

## **Title 27 - Property and Conveyances**

### **CHAPTER 31**

#### **Horizontal Property Act**

### **ARTICLE 1**

#### **General Provisions**

#### **SECTION 27-31-10.** Short title.

This chapter shall be known as the "Horizontal Property Act."

HISTORY: 1962 Code Section 57-494; 1962 (52) 1866; 1967 (55) 449.

#### **SECTION 27-31-20.** Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein:

(a) "Apartment" means a part of the property intended for any type of independent use (whether it be for residential, recreational, storage, or business) including one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building or if not in a building in a separately delineated place whether open or enclosed and whether for the storage of an automobile, moorage of a boat, or other lawful use, and with a direct exit to a public street or highway, or to a common area leading to such street or highway;

(b) "Building" means an existing or proposed structure or structures, containing in the aggregate two or more apartments, comprising a part of the property;

(c) "Condominium ownership" means the individual ownership of a particular apartment in a building and the common right to a share, with other co-owners, in the general and limited common elements of the property;

(d) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment within the building;

(e) "Council of co-owners" means all the co-owners as defined in subsection (d) of this section; but a majority, as defined in subsection (h) of this section, shall, except as otherwise provided in this chapter, constitute a quorum for the adoption of decisions;

(f) "General common elements" means and includes:

(1) The land whether leased or in fee simple and whether or not submerged on which the apartment or building stands; provided, however, that submerged land developed or used under this chapter is subject to any law enacted relating to the leasing of submerged lands by the State for the benefit of the public;

(2) The foundations, main walls, roofs, halls, lobbies, stairways, moorages, walkway docks, and entrance and exit or communication ways in existence or to be constructed or installed;

(3) The basements, flat roofs, yards, and gardens, in existence or to be constructed or installed, except as otherwise provided or stipulated;

(4) The premises for the lodging of janitors or persons in charge of the property, in existence or to be constructed or installed, except as otherwise provided or stipulated;

(5) The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like, in existence or to be constructed or installed;

(6) The elevators, garbage incinerators, and, in general, all devices or installations existing or to be constructed or installed for common use;

(7) All other elements of the property, in existence or to be constructed or installed, rationally of common use or necessary to its existence, upkeep, and safety;

(g) "Limited common elements" means and includes those common elements which are agreed upon by all the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways, elevators, finger piers, sanitary services common to the apartments of a particular floor, and the like;

(h) "Majority of co-owners" means fifty-one percent or more of the basic value of the property as a whole, in accordance with the percentages computed in accordance with the provisions of Section 27-31-60.

(i) "Master deed" or "master lease" means the deed or lease establishing and recording the property of the horizontal property regime;

(j) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof;

(k) "Property" means and includes (1) the land whether leasehold or in fee simple and whether or not submerged, (2) the building, all improvements, and structures on the land, in existence or to be constructed, and (3) all easements, rights, and appurtenances belonging thereto;

(l) "To record" means to record in accordance with the provisions of Sections 30-5-30 through 30-5-200, 30-7-10 through 30-7-90 and 30-9-10 through 30-9-80, or other applicable recording statutes.

HISTORY: 1962 Code Section 57-495; 1962 (52) 1866; 1966 (54) 2314; 1967 (55) 449; 1970 (56) 2572; 1973 (58) 783; 1984 Act No. 463, Section 1; 1999 Act No. 86, Section 1.

**SECTION 27-31-30.** Establishment of horizontal property regime.

Whenever a lessee, sole owner, or the co-owners of property expressly declare, through the recordation of a master deed or lease, which shall set forth the particulars enumerated in Section 27-31-100, their desire to submit their property to the regime established by this chapter, there shall thereby be established a horizontal property regime. Property may be submitted to a horizontal property regime prior to construction or the completion of any building or apartment, improvements, or structures on the property if all proceeds from its sale are deposited into an escrow account with an independent escrow agent until construction or completion of the proposed property as evidenced by issuance of a certificate of occupancy from the appropriate municipal or county authority. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company licensed to do business in this State as surety in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account with the South Carolina Real Estate Commission designated as beneficiary of any such surety bond.

