owners that, in turn, hold two thirds ( $\frac{2}{3}$ ) of the percentage of interest in the common areas shall be required, thus clarifying that no works that jeopardizes the structural integrity of the building shall be performed. However, the unanimous vote requirement is kept for several of its provisions in the case of buildings submitted to the horizontal property regime prior to the approval of this Act.

This new Act also addresses, in detail, all that pertains to the transfer of administration from the Developer to the Council of Owners by modifying and simplifying the transfer process. It establishes that such process shall commence as soon as more than fifty percent (50%) of the apartments are sold, and provides owners with more guarantees and protections. As part of the transfer process, it is provided that when the Developer has sold forty percent (40%) of the apartments, the Interim Manager shall call the owners to a meeting not later than fifteen (15) days after the Developer has sold forty percent (40%) of the apartments in order to constitute the Transition Committee.

This Act also incorporates and addresses the global trend of short-term rentals. It establishes that short-term rentals shall not be prohibited unless the master deed or bylaws provide for a minimum rental period. Furthermore, it empowers the Council of Owners to regulate short-term rentals. The Council of Owners shall have the authority to amend the master deed or the bylaws, at any time, to establish, modify, or eliminate the short-term rental prohibition allowed under this Act.

As to the Council of Owners, it provides that such council shall be the supreme authority over the administration of the property submitted to the

Horizontal Property Regime. It also provides that the Council of Owners shall have juridical personality and that the owners, jointly and severally, shall hold harmless the Council of Owners from third-party liabilities, and such liability shall be limited to the owners' apartments. The Council of Owners shall not take the form of a corporation or partnership. This Act also clarifies that the Council of Owners of a condominium, whether intended for residential, commercial or mixed-use, shall be exempt from taxes, excise taxes, and others, subject to the limitations imposed by Act No. 1-2011, as amended, known as the "Internal Revenue Code for a New Puerto Rico."

An innovative element of this Act is that it establishes some basic rules for the office of the Managing Agent. It requires the Managing Agent to acquire public liability insurance policies with coverage for dishonesty, crime or fraudulent acts, and professional liability in favor of the Council of Owners. Furthermore, the Act requires the Administrator to secure a policy from the State Insurance Fund Corporation and to submit a Negative Criminal Record Certificate. It further provides protections to prevent potential conflicts of interest when the Managing Agent is also a Condominium's apartment owner.

In a clear response to the various situations that arose after hurricane Maria, the process to call for meetings is rendered more flexible in order to incorporate an expedited period of not less than twenty-four (24) hours to call for a meeting. Various technological means are also adopted to notify meetings such as email or similar means. Disbursements from the reserve fund are authorized under this Act for Works to Address a State of Emergency. The purpose of this is to defray operating expenses during a "State of Emergency"; provided, that it has been previously authorized by a majority of the Council of Owners at a special meeting duly called to address this specific matter.

The Act provides that calls for meetings shall be made in writing and be delivered at the apartment of the owner residing therein via letter, email, or any other means, provided that the administration is able to validate the delivery thereof in the event the apartment owner challenges such delivery. The letter shall always be delivered to the address the owner furnishes for such purposes at the time of registration.

The period to notify a meeting is shortened and the requirement to establish a quorum by calling a second meeting is eliminated to adjust it to modern times. It is specifically established that regular annual meetings shall be notified at least fifteen (15) days in advance, and special meetings shall be notified within five (5) days prior to the holding thereof except as otherwise provided in this Act.

This Act clarifies the notification process for the disconnection of utilities resulting from defaulting on maintenance fees clearly establishing periods to notify the owner prior to the disconnection of such services. It provides that the owner's utilities may not be disconnected without prior notice through the means provided herein at least fifteen (15) days in advance, and after such owner has failed to make two (2) or more maintenance fee payments or assessment payments, when the owner has fines past due sixty (60) days or more, or when the owner has failed to pay the common insurance premium.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Title.

This Act shall be known as the "Puerto Rico Condominium Act."

Section 2.- Purpose.

This Act is enacted for, among other purposes, making feasible the individual ownership of an apartment that is part of a building or property submitted to the Horizontal Property Regime in accordance with the criteria set forth below.

The owner of an apartment submitted to the Horizontal Property Regime is entitled to full enjoyment of his apartment and the common elements; provided, that it does not impair other owners' right to the enjoyment of their respective properties.

Each owner acknowledges that the exercise of ownership rights under the Horizontal Property Regime is limited by the rights of other owners, and that their ownership rights in their apartments shall be exercised within the framework of peaceful coexistence and respect for the rights of others.

In exercising and claimi.ng their rights, owners shall act pursuant to the good faith, the own acts, and the abuse of rights doctrines.

### Section 3.- Definitions.

For the purposes of this Act, the following terms and phrases shall have the meaning stated herein below:

a) Interim Manager - The Developer in his capacity of manager of the property during the transition period which begins from the execution of the first sales deed until administration is transferred to the Council of Owners, upon the election of a Director or Board of Directors.

b) Involuntary Acquirer - Mortgage lender that, in order to protect its credit, acquires a property as part of a foreclosure proceeding, whether at auction or not, or full or partial deed in lieu of foreclosure.

c) Voluntary Acquirer - A person who, after exercising his judgment in the ordinary course of business, deliberately acquires the property because it is a good deal. It includes a conventional purchaser, donee, heir, legatee, trader, or the winning bidder at auction.”

d) Managing Agent - Person designated by the Council of Owners to manage the daily operations of the condominium, under the supervision of the Director or the Board of Directors.

e) Appurtenance - Area designated in the master deed of a condominium for particular use of an apartment, excluding all other apartments.

f) Apartment - any construction unit in a property submitted to the regime established in this chapter, sufficiently delimited and consisting of one (1) or more cubicles whether fully or partially open or enclosed, together with its appurtenances, if any, even if they are not contiguous; provided, that said unit is clearly delineated for independent use and has a direct exit to a public thoroughfare or a given private area (be it a common element of the condominium or an area shared by two or more condominiums or other developments, or to an existing private area and/or an access area designated for two or more condominiums or other areas developed for residential, commercial, combination of uses, or for any other type of uses [sic] that leads to a thoroughfare through an easement or other legal mechanism, as the latter is approved by public or quasi-public entities with jurisdiction.

g) Short-term Rental - Means any rental for a period of ninety (90) consecutive days or less.

h) Council of Owners - Governing and deliberative body of the condominium, with juridical personality and constituted by all owners.

i) Developer - Person that submits the property to the Horizontal Property Regime, who shall act as Interim Administrator from the execution of the first sales deed until administration is transferred to the Council of Owners, upon the election of a Director or Board of Directors.

j) Common Elements - Elements that are not delineated for separate ownership and are not subject to partition.

k) Limited Common Elements - Those common elements reserved for the use of more than one owner to the exclusion of the other owners, such as

corridors, stairways and special elevators, sanitary services common to the apartments of a particular floor, and the like.

l) Council Elements - Areas delineated for independent use, whether apartments, parking spaces, or premises, the ownership of which has been assigned to the Council of Owners. It shall also include private units acquired by the Council of Owners by means of assignment, enforcement of debt, or any other lawful means.

m) Master Deed - Public deed through which the sole owner or co-owners, if there were more than one (1), expressly declare in a clear and precise manner their desire to submit the property to the horizontal property regime.

n) Annual Financial Statements - A written financial statement which includes a balance sheet and a statement of income and expenses as of the close of the Council's fiscal year and for the year ending on that date.

o) Exterior Appearance - The architectural design of the common elements as a whole and the aesthetic design of building's exterior, as stated in the condominium's instruments.

p) Board of Directors - A Director or group of Directors elected by the Council of Owners.

q) Improvement Works - Any permanent works other than maintenance works, aimed at increasing the value or productivity of the property in question, or to provide better services for the enjoyment of the apartments or common elements.

r) Special Works - Any maintenance works not projected in the annual budget requiring the imposition of an assessment for the execution thereof.

s) Works to Address a State of Emergency - Any operating expense necessary to address a "State of Emergency," whether to prepare for addressing any situation resulting from an emergency. It shall be understood that a "State of

Emergency” exists when it is thus declared by the pertinent state or federal authorities.

t) Urgent Works - Any work the execution of which cannot be postponed due to pressing security reasons, or because it is needed for the restoration of essential utility services, such as water and electricity supply, or the operation of elevators.

u) Person - Any natural or juridical person.

v) Percentage of Interest - A formula based on the ratio that the private floor area of each apartment bears to the sum total of the private floor areas of all of the condominium’s apartments.

x) [sic] Annual Budget - A document showing the estimate of income and expenditures of the Council of Owners projected for each fiscal year and the required reserve contribution.

y) Condominium Bylaws - A document that is part of the master deed and establishes the administrative rules that shall govern the condominium.

z) Owner or Apartment Owner - Any owner that has a right in his apartment and to a percentage of interest, with other co-owners, in the common elements of a property submitted to the Horizontal Property Regime.

#### Section 4.- Applicability of this Act.

The provisions of this Act apply exclusively to the set of apartments and common elements whose sole owner, or co-owners, if there were more than one (1), expressly declare the desire to submit said property to the horizontal property regime set forth in this Act, stating so in a public deed to be recorded in the Property Registry in accordance with Section 19 of the Puerto Rico Real Property Act and other applicable provisions thereof.

The horizontal property regime may be established on property located on land owned by another person; provided, that the owner of the land grants the

lease, usufruct, or surface rights perpetually to the condominium's developer or declarant.

The deed establishing the Horizontal Property Regime shall clearly and accurately state the purpose and use of all areas comprising the property and, except as otherwise authorized by this Act, once said purpose and use have been established, they may only be changed by the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements, except for the modifications to the master deed, for purposes of varying the use of an apartment from residential to nonresidential or vice versa, which shall require the unanimous consent of all owners. The provisions on variations of purpose and use set forth in this Section with respect to the number of votes required therefor shall not apply to the property submitted to the Horizontal Property Regime prior to the approval of this Act, which may only be modified by the unanimous consent of the owners.

#### Section 5.- Effect of Submission to Horizontal Property Regime

Once the property has been submitted to the Horizontal Property Regime, the apartments, as defined in Section 3 of this Act, may be individually conveyed and encumbered and may be the subject of ownership and possession, and of all types of juridical acts inter vivos or mortis causa, as if it were sole and entirely independent of the other apartments in the property of which it forms a part, and the corresponding individual titles shall be recordable in the Property Registry, in accordance with the provisions of this Act and Act No. 210-2015, as amended known as the "Commonwealth of Puerto Rico Real Property Registry Act."

#### Section 6.- Effect of Conveyance or Encumbrance and Subrogation of Rights. Apartment Planned and Not Commenced.

In cases of conveyance or encumbrance of an apartment that has been planned but is not yet under construction, the interest of the transferor or the

debtor, as the case may be, in the common elements of the planned property, as well as the right to have the apartment built shall be deemed to be acquired by the new owner, or encumbered, and the acquirer shall be understood to be subrogated in the rights and to the same extent as the former, for all legal purposes.

#### Section 7.- Apartment Under Construction

In case of conveyance or encumbrance of an apartment already under construction, the interest referred to in Article 6 of this Act shall be deemed to be acquired or encumbered, and the portion of the apartment in question that is already built shall be deemed individually acquired or encumbered, the acquirer being also subrogated in the rights and to the same extent as the transferor, for all legal purposes.

#### Section 8.- Number of Co-owners.

Every apartment may be commonly owned by more than one person.

#### Section 9.- Right of Owner to his Apartment; Basis for Determining Interest.

An apartment owner shall have an exclusive ownership to his apartment and to a share, with other co-owners, in the common elements of the property equivalent to the ratio that the floor area of the individual apartment, bears to the floor area of all the apartments in the property. In the case of apartments with two (2) or more floors, the floor area of each floor shall be considered.

Section 10.- Mortgage Liens Constituted Before and After Submission to Regime; Consent of Co-owners.

The mortgage liens constituted prior to submitting the property to the Horizontal Property Regime shall be subject to the provisions of Act No. 210-2015, as amended, known as the “Commonwealth of Puerto Rico Real Property Registry Act,” but the creditor, upon initiating the collection procedures, shall direct the action for the total amount secured simultaneously against all the owners of encumbered apartments. If such mortgage liens are constituted after the property

was submitted to the Horizontal Property Regime, such liens shall be distributed in accordance with Section 171 of Act No. 210-2015, as amended, known as the “Commonwealth of Puerto Rico Real Property Registry Act,” among the encumbered apartments that are already built; and, in the case of apartments that are merely planned or under construction, the lien shall be distributed according to the recorded rights or interests, in accordance with Sections 6 and 7 of this Act.

The common elements of a property submitted to the Horizontal Property Regime may be mortgaged. Said mortgage may only be approved or modified subsequently by the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements.

Section 11.- One Action Foreclosure upon Distribution of Liens.

Whenever liens have been distributed in accordance with Section 10 of this Act, the foreclosure action may be carried out in a single proceeding and with a single certification from the Property Registry.

Section 12.- Contents of Public Deed.

The public deed referred to in Section 4 of this Act shall state the following particulars:

(a) A description of the land and a general description of the building or buildings in existence, expressing their respective areas and construction materials.

(b) A description and number of each apartment, expressing the measurements thereof, location, rooms, main entrance door and area immediately accessible, and any other data necessary for its identification.

(c) A description of the general common elements of the property, and if applicable, of the limited common elements restricted to a given number of apartments, expressing which are those apartments.

(d) A clear indication of the purpose to which the property and each one of the apartments is devoted, expressing the use restrictions thereof.

(e) The area of all the apartments in the property, as a whole, and the area of each apartment; the percentage of each owner in the common expenses and profits, and their percentage of interest in the common elements shall be determined in accordance with these measurements.

