

SC HORIZONTAL PROPERTY ACT



The **Horizontal Property Act** (Act) applies to apartments/condominiums. This law provides details on how to set up a horizontal property regime, what must be included in the master deed/ lease and bylaws, record keeping requirements and allocation of expenses. Below are highlights of the law. It does not serve as a substitute for reviewing the actual statute.

SETTING UP A HORIZONTAL PROPERTY REGIME:

Filing Requirement — To become a horizontal property regime, lessees or owners must create a master deed or lease stating they want to create the regime and record it with the [register of deeds](#) or [clerk of court](#) in the county where the property is located. Bylaws detailing how the regime will be run must be attached to the recorded master deed/ lease along with a plot plan and a building plan that should include a map or plat showing the location of the building and indicate the common elements.

Master Deed/Lease — In addition to lessees and owners stating the intent for their property to be part of the regime, a master/deed lease of a regime must also include:

- 1) Description of land and buildings;
- 2) General description and number of each apartment;
- 3) Description of common elements & restricted common elements;
- 4) Value of the property and each apartment along with the percentage of rights to common elements;
- 5) Name of regime (must be followed by the words "HORIZONTAL PROPERTY REGIME");
- 6) Description of legal rights and obligations of apartment owner, the co-owners, and person establishing regime;
- 7) If planning to develop property in multiple stages, additional items are required.

Bylaws — A regime must have bylaws detailing how it will run. The law requires the following items be included in the bylaws:

- 1) **Administration** – Whether the regime will be run by an administrator, board, etc. and the powers, manner of removal and compensation for the person(s);
- 2) **Meetings** – Method of calling a meeting of owners, who will preside over meetings and who will take minutes;
- 3) **Voting** – That a majority of at least 51% is required to adopt decisions;
- 4) **Common elements & services** – Description of the care, upkeep and surveillance of property and common expenses and designation and dismissal of personnel necessary to provide common services;
- 5) **Payments** – Description of the manner payments will be collected from owners.

Owners must comply with the bylaws. Failure to comply may be grounds for civil or injunctive relief.

HORIZONTAL PROPERTY ACT CONT...

EXPENSES, RECORDKEEPING & ACCESS TO RECORDS:

Owners must contribute pro rata* toward expenses of:

- (1) administration,
- (2) maintenance and repair of common elements,
- (3) repair of limited common elements (ie: insurance doesn't cover repairs/ reconstruction of common element shared by a few owners) and
- (4) any other item/ service agreed to. Assessments left unpaid at the time an apartment sells will be taken out of the sale price.

The regime administrator must keep detailed records of receipts and expenditures. Owners have a right to inspect these books and vouchers.

**The law lays out how the pro rata share is determined.*

GENERAL APARTMENT OWNER PROPERTY RIGHTS:

An apartment owner has the right to exclusive ownership of his/her apartment and the right to use common elements so long as the use does not hinder the rights of other owners.

Common elements include elevators, garbage incinerators, basements, flat roofs, yard, gardens, main walls, roofs, hall, lobbies, stairways.

Limited common elements are those common elements the owners agree are reserved for the use of specific owners.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



Please note, this material is for informational purposes only, is general in nature, and is not intended to and should not be relied upon or construed as a legal opinion or legal advice regarding any specific issue or factual circumstance.



South Carolina Department of Consumer Affairs
293 Greystone Blvd., Ste. 400 • PO Box 5757 • Columbia, SC 29210
(800) 922-1594 • www.consumer.sc.gov