

# Condominiums: A New Generation

Proposing the Uniform Act  
with Modifications

General Assembly of the Commonwealth of Pennsylvania  
**JOINT STATE GOVERNMENT COMMISSION**  
Harrisburg, Pennsylvania  
September 1978

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The Joint State Government Commission was created by Act of 1937, July 1, P.L. 2460, as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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# Condominiums in Pennsylvania

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**GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA  
JOINT STATE GOVERNMENT COMMISSION**

**ROOM 450 - CAPITOL BUILDING  
HARRISBURG 17120**

September 11, 1978

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

This report proposes a modern, comprehensive condominium law for Pennsylvania in a large part incorporating the uniform act recommended for national adoption.

The Joint State Government Commission expresses appreciation to the Task Force on Condominiums in Pennsylvania, under the able leadership of Senator John James Sweeney, and the advisory committee for their invaluable assistance in the preparation of this legislation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Fred J. Shupnik".

Fred J. Shupnik  
Chairman



## Contents

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I. CONDOMINIUMS: THE PENNSYLVANIA EXPERIENCE . . . . .	1
II. RECOMMENDATIONS . . . . .	5
III. SOURCES AND PENNSYLVANIA COMMENTS . . . . .	9





## I. Condominiums: The Pennsylvania Experience

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*Ancient Romans developed condominiums to deal with a dwindling supply of land and soaring building costs. Today, Americans face the same problems in their cities, suburbs and resort areas and the 2,000 year-old solution has been rediscovered.<sup>1</sup>*

Pennsylvania was among the first states to legislatively authorize the establishment of condominiums by the enactment of the Unit Property Act, July 3, 1963, P.L. 196, No. 117. This form of ownership of real estate has recently increased in popularity in Pennsylvania to the point that the Commonwealth is now one of the ten states that contain nearly 70 percent of all condominium units.<sup>2</sup> It has been reported that "More than four million Americans are already living in condominiums and the Department of HUD estimates that more than half of us will be occupying some form of condominium housing within the next two decades."<sup>3</sup>

All states presently provide statutorily for the establishment of condominiums, and the upsurge in their development--especially marked since the early 1970's--has led to significant legislative revision, resulting in so-called

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1. William R. Breetz, Jr., Esq., "Dealing with the Condo Concept--How the UCA Does It," Uniform Law Memo (Winter 1977-78), p. 9.

2. U.S., Congress, House, Committee on Banking, Currency and Housing, Subcommittee on General Oversight and Renegotiation, Report on Condominium Development and Sales Practices Together with Additional Views, 94th Cong., 2nd Sess., (Washington, D.C.: Government Printing Office, 1976), p. 1. The other nine states are Florida, California, New York, Illinois, Michigan, Texas, New Jersey, Arizona and Maryland.

3. Richard Phalon, "Family Money: The Pitfalls in Budgeting for a Condominium," New York Times, 24 November 1977, sec. III, p. 14.

"second-generation" condominium statutes.<sup>4</sup> These statutes provide additional flexibility to developers while incorporating consumer-protection provisions.

A congressional report points out that Pennsylvania, unlike most other states with substantial condominium activity, does not have consumer protection provisions in its condominium statute.<sup>5</sup> It is apparent that Pennsylvania's Unit Property Act, unamended since 1963, was drafted to encourage condominium development at a time when there was less recognition of the need for statutory consideration of consumer protection.<sup>6</sup> Further, while the 1963 act was pioneer legislation, the increased use nationally of the condominium form of ownership has brought to light substantial deficiencies in that law which impede Pennsylvania developers, prospective purchasers, lending institutions, insurers and local governments, etc., from confidently participating in this activity.

Recognizing these shortcomings, the Senate directed the Joint State Government Commission "to study and investigate the law and procedures relating to the establishment and operation of condominiums in Pennsylvania and elsewhere; and . . . submit a report of its findings and recommendations to the General Assembly together with . . . legislation."<sup>7</sup> The study had been suggested by the Pennsylvania Bar Association's Condominium Committee which had considered the problems and was drafting proposed legislation.