(f) All that pertains to the administration of the property, as applicable.

(g) Any further data in connection with the property that should be recorded.

(h) The statement of the particulars included in subsections (a), (b), (c), and (e) shall be made according to a certified description provided by the engineer or architect in charge of preparing the plans of the property which shall be submitted to the Property Registry in accordance with Section 22 of this Act.

(i) The deed shall also include the following:

(1) A certified copy of the license of the Developer or Builder, issued by the Secretary of the Department of Consumer Affairs, if so required, pursuant to the provisions of Act No. 130 of June 13, 1967, as amended, known as the “Act of the Office of the Construction Officer Attached to the Department of Consumer Affairs,” and

(2) A sworn certification by the person submitting the property to the Horizontal Property Regime, stating:

i. The plans filed with the Property Registry are a true and correct copy of those approved by the Permit Management Office and/or the Municipality with V Granted Hierarchy to issue permits, and include any change made to the property as of the date of execution;

ii. The common and private elements still under construction and the estimated completion date thereof, and the pledge to file copies of the plans, duly certified by the Permit Management Office and/or the

Municipality with V Granted Hierarchy to issue permits with the Property Registry stating the changes made during the construction process;

iii. That all the requirements of this Act have been met, the resolutions have been complied with, and the permits have been obtained from the government agencies to submit the property to the regime; and

iv. That a copy of the certified description provided by the engineer or architect charged with preparing the plans of the property has been included verbatim in the deed.

#### Section 13.- Duty to Include Bylaws in the Deed

The administration of every property constituted into horizontal property shall be governed by the provisions of this Act as well as bylaws which shall be inserted in or appended to the deed. A certified copy of said deed and the bylaws and of any amendment thereto shall be filed with the Property Registry.

#### Section 14.- Contents of Bylaws.

The bylaws may include all those norms and rules regarding the use of the property and its apartments, the exercise of rights, facilities and services, expenses, administration and governance, insurance, conservation, and repairs that are not inconsistent with the provisions of this Act. Bylaws must necessarily provide for the following:

(a) Form of administration, indicating whether this shall be in charge of a Director or a Board of Directors, and specifying the powers, manner of removal, and, where proper, the compensation thereof. It shall also specify which powers and responsibilities, if any, may be delegated by the Director or the Board of Directors to a Managing Agent.

(b) Date of the annual meeting.

(c) Standard method of calling or summoning the owners to assemble, expressing the notification process whereby it may be evidenced.

(d) Definition of the concept of majority that shall govern the property in question.

(e) Who is to preside over the meeting and who shall keep the minutes book wherein the resolutions shall be recorded.

(f) Care, upkeep, and surveillance of the property and its general or limited common elements and services.

(g) Manner of collecting from the co-owners for the payment of the common expenses;

At any time, the sole owner of the property or, if there is more than one (1), the owners representing two thirds ( $2/3$ ) of all owners that, in turn, hold two thirds ( $2/3$ ) of the percentage of interest in the common elements may modify the bylaws, but each one of the particulars set forth in this Section shall always be embodied in the bylaws. Any modification shall be embodied in a public instrument which shall be recorded in the same office as was the parent tract, and a certified copy thereof shall be filed with the Property Registry as provided in Section 13 of this Act.

The modification shall be binding upon all owners from the time the affirmative vote of two thirds ( $2/3$ ) of all owners that, in turn, hold two thirds ( $2/3$ ) of the percentage of interest in the common elements, is obtained, or after the thirty (30)-day period set forth in Section 52(c) of this Act has elapsed, with no opposition from more than one third ( $1/3$ ) of the owners that, in turn, hold one third ( $1/3$ ) of the percentage of interest in the common elements. With respect to third parties, no modification may be operative until the date on which a public instrument wherein such amendment is embodied, is recorded in the Property Registry, and a certified copy thereof is appended to the master deed, and an entry of said bylaw modification is recorded specifically in the record of the parent tract.

Section 15.- Bylaws for Condominiums with Apartments Intended for both Residential and Nonresidential Use.

When a property that contains or shall contain apartments that are intended for both residential and nonresidential use is submitted to the horizontal property regime, the bylaws shall include provisions as necessary to prevent the apartment owners' lawful right to use and enjoy the common elements from being hindered, as well as to forestall the imposition of an undue assessment for common expenses. Bearing this objective in mind, the following matters shall be addressed:

(1) At least one (1) member of the Board of Directors shall be the owner of an apartment that is not intended for residential use.

(2) Minimum provisions to ensure that the users of the nonresidential area have access thereto during business hours, according to the intended use of the apartment or area.

(3) Any measures and restrictions as are necessary to ensure the peace and tranquility of the occupants of residential apartments, especially after business hours.

(4) Provisions pertaining to the insurance of commercial areas and facilities and the use and maintenance thereof to protect the investment of apartment owners, without any impairment to the right of, or encumbrance on the obligations of residential apartments.

(5) It shall be understood that the electric power rate for customers who represent owner or tenant boards, councils or associations in structures constituted under this Act shall be the residential rate and not the commercial rate. Said conversion shall be applied exclusively to the electric power service bills of the common elements of the property used solely to promote the residential use of the structure.

Structures built under this Act having both residential and commercial uses therein may avail themselves of the rate adjustment provided in this Act.

#### Section 16.- Majority of Owners and Council of Owners

The bylaws referred to in Section 13 of this Act shall specify which of the following two (2) definitions of majority shall govern for the property in question:

- a) More than half of the owners; or
- b) More than half of the owners whose apartments in turn represent over fifty percent (50%) of the percentage of interest in the common elements, in accordance with the percentages allocated to the apartments pursuant to Section 9 of this Act.

Likewise, any reference in this Act to the Council of Owners shall be construed to include all the owners.

#### Section 17.- Common Elements of the Property

The common elements of the property are the following:

- (a) The following are considered to be general and necessary common elements, not delineated for individual ownership, and shall not be subject to partition:

- (1) The projection, understood as the right to build upwards. Except as provided in Section 44 of this Act, the enclosure or roofing of patios, terraces, or open areas shall require, insofar as these works are not contemplated in the plans submitted along with the master deed, the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements. When the use and enjoyment of any owner is hindered by such modification, the consent of said owner shall be a *sine qua non* requirement; any owner opposed to such modification may reasonably establish the manner in which the use and enjoyment of his apartment is hindered thereby. The construction of

new floors above the roof and above or below the land shall require the unanimous consent of the Council of Owners.

(2) The foundations, load-bearing walls, roofs, stairways, and entrances and exits, or access areas.

(3) Sites for the installation of central utilities, such as electric power, lighting, gas, hot and cold water, refrigeration, cisterns, water tanks and pumps, and others similar thereto that are essential for the adequate enjoyment of the apartment; provided, that these elements do not serve a private apartment only.

(4) Elevators, when needed for the adequate enjoyment of the apartments.

(5) Green areas and trees required by the instrumentalities or agencies of the Government of Puerto Rico.

(6) The area designated for the placement of solid waste recycling containers; provided, that the placement of containers for recyclable materials shall be mandatory in all condominiums, unless there is no space available to be a dedicated area for the placement of recycling containers, in which case the Council of Owners, the Board of Directors, or the Managing Agent shall notify this fact to the Secretary of the Department of Consumer Affairs, in writing, personally, by certified mail, or electronic mail. The Secretary, at his discretion, may investigate the accuracy of the information furnished, and if in his judgment, such information is not justified, he may enforce compliance with the provisions of this paragraph. If the affected party does not agree with a decision of the Secretary of the Department of Consumer Affairs enforcing compliance with the provisions of this subsection, such party may request an Administrative Hearing pursuant to Act No. 38-2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act."

(7) A power generator to supply the electric power demands of the common elements, or common and private areas, using the condominium's electric power infrastructure as a general common element. The installation or change of a power generator that supplies the demands of the common elements, or common and private areas, using the condominium's electric power infrastructure shall be deemed to be a necessary work.

(8) Any other element that is essential for the adequate enjoyment of the property's apartments.

(b) The following shall be deemed to be general common elements, except as otherwise provided or stipulated:

(1) The land, basements, roofs, patios, and gardens.

(2) The premises designated for lodging concierges, surveillance officers, janitors and maintenance personnel, and others, as well as storage closets or rooms.

(3) Areas designated as parking spaces.

(4) Recreational areas that exceed the requirements set forth by urban regulations, or competent authorities.

The allocation of the aforementioned common areas or elements shall require that it is this stated in the master deed. If the conversion and transfer to the horizontal property regime is carried out after the master deed is recorded, the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements shall be required. The transfer shall be recorded in the Registry of the Property stating the new percentage of interest for each of the benefited apartments.

Even when the areas listed above in subsection (b) of this Section are delineated for independent use, such areas may be constituted and/or alienated as areas or facilities for the benefit of the Council of Owners, or of one (1) or various

condominium apartment owners; furthermore, these areas and facilities may be constituted and/or used for the benefit of one (1) or various owners in different condominiums or other developments, when these areas or facilities are shared among them or with one (1) or more developments, communities, and/or other projects, as may be approved by public or quasi-public entities with jurisdiction or by an agreement between the parties. The parking area in exclusively residential condominiums shall be constituted as either a limited or a general common element, or as a private area whose spaces and ownership shall be attributed to the apartment owners.

Except for nonresidential condominiums, that is, exclusively commercial or professional condominiums, ownership of individual parking spaces that constitute separate parcels shall not be taken into account when determining a majority based on the number of owners, but rather, the percentage of interest pertaining to such spaces in the common elements may be calculated when the bylaws include such percentage of interest in its definition of a majority. When parking spaces have been entirely constituted as a separate parcel, the owners thereof shall be entitled to one vote, as if it were an apartment.

The floor area of those spaces recorded in the master deed of a condominium as appurtenances of an apartment for the particular use thereof, thus excluding all other apartments, including parking spaces allocated to a specific apartment, shall not be included when computing the floor area of the apartment in question or its percentage of interest in the common elements of the property, except that the sole owner of the apartments or, if more than one owner, that at least two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements, expressly provide otherwise for one (1) or more appurtenances, in the original master deed, and/or in those documents prepared and executed to modify an already existing regime, in which case, only those appurtenances so

specified in the original master deed or the documents to amend an existing Horizontal Property Regime shall be taken into account.

#### Section 18.- Common Elements Conservation and Use Agreements

A majority of the owners shall agree on the necessary works for the maintenance or safety of the property, and the efficient use of the common elements. In the event that works relating to efficient use hinder the enjoyment of any particular owner, such works cannot be performed without the consent of the affected owner. If the affected owner opposes to such works, he shall state the grounds therefor.

All works that adversely affect the common elements of the property shall require the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements. No work shall be performed if it jeopardizes the soundness and structural integrity of the building.

#### Section 19.- Council Elements.

The alienation of a council element may not be carried out free of charge and shall require the approval of a majority of Council of Owners; provided, that the proceeds of the sale or alienation are allocated for the payment of debts or expenses related to the maintenance of common areas. The alienation to defray any other expense, or to defray improvement projects shall require the consent of the owners, pursuant to the requirements for obtaining approval of the expense or project in question.

Upon the alienation of an apartment, it shall no longer be considered a council element.

#### Section 20.- Other Common Areas, Properties, and Lots

Property subject to this Act may also use and enjoy the areas and facilities belonging to other condominiums, urbanizations, or residential, commercial, or mixed-used developments, or any other type, such as vehicle or pedestrian

entrances, exits, and access areas, recreational, educational, or commercial facilities, or any other area or facility as provided in the master deeds, master covenants, equitable easements, or in other documents constituting restrictions, conditions, or easements that affect or are executed in connection with such areas or facilities, or as it is thus approved by public and/or quasi-public entities with jurisdiction.

The provisions established to such effects in the master deeds, master covenants, equitable easements, and/or other documents constituting restrictions, and/or conditions, and/or easements that affect and/or are executed in connection with such areas and/or facilities shall apply to the use, operation, maintenance, and other aspects related to these shared common areas and/or facilities, in accordance with the permits and/or resolutions issued by public and/or quasi-public entities with jurisdiction.

A condominium developed in phases and/or stages, and comprising one or several structures shall need not be built in a single lot, and its facilities and appurtenances, whether common or private, may be located in two (2) or more lots that are interconnected by public or private roads or accesses, or by common elements; provided, that the master deed, plans, and other condominium instruments state that the condominium shall be built on two or more non-abutting lots that shall constitute a single unit for purposes of its recordation as a filial estate of the regime.

#### Section 21.- Limited Common Elements of the Property.

Common elements shall also include, but be limited in character if so expressly stated in the master deed or expressly agreed by two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements of the property, those reserved for the use of more than one owner to the exclusion of the others, such as special corridor, stairways and

elevators, sanitary services common to the apartments of a particular floor, and the like.

Section 22.- Copies of the Plans to be Appended or Attached to the Deed; Authentication

The certified copy of the deed originating the first recordation of the entire property, and the certified copy of the deed originating the first recordation of an individual apartment, for the recordation thereof in the Property Registry shall be appended as supplemental documentation, to true and correct copies of the plans of said property or the sketch of the apartment in question, as the case may be, to be recorded in the Property Registry. Said plans shall be certified, without payment of fees, by the Permit Management Office and shall graphically show the particulars of the property or apartment, as the case may be.

In the event that an existing property is to be submitted to the Horizontal Property Regime and the plans thereof are not available in the records of the Permit Management Office, such fact shall be stated through a certification issued to that effect by the Director. In such a case, a set of plans as built, certified by an engineer or architect authorized to practice his profession in Puerto Rico, clearly and graphically showing the particulars of the property or apartment, as the case may be, shall be appended to the certified copy of the deed that originated the first recordation of the entire property under such regime and to the certified copy of the deed that originated the recordation of the individual apartment.