HISTORY: 1962 Code Section 57-496; 1962 (52) 1866; 1967 (55) 449; 1970 (56) 2572; 1999 Act No. 86, Section 2.

**SECTION 27-31-40.** Apartments may be purchased, owned, and the like.

Once the property is submitted to the horizontal property regime, an apartment in the property may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of juridic 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 and interests shall be recordable.

HISTORY: 1962 Code Section 57-497; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-50.** More than one person may own apartment.

Any apartment may be held and owned by more than one person as tenants in common or in any other real estate tenancy relationship recognized under the laws of this State.

HISTORY: 1962 Code Section 57-498; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-60.** Property rights of apartment owner.

(a) An apartment owner shall have the exclusive ownership of his apartment and shall have a common right to a share, with the other co-owners, in the common elements of the property, equivalent to the percentage representing the value of the individual apartment, with relation to the value of the whole property. This percentage shall be computed by taking as a basis the value of the individual apartment in relation to the value of the property as a whole.

The percentage shall be expressed at the time the horizontal property regime is constituted, shall have a permanent character, and shall not be altered without the acquiescence of the co-owners representing all the apartments of the property.

The basic value, which shall be fixed for the sole purpose of this chapter and irrespectively of the actual value, shall not prevent each co-owner from fixing a different circumstantial value to his apartment in all types of acts and contracts.

(b) The owner of any apartment embraced in the master deed and building plan shall have the right to require specific performance of any proposed common elements for recreational purposes set out in the master deed which are included in the next stage of the development that applies to recreational facilities in the event the additional stages of erection do not develop.

HISTORY: 1962 Code Section 57-499; 1962 (52) 1866; 1967 (55) 449; 1973 (58) 783.

**SECTION 27-31-70.** Common elements shall not be divided.

The common elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

HISTORY: 1962 Code Section 57-500; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-80.** Use of common elements.

Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

HISTORY: 1962 Code Section 57-501; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-90.** Incorporation of co-owners.

Nothing herein contained shall prohibit any council of co-owners from incorporating pursuant to the laws of South Carolina for the purpose of the administration of the property constituted into a horizontal property regime. In the event of such incorporation, the percentage of stock ownership of each co-owner in the corporation shall be equal to the percentage of his right to share in the common elements as computed in accordance with the provisions of this chapter.

HISTORY: 1962 Code Section 57-502; 1967 (55) 449.

**SECTION 27-31-100.** Master deed or lease; contents.

The master deed or lease creating and establishing the horizontal property regime shall be executed by the owner or owners of the real property making up the regime and shall be recorded with the register of mesne conveyance or clerk of court of the county where such property is located. The master deed or lease shall express the following particulars:

(a) The description of the land whether leased or in fee simple, and the building or buildings in existence or to be constructed, if applicable, expressing their respective areas;

(b) The general description and number of each apartment, expressing its area, location and any other data necessary for its identification;

(c) The description of the general common elements of the property, and, in proper cases, of the limited common elements restricted to a given number of apartments, expressing which are those apartments;

(d) The value of the property and of each apartment, and, according to these basic values, the percentage appertaining to the co-owners in the expenses of, and rights in, the elements held in common; and

(e) The name by which the horizontal property regime is to be known followed by the words "HORIZONTAL PROPERTY REGIME."

(f) A description of the full legal rights and obligations, both currently existing and which may occur, of the apartment owner, the co-owners, and the person establishing the regime. The master deed of any horizontal property regime developed under the provisions of this chapter that contains any submerged land shall contain a notice of restriction stating that all activities on or over and all uses of the submerged land or other critical areas are subject to the jurisdiction of the South Carolina Department of Health and Environmental Control, including, but not limited to, the requirement that any activity or use must be authorized by the South Carolina Department of Health and Environmental Control. The notice shall further state that any owner is liable to the

extent of his ownership for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any submerged land, coastal waters, or any other critical area.

