

COSTA RICA CONDOMINIUM LAW
Law No. 7933, October 28, 1999

The following translation of the Costa Rica Condominium Law is provided by Montejo Associates Law Firm. San Jose, Costa Rica. www.montejolaw.com. Legislative Branch

The Congress of the Republic of Costa Rica Resolves:

CONDOMINIUM OWNERSHIP ACT
CHAPTER I
General Provisions

Article 1 – The condominium property regime can be applied:

To the different floors, locales, offices, parking areas, or departments into which one or several buildings are divided because they were constructed in one or several properties, whether they belong to one or various owners or grantees. When the encumbrance of several properties is recorded, the latter will consolidate to create a single source property.

To different edifications built on a single property, if they will be owned by different proprietors. To real property suitable for construction, for both lots and rural properties into which the land is divided, and for the structures that are built on it.

When the owner of a building or residential, commercial, tourist, industrial or agricultural development that has already been built, decides to subject it to a condominium property regime. As long as there are independent and common undivided interests and all the technical requirements established by the law are fulfilled.

When the holder of a concession right to real estate destined for commercial or tourist exploitation decides to subject his project to this law's dispositions. In this case, it should be first authorized by the grantee.

To projects developed in stages, where urbanization or civil constructions are submitted to the condominium property regime and where the resulting subdivided plots are, at the same time, transformed into parent properties of a new condominium without losing their original subsidiary condition. All of the above, in accordance with what was established in the original duly approved project and plans, as well as with the condominium's bylaws.

Article 2 – In order to submit to the regime established in this law, the owner, joint owners, or grantees of real property shall state so in a public deed, which will include the following information:

The nature, location, extension, and boundary lines of the source property; a general description of the building, the residential, commercial, tourist, industrial or agricultural development, and of each resulting subdivided plot, including its location, extension and the proportion of each one of these subdivided plots in relation to the condominium's total area and all other information that is useful for identification purposes. Such information will be provided based on the construction and plot plans. The condominium's general purpose and any characteristic that may be necessary for its correct identification, location and delimitation.

Common property, its purpose, and any characteristic that may be useful to identify, locate and delimitate it correctly.

That the notary has seen the construction plans, which have been properly approved by the

corresponding institutions.

The imposition of encumbrance to the condominium property regime will establish the rules that will allow the consolidation and division of the subdivided plots, indicating the minimum areas and the exit to public or common areas.

the condominium's total value, the value of each floor, apartment, locale, office or parking area into which it is divided, as well as the corresponding percentage or proportion in relation to the total value.

Article 3 – The owner of real property or a concession right, who aims to build or develop a residential, commercial, tourist, industrial or agricultural condominium, may submit the future condominium to the regime established in the law, by way of a declaration in a public deed. For this purpose, the source property and subdivided plots shall be described based on a preliminary plan duly approved by the National Institute of Housing and Urban Planning (INVU), the Ministry of Health and the corresponding municipality.

Article 4 – The condominium and its administration's bylaws mentioned in Chapter V of this law shall be included in the deeds contained in articles 2 and 3.

Article 5 – The articles of incorporation of the condominium ownership regime shall be recorded in the corresponding section of the Public Registry. When the first entry of the source property is recorded, the property's registration in the General Property Section will be canceled.

The articles of incorporation submitted to the Registry for registration, shall be attached to the plan, duly approved by the corresponding institutions, and which shall include all pertinent information about the source property, subdivided plots or private areas, common areas and area and distribution charts.

Article 6 – The subdivided plots will be created after the recording of the articles of incorporation, along with their description and that of the source property, the correspondent regulation and the duly approved plans.

CHAPTER II PRIVATE AND COMMON PROPERTY

Article 7 – Each subdivided plot is an autonomous portion and it should be conditioned for independent use and enjoyment; it should communicate directly with a public area or a specific common area.

Article 8 – Each subdivided plot, its accessories and those areas necessary for its proper use belong exclusively to its owner, who, in accordance with his needs as a tenant, will have the right to make use of common elements.

Article 9 – Common elements have a general or restricted use, no matter if they are built or not and according to their destination within the subdivided plot or just some of them. The common elements belong to all the title members of the condominium, who will have a right to them that is proportional to the percentage of the area fixed for his or her subdivided plot within the condominium. Nevertheless, no owner can be limited as to the rational use and enjoyment of the common elements, nor can he claim a greater right to those things because his percentage surpasses that of the other owners.

Common property cannot be divided, except for those instances excluded in the law.

Article 10 – The following is considered common property:

The land where vertical constructions are located; it results in two or more subdivided plots founded on the same land. Hence, the land shall be considered as common.