The certified copy of the deed that originated the first recordation of the entire property in the Property Registry shall also include an appraisal of the property certified by an appraiser authorized to practice his profession in Puerto Rico. This appraisal shall be used to calculate the recordation fees to be paid in the Property Registry.

### Section 23.- Method of Recordation

A Horizontal Property is organized in the Registry by a set of parcels interconnected by cross-referenced marginal notations.

The structure built on the land shall be recorded in the parcel where the land is recorded and shall be designated as parent tract.

Each apartment shall be recorded as a separate parcel, in a specific filial registry of the parent tract, unless the structure is built upon land owned by another, in which case the parent tract shall be that in which the building is recorded.

All these types of recordation shall be preceded by the words “Horizontal Property.”

### Section 24.- Specific Circumstances Related to the Recordation of the Building in the Parent Tract.

When a property is recorded in the parent tract, there shall appear as circumstances of the entry those listed in Section 23 of Act No. 210-2015, as amended, known as the “Commonwealth of Puerto Rico Real Property Registry Act,” in accordance with the regulations adopted for the implementation thereof and with Section 12 of this Act, except that, with regards to the description of each apartment in the property, for purposes of their entry in the parent tract, it shall suffice to state the number of apartments comprising the property, the number and type of apartment in each floor, as well as the number, the floor area, and the percentage of interest in the common elements allocated to each apartment, without prejudice to the provisions of Section 25 of this Act for the recordation of an apartment separately. In addition, the works planned, initiated, and completed shall be stated, therein as the case may be.

The common elements shall also be recorded permanently in said entry in favor of the owner or owners of the entire property, and in the future, of the apartments, without stating their names and last names, and in the corresponding shares.

Section 25.- Specific Circumstances Related to the Recordation of Apartments in the Filial Estates.

When an apartment is recorded in the filial estates, there shall appear as circumstances of the entry those listed in Section 23 of Act No. 210-2015, as amended, known as the “Commonwealth of Puerto Rico Real Property Registry Act,” in accordance with the regulations adopted for the implementation thereof and with Section 36 of this Act, except for those stated in subsection (a) of Section 12.

As to apartment owners’ share in the general or limited common elements, a timely and brief reference shall be made to the entry of the parent tract in which they are recorded.

If the works on the land of the respective apartment have not yet begun, the apartment shall be recorded as a filial estate or separate parcel. When the construction works of the apartment have commenced, but are not completed, those that have been completed and those pending construction, shall be stated.

Section 26.- Declaration of Work Completion by Public Deed; Recordation Works planned or commenced that have been recorded pursuant to Section 24 of this Act or works already commenced pursuant to the preceding Section, shall be declared upon the completion thereof by public deed.

Such declaration shall be made by the interested parties and shall be recorded in the specific record of the respective parcel. The final description of each completed apartment may be recorded, even though only the works planned

or under construction appear recorded, and a marginal notation shall be made on the record of the parent tract.

Section 27.- Conveyances or Encumbrances.

The conveyance or encumbrance provided in Section 6 of this Act shall be entered in the record of the parent tract; but in those cases provided in Section 7, the recordation shall be made on the record of the filial estate of the apartment as a new parcel, in accordance with the provisions of the last sentence of Section 25 of this Act.

Section 28.- Chain of Title; Recordation of Percentage of Interest in the Common Elements, Unnecessary

Chain of Title shall be kept in the filial records of the respective apartments.

The fraction or percentage of interest in the common elements allocated to the owner of each apartment shall be deemed to be conveyed or encumbered together with the apartment, without need for recording the conveyance or encumbrance of the percentage of interest in those elements in the parent tract.

Section 29.- New Floors, Acquisition of Adjacent Land, Release of Liens, and Provisional Entry

Notwithstanding the provisions of the preceding Section of this Act, the construction of new floors, which add height to the building or the acquisition of new portions of adjacent land, with or without structures, by the Council of Owners, by a unanimous vote of the owners to be added to the common elements of the property shall be recorded in the parent tract. The total or partial release of liens prior to the constitution of the property into horizontal property and the provisional entries or records making express reference to the property or to the whole common elements thereof, shall be recorded in the parent tract, always leaving marginal notes of these operations in the records of the filial estates.

Section 30.- Description in Deed in case of Division of Portions of Common Land Conveyed; Recording.

In the division of portions of common land conveyed by the Council of Owners, by a two-thirds (2/3) vote of all owners that, in turn, hold two-thirds (2/3) of percentage of interest in the common elements, so they are no longer part of the common elements of the property, the public deed shall contain the description of the property just as it shall stand after such portions of land are divided. This new description shall be entered in the record of the parent tract. The provisions of this Section related to the number of required votes shall not apply to properties submitted to the Horizontal Property Regime prior to the approval of this Act, which may only be modified by a unanimous vote of the owners.

Section 31.- Initial Administration by the Owner or Owners, Powers and Duties.

The owner or owners that submit the property to the Horizontal Property Regime shall assume the initial administration of the property, with all the powers and duties conferred and imposed by this Act, and those conferred and imposed by the Bylaws upon the Director or the Board of Directors.

The interim administration shall begin as soon as the first apartment is sold. During the interim administration, neither the master deed nor the plans of the condominium may be amended without the consent of two-thirds (2/3) of all owners, that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements, except to conform the master deed to the plans approved by the agencies with jurisdiction or recorded. The provisions of this Section related to the number of votes required shall not apply to properties submitted to the Horizontal Property Regime prior to the approval of this Act, which may only be modified by a unanimous vote of the owners.

Section 32.- Obligations of the Developer during Interim Administration.

As of the first sale, the Developer, in its capacity as Interim Manager, shall have the following obligations during the interim administration.

a) To address all matters concerning good governance, administration, surveillance, maintenance, care, upkeep, and operations of general and common things and elements, and the general and necessary services of the condominium.

b) To keep a book of owners which shall include the name, signature, telephone number, email, mailing, and street address of the owners, thus keeping a record of succeeding transfers and leases in identical manner, and keeping a copy of the sales deed attesting to the ownership of each condominium.

c) To direct the financing matters of the condominium and keep a book with a detailed account, in chronological order, of the receipts and expenditures affecting the property and its administration and specifying the maintenance and repair expenses of the common elements. Each expenditure shall be accredited by a voucher, invoice, or receipt. The book of vouchers, invoices, and receipts shall be available for the examination by the owners during business days and hours. The Interim Manager shall notify the owners of the location at which said book shall be available.

d) To collect from the owners assessments for common expenses according to the percentage of interest allocated to their apartments in the master deed and collect any other funds to which the community may be entitled. The maintenance fee shall be determined according to the budget prepared and submitted by the Developer after the first sale. The Developer shall pay a sum equivalent to the remaining percentage, regardless of the number of apartments left to be built or sold. The Developer shall deposit the fees he is required to pay in a checking account to be established to defray the condominium's operating and maintenance expenses. The Developer shall not be allowed to pay expenditures out

of his own pocket and apply it towards the maintenance fees he is required to pay. All of the expenditures of the condominium shall be paid from the operations account established for such purposes. In every initial sale of each apartment, the buyer shall be required to pay two (2) installments in advance which shall be deposited in the special reserve fund.

e) To notify all owners, after the first sale, the annual budget based upon actual and reasonable maintenance expenses projected for the following year after the first sale.

f) To prepare the budget, ensuring that it reasonably addresses the financial needs of the condominium, without including the property maintenance and upkeep expenses prior to the sale of the apartments, nor any expense related to the completion of the construction works of the property or the apartments, or to the sale thereof. The projected budget may only be modified upon previous notice to all owners within thirty (30) days before the close of the operating budget year, to become effective on the next operating year.

g) To notify the owners on a monthly basis of the receipts and expenditures of the condominium and the bank account balance for the month preceding the notification. If there is a budget deficit, because expenditures exceed the projected receipts, the Interim Manager shall be responsible for making up the deficit out of his own pocket, except for any installments due by any owner other than the Interim Manager.

### Section 33.- Transfer of Administration.

The transfer of the administration shall take place as soon as the owners elect a Director or a Board of Directors at a special meeting to be called at any time by any individual apartment owner, or when the Developer has sold fifty percent (50%) or more of the apartments. At that time, the Developer shall be required to call and hold a meeting of owners to elect the first board of directors or director

and shall make available for the examination by the owners, all contracts executed during his term as Interim Manager.

Section 34.-Transition Committee.

When the Developer has sold forty percent (40%) of the apartments, he shall call a meeting of owners not later than fifteen (15) days after the sale of forty percent (40%) of the apartments has been completed for the purpose of constituting the Transition Committee.

The Transition Committee may be constituted at any time prior to sale of forty percent (40%) of the apartments upon holding a meeting duly called by an owner other than the Interim Manager.

The Transition Committee may be constituted by at least three (3) owners elected by the Council of Owners. The Developer or any juridical entity related to the Developer may not be a member of this Committee.

The Transition Committee may require from the Interim Manager a report on the status of the condominium, and may review any related public instruments, such as deeds, use permits, agency authorizations, etc. It may also review and inspect the documents related to the finances of the regime, including the fidelity bond provided below. The Committee shall have the right to make a copy any of these documents.

Section 35.- Provision of Documents to the Transition Committee

Before holding the meeting provided in Section 33 of this Act, the Interim Manager shall provide the Transition Committee with:

a) The financial statements duly audited by a Certified Public Accountant. The Certified Public Accountant shall be chosen by the Transition Committee and his fees shall be paid from the operating funds of the condominium. In the audit, judgment shall be passed on the reasonability of the expenses incurred in the maintenance of the common elements during the interim

administration in relation to the budget in effect during the audited period. If there were a difference between receipts and expenditures as of the date of the transfer of administration, the Interim Manager shall not be entitled to claim said difference from the owners, nor to make up for it with the certified debt.

b) Certified copies by the authorizing notary and the competent authorities of all of the property's documents and instruments; provided, that said certified copies shall be issued to the Council of Owners free of charge, pursuant to Act No. 75 of July 2, 1987, as amended, known as the "Puerto Rico Notarial Act."

c) Updated Book of Owners.

d) A certification issued by the Secretary of the Department of Consumer Affairs stating that the bonds required in subsections (k) and (l) of this Section have been posted.

e) A negative certification of outstanding debt from the utilities or the account statement thereof.

f) A certification of the status of any legal, out-of-court, or administrative action in connection with the common elements, or any other aspect that may affect the operations of the condominium.

g) A sworn statement by the Developer, in his capacity as Interim Manager, stating that a copy of the following documents has been furnished to each new owner:

1. A copy of the budget of the condominium.
2. A copy of the master deed and the bylaws of the condominium.
3. A copy of the use permit of the apartment.
4. A copy of this Act and the regulation adopted by the

Department of Consumer Affairs in accordance with this Act. The regulation shall be provided only in the case of apartments intended for residential use.

h) An account of all the maintenance fees payments made by the owners during the period of interim administration, including those made by the Developer for units not yet sold or built.

i) A copy of all contracts executed by the Developer during his term as Interim Manager.

j) A certified copy of a complete set of the plans filed with the Property Registry showing the changes made, if any, to the original plans filed pursuant to Section 12 of this Act.

k) A certified copy of the fidelity bond that shall become effective as of the transfer of administration to the Council of Owners. The bond shall be posted by an entity authorized by the Insurance Commissioner, covering:

1. The sum total of any unpaid maintenance fees, which the Developer was required by law to pay, as determined by the Certified Public Accountant who certifies the financial statements, through an audit to such effect, at the time of the transfer of the interim administration to the owners, as provided in this Section.

2. The culpable negligence or neglect of duty as interim manager.

The fidelity bond shall not be less than fifty thousand dollars (\$50,000). Said fidelity bond shall be issued on behalf of the Council of Owners and shall be in force for two (2) years, beginning from the transfer of the administration to the owners.

(l) A certified copy of the bond for construction flaws and defects. Said bond shall be equal to two percent (2%) of the appraisal value of the project used to submit the property to the Horizontal Property Regime, which shall answer for construction flaws and defects that the property may have, and to guarantee the completion of recreational facilities and common elements, and be in force for a minimum of two (2) years from the transfer of the administration to the owners.

(m) All funds of the community of owners held by the Interim Manager, including any amount set aside as a reserve or otherwise withheld by the mortgagee at the closing of each unit.

(n) Bank accounts, deposits, securities, etc., owned by the community of owners, including the appropriate deposit and withdrawal slips, account statements, bank reconciliations, and any other related documents.

The cost of the bonds provided herein as well as the expenses related to the information and documents stated above shall be defrayed by the Developer.

The Transition Committee shall inform the Council of Owners of the steps taken and its findings at the meeting held for the election of the Board of Directors, as provided in this Act.

No agreement executed during the term of the Interim Manager shall be binding on the Council of Owners, unless the Council of Owners ratifies said agreement by a majority vote.

Once the Transition Committee is constituted, the Interim Manager shall not make any disbursements from the accounts of the community of owners without the previous authorization of the Transition Committee.

If the Interim Manager fails to comply with the duties set forth in this Section, he shall be required to reimburse to the Council of Owners, in addition to the amounts owed and damages caused by his noncompliance, any and all expenses incurred by the Council of Owners to enforce compliance with said duties, including attorney's and expert fees, all without prejudice to the imposition of civil fines, pursuant to the provisions of Section 69 of this Act. The Director or Board of Director's assumption of the administration shall not be construed as a waiver of a claim against the Developer for matters related to the interim administration.

This Section shall be subject to restrictive interpretation for the protection of the rights of owners.