(g) In the event the owner of property submitting it for establishment of a horizontal property regime proposes to develop the property as a single regime but in two or more stages or proposes to annex additional property to the property described in the master deed, the master deed shall also contain a general description of the plan of development, including:

(1) The maximum number of units in each proposed stage of development;

(2) The dates by which the owner submitting such property to condominium ownership will elect whether or not he will proceed with each stage of development;

(3) A general description of the nature and proposed use of any additional common elements which the owner submitting property to condominium ownership proposes to annex to the property described in the master deed, if such common elements might substantially increase the proportionate amount of the common expenses payable by existing unit owners;

(4) A chart showing the percentage interest in the common elements of each original unit owner at each stage of development if the owner submitting property to condominium ownership elected to proceed with all stages of development.

(h) Any restrictions or limitations on the lease of a unit including, but not limited to, the amount and term of the lease.

HISTORY: 1962 Code Section 57-503; 1962 (52) 1866; 1967 (55) 449; 1970 (56) 2572; 1973 (58) 783; 1984 Act No. 463, Sections 2, 6; 1987 Act No. 143, Section 1; 1993 Act No. 181, Section 488; 1999 Act No. 86, Section 3.

#### **SECTION 27-31-110.** Plot plan and building plan.

There must be attached to the master deed or lease, at the time it is filed for record, a map or plat showing the horizontal and vertical location of any building which is proposed or in existence and other improvements within the property boundary, which shall have the seal and signature of a registered land surveyor licensed to practice in this State. There must also be attached a plot plan of the completed or proposed construction showing the location of the building which is proposed or in existence and other improvements, and a set of floor plans of the building which must show graphically the dimensions, area, and location of each apartment therein and the dimension, area, and location of common elements affording access to each apartment. Other common elements, both limited and general, must be shown graphically insofar as possible and must be described in detail in words and figures. The building plans must be certified to by an engineer or architect authorized and licensed to practice his profession in this State.

HISTORY: 1962 Code Section 57-504; 1962 (52) 1866; 1967 (55) 449; 1970 (56) 2572; 1984 Act No. 463, Section 3; 1999 Act No. 86, Section 4.

#### **SECTION 27-31-120.** Designation of apartments on plans; conveyance or lease of apartment.

Each apartment must be designated, on the plans referred to in Section 27-31-110, by letter or number or other appropriate designation and any conveyance, lease, or other instrument affecting title to the apartment, which describes the apartment by using the letter or number followed by the words "in Horizontal Property Regime," is deemed to contain a good and sufficient description for all purposes. Any conveyance or lease of an individual apartment is deemed to also convey or lease the undivided interest of the owner in the common elements, both general and limited, appertaining to the apartment without specifically or particularly referring to same.

HISTORY: 1962 Code Section 57-505; 1962 (52) 1866; 1967 (55) 449; 1973 (58) 783; 1984 Act No. 463, Section 4.

#### **SECTION 27-31-130.** Waiver of regime and merger of apartment records with principal property.

(A) All the co-owners or the sole owner of the property constituted into a horizontal property regime may waive the regime and regroup or merge the records of the individual apartments with the principal property, if the individual apartments are unencumbered, or if encumbered, if the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

(B) Notwithstanding subsection (A), in the case of nonprofit long-term care retirement or life care facilities where there are co-owners, a two-thirds vote of the co-owners suffices to waive the regime and regroup or merge the records of the individual apartments with the principal property if the individual apartments are unencumbered, or if encumbered, if the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

HISTORY: 1962 Code Section 57-506; 1962 (52) 1866; 1967 (55) 449; 1999 Act No. 25, Section 1.

**SECTION 27-31-140.** Merger as bar to subsequent horizontal property regime.

The merger provided for in Section 27-31-130 shall in no way bar t this he subsequent constitution of the property into another horizontal property regime whenever so desired and upon observance of the provisions of this chapter.

