

Public Law 88-218

AN ACT

December 21, 1963

To provide for the creation of horizontal property regimes in the District of Columbia.

[H. R. 4276]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, including the following table of contents, may be cited as the "Horizontal Property Act of the District of Columbia".

Horizontal Property Act of the District of Columbia.

TABLE OF CONTENTS

- Sec. 1. Short title.
- Sec. 2. Definitions.
- Sec. 3. Horizontal property regimes.
- Sec. 4. Status of condominium units within a horizontal property regime.
- Sec. 5. Joint tenancies, tenancies in common, tenancies by the entirety.
- Sec. 6. Ownership of condominium units, of common elements; declaration; voting; individual unit deeds.
- Sec. 7. Indivisibility of common elements; limitation upon partition.
- Sec. 8. Use of elements held in common, right to repair common elements.
- Sec. 9. Condominium subdivision.
- Sec. 10. Reference to plat.
- Sec. 11. Termination and waiver of regime.
- Sec. 12. Merger no bar to reconstitution.
- Sec. 13. Bylaws, availability for examination.
- Sec. 14. Necessary contents of bylaws; modification of system.
- Sec. 15. Books of receipts and expenditures; availability for examination.
- Sec. 16. Common profits, contributions for payment of common expenses of administration and maintenance.
- Sec. 17. Priority of liens.
- Sec. 18. Joint and several liability of purchaser and seller for amounts owing under section 16; purchaser's recovery, purchaser's or lender's right to a statement setting forth amount due.
- Sec. 19. Supplementary method of enforcement of lien.
- Sec. 20. Insuring building against risks; individual rights of co-owners.
- Sec. 21. Application of insurance proceeds to reconstruction; pro rata distribution in certain cases; rules governing.
- Sec. 22. Sharing of reconstruction cost where building is not insured or insurance indemnity is insufficient.
- Sec. 23. Separate taxation.
- Sec. 24. Actions; right to separate release of judgment.
- Sec. 25. Mechanics' and materialmen's liens, enforcement thereof; removal from lien; effect of part payment.
- Sec. 26. Nonapplication of rule against perpetuities and of rule against unreasonable restraints on alienation to horizontal property regimes.
- Sec. 27. Supplement of existing code provisions.
- Sec. 28. Regulations of the Board of Commissioners and the zoning commission.
- Sec. 29. Interpretation.
- Sec. 30. Supplemental provisions relating to sewer and water services.
- Sec. 31. Authority of Board of Commissioners under Reorganization Plan Numbered 5 of 1952.
- Sec. 32. Severability.
- Sec. 33. Effective date.

SEC. 2. DEFINITIONS.—Unless it is plainly evident from the context that a different meaning is intended, as used herein—

(a) "Unit" or "condominium unit" means an enclosed space, consisting of one or more rooms, occupying all or part of a floor in buildings of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, and shall include such accessory units as may be appended thereto, such as garage space, storage space, balcony, terrace or patio: *Provided*, That said unit has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(b) "Condominium" means the ownership of single units in a multiunit structure with common elements.

(c) "Condominium project" means a real estate condominium project; a plan or project whereby five or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.

(d) "Co-owner" means a person, persons, corporation, trust, or other legal entity, or any combination thereof, that owns a condominium unit within the building.

(e) "Council of co-owners" means the co-owners as defined in subsection (d) of this section, acting as a group in accordance with the provisions of this Act and the bylaws and declaration established thereunder; and a majority, as defined in subsection (k) of this section, shall, except as otherwise provided in this Act, constitute a quorum for the adoption of decisions.

(f) "General common elements" except as otherwise provided in the plat of condominium subdivision, means and includes—

(1) the land on which the building stands in fee simple or leased provided that the leasehold interest of each unit is separable from the leasehold interests of the other units;

(2) the foundations, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, stairways, and entrance and exit or communication ways;

(3) the basements, flat roofs, yards, and gardens except as otherwise provided or stipulated;

(4) the premises for lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(5) the compartments or installations of central services such as power, light, gas, cold and hot water, heating, central air conditioning or central refrigeration, swimming pools, reservoirs, water tanks and pumps, and the like;

(6) the elevators, garbage and trash incinerators and, in general, all devices or installations existing for common use; and

(7) all other elements of the building 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 condominium units, such as special corridors, stairways, and elevators, sanitary services common to the apartments of a particular floor, and the like.