The Commission's Task Force on Condominiums in Pennsylvania, chaired by Senator John James Sweeney, and its advisory committee decided that either extensive amendment to the Unit Property Act or an entirely new statute was required. Since the National Conference of Commissioners on Uniform State Laws was in the process of drafting a uniform condominium act, the advisory committee agreed to study the working drafts and consider recommending the adoption of the proposed act in Pennsylvania. After careful review, the advisory committee decided upon the uniform-act approach with policy and

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4. For example, see 47 Conn. Gen. Stat. Ann. 68(a) et seq. (1976); 20A Fla Stat. Ann. 718.101 et seq. (1976); 7 Haw. Rev. Stat. 514A-1 et seq. (1977); and 8 Va. Code 55-79.39 et seq. (1974).

5. Subcommittee on General Oversight and Renegotiation, Report on Condominium Development and Sales Practices, pp. 23-24.

6. See J. Leonard Smith, Jr., "The Case for a Condominium Law in Pennsylvania," 33 Pa.B.Q. 513 (1962).

7. Senate Resolution No. 67, adopted March 22, 1976.

technical modifications tailored to Pennsylvania's law and practice.<sup>8</sup> This decision acknowledged the need for national uniformity:

The statutes governing condominiums in the various states use varying and sometimes inappropriate terminology, and differ in numerous details, all of which make it difficult for a national lender to assess the appropriateness of condominium documents and of condominium financing arrangements in those states. Moreover, the varying statutes, creating different "bundles of rights" for purchasers of condominiums in the various states, also make it difficult for the increasingly mobile consumer to become educated in this very complex area.<sup>9</sup>

The advisory committee delayed its final recommendations until the national conference's completed work, promulgated in August 1977, was approved by the American Bar Association on February 14, 1978.

Part II of this report sets out the recommendations of the Task Force and Advisory Committee on Condominiums in Pennsylvania. Part III presents the source material for each proposed section and provides Pennsylvania Comments where applicable.

The advisory committee's recommendations--which were adopted by the task force--result from the substantial efforts of its chairman, William E. Mowatt, Esquire, and by its members who are representative of consumers, developers, realtors, insurers, lenders and the Pennsylvania Bar Association.

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8. In the course of its review, the task force and advisory committee benefited from the direct participation of persons involved in the preparation of the Uniform Condominium Act--in particular, Robert M. Diamond, Esq., a reporter for the National Conference's Special Committee on the Uniform Condominium Act, and Wayne S. Hyatt, Esq., an advisor to the special committee.

9. See National Conference of Commissioners on Uniform State Laws, Uniform Condominium Act (Chicago, 1978), p. 1.



## II. Recommendations

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The Task Force and Advisory Committee on Condominiums in Pennsylvania recommend adoption of the Uniform Condominium Act with modifications. The proposed act contains four chapters to be incorporated as Subpart B of Part II (Real Property) of Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes. Chapters 31 through 34 are derived from Articles 1 through 4 of the UCA, respectively.

Chapter 31 contains the general principles of law and the operative definitions used throughout the act.

Chapter 32 sets out the procedures for creation, alteration and termination of a condominium.

Chapter 33 provides for the management of the condominium, including the organization and powers of the unit owners, tort and contract liability and common expense assessments.

Chapter 34 focuses on consumer protection for the purchaser of a condominium unit and includes disclosure requirements and a statutory warranty against structural defects.

The proposed legislation incorporates verbatim the text of the UCA in approximately two-thirds of its sections. Three sections were extensively modified, four sections dealing with warranties were substantially revised and incorporated as one section in the proposed act and Article 5 relating to a statewide regulatory agency was omitted. The modifications are briefly summarized below:

## 1. Clarification of Tort and Contract Liability of Unit Owners and Association

Language from the national conference's Comment 3 to UCA Section 3-111 was inserted in Section 3311(b) of the proposed legislation and subsections (a) and (b) were rewritten to clarify and emphasize the limitations on unit owners' tort and contract liability. Subsection (d) was added to assure that the provisions relating to associations apply to unincorporated associations.