HISTORY: 1962 Code Section 57-507; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-150.** Administration of property; bylaws.

The administration of the property constituted into horizontal property, whether incorporated or unincorporated, shall be governed by bylaws which shall be inserted in or appended to and recorded with the master deed or lease.

HISTORY: 1962 Code Section 57-508; 1962 (52) 1866; 1967 (55) 449; 1970 (56) 2572.

**SECTION 27-31-160.** Provisions required in bylaws; modification of system of administration.

The bylaws must necessarily provide for at least the following:

- (a) Form of administration, indicating whether this shall be in charge of an administrator or of a board of administration, or otherwise, and specifying the powers, manner of removal and, where proper, the compensation thereof;
- (b) Method of calling or summoning the co-owners to assemble; that a majority of at least fifty-one percent is required to adopt decisions; who is to preside over the meeting and who will keep the minutes book wherein the resolutions shall be recorded;
- (c) Care, upkeep and surveillance of the property and its general or limited common elements and services;
- (d) Manner of collecting from the co-owners for the payment of the common expenses;
- (e) Designation and dismissal of the personnel necessary for the works and the general or limited common services of the property.

The sole owner of the property or, if there be more than one, the co-owners representing two thirds of the total value of the property, may at any time modify the system of administration, but each one of the particulars set forth in this section shall always be embodied in the bylaws. No such modification may be operative until it is embodied in a recorded instrument which shall be recorded in the same office and in the same manner as was the master deed or lease and original bylaws of the horizontal property regime involved.

HISTORY: 1962 Code Section 57-509; 1962 (52) 1866; 1967 (55) 449; 1970 (56) 2572.

**SECTION 27-31-170.** Compliance with bylaws, rules, and regulations; remedy for noncompliance.

Each co-owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the master deed or lease or in the deed or lease to his apartment. Failure to comply with any of the same shall be grounds for a civil action to recover sums due for damages or injunctive relief, or both, maintainable by the administrator or the board of administration, or other form of administration specified in the bylaws, on behalf of the council of co-owners, or in a proper case, by an aggrieved co-owner.

HISTORY: 1962 Code Section 57-510; 1967 (55) 449; 1973 (58) 783.

**SECTION 27-31-180.** Records of receipts and expenditures.

The administrator or the board of administration, or other form of administration specified in the bylaws, shall 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 and any other expenses incurred. Both the book and the vouchers accrediting the entries made thereupon shall be available for examination by all the co-owners at convenient hours on working days that shall be set and announced for general knowledge.

HISTORY: 1962 Code Section 57-511; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-190.** Expenses shall be shared.

The co-owners of the apartments are bound to contribute pro rata in the percentages computed according to Section 27-31-60 toward the expenses of administration and of maintenance and repair of the general common elements and, in the proper case, of the limited common elements of the property and toward any other expense lawfully agreed upon.

No co-owner may exempt himself from contributing toward such expenses by waiver of the use or enjoyment of the common elements or by abandonment of the apartment belonging to him.

HISTORY: 1962 Code Section 57-512; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-200.** Unpaid assessments; payment upon sale.

Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro rata share in the expenses to which Section 27-31-190 refers shall first be paid out of the sales price or by the acquirer in preference over any other assessments or charges of whatever nature except the following:

- (a) Assessments, liens and charges for taxes past due and unpaid on the apartment; and
- (b) Payments due under mortgage instruments or encumbrances duly recorded.

HISTORY: 1962 Code Section 57-513; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-210.** Lien for unpaid assessments; right of mortgagee or purchaser acquiring title at foreclosure sale.