(h) "Majority of co-owners", "two-thirds of the co-owners", and "three-fourths of the co-owners" mean, respectively, 51, 66 $\frac{2}{3}$, and 75 per centum or more of the votes of the co-owners computed in accordance with their percentage interests as established under section 6 of this Act.

(i) "Plat of condominium subdivision" means the plat of the surveyor of the District of Columbia establishing the condominium units, accessory units, general common elements, and limited common elements.

(j) "Person" means a natural individual, corporation, trustee, or other legal entity or any combination thereof.

(k) "Developer" means a person that undertakes to develop a real estate condominium project.

(l) "Property" means and includes the lands whether leasehold, if separable as defined in (f)(1) of this section, or in fee simple, the building, all improvements and structures thereon, and all easements, rights, and appurtenances thereunto belonging.

(m) "To record" means to record in accordance with the provisions of section 499 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (31 Stat. 1189, 1268).

(n) "Common expenses" means and includes—

(1) all sums lawfully assessed against the unit owners by the council of co-owners;

(2) expenses of administration, maintenance, repair, or replacement of the common areas and facilities, including repair and replacement funds as may be established;

(3) expenses agreed upon as common expenses by the council of co-owners;

(4) expenses declared common expenses by the provisions of this Act or by the bylaws.

(o) "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after deduction of the common expenses.

(p) All words used herein include the masculine, feminine, and neuter genders and include the singular or plural numbers, as the case may be.

SEC. 3. HORIZONTAL PROPERTY REGIMES.—Whenever the owners or the co-owners of any square or lot shall subdivide the same into a condominium project in conformity with section 9 of this Act with a plat of condominium subdivision there shall be established a horizontal property regime.

SEC. 4. STATUS OF CONDOMINIUM UNITS WITHIN A HORIZONTAL PROPERTY REGIME.—Once the property is subdivided into the horizontal property regime, a condominium unit in the building may be individually conveyed, leased, and encumbered and may be inherited or devised by will, as if it were sole and entirely independent of the other condominium units in the building of which it forms a part; the said separate units shall have the same incidents as real property and the corresponding individual titles and interests therein shall be recordable.

SEC. 5. JOINT TENANCIES, TENANCIES IN COMMON, TENANCIES BY THE ENTIRETY.—Any condominium unit may be held and owned by more than one person as joint tenants, as tenants in common, as tenants by the entirety (in the case of husband and wife), or in any other real property tenancy relationship recognized under the laws of the District of Columbia.

SEC. 6. OWNERSHIP OF CONDOMINIUM UNITS, OF COMMON ELEMENTS; DECLARATION; VOTING; INDIVIDUAL UNIT DEEDS.—(a) A condominium unit owner shall have the exclusive fee simple ownership of his unit and shall have a common right to a share, with the other co-owners, of an undivided fee simple interest in the common elements of the property, equivalent to the percentage representing the value of the unit to the value of the whole property.

(b) Said percentage interest shall not be separated from the unit to which it appertains.

(c) The individual percentages shall be established at the time the horizontal property regime is constituted by the recording among the land records of the District of Columbia, of a declaration setting forth said percentages, shall have a permanent character, and shall not be changed without the acquiescence of the co-owners representing all the condominium units in the building, which said change shall be evidenced by an appropriate amendatory declaration to such effect recorded among the land records of the District of Columbia. Said share interest shall be set forth of record, in the initial individual condominium unit deeds. Said share interests in the common elements shall, nevertheless, be subject to mutual rights of ingress, egress, and regress of use and enjoyment of the other co-owners and a right of entry to officers, agents, and employees of the Government of the United States and the government of the District of Columbia acting in the performance of their official duties.

(d) The said basic value of said undivided common interest shall be fixed for the purposes of this Act and shall not fix the market value of the individual condominium units and undivided share interests and shall not prevent each co-owner from fixing a different circumstantial value to his condominium unit and undivided share interest in the common elements, in all types of acts and contracts.

(e) In addition to the foregoing provisions, the declaration may contain other provisions and attachments relating to the condominium and to the units which are not inconsistent with this Act.

(f) Voting at all meetings of the co-owners shall be on a percentage basis, and the percentage of the vote to which each co-owner is entitled shall be the individual percentage assigned to his unit in the declaration.

(g) Individual condominium unit deeds may make reference to this Act, the condominium subdivision and land subdivision plats referred to in section 10 hereof, the declaration provided for in this section, the bylaws of the council of co-owners, and the deeds may include any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this Act.