The foundation, main and partition walls, roofs, halls, vestibules and stairs, along with the accesses, exit and internal transit areas, when considered as such, for the type of construction or development.

The locales meant for the lodging of the condominium's administration or security personnel.

The locales and the installation of central services, such as electricity, lighting, telephone, gas, water, refrigeration, tanks, water pumps, wells and others.

The elevators, incinerators for trash disposal and, in general, all the artifacts and installations used for common benefit.

Others established by the regulation.

The previous enumeration is not limited; those things that are necessary for the existence, security, healthiness, conservation, access and decoration of the condominium, in addition to those established in the constituent deed or the condominium's regulations are also considered common property.

Article 11 – Those elements of common use and enjoyment can be leased, with the previous consent of the Condominium Council. The product of this leasing will be incorporated to the common income.

Article 12 – The rights of each tenant over the common elements cannot be sold, transferred, taxed or be object of embargo independently because they belong to the corresponding subdivided plot and are therefore inseparable from that property.

Article 13 – The owners are required to pay for the administration, conservation and operation of services and common property. The express or implied waiver of the use and enjoyment of common property will not relieve the tenant from his or her obligations regarding the conservation, reconstruction of such property or the payment of maintenance shares or from any other obligation derived from the regime.

Article 14 – In regards to common property, the improvements will be approved by the Condominium Council, by voting as follows:

Necessary improvements, by the votes of the owners representing the condominium's larger cost.

Useful improvements, by the votes representing two thirds of the condominium's value.

CHAPTER III

Owner's rights and duties

Article 15 – The owners of subdivided plots will be able to establish, at their expense, services to be used exclusively by them, as long as it does not disturb the others. They will use their property according to the purpose specified in the articles of incorporation. They will be able to segregate them as long as the segregated parts fulfill all the requirements established in this law for subdivided plots. They cannot use them for unlawful, immoral or inadequate purposes or for any other purpose than that agreed upon. They will not act or make any omission that may disturb the owners' tranquility or that may compromise the condominium's solidity, security, well being or comfort.

If requested by the condominium's administrator or any owner, judicial authorities will fine any person who acts against the stipulations within this article. The fine will be equivalent to a minimum wage, as indicated in Law No. 7337, dated May 5, 1993. The amounts charged will be used to improve the condominium; all without threatening the compensations given by right. The claim will be based on the summary of proceedings established in the Civil Code.

Article 16 – Each owner will be able to carry out construction works and repairs in the interior of his subdivided plot; however, he will not be able to innovate or modify the structure, main walls or any other essential element within the condominium. In regards to common services and general installation, the owners will have to refrain from doing it themselves, even inside their property, to prevent the operation or use from being less efficient.

Article 17 – The owners of the first and last floors will have exactly the same rights as the other owners.

Article 18 – Any maintenance work required on floors, mezzanines, walls or other intermediate divisions should be paid for by the owners of the affected subdivided plots. Each owner will pay for the maintenance works of floors or pavement of his subdivided plot.

Article 19 – The following are regarded as common costs:

- a) The property and municipal taxes imposed on common property, as well as the laws regarding administrative rights of concession and any other obligatory charge. Nevertheless, the national and municipal offices in charge of collecting taxes or rates shall have an independent account for each subdivided plot.
- b) The amount due for down payments and insurance established by the condominium's bylaws.
- c) The cost for the improvements made in common elements, previously authorized by the Condominium Association.
- d) Those authorized by the Condominium Association and those regarded as common within the condominium's bylaws.

Article 20 – The subdivided plot remains encumbered in guarantee, preferential and at the source, for the non-fulfillment of financial duties the owner may eventually have with the tenant. The corresponding payments of common costs, owed by the owners, as well as the fines and interest that may be generated, constitute a mortgage obligation on the subdivided plot only preceded by the obligation to pay real estate taxes. The administrator will issue the certification of those amounts owed by the owners in regards to these concepts. Once authorized by a public accountant, this certification will constitute an executive mortgage certificate.

Article 21 – In the sale or transfer of any certificate of a subdivided plot, the transferor shall submit a certification to the notary, issued by the condominium's administrator, stating that the payments are up-to-date in regards to the shares for common costs. If the payments are overdue, the acquirer of the subdivided plot will be considered an accessory (solidary delinquent) for the certified amount, not meaning that the amount owed cannot be charged.

Article 22 – The owner's obligations will remain even if he is not living on the property. In this case, if the owner is not using the property, those who live in it or use it will be responsible for the infractions, despite the owner's solitary liability. With a previous power awarded by the respective tenant, the condominium's administration can execute the act of eviction against the occupant that is not the owner, who has repeatedly violated the condominium's bylaws or alters the normal cohabitation of all the tenants.