Section 36.- Recordation of Real Property Rights in Apartments not Recorded as to Ownership or Possession;

Whoever has any unrecorded real property rights in any apartment may request the recordation thereof in accordance with the provisions set forth in Act No. 210-2015, as amended, known as the “Commonwealth of Puerto Rico Real Property Registry Act.”

When the parcel is recorded in the name of a different person, the person with ownership rights over an apartment may request the recordation of his rights, in accordance with the pertinent provisions of Act No. 210, *supra*. The petition or petitions of the owner or owners of a property that is yet to be recorded in the Registry, to have their rights recorded shall be notarized and submitted within a period of ten (10) business days.

Section 37.- Notices to the Director or the Board of Directors

Both the acquirer and the transferor of the ownership shall be responsible for notifying the Director or the Board of Directors within thirty (30) days following the date of the transaction to change the owner of the apartment, the name, surnames, contact telephone numbers, street address, mailing address, email address, and the preferred method of notification of matters pertaining to the apartment. They shall also notify the effective date of said change of ownership, the information about the apartment’s financing by the acquirer, if any, and other details of the acquisition by submitting and delivering a copy of the documents attesting to such transactions, and shall sign the appropriate registry. The acquirer shall notify if any other person lives in said apartment. Any transferor who fails to meet this requirement shall continue to be jointly and severally liable with the new owner, for the maintenance fees, special assessments, fines, assessments,

community insurance, or any other debt accrued after the transfer, insofar as this requirement is not met.

The information gathered in the Book of Owners shall remain protected for strictly administrative uses. The owners shall have access, at least, to the name, email address, and mailing address of the persons constituting the community of owners for purposes of calling a meeting of the Council of Owners. Owners may authorize the Board of Directors to provide more information for purposes of calling a meeting by one of the owners.

Upon his inclusion in this book, the acquirer of the apartment may participate in and vote at the meetings of the Council of Owners.

The owner shall notify any changes in the information required in this Section to the Director or the Board of Directors within thirty (30) days following the effective date of said change. Likewise, any changes in the mortgage, or any assignment or leasing of the apartment shall be notified by delivering an attesting copy of the mortgage, assignment, and/or leasing agreement executed not later than on the effective date.

The conveyance deed shall include a description of each of the apartments together with their numbers, square footage, location, rooms, main entrance door and area immediately accessible, and any other data necessary for its identification, as provided in subsection (b) of Section 12 of this Act, as well as the percentage of interest in the common elements allocated to the apartment. It shall also certify that the acquirer is aware of and shall fully comply with the provisions of this Act, the master deed, and the condominium's bylaws. It shall also certify that a certification of any debt and/or judicial or administrative claim that may exist in connection with the apartment to be acquired was submitted.

In the case of a lease agreement, the owner shall state therein that he is aware of and shall strictly comply with the provisions of this Act, the master deed, and the condominium's bylaws.

The owner-lessor shall continue to be solely responsible for the payment of common expenses and for the tenant's compliance or noncompliance with this Act and the bylaws.

Noncompliance with this Section shall result in the person or persons residing in the apartment not being recognized as authorized persons to receive any service from the Board of Directors, or personnel hired by the Council, the administration, or other.

#### Section 38.- Right of Redemption upon Conveyance of Indivisible Interest

When an apartment is owned *pro indiviso* by various persons, and one of them conveys his interest therein, the co-owners of said apartment shall have the right of redemption provided in the Puerto Rico Civil Code.

#### Section 39.- Rules Governing the Use of Apartments; Violation as Grounds for Civil Action

The use and enjoyment of each apartment shall be subject to the following rules:

a) In the exercise of the ownership rights under this Act, the following general law principles shall govern, particularly, those stated in Section 2 of this Act.

b) Violations of these principles or the rules stated in subsequent subsections shall be grounds for an action for damages by any affected owner or occupant, as well as for any other action as appropriate under the law, including actions for injunctive relief, those set forth in Act No. 140 of July 23, 1974, as amended, known as the "Controversies and Provisional Legal Status Act," and any other equitable relief. The Board of Directors is hereby expressly empowered to

initiate actions for injunctive relief on behalf of the Council of Owners against those who violate the rules established in this Act.

1) Each apartment shall be devoted only to the use provided therefor in the deed referred to in Section 4 of this Act.

2) Apartment occupants shall not make noises or cause trouble, nor engage in actions that disturb the peace of other owners or neighbors.

3) The apartments shall not be used for purposes that are unlawful, immoral, or contrary to public order, or good habits.

4) All owners shall carry out, at their own expense, the modifications, repairs, cleaning, security, and improvement works of their own apartments, without disturbing the rightful use and enjoyment of others. Every owner shall have the unavoidable duty to carry out any repair and security works as soon as necessary, so as not to affect the safety and appearance of the property. All apartment owners or occupants shall be required to allow any repairs or maintenance works to be carried out in their apartments as the property warrants, allowing entry to the apartment for the completion thereof.

In the event of an emergency or an urgent situation requiring immediate access to the apartment in order to carry out mitigation or repair works, and the apartment owner or occupant is not available to authorize access thereto, the Board of Directors shall be empowered to authorize the entrance of the necessary personnel to correct the situation. For purposes of this Section, an emergency or an urgent situation shall be understood to be those that require mitigation or repair works to prevent greater damages to the property of the owner, the condominium, or the property of the other co-owners, or that endanger the life and health of the owners and/or third parties. Whenever it is necessary to grant access to the interior of an apartment and the efforts to contact the owner or

occupant have been unsuccessful, a record stating the circumstances that led to the intervention as well as an account of the events shall be made.

When the Board of Directors or Managing Agent have to intervene to detect a leakage or an issue that is affecting private, common, or limited common elements, and upon investigation, it is concluded that the problem originated in an apartment, the owner of said unit shall reimburse the expenses incurred by the condominium for the repairs. These expenses shall be assessed and included in the next maintenance fees so that, if unpaid, the total debt including the expenses shall be deemed to be a past due maintenance fees for said month. The total expense amount shall be immediately notified to the owner.

5) No owner or occupant may change the exterior appearance, or decorate or alter the walls, doors, or exterior windows using designs, colors, or tones different from those of the development without the consent of two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements. When a proposal to change the exterior appearance, or decorate or alter walls, doors, or exterior windows with colors or tones different from those of the development is voted on by the Council of Owners, the approval of at least two thirds (2/3) of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements shall suffice. The provisions of this paragraph related to the number of required votes shall not apply to property submitted to the Horizontal Property Regime prior to the approval of this Act, which may only be modified by the unanimous vote of all owners.

Once the concerned agencies issue a hurricane or storm watch or warning, the use of any type of temporary or removable hurricane shutters shall not constitute an alteration of the exterior appearance. Regarding permanent hurricane shutters, the Board of Directors shall request quotations and design, type, and specific color alternatives, and submit them to the Council of Owners in order

to decide by a majority vote which shall be installed. Temporary hurricane shutters shall be removed after the hurricane or storm watch or warning, or the atmospheric event is over, unless the area protected thereby has been damaged in such a manner that said hurricane shutters constitute the only temporary protection.

The selection and installation of hurricane shutters and windows shall be made in accordance with the specifications of the Developer. Any hurricane shutters and/or windows to be installed shall follow the specifications for the proper model and installation for the building, as certified by the Developer and a professional engineer or an expert on the matter. Moreover, any shutters and windows to be installed as well as the materials to be used shall comply with the building codes in effect.

When according to an expert's opinion, the original equipment or elements of the building that are part of its architectural design, such as windows, doors, iron grills, or ornaments may not be repaired or replaced, the Council of Owners shall decide by a majority vote which type and design of equipment or element shall replace the original. Any owner who is interested in substituting such elements or equipment shall have to do so according to the type and design adopted by the Council. The requirements of Section 49 of this Act on improvement works shall be met in order to require all owners to make such replacement.

The Council of Owners may allow, by a majority vote, iron gates in common elements to remain or be installed by one (1) or various owners, if so warranted to provide more security to their respective units; provided, that the enjoyment or safety of other apartments is not hindered, and access to other common elements is not obstructed.

6) Every owner shall contribute in accordance with the percentage of interest allocated to his apartment in the master deed, and with the specific

provisions set forth, according to Section 49 of this Act, on the common expenses for the adequate upkeep of the property, its services, taxes, changes, and responsibilities, including the assessments, insurance premiums, reserve fund, or any other expense duly approved by the Council of Owners.

7) All owners shall exercise due diligence in the use of the property, and in their relationships with other owners, and shall be liable thereto for violations committed by their relatives, guests, or employees, and in general, by all persons who occupy their apartment for any reason, without prejudice to the appropriate direct actions against such persons.

8) No owner or occupant may install or attach to the walls any object that may constitute a safety hazard to any person, or private or common property.

9) Every owner or occupant shall strictly comply with the administrative provisions set forth in this Act, in the deed, and in the bylaws.

10) The acquirer of an apartment accepts the common elements of the condominium “as is,” in the manner in which these are found physically at the time of the acquisition. The acquirer shall be deemed to be aware of any express and existing changes to the property in all that pertains to third-party recordation.

#### Section 40.- Short-term Apartment Rental

Unless the master deed or the bylaws expressly prohibit it or otherwise establishes a minimum rental period, the short-term rental of the apartments of a property submitted to the Horizontal Property Regime shall not be prohibited.

The Bylaws may regulate the short-term rental of apartments, including to require a minimum night stay and may impose a special monthly fee, which shall not exceed the maintenance fee, to the owners that rent their apartments on a short-term basis.

The Administrator shall notify the Municipal Revenues Collection Center annually of the properties subject to short term rentals.

Section 41.- Parking Spaces as Common Elements.

When parking spaces are a common element, every owner shall have the right to use a parking space with capacity to accommodate an automobile per each occupied apartment he owns. No owner may use a parking space that exceeds such capacity, if, by so doing, another owner is deprived of the effective enjoyment of such common element. If the number of parking spaces with capacity to accommodate an automobile were less than the number of apartments, and there are more interested owners than available parking spaces, a lottery shall be held to assign such parking spaces among the interested owners for use thereof for the period of time provided by the Council of Owners, thus ensuring that all interested parties have access to such spaces.

By a majority agreement of the Council of Owners, vehicles may be allowed to be parked in common access roads for the enjoyment of all owners. If the number of those spaces is less than the number of owners interested in using them, a lottery shall be held to assign such parking spaces as provided in the preceding paragraph. The Council of Owners shall determine the terms and conditions for participating in the lottery, including a rental fee, if it deems it convenient, and may adopt any other measure for the best use of this parking area; provided, that it does not hinder the enjoyment of or access to private spaces.

By agreement of two thirds ( $2/3$ ) of all owners that, in turn, hold two-thirds ( $2/3$ ) of the percentage of interest in the common elements, additional parking areas may be enabled or built; provided, that the green areas are not substantially affected and the necessary permits from the pertinent government agencies are obtained, and the conditions set forth in Section 49 of this Act are met. Areas so enabled may be constituted by vote as a common element or as appurtenances of

the apartments, in which case such areas shall be subject to the provisions of subsection b of Section 17 of this Act.

#### Section 42.- Lease and Sale of Parking Spaces

Any owner of an individual parking space that is not subject to the apartment's ownership, who wishes to sell or rent lease parking space, shall give proper notice and priority to the owners of the condominium. The parking space's owner shall be required to place a conspicuous notice in the condominium for a period of thirty (30) days and to notify his intent to sell or lease such parking space to the Condominium's Board of Directors within a period of ten (10) days prior to the thirty (30)-day period for placing the notice of such sale or lease in the condominium.

The Condominium's Board of Directors is hereby authorized, with the consent of a majority of the Council of Owners, to acquire by purchase or lease any such parking spaces for sale by parking space owners.

Any transaction or sale of a parking space inconsistent with the provisions of this Section shall be void.

#### Section 43.- Non Partition of Common Elements

The common elements, both general and limited, shall remain undivided and shall not be subject to an action for partition. Any agreement to the contrary shall be void.

The Board of Directors shall be responsible for the proper and efficient operation and management of the equipment or general common elements, in conformity with the directions and the budget approved by the Council of Owners. Matters related to limited common elements shall be addressed by the apartment owners to whom such elements were allocated. If the benefited owners fail to carry out maintenance works in their respective limited common elements, thus harming the property or other owners, the Board of Directors may carry out said works at

the expense of the owners to whom such elements were allocated. The costs of maintenance shall be added to the maintenance fees assessed to the owners to whom such elements were allocated.

All owners shall have the obligation to afford access through the limited common elements allocated to their apartments when necessary for maintenance and repair of equipment or common elements. Access shall be coordinated with the owner or owners in question, ensuring, to the maximum extent possible, that the enjoyment of such apartment is not hindered.

#### Section 44.- Use of Common Elements.

Each owner may use the common elements in accordance with the purposes for which they are intended, without hindering the exercise of or encroaching upon the rights of the other unit owners.

The Council of Owners, by a majority vote, may approve the installation of equipment in common areas for the benefit and enjoyment of all, some, or one owner. The foregoing shall be approved provided, that it does not hinder the enjoyment of another apartment, in which case, the consent of the affected owner shall be required. Interested owners shall be required to provide the Council of Owners with a certification from an expert stating that said installation does not substantially alter the exterior appearance or jeopardize the safety or structural integrity of the building. The installation of equipment shall not be in violation of the Fire Prevention Codes. Owners who are authorized to install such equipment shall be responsible for any and all costs related to the acquisition, installation, maintenance, and any other matter related thereto. If the installation of such equipment substantially alters the exterior appearance of the building or the use of a common area, the interested owner shall obtain prior approval of two thirds (2/3) of all owners that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements. The Council of Owners may impose a special fee on those

apartments that benefit from said authorization, in accordance with the provisions of Section 49 of this Act.