SEC. 7. INDIVISIBILITY OF COMMON ELEMENTS; LIMITATION UPON PARTITION.—(a) The common elements, both general and limited, shall remain undivided. No unit owner, or any other person, shall bring any action for partition or division of the co-ownership permitted under section 93 and related provisions of the Act of March 3, 1901 (31 Stat. 1203), as amended by the Act of June 30, 1902 (32 Stat. 523, ch. 1329), against any other owner or owners of any interest or interests in the same horizontal property regime so as to terminate the regime.

(b) Nothing contained in this section shall be construed as a limitation on partition by the owners of one or more units in a regime as to the individual ownership of such unit or units without terminating the regime or as to the ownership of property outside the regime: *Provided*, That upon partition of any such individual unit the same shall be sold as an entity and shall not be partitioned in kind.

SEC. 8. USE OF ELEMENTS HELD IN COMMON, RIGHT TO REPAIR COMMON ELEMENTS.—(a) Each co-owner may use the elements held in common in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

(b) The manager, board of directors or of administration, as the case may be, shall have an irrevocable right and an easement to enter units to make repairs to common elements or when repairs reasonably appear to be necessary for public safety or to prevent damage to property other than the unit.

SEC. 9. CONDOMINIUM SUBDIVISION.—(a) Whenever the owner or the co-owners of any square or lot duly subdivided in conformity with section 1581 of the Act of March 3, 1901 (31 Stat. 1425), or other applicable laws of the District of Columbia, shall deem it necessary to subdivide the same into a condominium project of convenient condominium units for sale and occupancy and means of access for their accommodation, he may cause a plat or plats to be made by the surveyor of the District of Columbia, on which said plats, together, shall be expressed—

(1) the ground dimensions as set forth under such section 1581 and the exterior lengths of all lines of the building;

(2) for each floor of the condominium subdivision, the number or letter, dimensions, and lengths of finished interior surfaces of unit dividing walls of the individual condominium units; the

Post, p. 618.
D.C. Code 16-
1301; 21-213.

D.C. Code 1-
620.

elevations (or average elevation, in case of slight variance) from a fixed known point, of finished floors and of finished ceilings of such condominium units situate upon the same floor, and further expressing the area, the relationship of each unit to the other upon the same floor and their relationship to the common elements upon said floor;

(3) the dimensions and lengths of the interior finished surface of walls, elevations, from said same fixed known point, of the finished floors and of the finished ceilings of the general common elements of the building, and, in proper case, of the limited common elements restricted to a given number of condominium units, expressing which are those units;

(4) any other data necessary for the identification of the individual condominium units and the general and limited common elements.

(b) And said owners or co-owners may certify such condominium subdivisions under their hands and seals in the presence of two credible witnesses, upon the same plat or on a paper or a parchment attached thereto. And the same shall thereupon be put up, labeled, indexed, and preserved for record and deposit with the office of the surveyor for the District of Columbia in like manner as land subdivisions have been heretofore recorded or in such other books as the said surveyor may prescribe.

SEC. 10. REFERENCE TO PLAT.—When a plat of a condominium project and subdivision shall be so certified, examined, and recorded, the purchaser of any condominium unit thereof or any person interested therein, may refer to the plat and record for description in the same manner as to squares and lots divided between the Commissioners and the original proprietors and in the same manner as has been heretofore the practice for land subdivisions: *Provided*, That said purchaser or other person interested therein shall also make reference to the plat of land subdivision appearing prior to the establishment of the condominium subdivision thereupon. Any such conveyance of an individual condominium unit shall be deemed to also convey the undivided interest of the owner in the common elements, both general and limited, and of any accessory units, if any, appertaining to said condominium unit without specifically or particularly referring to the same.

SEC. 11. TERMINATION AND WAIVER OF REGIME.—(a) All the co-owners or the sole owner of a building constituted into a horizontal property regime may terminate and waive this regime and regroup or merge the individual and several condominium units with the principal property; such termination and waiver shall be by certification to such effect upon the plat of condominium subdivision establishing the particular horizontal property regime under the hands and seals of the said sole owner or co-owners, in the presence of two credible witnesses, upon the same plat or upon a paper or parchment attached thereto: *Provided*, That the said individual condominium units are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided interest in the property of the debtor co-owner and said creditors or trustees under duly recorded deeds of trust, shall signify their assent to such termination and waiver upon the aforesaid plat, paper, or parchment: *Provided further*, That should the buildings or other improvements in a condominium project be more than two-thirds destroyed by fire or other disaster, the co-owners of three-fourths of the condominium project may waive and terminate the horizontal property regime and may certify to such termination and waiver: *Provided further*, That if within ninety days of the date of such damage or destruction:

