

## Book III - Property Law

### Chapter V - Horizontal property

#### Section I - General Provisions

##### Article 1313

(General principle)

The units that are part of a condominium, which are cable of being independent units, may be owned by different persons, under a horizontal property régime.

##### Article 1314

(Scope of condominium)

1. A condominium can be made of a single building or of a group of buildings.

2. For a group of buildings to be part of a single condominium, it is necessary that the buildings that compose it are functionally linked between each other, by means of parts that are common to the group of buildings, and which are usable by part or all of the owners.

3.

4.

##### Article 1315

(Object of horizontal property)

1. A condominium can be set up for autonomous units which, besides being independent, are separate and isolated of each other, with a separate exit towards a common part of the condominium or a public road.

2. Car parks can also be autonomous units, provided that the respective space is sufficiently marked and has an exit towards a common part of the condominium or a public road, even if such car parks are not separate units isolated of each other.

3.

##### Article 1316

(Lack of legal requirements)

Section II - Creation

Article 1317  
(General principle)

Article 1318  
(Specification of units)

Article 1319  
(Specification of buildings and sub-condominiums)

Article 1320  
(Other information specified in the title)

Article 1321  
(Modification of the title)

Article 1322  
(Union and separation of units)

Section III - Rights of co-owners over the building and their limitations

Article 1323  
(Rights of co-owners over the building)

1. Each individual owner is the exclusive owner of his unit, and co-owner of the common parts of the condominium.

2. The whole of the two rights is not divisible; none may be sold separately, nor is it lawful to renounce to the common part as a means for the co-owner to release himself from the expenses necessary for its conservation and use.

Article 1324  
(Common parts of the building)

Article 1325  
(Limitations to the exercise of rights)

Article 1326

(Rights of pre-emption and division)

The co-owners do not enjoy a pre-emption right in the sale of units nor the right to request the division of common parts.

Section IV - Administration of condominium

Subsection I - General provisions

Article 1327

(Object)

The administration of a condominium includes the acts tending to promote and regulate the use, fruition, and conservation of the common parts of the building, as well as other acts which, in accordance with this chapter, fall in the competence of the condominium organs.

Article 1328

(Administration régimes)

1. The administration of a condominium may be subject to a régime of simple administration, regulated in the following subsection, or be subject, in accordance with the following paragraphs, to a régime of complex administration, regulated in subsection III.

Article 1329

(Organs of administration)

1. If the régime of simple administration applies, the administration of the common parts of the condominium is the competence of an organ of a deliberative nature, called the general assembly of the condominium, and an organ of an executive nature, called the administration.

Subsection II - Régime of simple administration

Division I - Rights, obligations and expenses of the co-owners regarding the administration

Article 1330

(Rights of co-owners)

The co-owners have the rights:

- a) to participate in the meetings of the general meeting of the condominium;
- b) to call extraordinary meetings of the condominium general meeting, in accordance with paragraph 3 of article 1344;
- c) to present to the administration any complaints deemed convenient regarding the execution of the functions tasked to this organ;
- d) to appeal from the acts of the administration to the general meeting of the condominium;
- e) to initiate judicial proceedings against the administration for breach, with fault, of their obligations;
- f) all other rights granted by law.

Article 1331

(Obligations of co-owners)

Article 1332

(Conservation and fruition expenses)

Article 1333

(Common reserve fund)

1. It is compulsory to create a common reserve fund to pay for unforeseeable and costly expenses, namely with maintenance of the common parts of the building.
2. This fund is made of:
  - a) One tenth of the fixed costs of the condominium, without prejudice of a resolution requiring an higher amount by the general meeting of the condominium;
  - b) The amount arising from fines applied in accordance with article 1341;
  - c) The money arising from sanctions that the law enables to add to amounts due, in accordance with paragraph 5 of the previous article.
3. The general meeting has competence to set the rules on the management of the common reserve fund, which may be deposited in a bank.

Article 1334

(Innovations)

Article 1335

(Costs with innovations)

Article 1336  
(Urgent and necessary repairs)

Article 1337  
(Destruction of the building)

Article 1338  
(Insurance)

1. It is compulsory to insure the building against the risk of fire, both the units and the common parts.

Article 1339  
(Debts for condominium expenses)

Article 1340  
(Internal regulation of condominium)

Article 1341  
(Monetary penalties)

Article 1342  
(Arbitration)

Article 1343  
(Transfer of rights and obligations of co-owners regarding normal administration)

## Division II - General meeting of the condominium

Article 1344  
(Meetings)

1. If the co-owners have not yet had a meeting, the de facto administrator or the developer, or, if it exists, the entity responsible for the management of the condominium, shall call the first general meeting as soon as half of the units are sold or there is a 30% occupancy rate, in order to elect the administration, to approve the budget for that year and, if needed, to prepare the internal regulations and to decide on the amount of fire insurance to underwrite; they shall be jointly liable for the damage caused if they do not do so.

2. The general meeting of the condominium meets every year during the month of January, upon call by the administration, to discuss and approve the accounts of the previous year and to approve the budget for the upcoming year.

3. A general meeting shall also be held when called by the administration or by co-owners representing at least one tenth of the total value of the condominium.

4. If the general meeting is not called when it should in accordance with paragraphs 1 and 2, any co-owner may call the a general meeting or request the court to order any of the people responsible to do so.

#### Article 1345

##### (Call)

1. A general meeting of the condominium is called by means of a registered letter, sent at least 10 days in advance, to the place or places mentioned in the following paragraph, or by hand delivery done with the same advance notice and in the same places.