## 2. Revision of Liens for Assessments

Subsections (a), (b) and (c) of UCA Section 3-115 were redrafted in Section 3315 to modify the priority and effect of liens for assessments. The conference in Comment 2 to Section 3-115 noted that:

Since this requirement may conflict with the provisions of some state statutes which forbid some lending institutions from making loans not secured by first priority liens, the law of each state should be reviewed and amended when necessary.

Rather than adopting the UCA approach which gives a certain portion of the common assessment lien priority over first mortgages, the proposed modification would grant a lien limited priority, but require preference in its payment from the proceeds of a forced sale, and provide for limited nondivestiture.

## 3. Strengthening of Consumer Protection for Leasehold Condominiums

Clause (20) was added to Section 3402(a) to require extensive disclosure of--and to ensure emphasis of--the nature of a leasehold condominium transaction. This provision, designed to provide greater protection to purchasers of such interests, resulted in part from the decision not to adopt a statewide regulatory agency. (See modification 5)

## 4. Revision of Warranty

The warranty against structural defects, similar to that provided in the Virginia Condominium Act, was adopted as Section 3411 in lieu of the UCA warranty approach (UCA §§ 4-111 through 4-114). Except for the limited exception in subsection (c) (conversion condominiums), a two-year warranty is statutorily mandated in the case of residential condominiums.

5. Omission of State Regulatory Agency (Article 5, UCA, Optional Article on Administration and Registration)

Article 5 of the UCA, which would have created a state-wide regulatory agency, was omitted. The national conference submitted Article 5 as optional, noting in its prefatory comment to the article, that there was no need for uniformity in this particular area of condominium law and that there was substantial debate on the necessity of a state agency. Certain language in other sections, dependent upon the inclusion of Article 5, was also omitted.<sup>10</sup>

6. Technical Changes

The national conference allowed for optional terminology and provisions peculiarly dependent on existing state law in its official draft of the UCA. For example, Section 2-116 provided alternative provisions, the first of which was incorporated. In the cases where the suggested language was incorporated no change is indicated in the source notes (Part III, infra). Technical changes, primarily conforming UCA terminology with Pennsylvania practices, were also incorporated. These technical revisions are included in the source notes. Finally, UCA Section 1-111 was deleted because its provisions are covered by 1 Pa.C.S. 1925.

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10. Sections 3102(c), 3103, 3201(b), (c), 3303(f), 3304(e) and 3405.





### III. Sources and Pennsylvania Comments

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The proposed "Uniform Condominium Act" for Pennsylvania has been drafted to be incorporated into Chapters 31 through 34 of Title 68, Pennsylvania Consolidated Statutes. The following sets out the source for each proposed section and any changes from the uniform act. Since 45 sections of the UCA are incorporated without change, the comments of the National Conference of Commissioners on Uniform State Laws will generally be helpful in the application of the act. Of course, the national conference's comments must be read in light of the changes incorporated into the proposed legislation. Additional comments to certain sections of the proposed act are set out in the source materials.

#### Section 3101. Short title of subpart

Source: UCA § 1-101.

#### Section 3102. Applicability of subpart

Source: UCA § 1-102. Technical changes were required by the renumbering of certain sections, by the omission of Article 5 and by conforming the act to Pennsylvania practice.

#### Section 3103. Definitions

Source: UCA § 1-103. Clause (10)(ii) of the definition of "declarant" was deleted because of the omission of Article 5;

Section 3103--continued

references in the definitions of "declarant" and "unit owner" to "land trusts" were deleted since land trusts are not known to Pennsylvania law; the definition of "real estate" was clarified by explicitly including "fee."

Section 3104. Variation by agreement

Source: UCA § 1-104.

Section 3105. Separate titles and taxation

Source: UCA § 1-105.

Section 3106. Applicability of local ordinances, regulations and building codes

Source: UCA § 1-106.

Section 3107. Eminent domain

Source: UCA § 1-107.

Pennsylvania Comment: Subsection (d) was deleted because recording requirements are covered by Section 404 of the Eminent Domain Code, act of June 22, 1964 (Sp. Sess.), P.L. 84, No. 6.