Owners who had not originally contributed to said improvements may benefit therefrom if the Council of Owners so approves by a majority vote and said owners pay their corresponding share of the contribution plus any other cost that benefiting from said equipment may entail.

In any case, if the location of the equipment affects the exterior appearance of the building, the installation thereof shall require the consent of two thirds (2/3) of all owners that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements. The Council of Owners may impose a special fee on those apartments that benefit from said authorization, in accordance with the provisions of Section 49 of this Act.

Section 45.- New Construction or Additional Works without the Consent of the Council of Owners Prohibited.

No owner may, without the consent of two thirds (2/3) of all owners that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements and without obtaining the appropriate permits from the pertinent agencies, build new floors, excavate basements or cellars, or change the architectural ensemble or exterior appearance, or jeopardize the soundness or the structural integrity of the building. The provisions of this Section related to the required number of votes shall not apply to properties submitted to the Horizontal Property Regime prior to the approval of this Act, which may be modified only by a unanimous vote of the owners.

Section 46.- Subdivision of Apartments; Consent by Owners.

Unless specifically prohibited in the master deed, the bylaws of the condominium, or the Permit Management Office, the apartments and the appurtenances thereof may be subdivided, by segregation, to create another unit or

units delineated for independent use; or may be extended by merging adjoining areas of the same property; but no division or merger so made shall have the effect of changing the purpose or use provided in the master deed for the apartment or apartments so modified.

In such cases, in addition to the consent of the affected owners, the approval by a majority vote of the Council of Owners shall also be required, and the Board of Directors shall allocate the percentage of interest or fees subject to the provisions of Section 9 of this Act, without altering the percentage of interest of all other owners. The new description of the apartments affected, as well as the corresponding percentage of interest, shall be stated in the division or merger deed to be executed, which shall be recorded within thirty (30) days from the execution thereof. The division or merger shall not be operative until it is recorded in the separate record of each one of the filial estates affected, upon filing a certified copy with the Property Registry attached to the master deed. A plan, certified by an engineer or an architect authorized to practice his profession in Puerto Rico, graphically and clearly showing the particulars of the apartment or apartments as modified shall be attached to said certified copy. In the case of a division, said plan shall also be approved and certified by the Permit Management Office.

**Section 47.- Merger not Bar to Subsequent Horizontal Property Regime.**

The merger provided for in Section 73 of this Act shall in no way bar the subsequent constitution of the property into a horizontal property regime whenever so desired and upon observance of the provisions of this Act.

**Section 48.- Council of Owners**

The Council of Owners constitutes the supreme authority over the administration of the property submitted to the Horizontal Property Regime, and shall be constituted by all owners. The resolutions and agreements adopted by the

Council of Owners at duly called and constituted meetings, shall be mandatory for all owners, occupants, residents, and others who are related to the condominium.

The Council of Owners shall have juridical personality and the owners, jointly and severally, shall hold harmless the Council of Owners from third-party liabilities, and such liability shall be limited to the owners' apartments.

The Council of Owners shall not take the form of a corporation or partnership.

All of the revenues from all of the activities or operations and all assets of the Council of Owners of a condominium, whether residential, commercial, or a combination thereof, shall be exempt from all kinds of income, property, excise, and municipal license taxes or any other taxes imposed or to be imposed in the future by the Government of Puerto Rico; provided, that the Council of Owners meets the provisions of Section 1101.01, as amended, known as the "Internal Revenue Code for a New Puerto Rico."

#### Section 49.- Council of Owners - Powers and Duties

It is the duty of the Council of Owners:

(a) To elect, by a majority affirmative vote of the persons that shall hold the following offices:

1) Board of Directors.- In condominiums with more than twenty-five (25) owners, a Board of Directors shall be elected, consisting of, at least, one Chair, one Secretary, and one Treasurer. The bylaws may provide for additional offices. The three (3) directors mentioned above shall be elected separately for each position.

Except for the Non-executive Director, all other elected board members shall be members Council of Owners. The attorney-in-fact of an owner or the Representative of a Corporate Owner, who presents evidence of such delegation of authority, by virtue of a power of attorney recorded in the Registry of

Power of Attorneys and Wills, may be elected to hold office as Non-executive Director. The Non-executive Director's duties shall be prescribed by the Council of Owners in its bylaws. Directors shall be held personally liable for their actions while acting in such capacity, only when they commit an offense, fraud, or gross negligence; the Council of Owners shall have a cause of action for breach of fiduciary duty. In any other case in which an owner is held financially liable for his actions as director, the Council of Owners shall defray such expenses. The Council may acquire insurance policies that cover such risks.

The foregoing notwithstanding, outgoing directors or directors who have ceased their duties shall be required to participate, attend, and ensure that a transition process between the outgoing and incoming Boards of Directors is conducted, including their duty to provide documents, data, books, records, and any other information, whether on printed, electronic, or digital format, pertaining to the administration and good governance of the regime. In addition, these directors shall be required to attend and sign documents as are necessary for the transfer of signatures in the pertinent banking institutions. Any director who fails to comply with these obligations shall be held financially liable in his personal capacity and/or be imposed penalties of up to one hundred dollars (\$100.00) for each day of non-compliance with the provisions of this subsection, as provided by the competent forum.

Upon the approval of this Act, no person may hold office in the Board of Directors for more than three (3) consecutive terms. Once a person has held office for more than three (3) consecutive terms, said person shall not hold the same office in the Board of Directors until two (2) years have elapsed from the time he held that office. Notwithstanding the foregoing, if at a meeting duly convened to elect the members of the Board of Directors, there is no other person available to fill the office of the person who has held it for three (3) consecutive

terms, as an exception to the rule established in this Section, said person may be eligible for holding such office for additional terms; also said person may be eligible for holding such office for additional terms if there being only one candidate available, and the Council of Owners does not ratify such person by a majority vote.

2) Elect a Managing Agent who may be a natural or juridical person, may or may not be a member of the community of owners, and to whom the Council of Owners, the Director, or the Board of Directors, may delegate powers and responsibilities as prescribed in the bylaws.

i. The Secretary of the Department of Consumer Affairs may adopt regulations for training or certifying Managing Agents, and the payment of the corresponding fees. No member of the Board of Directors may serve as Managing Agent while holding such office.

ii. Any management agreement shall comply with the following minimum requirements: (1) a public liability insurance policy, at the expense of the Managing Agent, in an amount of not less than five hundred thousand dollars (\$500,000); (2) a dishonesty or crime insurance policy at the expense of the Managing Agent; (3) a fidelity bond at the expense of the Managing Agent in an amount of not less than five hundred thousand dollars (\$500,000); (4) hold a valid workers' compensation insurance policy issued by the State Insurance Fund Corporation; and (5) a Negative Criminal Record Certificate. If the Managing Agent is a juridical person, the Negative Certificate of Criminal Record shall be that of the Chief Executive Officer of the entity and of all natural persons directly involved in the management of said condominium. The requirements set forth herein shall be valid and current for the term of the contractual relationship. The Managing Agent shall be responsible for providing evidence of compliance

with the above requirements and the Board of Directors shall be responsible for requesting the same.

iii. In case of a change of Managing Agent, the outgoing Managing Agent shall deliver, with an acknowledgment of receipt, all records, documents, keys, and property belonging to the Council of Owners upon the Board of Director's request and the withholding thereof shall be prohibited. If there is a controversy regarding the Managing Agent's termination, the Managing Agent shall file a complaint with the court or a request for mediation, but in no case may the Managing Agent withhold the records, documents and other property the delivery of which is required under this paragraph.

If the Managing Agent is also an owner of the condominium, he shall not have any outstanding debts on account of maintenance fees, assessments, and/or master insurance policy of the condominium or for the term of the agreement.

Except as otherwise provided in the bylaws, these appointments shall be for a term of one (1) year.

b) To know of the claims raised by the owners against those listed in subsection (a) and take the appropriate measures, including their removal, by a majority agreement at a special meeting called for such purposes.

c) To approve the annual budget and the annual financial statements as provided in Section 53 (f) of this Act. The annual budget may take into account the nonpayment of maintenance fees and assessments.

d) To authorize special works and improvements and collect funds to carry out the same. The annual budget shall include a reserve fund which shall not be less than five percent (5%) of the operating budget of the condominium for that year. The contribution shall be deposited monthly in a separate reserve account based on the maintenance fees that would have been collected for that month.

Deposits shall be made in this fund until it reaches an amount equal to two percent (2%) of the reconstruction value, at which time the Council of Owners shall decide whether said contributions shall continue to be deposited. The monies shall be kept in a special account, separate from the operations account, and shall only be used, in whole or in part, to carry out special or urgent works and improvement works, as provided below. When the fund balance is below the aforementioned minimum amount, monthly contributions shall resume until it once again reaches two percent (2%) of the property's reconstruction value.

1. Special works.- The Director, the Chair and/or the Treasurer may make withdrawals from the reserve fund to defray this type of works, upon previous authorization of a majority of the Council of Owners duly convened at a special meeting.

2. Urgent works.- The Director, the Chair and/or the Treasurer may perform withdrawals from the reserve fund for all urgent works not projected in the annual budget, upon previous authorization of a majority of the Council of Owners duly convened at a special meeting. The meeting to authorize said disbursement shall be called and held within a period of not less than twenty-four (24) hours. Notice may be delivered in person, by sliding it under each door, or through any other alternate means, including email.

3. Improvement Works.- Improvement works may be carried out only upon the approval of two thirds (2/3) of all owners, that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements. The unanimous vote of the Council of Owners shall be required when said works require a special assessment. Owners who have limited common elements may carry out, at their own expense, and upon obtaining the consent of all benefited owners, such improvements or investments deemed convenient for such limited common elements; provided, that the safety or structural integrity of the building is not

jeopardized or the enjoyment of other units by their owners is not hindered. If the improvements or investments alter the exterior appearance of the building, or the use of a common element, it shall be approved by two thirds (2/3) of all owners, that, in turn, hold two-thirds (2/3) of the percentage of interest in the common elements.

4. Works to Address a State of Emergency - The Director, the Chair and/or the Treasurer may make withdrawals from the reserve fund to address a “State of Emergency” upon previous authorization of a majority of the Council of Owners duly convened at a special meeting to specifically address said issue. The meeting to authorize said disbursement shall be called and held within a period of not less than twenty-four (24) hours. Notice may be delivered in person, by sliding it under each door, or through any other alternate means, including email. It shall be understood that a “State of Emergency” exists when it is thus declared by the pertinent state or federal authorities.

e) The provisions of the preceding subsections notwithstanding, no changes or improvement works that hinder the enjoyment of any apartment shall be authorized without the consent of the owner. An owner’s opposition to an improvement shall be duly supported and shall not be based on mere caprice. Furthermore, no works that, in the judgment of an expert, would jeopardize the safety or structural integrity of the building shall be authorized.

f) To impose a special assessment by a majority affirmative vote of the owners:

1. Upon the owner of an apartment whose occupants or visitors, without hindering or impairing the rights of other owners, make regular and intensive use of any common element causing common operating, maintenance, or repair expenses that exceed those that would be reasonably incurred in the normal and customary use of said facility.

2. Upon the owner of an apartment that, due to the nature of the activity lawfully carried out in their apartments, according to the use provided therefor in the master deed, cause common expenses in excess of those that would be incurred if said activity were not carried out in said apartment. The amount imposed to cover excess expenditures shall be added to, and collected as a part of, the expenses that may be attributed to said apartments.

3. Upon the owner of an apartment for short-term rental. Such assessment shall not be higher than the maintenance fee. The amount imposed to defray the amount in excess of said expenditures shall be added and payable as part of the common expenses attributable to said apartment.

g) To approve by a simple majority the suppression of architectural barriers that obstruct access or mobility for persons with physical disabilities.

h) To approve or amend the bylaws provided in Section 13 of this Act.

i) To authorize the Board of Directors, by express delegation under the bylaws, to impose penalties up to one hundred dollars (\$100) per violation on the owner, occupant, resident, visitor, or supplier who breaches the rules of peaceful coexistence established in the master deed, the Act, or the bylaws. Every new violation shall be notified to the fined owner. If the rules of peaceful coexistence are violated by the occupant of a short-term rental, the fines shall be double the amount up to maximum of two hundred dollars (\$200). Whenever any controversy on the validity and enforceability of a fine is finally solved, but the fine has not been paid, services shall be suspended just as in the case of non-payment of maintenance fees.

j) To intervene and make decisions on matters of general interest for the community, as well as take steps as are necessary and convenient for the best common service.

### Section 50.- Meetings, Notices, Proceedings

The Council of Owners shall meet at least once (1) every year to approve the annual budget and the financial statements, and at such other meetings called by the Director, the Chair of the Board of Directors, a majority of the members of the Board of Directors, or one fifth (1/5) of the owners, or a number of them whose apartments represent at least twenty percent (20%) of the percentage of interest in the common elements. Meetings called by owners shall be notified not less than fifteen (15) days before the date established to hold the meeting.

The notice of meeting shall be signed by the person or persons calling it and shall state the date, time, place, and purpose of the meeting. Meetings shall be called in writing and notice thereof shall be given by mail at the apartment of the owner residing therein, return receipt requested, and by email or any other means; provided, that the administration is able to validate the delivery thereof if requested by the owner. Such notice shall be delivered always to the owner's address of record.

If the notice of meeting could not be given by reason of the owner not residing in the apartment, and the Council has no alternate method of notification, such notice shall be deemed to be given by placing the notice of meeting on the bulletin board of the Council of Owners, or in a visible place of general use intended for such purposes, expressly stating the date and purpose for giving notice in such a manner, signed by the person or persons calling the meeting. For said notice to have full legal effect, it shall be given three (3) days prior to the date of the meeting.