(1) the council of co-owners does not determine to repair, reconstruct or rebuild as provided in sections 21 and 22 of this Act, or,

(2) the insurance indemnity is delivered pro rata to the co-owners in conformity with the provisions of section 21 of this Act and if the co-owners do not terminate and waive the regime in conformity with this section of this Act, then any unit owner or any other person aggrieved thereby may file a petition in the United States District Court for the District of Columbia, setting forth under oath such facts as may be necessary to entitle the petitioner to the relief prayed and praying judicial termination of the horizontal property regime. Said petition may be served as provided in section 14(g) of this Act. The court may thereupon lay a rule upon the council of co-owners, unless they shall voluntarily appear and admit the allegations of the petition, to show cause, under oath, on or before the tenth day, exclusive of Sundays and legal holidays, after service of such rule, why the prayers of said petition should not be granted. If no cause be shown against the prayer of the petition by the council of co-owners, or by any one of the co-owners, the court may determine in a summary way whether the facts warrant termination and thereupon the court may decree the particular horizontal property regime terminated.

(b) In the event a horizontal property regime is terminated or waived, the property shall be deemed to be owned in common by the co-owners, and the undivided interest in the property owned in common which shall appertain to each co-owner shall be the percentage of undivided interest previously owned by such co-owner in the common elements in the property as set forth in the declaration under section 6 hereof.

(c) Upon such termination and waiver the provisions of section 10 of this Act shall no longer be applicable and reference to the principal property thereupon, shall be to the plat and record of the prior land subdivision and thereupon the restraint against partition or division of the co-ownership imposed by section 7 of this Act shall no longer apply. In the event of such partition suit the net proceeds shall be divided among all the unit owners, in proportion to their respective undivided ownership of the common elements, after first paying off, out of the respective shares of the unit owners, all liens on the unit of each unit owner. To be valid such termination shall be recorded among the land records of the District of Columbia.

SEC. 12. MERGER NO BAR TO RECONSTITUTION.—The merger provided for in the preceding section shall in no way bar the subsequent constitution of the property into another horizontal property regime whenever so desired and upon observance of the provisions of this Act.

SEC. 13. BYLAWS, AVAILABILITY FOR EXAMINATION.—(a) The administration of every building constituted into a horizontal property regime shall be governed by the bylaws as the council of co-owners may from time to time adopt, which said bylaws together with the declaration, including recorded attachments thereto, referred to in section 6 of this Act shall be available for examination by all the co-owners, their duly authorized attorneys or agents, at convenient hours on working days that shall be set and announced for general knowledge.

(b) A true copy of said bylaws shall be annexed to the declaration referred to in section 6 of this Act and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

(c) Each unit 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. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager, the administrator, board of directors or of administration, or as specified in the bylaws or in proper case, by an aggrieved unit owner.

SEC. 14. NECESSARY CONTENTS OF BYLAWS; MODIFICATION OF SYSTEM.—(a) The bylaws must necessarily provide for at least the following:

(1) Form of administration, indicating whether this shall be in charge of an administrator, manager, or of a board of directors, or of administration, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.

(2) Method of calling or summoning the co-owners to assemble; that a majority of co-owners is required to adopt decisions, except as otherwise provided in this Act; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded.

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

(4) Manner of collecting from the co-owners for the payment of common expenses.

(5) Designation, hiring, and dismissal of the personnel necessary for the good working order of the building and for the proper care of the general or limited common elements and to provide services for the building.

(6) Such restrictions on or requirements respecting the use and maintenance of the units and the use of the common elements as are designed to prevent unreasonable interference with the use of the respective units and of the common elements by the several unit owners.

(7) Designation of person authorized to accept service of process in any action relating to two or more units or to the common elements as authorized under section 24 of this Act. Such person must be a resident of and maintain an office in the District of Columbia.

(8) Notice as to the existence or nonexistence of a declaration in trust for the enforcement of the lien for common expenses permitted under section 19 of this Act.

(b) The sole owner of the building, or if there be more than one, the co-owners representing two-thirds of the votes provided for in section 6 of this Act 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.