(a) All sums assessed by the administrator, or the board of administration, or other form of administration specified in the bylaws, but unpaid, for the share of common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (i) tax liens on the apartment in favor of any assessing unit, and (ii) mortgage and other liens, duly recorded, encumbering the apartment. Such lien may be foreclosed by suit by the administrator, or the board of administration, or other form of administration specified in the bylaws, acting on behalf of the council of co-owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment after the commencement of the foreclosure action and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect such rents. The administrator, or the board of administration, or other form of administration specified in the bylaws, acting on behalf of the council of co-owners, shall have the power to bid in the apartment at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses may be maintainable without instituting foreclosure proceedings.

(b) Where the mortgagee of any mortgage of record or other purchaser of an apartment obtains title at the foreclosure sale of such a mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the co-owners chargeable to such apartment accruing after the date of recording such mortgage but prior to the acquisition of title to such apartment by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including such acquirer, his successors and assigns.

HISTORY: 1962 Code Section 57-514; 1967 (55) 449.

**SECTION 27-31-220.** Liability of purchaser of apartment.

The purchaser of an apartment (other than a purchaser at a foreclosure sale as described above in Section 27-31-210(b)) shall be jointly and severally liable with the seller for the amounts owing by the latter under Section 27-31-190 up to the time of the conveyance, without prejudice to the purchaser's right to recover from the other party the amounts paid by him as such joint debtor. The council of co-owners shall provide for the issuance and shall issue to any purchaser, upon his request, a statement of such amounts due by the seller and the purchaser's liability under this section shall be limited to the amount as set forth in the statement.

HISTORY: 1962 Code Section 57-515; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-230.** Liens arising subsequent to recording of master deed or lease.

(a) No lien arising subsequent to recording the master deed or lease as provided in this chapter, and while the property remains subject to this chapter, shall be effective against the property. During such period liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common elements appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against



any other separate parcel of real property subject to individual ownership; provided, that no labor performed or materials furnished with the consent or at the request of a co-owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a mechanic's or materialman's lien against the apartment or any other property of any other co-owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labor performed or materials furnished for the common elements, if duly authorized by the council of co-owners, the administrator or board of administration or other administration specified by the bylaws, in accordance with this chapter, the master deed, lease or bylaws, shall be deemed to be performed or furnished with the express consent of each co-owner and shall be the basis for the filing of a mechanic's or materialman's lien against each of the apartments and shall be subject to the provisions of subparagraph (b) hereunder.

(b) In the event a lien against two or more apartments becomes effective, the owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the master deed or lease. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common elements appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lien or from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common elements appurtenant thereto not so paid, satisfied or discharged.

HISTORY: 1962 Code Section 57-516; 1967 (55) 449; 1970 (56) 2572.

**SECTION 27-31-240. Insurance.**

The council of co-owners shall insure the property against risks, without prejudice to the right of each co-owner to insure his apartment on his own account and for his own benefit.

HISTORY: 1962 Code Section 57-517; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-250. Repair or reconstruction; vote of co-owners; application of insurance proceeds.**

(A) A portion of the property for which insurance is required pursuant to Section 27-31-240 and which is damaged or destroyed must be repaired or replaced promptly by the council of co-owners unless:

(1) repair or replacement is illegal under a state statute or local health ordinance; or

(2) eighty percent of the co-owners, including the owner of an apartment which is not to be rebuilt, vote not to rebuild; except that the property bylaws may expressly require a percentage greater, but not less than, eighty percent of the co-owners.

(B) The cost of repair or replacement in excess of insurance proceeds and reserve must be considered a common expense.

(C) If the entire property is not repaired or replaced, the insurance proceeds:

(1) attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the property;

(2) attributable to apartments and limited common elements that are not rebuilt must be distributed to the owners of those apartments and to the owners of those apartments to which limited common elements were allocated, or to the lienholders, as their interests may appear;

(3) remaining must be distributed to all of the co-owners or lienholders, as their interests may appear, in proportion to the percentage as described in Section 27-31-60.

(D) If the co-owners vote not to rebuild an apartment, that apartment's allocated interest must be reallocated automatically upon the vote and the council of co-owners promptly shall prepare, execute, and record an amendment to the master deed reflecting the reallocations.