Section 3108. Supplemental general principles of law

Source: UCA § 1-108.

Section 3109. Construction against implicit repeal

Source: UCA § 1-109.

Section 3110. Uniformity of application and construction

Source: UCA § 1-110.

Section 3111. Unconscionable agreement or term of contract

Source: UCA § 1-112.

Section 3112. Obligation of good faith

Source: UCA § 1-113.

Section 3113. Remedies to be liberally administered

Source: UCA § 1-114.

Section 3201. Creation of condominium

Source: UCA § 2-101. Subsection (a) was adapted to Pennsylvania recording procedures by deleting "and shall be indexed in the name of the condominium and each declarant" and substituting "in the same records as are maintained for the recording of deeds of real property and shall be indexed against each declarant as the grantor and the name of the condominium as the grantee." Comparable changes were made in Sections 3204, 3219, 3220 and 3304. Technical changes in (b) and (c) include adding "professional" before "engineer" to conform with Pennsylvania terminology and deleting certain language because of the omission of Article 5.

Pennsylvania Comment: Although plats and plans are part of the declaration (see § 3210), this section should not be construed to require deed books to contain these documents. A reference to the appropriate page and book number containing the plats and plans will suffice.

Since the creation of a condominium does not involve any type of "conveyance" to "any person," the recording of the declaration is not subject to either The Realty Transfer Tax Act of December 27, 1951, P.L. 1742, No. 467, or any local realty transfer tax. Such taxes only apply to the sale of each unit. See Pennsylvania Comment to Section 3220.

Section 3202. Unit boundaries

Source: UCA § 2-102.

Section 3203. Construction and validity of declaration and bylaws

Source: UCA § 2-103.

Section 3204. Description of units

Source: UCA § 2-104. The words "or counties" were added, as was the following: "Deeds, leases and mortgages of units shall be recorded in the same records as are maintained by the recorder for the recording of like instruments, and shall be indexed by the recorder in the same manner as like instruments are indexed." See source note to Section 3201.

Pennsylvania Comment: A description of a unit under this section is legally sufficient if it uniquely describes the property.

Section 3205. Contents of declaration; all condominiums

Source: UCA § 2-105. The language "created by the declarant" was added after "restrictions." Since all other restrictions would be discovered by a title search, the declaration of a condominium is limited to restrictions on use, occupancy and alienation of the units created by the declarant.

Pennsylvania Comment: While a declarant may be subject to personal liability for failure to list the recording data required in clause (10) in the declaration, such failure does not affect the validity of the condominium per se.

Section 3206. Contents of declaration; flexible condominiums

Source: UCA § 2-106.

Section 3207. Leasehold condominiums

Source: UCA § 2-107. The following language was deleted: "or a memorandum thereof" and "or a statement of where the complete lease may be inspected." Since the lease may affect the continued existence of the condominium, it must be recorded.

Section 3208. Allocation of common element interests, votes and common expense liabilities

Source: UCA § 2-108.

Section 3209. Limited common elements

Source: UCA § 2-109.

Section 3210. Plats and plans

Source: UCA § 2-110. A technical change was made to subsection (h) adding "professional" before "engineer" to conform with Pennsylvania terminology.

Section 3211. Conversion and expansion of flexible condominiums

Source: UCA § 2-111.

Section 3212. Withdrawal of withdrawable real estate

Source: UCA § 2-112.

Section 3213. Alterations of units

Source: UCA § 2-113.

Section 3214. Relocation of boundaries between adjoining units

Source: UCA § 2-114.

Section 3215. Subdivision or conversion of units

Source: UCA § 2-115.

Section 3216. Easement for encroachments

Source: UCA § 2-116. Alternative (a) was adopted.

Section 3217. Use for sales purposes

Source: UCA § 2-117.

Section 3218. Easement to facilitate completion, conversion and expansion

Source: UCA § 2-118.

Section 3219. Amendment of declaration

Source: UCA § 2-119. The phrase "and is effective only upon recordation" was deleted and the following substituted "in the same records as are maintained for the recording of deeds of real property and shall be indexed in the name of the condominium in both the grantor and grantee index. An amendment is effective only upon recordation." See source note to Section 3201.