SEC. 15. BOOKS OF RECEIPTS AND EXPENDITURES; AVAILABILITY FOR EXAMINATION.—The manager, administrator, or the board of directors, or of administration, or other form of administration specified in the bylaws, shall keep books with detailed accounts in chronological order, of the receipts and of the expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred. Both said books and the vouchers accrediting the entries made thereupon shall be available for examination by the co-owners, their duly authorized agents or attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good account-

ing practice and shall be audited at least once a year by an auditor outside the organization.

SEC. 16. COMMON PROFITS, CONTRIBUTIONS FOR PAYMENT OF COMMON EXPENSES OF ADMINISTRATION AND MAINTENANCE.—(a) The common profits of the property shall be distributed among and the common expenses shall be charged to the unit owners according to the percentages established by section 6 of this Act: *Provided*, That for purposes of the application of the District of Columbia Income and Franchise Tax Act of 1947 (61 Stat. 331), as amended, the council of co-owners shall, in accordance with the provisions of said Act, be regarded as constituting an unincorporated business and shall file returns and pay taxes upon the taxable income derived from the common areas without regard to the "common profits" as defined in this Act.

(b) All co-owners are bound to contribute in accordance with the said percentages toward the expenses of administration and of maintenance and repairs of the general common elements, and, in proper case, of the limited common elements of the building and toward any other expenses lawfully agreed upon by the council of co-owners.

(c) No owner shall be exempt from contributing toward such common expenses by waiver of the use or enjoyment of the common elements both general and limited, or by the abandonment of the condominium unit belonging to him.

(d) Said contribution may be determined, levied, and assessed as a lien on the first day of each calendar or fiscal year, and may become and be due and payable in such installments as the bylaws may provide, and said bylaws may further provide that upon default in the payment of any one or more of such installments, the balance of said lien may be accelerated at the option of the manager, board of directors, or of management and be declared due and payable in full.

SEC. 17. PRIORITY OF LIENS.—The lien determined, levied and assessed in accordance with section 16 of this Act shall have preference over any other assessments, liens, judgments, or charges of whatever nature, except the following:

(a) Real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas, special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, and water charges and sanitary sewer service charges levied on the condominium unit, and judgments, liens, preferences, and priorities for any tax assessed against a co-owner by the United States or the District of Columbia or due from or payable by a co-owner to the United States or the District of Columbia, and judgments, liens, preferences, and priorities in favor of the District of Columbia for assessments or charges referred to in this subparagraph.

(b) The liens of any deeds of trust, mortgage instruments, or encumbrances duly recorded on the condominium unit prior to the assessment of the lien thereon or duly recorded on said unit after receipt of a written statement from the manager, board of directors, or of management reflecting that payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument, or encumbrance.

Upon a voluntary sale or conveyance of a condominium unit all unpaid assessments against a grantor co-owner for his pro rata share of the expenses to which section 16 of this Act refers shall first be

paid out of the sales price or by the grantee in the order of preference set forth above. Upon an involuntary sale through foreclosure of a deed of trust, mortgage, or encumbrance having preference as set forth in subparagraph (b) of this section a purchaser thereunder shall not be liable for any installments of such lien as became due prior to his acquisition of title. Such arrears shall be deemed common expenses, collectible from all co-owners, including such purchaser.

SEC. 18. JOINT AND SEVERAL LIABILITY OF PURCHASER AND SELLER FOR AMOUNTS OWING UNDER SECTION 16; PURCHASER'S RECOVERY, PURCHASER'S OR LENDER'S RIGHT TO A STATEMENT SETTING FORTH AMOUNT DUE.—The purchaser of a condominium unit in a voluntary sale shall be jointly and severally liable with the seller for the amounts owing by the latter under section 16 of this Act upon his interest in the condominium unit up to the time of conveyance; without prejudice to the purchaser's right to recover from the other party the amounts paid by him as such joint debtor: *Provided*, That any such purchaser, or a lender under a deed of trust, mortgage, or encumbrance, or parties designated by them, shall be entitled to a statement from the manager, board of directors, or of administration, as the case may be, setting forth the amount of unpaid assessments against the seller or borrower, and the unit conveyed or encumbered shall not be subject to a lien for any unpaid assessment in excess of the amount set forth.