Article 23 – If an owner violates the prohibitions and limitations in this law or those agreed upon in the condominium's bylaws or in meetings, the following sanctions will be applied by the Condominium Association:

- a) Written warning
- b) Sanction or fine
- c) Tenant's eviction

The condominium's bylaws will consider the specific sanction regime. The claim will be substantiated through the summary proceedings established in the Code of Civil Procedure.

CHAPTER IV

Condominium Owners Assembly and management of the condominium

Article 24 – During a General Assembly, the Owner's Association will make decisions for issues of common interest that are not within the administrator's faculties and duties. This Assembly will be held in accordance with the condominium's and administration's bylaws and with the law in force. It should be held at least once a year. The Assembly's quorum will be constituted by the votes representing a minimum of two thirds of the condominium's value. As for the second meeting, the quorum will be complete with any number of attendants. Each owner will have the right to a number of votes equivalent to the percentage that his share represents within the condominium.

Article 25 – The condominium's administrator will summon an Owners' Assembly. Those owners whose share represents one third of the condominium's total value will also have the right to summon.

Article 26 – The members of the annual Assembly should be informed about the administrator's report and its accounts. The members will authorize the annual expense budget and determine the means that will be used to raise the necessary funds to cover it. The Assembly's decisions will be followed by all the owners. Any owner who feels that his right is being threatened may file his complaint within three months after the final agreement and it will be based on the summary proceeding established in the Code of Civil Procedure.

Article 27 – The Assembly will act in accordance with the following provisions:

- a) The following will only be possible with the unanimous consent of all the owners:
 - 1. Modify the condominium's general use.
 - 2. Change the proportional area of the subdivided plots, in relation to the condominium's total area or the common property area.
 - 3. Withdraw from the condominium property regime as long as the parcels or resulting units do not go against any other law.
 - 4. Mortgage or transfer the whole condominium.
 - 5. Modify the clauses in the articles of incorporation.

- b) The following will only be possible with the consent of the voters holding at least two thirds of the building's total value:
 - 1. Change the special use of a subdivided plot.
 - 2. Build new floors or basements, excavate or authorize any of the owners to do work of this kind.
 - 3. Acquire new common property, change the use of that already existing or arrange for any other way in which it can be used.
 - 4. Authorize the lease of common elements.
 - 5. Authorize the partial or total reconstruction of the condominium

- a) In the previous cases, when a single owner represents at least 50% of the condominium's total value, an additional 50% of the remaining votes collected during the assembly will be required as well.
- b) Any other agreement or decision will be approved with the owners' votes, which represent most of the condominium's value.

Article 28 – The Assembly's decisions will be recorded in a minute book, certified by the Section of Condominium Property in the Public Registry.

Article 29 – An administrator, who may be an individual or a corporation, will be responsible for the administration of those condominiums under the regime created by this law. He will be designated according to the condominium's and administration's bylaws, by the Owners' Assembly, who shall approve the corresponding payment for his services. Unless this regulation states otherwise, the administrator will have the faculties of a general agent in regards to the condominium and common property.

Article 30 – The administrator will be responsible for taking care of and watching over the common property and common services, the supervision and operation of the installations and general services, all administration and maintenance procedures and the execution of the decisions made by the Owners' Assembly. He will collect from each owner the corresponding share for common expenses. He will enforce the dispositions of this law and bylaws; likewise, he will have the faculties and duties given to him by the law and bylaws.

Article 31 – The measures and dispositions executed by the administrator within his faculties will be mandatory for all owners, unless the Assembly states otherwise.

Article 32 – In case there is no administrator, or he does not act as expected, or is unable to carry out his functions, any of the owners may execute the unpostponable acts of maintenance and administration. In addition, he will have the right to charge, with evidence, the other owners the proportional payment for the expenses he had and the time that he devoted to that work. The authentication of those costs by an authorized public accountant will be enough to prove their existence.

CHAPTER V

Condominium and administration by laws

Article 33 – The Condominium and Administration Bylaws shall at least include dispositions on the following aspects:

- a) The ways to designate hire or replace the administrator, his attributions and duties, the designation or hiring period and the reasons for discharging him.
- b) The owner's contributions to common expenses.
- c) The frequency in which the Owners' Assembly will be held, the way in which it will be summoned, the person who will lead the meetings and the procedure used to designate him.
- d) The use of common elements, the limitations and the conditions for using them and, in general, the rights and duties of each owner.
- e) The condominium's sanction regime and the methods for solving disputes.