Section 3220. Termination of condominium

Source: UCA § 2-120. Subsection (b) was modified by deleting "situated, and is effective only upon recordation" and substituting "located in the same records as are maintained for the recording of deeds of real property and shall be indexed in the name of the condominium in both the grantor index and the grantee index. A termination agreement is effective only upon recordation." See source note to Section 3201.

Pennsylvania Comment: Since the termination of a condominium does not involve any type of "conveyance" to "any person," the recording of the termination agreement is not subject to either The Realty Transfer Tax Act or any local realty transfer tax. See Pennsylvania Comment to Section 3201.

Section 3221. Rights of secured lenders

Source: UCA § 2-121.

Section 3301. Organization of unit owners' association

Source: UCA § 3-101.

Section 3302. Powers of unit owners' association

Source: UCA § 3-102.

Section 3303. Executive board members and officers

Source: UCA § 3-103. Language in subsection (f) was deleted because of the omission of Article 5.

Section 3304. Transfer of special declarant rights

Source: UCA § 3-104. The following language was added to subsection (a) after "located": "in the same records as are maintained for the recording of deeds of real property and shall be indexed in the name of the condominium in both the grantor and grantee index." See source note to Section 3201. Clause (e)(2) was changed by deleting "improvements" and substituting "components" to conform the section with the new warranty section. See Section 3411. Clause (e)(3) was modified by deleting language because of the omission of Article 5.

Section 3305. Termination of contracts and leases of declarant

Source: UCA § 3-105.

Section 3306. Bylaws

Source: UCA § 3-106.

Section 3307. Upkeep of condominium

Source: UCA § 3-107.

Section 3308. Meetings

Source: UCA § 3-108.

Section 3309. Quorums

Source: UCA § 3-109.

Section 3310. Voting; proxies

Source: UCA § 3-110.

Section 3311. Tort and contract liability

Source: UCA § 3-111. The section, incorporating the provisions of the conference's Comment 3 into the text and adding new subsection (d), reads:

(a) General rule.--

(1) An action in tort alleging a wrong done by a declarant or his agent or employee in connection with a portion of any convertible or withdrawable real estate or other portion of the condominium which the declarant has the responsibility to maintain may not be brought against the association or against a unit owner other than a declarant.

(2) Except as otherwise provided by paragraph (1):

(i) An action in tort alleging a wrong done by the association or by an agent or employee of the association, or an action arising from a contract made by or on behalf of the association, shall be brought against the association.

(ii) A unit owner shall not be subject to suit or, except as otherwise provided by subsection (b), be otherwise directly or indirectly held accountable for the acts of the association or its agents or employees on behalf of the association.

(3) If the tort or breach of contract occurred during any period of declarant control (section 3303(c)), the declarant is liable to the association for all unreimbursed losses suffered by the association as a result of that tort or breach of contract, including costs and reasonable attorney's fees. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates.

(4) A unit owner is not precluded from bringing an action contemplated by this subsection because he is a unit owner or a member or officer of the association.



Section 3311--continued

(b) Lien of judgment.--

A judgment for money against the association, if and when entered of record against the name of the association in the office of the clerk of the court of common pleas of the county or counties where the condominium is located, or in the office of the branch of the court of common pleas embracing such county or counties, shall also constitute a lien against each unit for a pro rata share of the amount of that judgment, including interest thereon, based on the common expense liability allocated to that unit (section 3208). No other property of a unit owner is subject to the claims of creditors of the association.

(c) Indexing judgment.--

A judgment against the association shall be indexed in the name of the condominium.

(d) Applicability of section.--

The provisions of this section shall be applicable to all associations without regard to whether the association is organized as a corporation or as an unincorporated association.

Pennsylvania Comment: This section was modified to ensure that the conference's Comment 3 to UCA Section 3-111 is given substantive effect.

With regard to clause (3) of subsection (a), if the control retained by a declarant over the executive board and the association is expressly limited to a right of approval or disapproval by the declarant of specified actions of the association or executive board (see § 3311(a)), then declarant's tort and contract liability is limited to these areas of approval or disapproval.