SEC. 19. SUPPLEMENTARY METHOD OF ENFORCEMENT OF LIEN.—(a) In addition to proceedings available at law or equity for the enforcement of the lien established by section 16 of this Act, all the owners of property constituted into a horizontal property regime may execute bonds conditioned upon the faithful performance and payment of the installments of the lien permitted by section 16 of this Act and may secure the payment of such obligations by a declaration in trust recorded among the land records of the District of Columbia, granting unto a trustee or trustees appropriate powers to the end that upon default in the performance of such bond, said declaration in trust may be foreclosed by said trustee or trustees, acting at the direction of the manager, board of directors, or of management, as is proper practice in the District of Columbia in foreclosing a deed of trust.

(b) And the bylaws may require in the event such bonds have been executed and such declaration in trust is recorded that any subsequent purchaser of a condominium unit in said horizontal property regime shall take title subject thereto and shall assume such obligations: *Provided*, That the said lien, bond, and declaration in trust shall be subordinate to and a junior lien to liens for real estate taxes and other taxes arising out of or resulting from the ownership, use, or operation of the common areas, liens for special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads, and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, and liens for water charges and sanitary sewer service charges levied on the condominium unit, and to judgments, liens, preferences, and priorities for any tax assessed against a co-owner by the United States or the District of Columbia or due from or payable by a co-owner to the United States or the District of Columbia, and to judgments, liens, preferences, and priorities in favor of the District of Columbia for assessments or charges referred to in this section then or thereafter accruing against the unit and to the lien of any duly recorded deeds of trust, mortgages, or encumbrances previously placed upon the unit and said lien, bond, and declaration in trust shall be and become subordinate to any subse-

quently recorded deeds of trust, mortgages, or encumbrances: *Provided*, That the lender thereunder shall first obtain from the manager, board of directors, or of administration a written statement as provided in section 18 of this Act reflecting that payments due under this lien are current as of the date of recordation of such subsequent deed of trust, mortgage, or encumbrance.

SEC. 20. INSURING BUILDING AGAINST RISKS; INDIVIDUAL RIGHTS OF CO-OWNERS.—The manager or the board of directors, if required by the bylaws or by a majority of the co-owners, or at the request of a mortgagee having a first mortgage of record covering a unit, shall have the authority to, and shall, obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the council of co-owners, as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. Provision for such insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit.

SEC. 21. APPLICATION OF INSURANCE PROCEEDS TO RECONSTRUCTION; PRO RATA DISTRIBUTION IN CERTAIN CASES; RULES GOVERNING.—(a) In case of fire or other disaster the insurance indemnity shall, except as provided in the next succeeding paragraph of this section, be applied to reconstruct the building.

(b) Reconstruction shall not be compulsory where destruction comprises the whole or more than two-thirds of the buildings and other improvements in a condominium project. In such cases, and unless otherwise unanimously agreed upon by the co-owners, the indemnity shall be delivered pro rata to the co-owners entitled to it in accordance with provisions made by the bylaws or in accordance with a decision of three-fourths of the co-owners, if there be no bylaw provision, after first paying off, out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the unit of each co-owner. Should it be proper to proceed with the reconstruction, the provision for such eventuality made in the bylaws shall be observed, or in lieu thereof, the decision of the council of co-owners shall prevail, subject to all provisions of law and regulations of the District of Columbia then in effect.

SEC. 22. SHARING OF RECONSTRUCTION COST WHERE BUILDING IS NOT INSURED OR INSURANCE INDEMNITY IS INSUFFICIENT.—Where the building 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 the co-owners in the same proportion as their proportionate ownership of the common elements of the condominium project, 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 and the share of the resulting common expense may be assessed against all the co-owners and such assessment for this expense shall have the same priority as provided under section 17 of this Act.

SEC. 23. SEPARATE TAXATION.—(a) For the purposes of assessment and taxation of property constituted into a horizontal property regime and to conform to the system of numbering squares, lots, blocks, and parcels for taxation purposes in effect in the District of Columbia, each condominium unit duly situate upon a subdivided lot and square shall bear a number or letter that will distinguish it from every other condominium unit situate in said lot and square.

(b) Each of said condominium units shall be carried on the records of the District of Columbia as a separate and distinct entity and all

real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas, special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads, and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, shall be assessed, levied, and collected against each of said several separate and distinct units in conformity with the percentages of co-ownership established by section 6 of this Act, and in accordance with the provisions of law in effect in the District of Columbia relating to assessment, levying, and collection of real property taxes.

(c) The council of co-owners shall be liable for the filing of returns and payment of the tax on personal property located in the common areas and held for use or used in a trade or business or held for sale or rent.