The notice of the regular annual meeting, whose date shall be set on the bylaws, shall be given not less than fifteen (15) days in advance, and the notice of special meetings shall be given at least five (5) days prior to the holding thereof,

except as otherwise provided in any other Section of this Act. Said meetings may not be called to be held within regular business hours.

The Council may hold a valid meeting even without calling it; provided, that all the owners agree and consent to said meeting.

It shall not be necessary to hold a meeting of the Council of Owners for a specific purpose, except for the election of the Director or Directors of the Board, and for the approval of budgets, special assessments or fees, if all of the owners with voting rights waive the holding thereof and agree in writing to take the proposed action. The Council of Owners may establish in its bylaws the electronic mechanisms to waive the meeting and to vote, including the manner in which every owner who votes shall be identified.

The Board of Directors shall be empowered to require the presence of the Managing Agent, legal advisors, and/or any other person who, given his knowledge, is able to contribute information about one (1) or more of the business in the agenda.

#### Section 51.- Vote; Proxy.

Attendance to the meetings of the Council of Owners shall be in person or by legal or voluntary representative, and the delivery of a proxy form signed by the owner shall be sufficient evidence therefor. The proxy form shall be dated and shall state the date of the meeting for which the representation is being authorized, unless it is a general proxy executed before a notary and recorded in the Registry of Powers of Attorney and Wills. The authenticity of the owner's signature shall be validated with the Book of Owners and shall be delivered at least twenty four (24) hours before the meeting starts.

Proxies for the meetings of the Council of Owners when there is at least one apartment intended for residential use may be delivered solely by persons of legal age who, in turn, are owners not owing three (3) or more payments of maintenance

fees, and/or assessments, and/or fines past due over sixty (60) days, and/or master insurance policy, family members thereof up to the second degree of consanguinity, or the spouse, lessees of the building, or agents of the owner by virtue of a power of attorney executed before a notary or recorded in the Registry of Powers of Attorney and Wills, or an attorney admitted to the bar who presents attesting evidence of being the legal representative of the owner. No person authorized to represent an owner may exercise the right to vote in representation of more than one owner. In the case of married individuals who, in turn, at least one (1) of them is the owner, only one additional owner may be represented. No person who attends a meeting as representative of an owner may vote by proxy on behalf of more than one owner. The proxy forms shall be available during and after the meeting for review by any owner who so requests it.

Proxies delivered by an owner grant voting rights, but not the right to voice opinions or make proposals.

Each owner shall have the right to one vote, regardless of the number of apartments he owns, for purposes of calculating the number of owners who shall constitute a majority, and/or the right to vote according to the percentage of interest allocated to his apartment, for purposes of calculating the majority percentage of interest, depending on the definition of the concept of majority that governs the property. The percentage of interest shall be calculated according to the highest percentage of interest of the apartments owned by the same person.

Any owner owing three (3) or more payments of maintenance fees, and/or special assessments, and/or fines past due sixty (60) days or more, and/or master insurance policy for any of the apartments he owns, shall be temporarily prevented from exercising his right to vote, expressing his consent or opinion at the meetings of the Council of Owners until the debt is paid off or the Treasurer certifies that the

owner is current on his payment plan approved by the Board of Directors before the meeting in question.

When one (1) or more apartments belong to a juridical person, the latter shall designate the person who shall attend the meetings and exercise its right to vote on its behalf through a corporate resolution. Absent a corporate resolution, the vote cast on behalf of said apartment on the decisions of the Council of Owners shall not be recorded. The corporate resolution attesting to such representation shall be delivered at least twenty-four (24) hours before the date of the meeting.

If several owners own an apartment *pro indiviso*, they shall appoint only one (1) person to represent the common interest. Absent a designation in writing of the owners' representative, the vote cast on behalf of said apartment on the decisions of the Council of Owners shall not be recorded. The designated person shall be the only one who may represent another owner.

If the apartment is held in usufruct, attendance and voting correspond to the bare owner who, unless otherwise stated, shall be deemed to be represented by the usufructuary; said delegation shall be expressly made in writing for agreements requiring a unanimous vote or a two-third (2/3) vote of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements.

The Council of Owners shall prescribe in its bylaws flexible methods to allow voting by proxy at the Special Meetings with shorter periods of notice, such as meetings to consider works to address states of emergencies or urgent works.

It shall not be necessary to hold a meeting of the Council of Owners for a specific purpose if all of the owners with voting rights waive the holding thereof and consent in writing that the proposed action be taken. The waiver of the meeting may be notified electronically.

The Council of Owners may prescribe in its Bylaws the electronic mechanisms to hold special meetings using videoconference platforms and

electronic voting when there is a state of emergency, as declared by the federal or state government. In such case, the Bylaws shall include the manner in which the owner who cast the vote shall be identified and the manner in which the votes cast per apartment shall be notified to the owners once the voting has concluded; in addition, a space where the owner is able to state his basis for opposing to the proposal taken to vote, if appropriate, shall be also provided.

When a state of emergency that includes Puerto Rico has been declared by the state or federal government and it becomes necessary to make a determination requiring the approval of the Council of Owners, but it is not possible or safe to hold a special meeting, the first option of the Council of Owners shall be to hold the special meeting using videoconference platforms. Regular meetings may not be held and assessments may not be approved using the alternate option of videoconference meetings. If the bylaws of the Condominium have not been amended to establish mechanisms to hold special meetings, the following mechanism shall be applied:

The Board of Directors shall draft a notice of meeting to owners which shall include: 1) the name of the condominium; 2) the date on which the special meeting shall be held; 3) the compelling situation that warrants the holding of a special meeting through a videoconference platform, and a reference to the declaration of a state of emergency; 4) the period granted to receive the votes cast, if voting is necessary; and 5) the manner in which votes shall be cast, whether through a written document and/or an electronic mechanism.

If an electronic voting mechanism is used, it shall provide for the verification and certification of the voting results.

A copy of the notice, proof of its delivery, proof of the votes cast, the certification of the voting results, and proof of notice of results shall be kept in the Book of Minutes.

Section 52.- Council Agreements, Rules; Notice to Absentees.

The agreements of the Council of Owners shall be subject to the following rules:

a) The owners present at the meeting shall be empowered to determine whether to discuss or deem to be discussed the business included in the meeting's agenda.

b) The regulatory majority required to adopt agreements shall be computed taking as one hundred percent (100%) the number of owners or proxies present at the time of voting on the agreement, except in those cases where a unanimous vote or a two-thirds ( $2/3$ ) vote of all owners that, in turn, hold two thirds ( $2/3$ ) of the percentage of interest in the common elements is required, in which case, compliance with the provisions of subsection (c) below shall be required.

(c) When all owners present at a meeting held for the approval of an agreement requiring a unanimous vote or a two-thirds ( $2/3$ ) vote of all owners that, in turn, hold two thirds ( $2/3$ ) of the percentage of interest in the common elements, approve said agreement, those owners who were duly called to the meeting and did not attend shall be notified of the approved agreement in a reliable and detailed manner, and if within thirty (30) days from the date of notice, said owners fail to state their discrepancies in the same manner, they shall be legally bound by the agreement, which shall not be executable until such a period elapses, unless said owners state their consent within a shorter term.

The grounds for opposing an agreement requiring a unanimous vote or a two-thirds ( $2/3$ ) vote of all owners that, in turn, hold two thirds ( $2/3$ ) of the percentage of interest in the common elements shall be expressly furnished whether at the meeting or in writing, as set forth in the paragraph above, and in any case, shall not be arbitrary or based on the mere invocation of the property rights.

Unsupported oppositions shall not be considered. The decision to declare a vote as arbitrary shall be made by the Council of Owners at the meeting in question.

When an owner who was not present at the meeting, submits to the Board of Directors his opposition to a determination of the Council of Owners requiring a unanimous vote or a two-third (2/3) vote of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements, the Board of Directors shall determine whether or not the objection was unfounded, and shall notify its determination to the owner. If it is determined that the opposition was unfounded, it shall be deemed to be not submitted. The owner may challenge such determination before the Department of Consumer Affairs from the date of the determination of the Board of Directors was notified.

Once an agreement to incur a certain expense or perform a certain work or project requiring a two-thirds (2/3) vote of all owners that, in turn, hold two thirds (2/3) of the percentage of interest in the common elements is approved, the details or ancillary measures for the execution and completion of said work or project shall not be subject to the approval of all the owners, but rather the approval by a majority vote shall suffice in the event that it is required to seek the advice of the Council therefor.

d) The agreements of the Council shall be recorded in the book of minutes. The minutes shall necessarily include the place, date, and time of the meeting, the matters proposed, the number of owners present and their names, the manner in which the meeting was called, the text of the adopted resolutions, the votes in favor and against, and the explanatory votes of the votes or any statements which any owner may wish to state for the record.

e) The minutes shall be signed at the end of the text by the Chair and the Secretary, or the Director, or by the persons discharging said functions at the meeting where the agreement was adopted, and shall be submitted to the Council

of Owners for correction within thirty (30) days. If there is no chair and/or secretary, at least two (2) members of the Board shall sign them unless there is only one director of the Board of Directors, in which case the minutes may be signed by him alone. The official minutes bearing both signatures shall constitute prima facie evidence of the business addressed and agreements reached at the meeting of the Council of Owners.

#### Section 53.- Powers and Duties of the Director or Board of Directors

The Director or Board of Directors constitutes the executive body of the community of owners. Only owners not owing two (2) or more payments of maintenance fees, and/or assessments, and/or fines past due over sixty (60) days, and/or master insurance policy may be appointed and elected to the Board; these owners shall also keep their accounts current for the duration of their term. The board shall have the following duties and powers:

a) To address all that pertains to good governance, administration, surveillance, and operation of the regime, and especially what pertains to the common items and elements and general services, and to such effects, give timely warnings and admonitions to the owners.

b) To prepare the annual budget in a timely manner and submit it to the Council of Owners. The Director or the Board of Directors shall be responsible for ensuring that a copy of the annual budget is delivered to every owner, at least fifteen (15) days prior to the date of the meeting where such budget shall be submitted to the Council of Owners for approval.

c) To manage the financial matters pertaining to account receivables and payments, and keep an assets and liabilities book with a detailed account, in chronological order, of the receipts and expenditures affecting the property and its administration, specifying the maintenance and repair expenses of the common elements. Both the book and the vouchers accrediting the entries made thereupon

shall be available for examination by all the owners at convenient hours on working days that shall be set and announced for general knowledge.

d) To collect from the owners the amounts they shall contribute to the common expenses and to make all other necessary collections and payments, issuing the corresponding receipts and checks.

e) To open bank accounts as necessary in the name of the Council of Owners, wherein all the income of the regime shall be deposited upon receipt within the term established in the bylaws; to draw checks against said account to meet all necessary payments, but ensuring they are not drawn to the bearer and that each one has its corresponding receipt or voucher.

f) To submit for the Council of Owners' approval the financial statements of the last fiscal year or of any other year, when not previously approved. The financial statements shall include a statement of income and expenditures of all existing funds, indicating the total amount billed and/or received on account of maintenance fees and others, an itemization of expenditures in accordance with the items included in the approved annual budget, including the payments made to the Managing Agent, if any. Moreover, it shall include a balance sheet stating any cash balance of each fund. It shall also include, accounts receivables on account of common expenses and others, other assets, liabilities incurred and unpaid as of the close of the period, and any balance or deficit accrued as of the date of the close of the reporting period for each existing fund. The Director or Board of Directors shall be responsible for delivering a copy of the balance sheet to every owner at least fifteen (15) days before the date of the meeting where such financial statements shall be submitted for approval.

g) To manage the upkeep of the property and provide for regular repairs, in accordance with the annual budget approved by the Council of Owners, and

adopt measures as are necessary upon the approval of the Council of Owners regarding special repairs.

h) To keep the book of owners. The book of owners may be kept and maintained in any form and manner so as to allow access to the data entered therein, as established by the Board of Directors, whether in paper, electronic, or digital format or as required by any program or application used to store said data.

i) To comply and enforce compliance with the provisions of this Act, the Bylaws, the master deed, and the agreements of the Council of Owners.

j) To fill vacancies of members of the Board of Directors subject to revocation by the Council of Owners.

k) To remove the Managing Agent for good cause. Good cause shall be deemed to be culpable negligence or neglect of duty, dishonesty, or the breach of the codes of good conduct set forth in the bylaws of the condominium, or noncompliance with the duties set forth in the agreement. The Director or the Board of Directors shall call a meeting of the Council of Owners not later than thirty (30) days after the removal to notify said action for the Council to act as deemed convenient.

l) To establish a payment plan for owners who show not to have the financial capacity to make the payments on account of maintenance fees, special fees, assessments, and/or fines and which payments are past due sixty (60) days or more.

m) To establish the proper controls and procedures to safeguard the assets of the Council of Owners and comply with all the required obligations and bylaws.

n) Any other powers assigned thereto in the bylaws or by the Council of Owners.

o) To keep and protect the documents constituting the Horizontal Property Regime, such as the plans, the master deed, notices of meetings, minutes of the meetings, or any other similar document that should be kept permanently.

#### Section 54.- Powers and Duties of the Chair of the Board of Directors

The Chair shall represent the community, inside and outside of court, in matters that affect the community, and shall preside over the meetings of the Council of Owners. The Chair shall also appear on behalf of the condominium to execute deeds and other documents to which the Council of Owners is a party. The Chair may designate any persons deemed necessary to assist him in presiding over the meetings.

Regarding actions to enforce this Act or any other applicable law, the bylaws of the Condominium, or the agreements of the Council of Owners, or when the Council of Owners or the Board of Directors shall appear on behalf of the Council in court as defendant or plaintiff, the Chair may appear on behalf of said bodies and file the actions and defenses deemed pertinent, selecting the legal representation he deems convenient, upon consultation with the Board. The Chair shall notify any actions taken to the owners within the following thirty (30) days.