HISTORY: 1962 Code Section 57-518; 1962 (52) 1866; 1967 (55) 449; 1984 Act No. 463, Section 5; 2006 Act No. 250, Section 1, eff March 24, 2006.

Editor's Note

2006 Act No. 250, Section 2, provides as follows:

"This act takes effect upon approval by the Governor and applies to all horizontal properties governed by the Horizontal Property Act, notwithstanding a provision in the master deed or bylaws to the contrary."

Effect of Amendment

The 2006 amendment rewrote this section.

**SECTION 27-31-260.** Sharing expenses in case of fire or other disaster.

Where the property is not insured or where the insurance indemnity is insufficient to cover the cost of reconstruction, the rebuilding costs shall be paid by all the co-owners directly affected by the damage, in proportion to the value of their respective apartments, or as may be provided in the bylaws; and if any one or more of those composing the minority shall refuse to make such payments, the majority may proceed with the reconstruction at the expense of all the co-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 co-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 or other disaster occurred.

HISTORY: 1962 Code Section 57-519; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-270.** Assessment and collection of taxes.

Taxes, assessments and other charges of this State, or of any political subdivision, or of any special improvement district, or of any other taxing or assessing authority shall be assessed against and collected on each individual apartment, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the building or property as a whole. No forfeiture or sale of the building or property as a whole for delinquent taxes, assessments or charges shall ever divest or in anywise affect the title to an individual apartment so long as taxes, assessments and charges on the individual apartment are currently paid.

HISTORY: 1962 Code Section 57-520; 1962 (52) 1866; 1967 (55) 449.

**SECTION 27-31-280.** Council of co-owner's right of access.

The council of co-owners shall have the irrevocable right, to be exercised by the administrator or the board of administration, or other form of administration specified in the bylaws, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

HISTORY: 1962 Code Section 57-521; 1967 (55) 449.

**SECTION 27-31-290.** Limitation on liability of co-owners for common expenses.

The liability of each co-owner for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this chapter, the master deed or lease and the bylaws.

HISTORY: 1962 Code Section 57-522; 1967 (55) 449; 1970 (56) 2572.

**SECTION 27-31-300.** Effect on contracts entered into before June 6, 1967.

The provisions of this chapter shall in no way impair, alter or revise any contract entered into with regard to horizontal properties or condominiums prior to June 6, 1967.

HISTORY: 1962 Code Section 57-523; 1967 (55) 449.

## ARTICLE 2

### Conversion of Rental Units to Condominium Ownership

**SECTION 27-31-410.** "Conversion of rental units to condominium ownership" defined.



As used in this chapter, "conversion of rental units to condominium ownership" means the establishment of a horizontal property regime encompassing a preexisting building which, at any time prior to the recording of the master deed or master lease, was wholly or partially occupied by persons as their residence on a permanent or at least a continuing basis other than persons who, at the time of such recording, had contractual rights to acquire condominium ownership within the building.

HISTORY: 1983 Act No. 37, Section 2.

**SECTION 27-31-420.** Rights and duties of owners, landlords, and tenants when rental units are converted to condominiums; notices; offers; vacation; phased conversions.

(A) Whenever a lessee, sole owner, or co-owner of a building declares the undertaking of a conversion of rental units to condominium ownership through the recordation of a master deed or master lease, within thirty days of the date of recordation the lessee or owner shall deliver in writing to each tenant in possession of an apartment within the building to be converted:

- (1) the disclosure items required by Section 27-31-430;
- (2) written notice of the planned conversion which shall set forth generally the rights of tenants under this section;
- (3) an offer to convey to the tenant the apartment occupied by the tenant at a specified price and upon specified terms.