(d) The title to an individual condominium unit shall not be divested or in anywise affected by the forfeiture or sale of any or all of the other condominium units for delinquent real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas, special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads and avenues, removal or abatement of nuisances, special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, or water charges and sanitary sewer service charges: *Provided*, That the real estate taxes, the duly levied share of such other taxes and of such special assessments, and the water and sanitary sewer service charges on or against said individual condominium unit are currently paid.

SEC. 24. ACTIONS; RIGHT TO SEPARATE RELEASE OF JUDGMENT.—(a) Without limiting the right of any co-owner, actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear, by the manager, or board of directors, or of administration with respect to any cause of action relating to the common elements or more than one unit.

(b) Service of process on two or more unit owners in any action relating to the common elements may be made on the person designated in the bylaws in conformity with section 14(g) of this Act.

(c) In the event of entry of a final judgment as a lien against two or more unit owners, the unit owners of the separate units may remove their unit and their percentage interest in the common elements from the lien thereof by payment of the fractional proportional amounts attributable to each of the units affected. Said individual payment shall be computed by reference to the percentage established pursuant to section 6 of this Act. After such partial payment, partial discharge, or release or other satisfaction, the unit and its percentage interest in the common elements shall thereafter be free and clear of the lien of such judgment.

(d) Such partial payment, satisfaction, or discharge shall not prevent such a judgment creditor from proceeding to enforce his rights against any unit and its percentage interest in the common elements not so paid, satisfied, or discharged.

SEC. 25. MECHANICS' AND MATERIALMEN'S LIENS, ENFORCEMENT THEREOF; REMOVAL FROM LIEN; EFFECT OF PART PAYMENT.—(a) Subsequent to establishment of a horizontal property regime as provided in this Act, and while the property remains subject to this Act, no lien shall thereafter arise or be effective against the property.

During such period liens or encumbrances shall arise or be created and enforced only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit 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 or real property subject to individual ownership: *Provided*, That no labor performed or materials furnished with the consent or at the request of a unit owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a lien pursuant to the provisions of section 1237 of the Act of March 3, 1901 (31 Stat. 1384), against the unit or any other property of any other unit 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 unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the council of co-owners, the manager, or board of directors in accordance with this Act, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the provisions of section 1237 of the Act of March 3, 1901 (31 Stat. 1384), against each of the units and shall be subject to the provisions of subparagraph (b) hereunder. Notice of said lien may be served on the person designated in conformity with section 14(g) of this Act.

D. C. Code 38-101.

(b) In the event of filing of a lien against two or more units and their respective percentage interest in the common elements, the unit owners of the separate units may remove their unit and their percentage interest in the common elements appurtenant thereto from the said lien by payment, or may file a written undertaking with surety approved by the court as provided in section 1254 of the Act of March 3, 1901 (31 Stat. 1387), of the fractional or proportional amounts attributable to each of the units affected. Said individual payment, or amount of bond, shall be computed by reference to the percentage established pursuant to section 6 of this Act. After such partial payment, filing of bond, partial discharge, or release, or other satisfaction, the unit and its percentage interest in the common elements shall thereafter be free and clear of such lien. Such partial payment, indemnity, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and its percentage interest in the common elements not so paid, indemnified, satisfied, or discharged.

D. C. Code 38-118.

SEC. 26. NONAPPLICATION OF RULE AGAINST PERPETUITIES AND OF RULE AGAINST UNREASONABLE RESTRAINTS ON ALIENATION TO HORIZONTAL PROPERTY REGIMES.—The rule of property known as the rule against perpetuities, and the rule of property known as the rule restricting unreasonable restraints on alienation, sections 1023 and 1025 of the Act entitled "An Act to establish a code of laws for the District of Columbia", approved March 3, 1901 (31 Stat. 1351, ch. 854), shall not be applied to defeat any of the provisions of this Act, or of any declaration, bylaws, or other document executed in accordance with this Act as to the condominium project. This exemption shall not apply to estates in the individual condominium units.

D. C. Code 45-102; 45-104.

SEC. 27. SUPPLEMENT OF EXISTING CODE PROVISIONS.—The provisions of this Act shall be in addition to and supplemental to all other provisions of law of the District of Columbia and wheresoever there appears in the provisions the words "square", "lot", "land", "ground", "parcel", "property", "block", or other designation denoting a unit of land, where appropriate to implement this Act, after such descriptive terms, there shall be deemed inserted reference to a

condominium unit, condominium subdivision, or horizontal property regime, whichever shall be appropriate to effect the ends and purposes of this Act: *Provided*, That wherever the application of the provisions of this Act conflict with the application of such other provisions, the provisions of law generally applicable to buildings in like use in the District of Columbia shall prevail.