2. The call shall be sent to the unit which the co-owner owns or to an address that he has expressly provided to the administration;

3. The call must state the date, time, agenda and place of the meeting, and it shall be drafted in one of the official languages; whenever possible, it shall be sent together with a translation if there are co-owners who only understand the other.

4. The call shall be affixed in the entrance of the building, or in each of the buildings, if the condominium has more than one, or in other place of passage common to the co-owners, during the 8 days preceding the meeting.

5. If the meeting is called to approve the accounts and the project of annual budget, to approve or modify the internal rules of the condominium, or to modify the title of creation of the horizontal property, the call shall have enclosed, respectively, the accounts and the budget project, the projet of internal rules, and the project of modification of the title of creation of the horizontal property, or, at least, it shall indicate the place or places where such elements may be consulted by the co-owners without excessive inconvenience; the entrance of the building, or of each of the buildings, shall be included among such places, whenever possible.

#### Article 1346

##### (Representation)

#### Article 1347

##### (Functioning)

1. Unless special provisions apply, resolutions are passed by a number of co-owners representing more than half of the total value of the condominium.

2. Each co-owner has in the meeting as many votes as the percentage or per thousand of his unit or units.

3. If, one hour after the time set, a number of co-owners sufficient to pass resolutions is not in attendance, and the call has not already set another date, it shall be considered that another meeting is called for the same day of the following week, in the same place and at the same time; in this case, the meeting, except where the law requires a specific majority, may pass resolutions with the votes of the co-owners present, provided that these represent, at least, a quarter of the total value of the condominium.

4. However, in the case of a meeting called to approve the initial internal regulation of the condominium, if such must exist, or to approve the accounts and the project of annual budget, the meeting may pass resolutions on such matters, in a second call, by a majority of votes of the co-owners in attendance, irrespective of the value that they represent in the total value of the condominium, if the initial call expressly states this possibility.

5. Whenever there are co-owners who express themselves in only one of the official languages and others who only express themselves in the other, the administration shall, whenever possible, provide an interpreter.

#### Article 1348

(Resolutions that require unanimity)

#### Article 1350

(Invalid resolutions)

### Division III - Administration

#### Article 1354

(Composition, remuneration, and term of office)

1. The administration is made of one or more administrators.
2. If there are several administrators, and unless there is a resolution of the general meeting to the contrary:
  - a) one of the administrators shall preside;
  - b) the president has a casting vote;
  - c) the president shall have the task of calling the meetings of the administration;
  - d) decisions are passed by a majority of members present.

3. The position of administrator may be paid in accordance with terms and conditions set by the general meeting or, in their absence, in accordance with the rules regulating the mandate contract.

4. The administration's mandate cannot exceed 2 years, which can be renewed by a decision of the general meeting; any longer time limit stated in the act of appointment of administration is deemed to be reduced to 2 years.

#### Article 1355

##### (Election and dismissal)

1. The board is elected and dismissed by the general meeting; any clauses of any contracts subscribed by the co-owners providing otherwise, or any agreements transferring the administration of the condominium concluded without the assent of the general meeting, shall be void.

2. In accordance with paragraph 1 or article 1344, the administration voted by the general assembly replaces the one that may have been selected by the property developer; if compensation is due for the unilateral renovation of the contract with the administrator entity, only the promoter is responsible for such.

3. If the general meeting cannot elect an administration, the court shall appoint one upon request of any co-owner, in accordance with civil procedure law.

4. The administration can also be judicially dismissed, in accordance with civil procedure law, upon request of any owner, if it is shown that any of its holders has practiced irregularities or acted with negligence in the exercise of his functions.

#### Article 1356

##### (Administration by third party)

1. The terms of the exercise of the administration of the condominium by a third party must be stated in a service contract executed in writing.

2. Any clause of the service contract granting to the administrator entity a right to any compensation for the case of non-renewal of the contract, or any similar clause, shall be void.

#### Article 1357

##### (Functions)

1. The functions of the administration, besides others that may be granted to it by the general meeting, by the condominium regulations or by law, shall be the following:

- a) to call the general meeting of the condominium;



- b) to prepare the accounts, to present them, and to prepare the budget of income and expenses for each year;
- c) to conclude and maintain in force insurance against the risk of fire and other types of risks, in accordance with article 1338;
- d) To collect income and to effect payment of the condominium expenses;
- e) To request from owners their share in the expenses approved;
- f) To effect acts of conservation of the rights relating to common property;
- g) To regulate the use of common goods and the provision of services of common interest, without prejudice to the condominium regulations;
- h) To execute the resolutions of the general meeting;
- i) To initiate judicial action for the collection of the amounts mentioned in article 1339;
- j) To act on behalf of the totality of the owners before administrative authorities;
- l) To ensure the dissemination of the rules relating to condominium security;
- m) To ensure the maintenance of the car park markings and their identification;
- n) To provide to interested parties the data it may have relating to the addresses whereto the calls of general meetings should be sent;
- o) To provide copies of the condominium regulations to owners and to third parties bound by it;
- p) To ensure the execution of the regulations and of legal provisions relating to the condominium.

2. The administration, in the month preceding the end of its mandate, must render accounts and hand all documents pertaining to the condominium which might be under its custody.

Article 1358  
(Right of inspection)

Article 1359  
(Legitimacy)

Article 1360  
(Appeal from acts of the administration)

Subsection III - Régime of complex administration

Division I - Rights, obligations and expenses of the owners regarding the  
administration

Article 1361  
(Reference)

Article 1362  
(Sharing of expenses and their payment)

Article 1363  
(Sinking fund)

Article 1364  
(Regulations)

Division II - Categories of condominium common parts

Article 1365  
(Common parts of subcondominiums)

Article 1366  
(Common parts of the entire condominium)

Division III – General meetings

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