- f) Those rules necessary to submit subdivided plots to the condominium property regime; plots which will become parent properties without losing their original condition.
- g) The joint or individual possibility of changing the external appearance of the façade, decorating the walls, doors or external windows with shapes and colors that are different from those of the complex.

Article 34 – Whoever may acquire rights within a condominium will submit to the existing regulations. At the beginning, the regulations shall be established by the owner of the source property and may be modified by the Owners' Assembly through the unanimous vote of all the condominium owners. Any modification to the regulation shall be recorded in the Public Registry.

CHAPTER VI

Condominium Functional and Structural Conditions

Article 35 – Depending on its type, any condominium shall fulfill at least the following requirements:

The entire main structure, master and intermediate walls, as well as floor divisions, shall be built with non-flammable materials.

A duct shall be provided throughout the floors, which will allow for the installation of drinking water, sewage water and rainwater, electricity and others. This duct will be part of the common areas.

A duct shall be provided throughout the floors that will allow for the disposal of waste and trash, which will be collected in the first floor for incineration or treatment.

All the buildings, whether vertical or horizontal developments, should be constructed in accordance with the norms required by the corresponding laws.

CHAPTER VII

Termination of the CONDOMINIUM: destruction and reconstruction of buildings

Article 36 – The regime established in this law can be destroyed if it is the result of an agreement made by the tenants during a General Assembly through the unanimous vote of the owners and as long as it does not go against other legislations regarding this issue, especially those dealing with possible lots or resulting units. The destruction will become effective after once it is recorded in the Public Registry; in that case, the books of the parent and subsidiary properties will be annulled in the Section of General Property. The rights acquired by a third party will remain intact.

Article 37 – If the condominium is totally or partially destroyed and the majority of the owners decide to reconstruct it, the insurance amount will be used for this purpose and if it is not enough, all the owners shall contribute with the proportion fixed in the articles of incorporation. Those who refuse to collaborate will benefit the other owners by giving them the right to buy their property as appraised by experts within a period of fifteen working days. After this period of time, the owner is free to offer his subdivided plot to third parties.

Article 38 – The National Insurance Institute, the Social Security Institute, the National Banking System institutions, the National Financial System for Housing Institutions and the National Institute of Housing and Urban Planning will adapt their regulations to this law, in order to give loans for the construction of residential developments or others submitted to the condominium property regime.

CHAPTER VIII Final Dispositions

Article 39 – The figure of condominium as a social interest is established under express declaration of the Mortgage Bank of Housing. In the condominiums of social interest, the residential complexes will be given all the special rights, the programs, specific rules, credit facilities, financial aid, controls and duties of any dwelling, without losing any of the privileges given to condominium property.

Article 40 – The following dispositions of the Civil Code are reformed:

- a) The text in the second paragraph of Article 265:
“Article 265
(...)
According to the dispositions of the condominium property regime, the following may belong to different owners: the floors, locales, offices, parking areas or apartments into which one or several buildings are divided; in vertical constructions, the different floors or levels; in horizontal constructions, the houses, locales, offices and parking areas; in private urbanizations, the lots into which the land is divided as well as the constructions that are built on them. In these cases, each owner will be the exclusive owner of his floor, locale, office, parking area, house or lot and will have the tenancy of common elements. In addition, the different figures may be combined. The properties submitted to this regime will be regarded as condominiums.
- b) The text in the fourth clause of article 411:
“Article 411
(...)
4) For those buildings and developments submitted to the condominium property regime, the right to common property will be given to the owner of a subdivided plot.”
- c) The text in the last paragraph of article 505:
“Article 505
(...)
In condominium property, the above conditions will only be applicable within the limitations established in the respective law.”

Article 41 – Law of Horizontal Property No. 3670 of March 22, 1996 and its reforms are derogated.

Article 42 – The Executive Branch will regulate this law. It enters into force on the date it is published.

Let it be known to the Executive Branch

Legislative Branch – San José, October 12, 1999 – Carlos Vargas-Pagán, President – Manuel Antonio Bolaños-Salas, First Secretary – Rafael Angel Villalta Loaiza, Second Secretary.

Submitted to the Presidency of the Republic – San José, October 28, 1999.

Let it be Executed and Published

MIGUEL ANGEL RODRIGUEZ-ECHEVERRIA – Ministers of Housing and Human Resources, Donald Monroe Herrera and Minister of the Presidency, Danilo Chaverri-Soto. (Request No. 20738) –C- 49000. - (75909).

<http://www.catalinacove.net/condolaw.htm>