SEC. 28. REGULATIONS OF THE BOARD OF COMMISSIONERS AND THE ZONING COMMISSION.—In order to bring horizontal property regimes into compliance with the laws and regulations in effect in the District of Columbia, the Board of Commissioners of the District of Columbia and the Zoning Commission of the District of Columbia are each hereby authorized to adopt and enforce such regulations as either deems proper, within its respective general authority.

SEC. 29. INTERPRETATION.—(a) This Act shall be interpreted in such a manner as to require each condominium unit and each horizontal property regime to be in compliance with all District of Columbia laws and regulations relating to property of like type, whether it be designed for residence, for office, for the operation of any industry or business, or for any other use. The owner of each condominium unit shall be responsible for the compliance of his unit with such laws and regulations, and the council of co-owners and any person designated by them to manage the regime shall be jointly and severally liable for compliance with all such laws and regulations in all matters relating to the common elements of the regime.

(b) Notwithstanding any provision of this Act, the owner of each condominium unit shall have the same responsibility for the payment of all taxes, assessments, and other charges due to the District of Columbia as does any other person or property owner similarly situated.

(c) Notwithstanding any provision of this Act, the method of enforcement available to the District of Columbia to collect any tax or assessment or any charge from any individual property owner or any building owner shall be available to collect taxes, assessments, and charges from individual condominium unit owners and from the council of co-owners.

(d) Nothing contained in this Act shall in any way be construed as affecting the right to institute and maintain eminent domain proceedings.

SEC. 30. SUPPLEMENTAL PROVISIONS RELATING TO SEWER AND WATER SERVICES.—(a) Notwithstanding any provision of this Act, the developer or co-owners of any horizontal property regime shall have the right to have installed for each and every individual unit a separately metered water service. Such installations shall be subject to all laws and regulations then or thereafter in effect in the District of Columbia. Upon the establishment of such separate water services each unit owner and his successor in title and persons occupying such units shall be responsible for the payment to the District of Columbia of all water and sewer charges rendered and the Commissioners of the District of Columbia are authorized to enforce any and all of the remedies for collection of such charges as are authorized by law.

(b) A common water service is hereby expressly authorized for any horizontal property regime and in the event that a horizontal property regime is provided with a common water service to the charges for sewer and water service shall be billed to the person designated by the co-owners, pursuant to the bylaws, to manage the regime. In the event that the entire sewer and water charges are not paid within the time specified by law for the payment of sewer and water charges, the Commissioners shall be authorized to enforce payment

in any manner authorized by law, including, but not limited to, the assessment of an additional charge for late payment, the shutting off of water to the regime and the enforcement of the liens for nonpayment of such charges against the individual units in conformity with the percentage of co-ownership established by section 6 of this Act.

SEC. 31. AUTHORITY OF BOARD OF COMMISSIONERS UNDER REORGANIZATION PLAN NUMBERED 5 OF 1952.—Nothing in this Act or in any amendments made by this Act shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this Act in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan.

SEC. 32. SEVERABILITY.—If any provision of this Act, or any section, sentence, clause, phrase, or word or the application thereof, in any circumstances is held invalid, the validity of the remainder of this Act, and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby and to this end, the provisions of this Act are declared severable.

SEC. 33. EFFECTIVE DATE.—This Act shall take effect one hundred and twenty days after its enactment.

Approved December 21, 1963.

Public Law 88-219

AN ACT

December 21, 1963
[H. R. 5778]

To amend title 39, United States Code, to increase from 10 to 20 miles the area within which the Postmaster General may establish stations, substations, or branches of post offices, and for other purposes.

Branch post offices and stations.
Area increase.
74 Stat. 583.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (c) and (d) of section 705 of title 39, United States Code, are amended to read as follows:

“(c) The Postmaster General may establish stations, substations, or branches of a post office within twenty miles of the outer boundary or limits of a village, town, or city having 1,500 or more inhabitants and in which the principal office is located. This authority may not be used by the Postmaster General as a basis for discontinuing an established post office.

“(d) The Postmaster General may establish stations, substations, or branches of a post office at camps, posts, or stations of the Armed Forces, at defense or other strategic installations, and at airports.”

Approved December 21, 1963.