Section 3312. Insurance

Source: UCA § 3-112.

Section 3313. Surplus funds

Source: UCA 3-113.

Section 3314. Assessments for common expenses

Source: UCA § 3-114. In subsection (b) "15" percent was inserted to conform to the maximum interest provided in Pennsylvania's Goods and Services Installment Sales Act of October 28, 1966 (Sp. Sess. No. 1), P.L. 55, No. 7.

Section 3315. Lien for assessments

Source: UCA § 3-115. Because of a potential conflict between the UCA provision and present Pennsylvania and federal law, subsections (a), (b) and (c) were revised to provide a more limited lien preference, and for limited nondivestiture, to read:

(a) General rule.--

The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charged pursuant to section 3302(10), (11) and (12) (relating to powers of unit owners' association) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment becomes effective as a lien from the time the first installment thereof becomes due.

(b) Priority of lien.--

(1) General rule.--A lien under this section is prior to all other liens and encumbrances on a unit except:

(i) Liens and encumbrances recorded before the recordation of the declaration.

(ii) Mortgages and deeds of trust on the unit securing first mortgage holders and recorded before the due date of the assessment or the due date of the first installment payable on the assessment.

(iii) Liens for real estate taxes and other governmental assessments or charges against the unit.

Section 3315--continued

(2) Limited nondivestiture.--The association's lien for common expenses shall be divested by a judicial sale of the unit:

(i) As to unpaid common expense assessments made under section 3314(b) (relating to assessments for common expenses) that come due during the six months immediately preceding institution of an action to enforce collection of a lien against a unit by a judicial sale only to the extent that the six months unpaid assessments are paid out of the proceeds of the sale.

(ii) As to the unpaid common expense assessments made under section 3314(b) other than the six months assessment referred to in subparagraph (i), the full amount of these unpaid assessments, whether or not the proceeds of the judicial sale are adequate to pay these assessments. To the extent the proceeds of the sale are sufficient to pay some or all of these additional assessments, after satisfaction in full of the costs of the judicial sale, and the liens and encumbrances of the types described in paragraph (1) and the unpaid common expense assessments that come due during the six-month period described in subparagraph (i), they shall be paid before any remaining proceeds may be paid to any other claimant, including the prior owner of the unit.

(3) Monetary exemption.--The lien is not subject to the provisions of 42 Pa.C.S. 8123 (relating to general monetary exemption).

(c) Notice and perfection of lien.--

Subject to the provisions of subsection (b), recording of the declaration constitutes record notice and perfection of the lien.

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Pennsylvania Comment: If the common expense assessments due the association six months prior to the institution of an action to enforce collection of a lien are not satisfied by a creditor, that portion of the association's lien for common expense assessments is not divested by a judicial sale of the unit. Otherwise, the lien for common expense assessments is divested by such a sale. Such assessments must be paid to the extent possible once the liens and encumbrances listed in (b)(1) and the amount secured by the nondivested portion of the lien have been satisfied. Any funds received by the association from the judicial sale must first be applied to satisfy the amount secured by the nondivested portion of the lien.

Section 3316. Association records

Source: UCA § 3-116.

Section 3317. Association as trustee

Source: UCA § 3-117.

Section 3401. Applicability; waiver

Source: UCA § 4-101. Because the UCA warranty provisions were not adopted, the reference in this section to Section 4-113 was changed to "section 3411 (relating to warranty against structural defects)."

Section 3402. Public offering statement; general provisions

Source: UCA § 4-102. A technical change was made in clause (a)(18) by substituting 3414 for 4-117. The following clause was added to subsection (a) to provide further protection of consumer interests with regard to leasehold condominiums:

(20) In the case of a leasehold condominium, at least the following information:

(i) The name and address of each lessor and his assignee, if any.

(ii) Any relationship between the declarant and any lessor or assignee.

(iii) A description of the leased property.

(iv) The rent and any provision in the lease for increases in the rent and any other charges or payments required to be paid by the lessee under the lease.

(v) Whether the lessee has any right to terminate the lease.