The tenant shall not be required to vacate the apartment until expiration of his lease or for one hundred twenty days, or ninety days if the tenant is under the age of sixty, following delivery of the notice, whichever is longer, and the terms of the tenancy shall not be altered during that period. Any notice which under the terms of such tenancy is required to be given to prevent the automatic renewal or extension of the term of such tenancy may be given during such period. Failure to give notice as required by this section shall constitute a defense to an action by the lessee or owner for possession if initiated less than one hundred twenty days, or ninety days if the tenant is under the age of sixty, after delivery of the notice, except as provided in subsection (E).

(B) The price and terms offered to each tenant in possession shall be at least as favorable as the price and terms offered to prospective purchasers who are not tenants in possession of apartments in the building to be converted. The tenant shall be allowed sixty days in which to accept such offer and, in the event the tenant shall not have accepted the offer within the sixty days, the lessee or owner of the building shall be prohibited for an additional fifty days, or fifteen days if the tenant is under the age of sixty, from making an offer to convey the apartment to any other person at a price or upon terms more favorable than those offered to the tenant, unless such more favorable offer first shall have been extended to the tenant for his exclusive consideration for a period of ten days. Acceptance of an offer by a tenant in possession shall be in writing. If a declarant, in violation of this subsection, conveys a unit to a purchaser for value who has no knowledge of the violation, recordation of the deed conveying the unit extinguishes any right a tenant may have under the subsection to purchase that unit if the deed states that the seller has complied with the subsection, but does not affect the right of a tenant to recover damages from the declarant for a violation of this subsection.

(C) Where the conversion is to be accomplished on a phase-in basis, the notices required shall be given within thirty days of the undertaking of the conversion of each building.

(D) Notices and offers required or permitted to be delivered to a tenant by this article may be:

- (1) hand delivered to the tenant; or
- (2) hand delivered to the apartment; or
- (3) posted in the United States mails, postage prepaid, addressed to the tenant at the individual's apartment address.

Acceptances of offers of a lessee or owner may be:

- (1) hand delivered to the lessee or owner; or
- (2) hand delivered to an authorized representative of the lessee or owner; or
- (3) posted in the United States mails, postage prepaid, properly addressed to the lessee or owner. If registered or certified mail is used, the postmark date of the registered or certified mail receipt received upon posting shall be the date of delivery for purposes of this article.

(E) Nothing in this section shall prevent termination of a lease according to law for violation of its terms.

(F) In the event of extended occupancy by the tenant pursuant to subsection (A), the rights and obligations of the landlord and tenant during the period of extended occupancy shall remain the same as prior to the period.

HISTORY: 1983 Act No. 37, Section 2.

**SECTION 27-31-430.** Disclosure of physical condition of building.

Whenever the lessee, sole owner, or co-owner of a building declares the undertaking of a conversion of rental units to condominium ownership through the recordation of a master deed or master lease, written disclosure shall be made within thirty days of the date of the recordation to all prospective purchasers, including tenants in possession, as to the physical condition of the building. The disclosure shall contain a written report prepared by an independent registered architect or engineer licensed to practice his profession in this State, describing the present condition of all general common elements. The report shall contain a good faith estimate of the remaining useful life to be expected for each item reported on, together with a list of any notices of uncured violations of building codes or other county or municipal regulations, together with the estimated cost of curing those violations. The good faith estimate of useful life shall not constitute a warranty and, as to an independent registered architect or engineer licensed to practice his profession in this State, shall not be deemed a representation of material fact or an inducement to purchase and shall not give rise to any cause of action at law or in equity against such architect or engineer. A failure to make the disclosure required by this section shall constitute a violation of the South Carolina Unfair Trade Practices Act.

HISTORY: 1983 Act No. 37, Section 2.

**SECTION 27-31-440.** Abandoning conversion program.

Nothing contained in this article shall require the lessee, sole owner, or co-owner to convert to a condominium if, after recording the master deed or master lease and giving the required notices, the lessee, sole owner, or co-owner finds that he cannot meet any presale requirements that he has established or that he no longer wishes to convert the property.

HISTORY: 1983 Act No. 37, Section 3.