All judicial or out-of-court settlements exceeding five thousand dollars (\$5,000) shall require the approval of the Council of Owners. In condominiums not intended for residential use, their bylaws may set forth a different amount.

In any case, it shall be presumed that the Chair of the Board of Directors has been authorized by the Council of Owners to appear on its behalf in the pertinent forums.

#### Section 55.- Powers and Duties of the Secretary of the Board of Directors

The Secretary shall have the following duties and powers:

a) To draft notices of meetings of the Council of Owners and give said notices as provided in Section 50 of this Act.

b) To draft the minutes of the meetings of the Council of Owners and the Board of Directors.

c) To certify jointly with the Chair the minutes of each meeting.

d) To issue, as they appear in the minute book, all certificates as necessary with the approval of the Board of Directors.

e) To notify absent owners all the resolutions adopted, by the Council of Owners and the Board of Directors, as provided in this Act.

f) To keep custody of and make available to the owners for review, as requested, any document of the Council that is in the records of the condominium, including, but not limited to, documents relating to the fiscal activities of the condominium, the minutes of the meetings of the Council of Owners, the minutes of the meetings of the Board of Directors, and awarded contracts. The personal information of other owners shall not be made available to any owner except as otherwise provided in this Act, or when the owner has previously authorized the disclosure of said information.

g) All other duties and attributions germane to his office and those assigned and/or delegated thereto in the bylaws or by the Council of Owners.

Section 56.- Powers and Duties of the Treasurer of the Board of Directors.

The Treasurer shall have the following duties and powers:

a) To be the custodian of all accounts and banking instruments where the funds of the Council of Owners have been deposited or which represent funds thereof, regardless of their source; safeguard the assets, and be responsible for compliance with the financial obligations.

b) To coordinate with the Managing Agent and/or accountant to be contracted, the financial affairs of the Council of Owners, and ensure that all transactions affecting the assets and liabilities, and income and expenditures are entered chronologically and in detail in a book or application and/or computer

programs and specifying the accounts that were affected, thus keeping proper accounting books.

c) To coordinate also that the information entered in said book as well as proof of the entries made therein are available for examination by all the owners, at convenient hours and days that have been notified to the community.

d) To coordinate and supervise with the Managing Agent and/or accountant to be contracted the collection from the owners of the amounts they shall contribute on account of common expenses and any other amount that must be paid by owners, and follow up on collection and payment efforts as necessary, issuing the appropriate receipts for the amounts credited as required, and register his signature as an authorized signature for checks drawn for the payment and disbursement of the obligations of the condominium.

e) To receive and review on a monthly basis, all the financial statements of the accounts where the common funds have been deposited, verifying that the deposits have been made within a period that shall not exceed five (5) business days from receipt thereof, and confirming the validity and accuracy of every check drawn and paid, which shall never be drawn to the bearer and that there is a receipt or a voucher for each one of these disbursements.

f) To prepare and coordinate the delivery of the financial statements, as provided in Section 53 (f) of this Act.

g) To coordinate the drafting, together with the accountant to be contracted, or by himself of the annual budget of income and expenditures projected for review by the Board of Directors, including the appropriate contribution to the reserve account, stating the maintenance fee based on the percentage of interest allocated to each owner.

h) To cause the amounts collected to be deposited in the appropriate accounts and ensure that the funds of the reserve account are used as approved by the Council of Owners and in compliance with the provisions of this Act.

i) To sign certification as requested pertaining to compliance with the payment plans for debts on account of maintenance fees and assessments as approved by the Board of Directors.

j) To supervise that the disconnections of the condominium's common elements services carried out by the administration, are in accordance with the provisions of this Act.

k) All other duties and attributions germane to his office and those assigned and/or delegated thereto in the bylaws or by the Council of Owners.

#### Section 57.- Powers and Duties of the Trustee.

In condominiums where a Director or a Board of Directors is not elected for lack of persons able or willing to assume said offices, any owner may petition the forum with jurisdiction to appoint a trustee to discharge the duties of the Director or the Council. Upon the appointment of a trustee, the court, in the case of a condominium where there is no apartment intended for residential use, or the Secretary of the Department of Consumer Affairs, in all other cases, shall set forth the fees to be paid thereto taking into account the type of condominium and the complexity of the administrative tasks to be discharged, and shall issue orders as are necessary to ensure the prompt election of a Director or a Board of Directors. The trustee's fees shall be included in the common expenses budget, and shall be defrayed by the owners as part of their maintenance fees. The trustee shall be appointed for six (6) months. The Secretary of the Department of Consumer Affairs, or the Court, as the case may be, may remove the Trustee at the request of any owner, or for good cause.

Neglect of duty or culpable negligence in the performance of duties, dishonesty, or the breaching the codes of good conduct, among others, prescribed in the bylaws of the condominium shall be deemed to be good cause.

The trustee shall render quarterly reports of his efforts to the owners, and deliver copies thereof to the court or the Secretary of the Department of Consumer Affairs, as the case may be. Except as authorized by the competent forum, the trustee shall not act also as Managing Agent.

Section 58.- Contracts with Vendors and Service Providers Awarded by the Board of Directors

The Board of Directors may not approve contracts for works, services, and supplies, and any other that entails the disbursement of common funds collected through maintenance fees and assessments, the term of which exceed the period of the operating budget under their management and administration while they serve as directors, except if such contracts include a unilateral express termination clause, in favor of the Board and/or the Council of Owners, or if the Council of Owners approves such contract at a meeting by a majority vote; this provision excludes mechanical elements essential to the operation of the condominiums, namely, elevators, power generators, water pumps, fire suppression systems, and fire alarms. Likewise, automatic renewal clauses shall be deemed to be null or not included in any contract executed to which the Council of Owners is a party, except when a Contract with an automatic renewal clause is approved by the Council of Owners at a meeting.

The Board of Directors shall take safeguards as are necessary to ensure that the companies or persons contracted meet all of the applicable requirements of federal and state laws, such as those established under labor laws, including but not limited to compliance with the provisions on minimum wages, Social Security, employer insurance policies, and other similar requirements.

Professional services rendered by persons who are owners, members of the Board of Directors, or family members, up to the second degree of consanguinity, of the members of the Board, the owners, or the Managing Agent may be contracted only if during the evaluation period prior to the contracting at least three (3) quotations were requested and reviewed for the same services. Two (2) of said quotations shall be requested from companies or individuals who meet the previously established conditions. If it is shown that, due to the nature of the service or the inexistence of other potential bidders, it was not possible to procure the three (3) necessary quotations, the Secretary shall state in writing through a minute of the Board of Directors the efforts made therefor, as well as state that there were no additional bidders for said service, and furnish the available proof for review by any owner who so requests. Legal advisory professional services from persons who are owners, members of the Board of Directors, or family members, up to the second degree of consanguinity, of the members of the Board or the owners, may not be contracted.

#### Section 59.- Obligation to Contribute to Defray Administration and Maintenance Expenses

Apartment owners are bound to contribute proportionally to defray expenses related to the administration, upkeep, and repair of general common elements of the property, and as the case may be, of the limited common elements, as well as any other legally agreed-upon elements.

When a condominium's owners and residents share the use of access, security, recreational, and educational facilities services, or others, with other condominiums, urbanizations, and/or projects or development areas, the Council of Owners of said condominium shall contribute to the expenses related to the operation, upkeep, security, repairs, payment of utilities and services, insurance, and others related to such areas and facilities as provided therefor in the master

deed of the condominium, or in those master covenants, equitable easements, or other documents constituting restrictive conditions and/or easements that are executed in connection with the different lands and/or projects on which such restrictive conditions, covenants, and/or easements are imposed and/or on those that share said areas and/or facilities. Absent a provision to such effect in any such documents, the manner to contribute to said expenses shall be determined pursuant to the applicable supplementary provisions of the Puerto Rico Civil Code, including those on easements and community property, and/or equity and reasonability standards as deemed pertinent.

Unless a competent court or forum so authorizes, no owner may refuse to contribute to such expenses by waiving the use and enjoyment of the common elements, nor by abandoning the apartment he owns, nor for having filed an administrative or legal complaint against the Council of Owners or the Board of Directors regarding matters pertaining to the administration or upkeep of the common areas. Collection actions such as the delivery of an invoice or account statement to an owner shall be deemed to toll any statute of limitations applicable to maintenance fees, assessments, fines, community insurance, or debts with the Council of Owners.

The proportional amount to be contributed by each owner to the common expenses shall be calculated, assessed, and imposed at the beginning of each calendar or fiscal year, and shall be due and payable in monthly installments. Each installment is due on the first day of every month. The administration may charge a penalty of ten percent (10%) of the outstanding fees fifteen (15) days after the monthly installment is due. In the case of debts of the Government of Puerto Rico, the period shall be one hundred twenty (120) days. Exceeding said period may entail a penalty of twelve percent (12%) of the total amount due. The Government of Puerto Rico shall be exempt from the payment of such penalty in the case of

public housing projects. Defaulting on three (3) or more consecutive installments may entail an additional penalty equal to one percent (1%) per month of the total amount due. The Board of Directors is not required to receive partial payments.

A claim of lien may be filed against any owner for an outstanding debt on account of maintenance fees for common expenses upon demanding payment by certified mail, return receipt requested, if the owner fails to make such payment within the established period.

In case of a claim of lien, the court, at the plaintiff's request, shall evaluate and determine if, in its judgment, a prejudgment attachment order shall be issued against the assets of the debtor or debtors, without requiring the posting of a bond, and with no further requirement than filing a certification sworn by the Chair or the Treasurer before a notary public or any other official authorized to administer oaths, attesting to the agreement wherein the collectible expenses and the amount thereof, as well as the collection actions referred to in the fourth paragraph above were approved. Once the attachment order is issued, the Board of Directors shall have the duty to submit a certified copy of the order to the Property Registry for entry in the record of the pertinent parcel.

When the plaintiff so requests, in those cases where the owner in default has leased the apartment, the Court may order the lessee to deposit with the court the total amount of lease payments in favor of the Council of Owners, as they become due, until the total amount of the owner's debt is paid in full.

The Board of Directors may order the disconnection of drinking water, electricity, gas, and telephone utility services, as well as of intercom, video and data, and/or any other similar service when these are supplied through facilities constituting general common elements of the property to any owners who owe two (2) or more payments of maintenance fees, and/or assessments, and/or fines past

due sixty (60) days or more, and/or any community insurance for any of the apartments he owns.

No utility service shall be disconnected without having notified the owner, as provided in this Act, fifteen (15) days in advance.

However, before disconnecting services, the Board of Directors shall be required to evaluate, together with the owner, within fifteen (15) days from the notice of disconnection, a payment plan when the owner shows that a situation has arisen which resulted in a loss of income or has affected his payment capacity. The first noncompliance with said payment plan shall result in the disconnection of the services without prior notice. Services shall be reconnected upon payment of the total amount owed or upon compliance with the payment plan.

The owner or occupant to whom any of the common services have been disconnected, as set forth by this chapter, without the authorization of the Board or the Managing Agent, by himself or through a third party, reconnects such services, or in any other manner uses the common services of which he has been deprived, shall be punished by a fine equal to three times the amounts owed, including the principal and interest, without prejudice to the appropriate civil, administrative, or criminal actions that may proceed.

If any owner or resident, upon being notified of the intent to disconnect the services, is able to validate that he or any other resident of the apartment uses life-support equipment by submitting irrefutable evidence to the Board of Directors before the services necessary to operate the equipment are disconnected, the disconnection of the services shall be suspended temporarily. If the disconnection of services is suspended as provided above, the owner shall be required to submit to and agree with the Board of Directors on a payment plan in order to pay off the past due debt. If the owner fails to comply with the payment plan agreed upon, the

process to disconnect services for defaulting in the payment of maintenance fees may be resumed.

Section 60.- Liability of Owner for Common Expenses, Lien.

An apartment owner's liability for his percentage of interest in the common expenses shall constitute a lien on said apartment. Therefore, after the first sale, the voluntary acquirer of an apartment shall be jointly and severally liable with the transferor for the payment of any unpaid amounts by the transferor, in accordance with Section 59, up to the time of the conveyance, without prejudice to the right of the acquirer to recover from the transferor those amounts paid as a joint debtor. However, an involuntary acquirer shall only be liable for debts on account of unpaid common expenses accrued during the six (6)-month period prior to the time of acquisition of the property, except for any amounts pertaining to late fees, assessments, interests, and penalties attributable to the owner, and shall include the current balance accrued from the acquisition of said property by the involuntary acquirer.

Said liability shall be due and payable from whomever is the owner of the property comprising the apartment, even if it has not been yet segregated and recorded as a filial estate in the Property Registry, or alienated in favor of any person.

Any financial institution that provides interim financing to a person for the construction of apartments and common elements to be submitted to the Horizontal Property Regime and obtains title to the property as a result of a foreclosure or by deed in lieu of foreclosure shall not be deemed to be a Developer, as Interim Administrator, or a declarant of the regime, pursuant to the provisions of this Act; provided, that the financial institution does not exceed the usual duties of a creditor in protecting its security interest, in accordance with the commercial practices followed by financial institutions providing interim construction financing.

### Section 61.- Exceptions for Priority of Liens Against Owners.

The lien against any owner on account of an apartment owner's liability for his percentage of interest in the common expenses, referred to in Section 59 of this Act, shall have priority over any other lien of whatever nature, except for the following:

- a) Liens in favor of the Government of Puerto Rico and the respective municipality for the sums of the last five (5) annual tax assessments and the current tax assessment, overdue and unpaid on the apartment.
- b) For the insurance premium for the last two (2) years of the apartment, or the total property, as the case may be, and in the case of common insurance, for the last two (2) dividends distributed.
- c) Mortgages recorded in the Property Registry.

