

MEEB ATTORNEYS SPEARHEAD NEW RI CONDOMINIUM LAW
EXPANDING ASSOCIATION BORROWING POWER AND CLARIFYING
OTHER ASSOCIATION RESPONSIBILITIES

MEEB attorneys [Edmund A. Allcock](#), and [Janet Oulousian Aronson](#) members of the CAI RI Legislative Action Committee have followed up last year's success in proposing and advocating for the passage of ground breaking super-lien legislation in Rhode Island by proposing House Bill 5906, which was sponsored by Representative Patricia Serpa (D) of West Warwick, RI. After much testimony, negotiation, revisions and compromises, House Bill 5906 finally became law on November 10, 2009, as Chapter 246 of the Acts of 2009. A copy of Chapter 246 of the Acts of 2009 is available by accessing the following link. [\[Chapter 246\]](#)

Chapter 246 of the Acts of 2009 amends Section 34-36.1-3.01 of the Rhode Island Condominium Act by requiring unincorporated condominium associations to record the names and contact information for members of the executive board at least annually, and more often if necessary (e.g. resignations, removals, special elections) to reflect changes in membership. Until now, the recording requirements had applied to incorporated associations, but not to unincorporated ones. As a result banks, attorneys and others sometimes did not know where to send legal notices informing a board of a foreclosure, litigation or other legal or important matters. In this day and age certainty and knowledge of information (even if it is bad news) is power. The quicker and more efficiently information is received by condominium associations, the quicker and more efficiently they can address the problems facing their community. This law took effect on November 10, 2009, so unincorporated associations should be prepared to **immediately** update and record the composition of their executive boards. MEEB has simple forms for unincorporated condominium associations to utilize for this purpose. The forms of course vary depending on the event or the circumstance (i.e. resignation, removal, etc.).

Chapter 246 also amends Section 34-36.1-3.02(14) of the Rhode Island Condominium Act by allowing RI condominium Associations the power to borrow money from banks to fund repair and/or improvement projects. Until now, RI Condominiums could only borrow funds if that power was contained within the condominium documents. More often than not, no such power was included in the documents, and it was often costly and difficult to obtain an amendment providing for that power. Until last year, lending to condominium associations in Rhode Island was almost unheard of due to the lack of the strength of security, which is the association's receivable and which explains why the power to borrow was often lacking.

The passage of last year's super lien legislation has strengthened that security/receivable and resulted in willingness by banks to lend money to RI condominium associations to fund needed repair and improvement projects. Accordingly, this year's legislation really is a product of last year's legislative success. Most importantly, the legislation provides needed economic relief for condominium unit owners, who are struggling to pay their mortgages and condominium fees and who cannot afford special assessments to pay for repair and improvement projects. This new law will hopefully provide RI condominiums the option to borrow money and defray assessments, while at the same time maintaining unit and property values.

Chapter 246 also amends Section 34-36.1-3.16 (b)(2) of the RI Condominium Act by clarifying the timing of the superlien and deleting certain language made obsolete by the passage of last year's superlien legislation. This amendment is intended to make units foreclosed through the condominium lien process more marketable and make it easier to obtain title insurance on foreclosed units.

Finally, Chapter 246 amends Section 34-36.1-3.21 by clarifying a condominium association's responsibility when conducting a foreclosure to pay or account for other encumbrances of record prior to remitting surplus foreclosure sale proceeds to defaulting unit owners. This amendment not only clarifies association responsibilities for dealing with third parties during the foreclosure process but is designed to make title to foreclosed units more certain and facilitate the ability to obtain title insurance on foreclosed units.

MEEB is proud to have been involved in the passage of these important changes to the Rhode Island Condominium Act, which of course would not have been possible without the support of the CAI New England Chapter, particularly Claudette Carini, the members of the Rhode Island CAI Legislative Action Committee and of course Representative Patricia Serpa who continues to be a tireless champion and advocate for Rhode Island condominium associations.

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