(vi) The information contained in the declaration as required by section 3207(a) (relating to leasehold condominiums).

Section 3402.--continued

(vii) The following notice in bold type:  
"Purchasers should be aware that this is a leasehold condominium and the purchaser's interest therein may be less valuable than a fee interest, may depreciate over time and may be of questionable marketability."

Section 3403. Public offering statement; time-share estates

Source: UCA § 4-103.

Pennsylvania Comment: Incorporation of this section into Pennsylvania law does not create an implication as to the permissibility of any specified method of time-sharing.

Section 3404. Public offering statement; conversion condominiums

Source: UCA § 4-104. In clause (a)(1) "professional" was added.

Section 3405. Public offering statement; condominium securities

Source: UCA § 4-105. Language making reference to Article 5 was deleted and the last sentence amended to read: "An interest in a condominium is not a security under the provisions of the act of December 5, 1972 (P.L. 1280, No. 284), known as the 'Pennsylvania Securities Act of 1972.'"

Section 3406. Purchaser's right to cancel

Source: UCA § 4-106.

Section 3407. Resale of units

Source: UCA § 4-107.

Section 3408. Escrow of deposits

Source: UCA § 4-108.

#### Section 3409. Release of liens

Source: UCA § 4-109. Subsection (a) was modified by deleting "As provided for liens on real estate in" and adding after "lien" "adequate in nature and amount." Since Pennsylvania does not have any provision similar to that mandated by this section, the subsection was changed to provide that the surety bond or substitute collateral be "adequate in nature and amount."

Pennsylvania Comment: The existing law relating to mechanics' liens against units, found in the Unit Property Act, Section 704, is continued by subsection (b).

#### Section 3410. Conversion condominiums

Source: UCA § 4-110. Subsection (d) was modified by deleting "vacate" and substituting "quit specified by section 501 of the act of April 6, 1951 (P.L. 69, No. 20), known as 'The Landlord and Tenant Act of 1951.'"

#### Section 3411. Warranty against structural defects

Source: This section was derived from the Virginia Condominium Act, Code of Virginia, Section 55-79.79, and was adopted in lieu of Sections 4-111 through 4-114 of the UCA. The comments to these UCA sections are not generally applicable; further, reference to the warranty provisions in the UCA comments to sections other than Sections 4-111 through 4-114 must likewise be read in light of adoption of the entirely different approach to warranties. Section 3411 reads:

(a) Definition.--

As used in this section "structural defects" means those defects in components constituting any unit or common element which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration or replacement. Nothing in this section shall be construed to make the declarant responsible for any items of maintenance relating to the units or common elements.

Section 3411--continued

(b) General rule.--

A declarant warrants against structural defects, each of the units for two years from the date each is conveyed to a bona fide purchaser, and all of the common elements for two years. The two years shall begin as to each of the common elements whenever the common element has been completed or, if later:

(1) as to any common element within any additional real estate or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser;

(2) as to any common element within any convertible real estate or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; and

(3) as to any common element within any other portion of the condominium, at the time the first unit therein is conveyed to a bona fide purchaser.

(c) Limitation for conversion condominiums.--

The declarant of a conversion condominium may offer the units, common elements, or both, in "as is" condition in which event the declarant's warranty against structural defects applies only to defects in components installed by declarant or work done by declarant except to the extent that the declarant gives a more extensive warranty in writing.

(d) Exclusion or modification of warranty.--

Except with respect to a purchaser of a unit for residential use, the warranty against structural defects:

(1) may be excluded or modified by agreement of the parties; and

(2) is excluded by expression of disclaimer, such as "as is," "with all faults" or other language which in common understanding calls the buyer's attention to exclusion of warranties.

Section 3411--continued

(e) Limitation of actions.--

No action to enforce the warranty created by this section shall be commenced later than six years after the warranty begins.

Section 3412. Effects of violation on rights of action; attorney's fees

Source: UCA § 4-115.

Section 3413. Labeling of promotional material

Source: UCA § 4-116.

Section 3414. Declarant's obligation to complete and restore

Source: UCA § 4-117