### Section 62.- Insuring Building Against Risk; Individual Rights of Owners.

By a majority vote, the Council of Owners may insure the building against risks to cover general common elements, council elements, and limited elements, as well as against other risks not related to the private property of owners, for the common benefit of all owners. When required by federal and/or state regulations, the Council of Owners shall acquire insurance policies to cover general common elements, council elements, and limited elements, including original private elements appurtenant thereto. Owners may obtain insurance coverage for their respective apartments at their own expense and for their own benefit. An owner who has obtained a private insurance policy for his apartment, or who has paid off his mortgage shall not be exempt from paying his share in any common insurance acquired by the Council of Owners. The portion of the insurance pertaining to the personal benefit of each owner may be addressed individually.

All unit owners may request the Board of Directors to examine the documents related to the common insurance policies.

The Board of Directors may replace the insurance agent or producer, if the coverage and conditions of the new insurance policy remain the same, or have a broader scope or benefits, for the same or less cost than the insurance policy in force at the time of such change, upon the approval of the Council of Owners. The Council is responsible for approving a new insurance policy or renewal by a majority vote.

The Board shall be responsible for requesting the insurance broker to provide at least three (3) quotations for each annual renewal, and for keeping proof thereof for a period of three (3) years, as well as proof of any insurance company's denial to furnish a quotation, if any. Such proof shall be available for examination by any of the owners who so request it.

Section 63.- Application of Insurance Indemnity to Reconstruction; Pro rata Allocation in Certain Cases.

In case of fire, the property's insurance indemnity shall be applied to reconstruct the building, except as otherwise provided in subsection 2 of Section 62 of Act No. 210-2015, as amended, known as the "Commonwealth of Puerto Rico Real Property Registry Act."

In case of fire, the Council of Owners by the consent of a majority, may decide to hire a professional company to assess the damages and/or losses sustained both in the common elements and inside the apartments. Likewise, it may agree on the manner such expenditures shall be defrayed.

Upon receiving the insurer's partial or total compensation offer, the Board of Directors shall devise a plan for the distribution of the funds for reconstruction, including an itemization of the specific amounts to be distributed for the reconstruction of the common elements and the apartments, as well as other common areas of the property, according to the appraisals made, the quotations received, and applicable deductibles. The report shall be delivered to the owners

within not less than fifteen (15) days prior to the holding of a special meeting where the offers submitted and said report are considered. The Council of Owners shall ultimately decide, by a majority vote, all matters pertaining to the insurance indemnity, including the acceptance of the offers made by the insurance companies and the priority of the works to be performed.

Upon determining which reconstruction works shall be performed, as provided in the previous paragraph, all other works necessary for the reconstruction of the common elements shall be defrayed by the Council of Owners. Such works as well as the source of the funds shall be approved by a majority vote of the Council of Owners.

If the Council of Owners decides to accept the total amount of the insurance indemnity to subsequently distribute it among the owners, the monies shall be deposited in a special account, from which withdrawals may only be made with upon certification of the Treasurer and the Secretary stating that the Council of Owners authorizes the withdrawal of funds and that such withdrawal has not been challenged before any judicial or administrative forum.

The Council of Owners may acquire a fidelity bond or insurance for the Director or the directors for any liabilities for the mismanagement of these funds. Reconstruction shall not be compulsory where it comprises the whole or more than three quarters ( $3/4$ ) of the building. In such case, and unless otherwise unanimously agreed upon by two thirds ( $2/3$ ) of all owners that, in turn hold two thirds ( $2/3$ ) of the percentage of interest in the common elements, the indemnity shall be delivered pro rata to the owners entitled thereto; as for the remaining parts of the property, the provisions of the Civil Code shall apply.

Should it be proper to proceed with the reconstruction, the provisions for such eventuality made in the master deed shall be observed, and in lieu thereof, the decision of the Council of Owners shall prevail.

Section 64.- Distribution of Costs of Reconstruction when the Property is Not Insured or Insurance is Insufficient

Where the property is not insured or where the insurance indemnity is insufficient to cover the cost of reconstruction, the new building costs shall be paid by all owners, by a majority vote of the owners directly affected by the damage, in proportion to the percentage of interest of their respective apartments; and if any one or more of those composing the minority shall refuse to make such payment, the majority may proceed with the reconstruction at the expense of all the owners benefited thereby, upon proper resolution setting forth the circumstances of the case and the cost of the works, with the intervention of the Council of Owners.

The provisions of this Section may be changed by unanimous resolution of the parties concerned, adopted subsequent to the date on which the fire occurred.

Section 65.- Challenging Acts or Omissions of the Board of Directors, Interim Administrator, and Agreements and Determinations of the Council.

The acts or omissions of the Board of Directors, the Interim Administrator, Managing Agent, as well as the agreements of the Council of Owners may be challenged by the owners in the following cases:

- a) if they are contrary to the Law, the master deed and bylaws of the condominium;
- b) if they are seriously prejudicial to the interests of the community or an owner;
- c) if they are seriously prejudicial to an owner who has no legal obligation to sustain it and which were not foreseeable at the time of the purchase.

Owners of apartments in condominiums exclusively devoted to commercial use shall file the challenge with the Court of First Instance, which shall have primary and exclusive jurisdiction. The Department of Consumer shall have primary and exclusive jurisdiction over matters involving owners who own

apartments in condominiums where at least one apartment is intended for residential use as well as over any complaint filed against the Managing Agent.

Challenges shall be filed within thirty (30) day from the date on which the agreement or determination was made, if the owner was present, or within thirty (30) days from the date of the notice of the agreement if the affected owner was not present at the time the agreement or determination was made.

Actions challenging agreements, acts or omissions by the Board of Directors, the Interim Administrator, the Managing Agent, or the Council of Owners, involving violations of the provisions of this Act, the master deed, or the bylaws of the condominium have a limitation period of two (2) years. Said period shall be counted from the date on which the act, omission or agreement was made if the owner was present, or from the date of the notice thereof if the owner was not present. The agreement must have been notified pursuant to the provisions of this Act.

Any owner who wishes to challenge an act or omission by the Board of Directors, Interim Administrator, the Managing Agent, or an agreement of the Council of Owners, shall provide proof that he has no outstanding debt with the Council of Owners and that a copy of the document whereby he acquired his apartment was delivered to the Board of Directors. If the challenge is to question an alleged debt, the owner shall be exempt from meeting the no debt requirement. In the case of challenges to agreements of the Council of Owners, the owner shall provide proof of having been present or represented at the meeting where the challenged agreement was reached and that he voted against it. If the owner was absent despite having been duly notified, he shall provide proof that his absence was justified.

The forum with jurisdiction that hears the complaints or challenge actions shall impose the litigation costs and reasonable attorney's fees on the party that acted recklessly.

The owner who prevails in his complaint shall be exempt from the payment of attorney's fees or litigation costs incurred by the Board or the Council of Owners, and from the fine that may be imposed on the defendant.

#### Section 66.- Filing a Legal Challenge

The Department of Consumer Affairs shall have a Special Division for Adjudicating Condominium Complaints to address all matters pertaining to all condominiums where at least one apartment is intended for residential use. The Secretary shall be empowered to appoint personnel as are necessary to promptly settle complaints filed by apartment owners under this Act, against the Council of Owners or the Managing Agent, or by the Board of Directors, pursuant to the applicable special laws.

The Secretary is also empowered to adopt and/or amend regulations as appropriate for the adjudication of complaints filed with the Department and the enforcement of this Act.

Notwithstanding the foregoing or any judicial actions that may be filed, any complaint related to the coverage under, or to the terms and conditions of, an insurance contract shall be referred to the Office of the Insurance Commissioner of Puerto Rico for consideration. The Commissioner is hereby empowered, if necessary, to adopt and/or amend Regulations as are necessary for the adjudication of complaints arising out of the Horizontal Property Regime.

Section 67.- Powers of the Secretary of the Department of Consumer Affairs.

The Secretary of the Department of Consumer Affairs is hereby empowered to adopt regulations pursuant to the procedures established in Act No. 38-2017, as

amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act,” to:

- a) require that apartments be registered in the Department of Consumer Affairs prior to advertising, offering for sale, or selling them;
- b) ensure that potential apartment buyers are provided with information as appropriate to allow them to make informed purchase decisions;
- c) establish marketing and advertising criteria to ensure that the information provided to buyers is accurate, complete, and easy to understand;
- d) provide, with respect to tenants who have been living in a property before the date on which it is submitted to the horizontal property regime, their right to be protected from eviction, rent increases, and forcing them to vacate the apartment without affording them an actual opportunity to purchase the apartment where they live, or a reasonable time to vacate the apartment;
- e) establish a reasonable period of time within which the original seller of an apartment that has been occupied before the date on which the property is submitted to the horizontal property regime shall respond for any construction flaws or defects in said apartment;
- f) Protect the interests of apartment buyers during the period in which the owner that submits the property to the horizontal property regime administers it, pursuant to this Act.

These regulations shall apply to the sale of apartments intended for residential use that are part of a common promotion and sales plan of at least ten (10) apartments, except for those issued in accordance with subsections (c) and (d) above, which shall apply to all sales of apartments intended for residential use. Said regulations shall not apply to judicial sales or sales conducted by any government or agency thereof.

Section 68.- Application for Registration of Condominiums and Apartments; Fees.

All applications for registration of condominiums and apartments in the Department of Consumer Affairs shall be accompanied by a check payable to the Secretary of the Treasury in the amount of twenty-five dollars (\$25) per apartment whose registration is being requested. However, said amount shall never be less than five hundred dollars (\$500), nor more than two thousand dollars (\$2,000). A thirty-five dollar (\$35)-fee shall be paid for each application for registration amendment.

Section 69.- Adjudication of Controversies; Civil Fines; Judicial Review.

The Secretary of the Department of Consumer Affairs may use all the powers vested in him by Act No. 5 of April 23, 1973, known as the “Organic Act of the Department of Consumer Affairs,” to adjudicate controversies arising out of this Act and to prevent any person from violating the regulations or orders issued thereunder, including the imposition of civil fines up to the maximum amount prescribed therein. All Regulations, orders, or resolutions issued by the Secretary pursuant to this Act shall be subject to reconsideration and judicial review, pursuant to the provisions of Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act.”

Section 70.- Disaster and Emergency Plan.

Condominiums submitted to the regime under this Act shall approve at a meeting and maintain a disaster and emergency plan, which shall be revised annually in accordance with the International Fire Code 2009. The plan shall include a description of what constitutes an emergency and the period thereof, as provided by the Emergency Management and Disaster Administration Bureau. Said revision shall be conducted in consultation with the state, municipal, and federal entities concerned with the protection of life and property. In addition, the

necessary measures shall be taken to share said plan with all owners in the most efficient manner possible and with sufficient time to be evaluated and understood. Such plan shall include the measures to be taken before, during, and after a disaster.

In January of each year, each condominium shall notify the name and telephone number of the members of the Board of Directors and the Managing Agent to the appropriate Puerto Rico Police Bureau station, the Municipal Civil Defense, the Puerto Rico Firefighters Bureau station, and the Department of Consumer Affairs, so that these entities may keep a registry of the persons to be contacted during an emergency.

Likewise, condominiums shall approve a water and electricity rationing plan to be implemented during disasters or when a rationing is implemented by the agencies concerned, in order to ensure that such resources are equitably distributed among all apartments.

The Secretary of the Department of Consumer Affairs shall adopt regulations as are necessary to establish the rules to be observed by the individual owners and the Council of Owners during any crisis involving the water or electric power supplies.

Nevertheless, Councils of Owners are hereby empowered to adopt alternate contingency plans, upon prior approval by the Secretary of the Department of Consumer Affairs, when the implementation of the plan provided in the regulations promulgated by said Department is burdensome or unreasonable due to the particular characteristics of the property.

Section 71.- Mortgage Law and the Regulations Thereunder Considered Supplemental

The provisions of Act No. 210-2015, as amended, known as the Commonwealth of Puerto Rico Real Property Registry Act” and the Regulations

for the Implementation of the Mortgage Law shall be deemed to be supplementary to this Act.

**Section 72.- Buildings Covered by Other Laws; Submission to Horizontal Property Regime**

The provisions of Article 872 of the Puerto Rico Civil Code shall continue to apply to buildings whose floors are constituted by virtue of the aforementioned legal precepts, as well as to buildings of not more than five (5) apartments, whose owners wish to be subject to these precepts.

Buildings mentioned in the above paragraph may be submitted to the regime established in this Act upon meeting the requirements prescribed herein.

Nothing in this Act shall be so construed as to hinder the constitution of other floor ownership regimes that may be established under other laws or rules.

**Section 73.- Waiver of Horizontal Property Regime; Conditions for Regrouping Filial Estate with the Parent Tract**

All the owners or the sole owner of a property constituted into a horizontal property regime may waive this regime and request the Registrar to regroup or merge the filial estates with the parent tract; provided, that the property is unencumbered, or in lieu thereof, that the persons in whose behalf the encumbrances are recorded agree to accept as security the undivided interest of the owner in the entire property, within the common property regime provided in Articles 326 *et seq.* of the Puerto Rico Civil Code.

**Section 74.- Severability.**

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter,

article, provision, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 75.- Repeal of Laws.

Act No. 104 of June 25, 1958, as amended, known as the “Condominiums Act” and any other law that is inconsistent with the provisions of this Act are hereby repealed.

Section 76.- Effectiveness.

This Act shall take effect immediately after its approval and its provisions shall govern every property submitted to the Horizontal Property Regime, regardless of the date on which said property was submitted to such regime.