

**CHAPTER 117--H.F.No. 3552**

*An act relating to real property; modifying the definition of residential use under the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2016, sections 515B.1-102; 515B.1-106; 515B.2-113; 515B.4-111; Minnesota Statutes 2017 Supplement, section 515B.1-103.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2016, section 515B.1-102, is amended to read:

**515B.1-102 APPLICABILITY.**

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Requirements); 515B.1-107 (Eminent Domain); 515B.1-108 (This Chapter Prevails; Supplemental Law); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(f) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision, Combination, or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board of Directors, Officers, and Declarant Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance of, or Creation of Security Interests in, Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Replacement Reserves); 515B.3-115 (c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994. All other sections referenced in this section apply only with respect to events and circumstances occurring after July 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of condominiums created before August 1, 1999. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums

created before August 1, 1999, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994, or to planned communities that were created on or after June 1, 1994, and before August 1, 2006, and that consist of more than two but fewer than 13 units; except by election pursuant to subsection (d), and except that sections 515B.1-116, subsections (a), (c), (d), and (e), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created, unless they are exempt under subsection (e).

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall be adopted in conformity with the procedures and requirements specified by those instruments and by this chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, or any planned community that was created on or after June 1, 1994, and prior to August 1, 2006, and that consists of more than two but fewer than 13 units, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and a new or amended CIC plat where required, and by approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat or registered land survey recorded pursuant to chapter 505, 508, or 508A, or the part of the plat or registered land survey upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall comply with section 515B.2-118(a)(3) and (c); except that the unanimous consent of the unit owners shall not be required for (i) a clarification of the unit boundary description if the clarified boundary description is substantially consistent with the preexisting CIC plat, or (ii) changes from common elements to limited common elements that occur by operation of section 515B.2-109(c) and (d).

(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) a planned community which consists of two units, which utilizes a CIC plat complying with section 515B.2-110(d)(1) and (2), or section 515B.2-1101(d)(1) and (2), which is not subject to any rights to subdivide or convert units or to add additional real estate, and which is not subject to a master association;

(2) a common interest community that consists solely of platted lots or other separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, with or without common property, where no association or master association has an obligation to maintain any building containing a dwelling or any agricultural building located or to be located on such platted lots or parcels; except that section 515B.4-101(e) shall apply to the sale of such platted lots or parcels of real estate if the common interest community is or will be subject to a master declaration;

(3) a cooperative where, at the time of creation of the cooperative, the unit owners' interests in the dwellings as described in the declaration consist solely of proprietary leases having an unexpired term of fewer than 20 years, including renewal options;

(4) planned communities utilizing a CIC plat complying with section 515B.2-110(d)(1) and (2), or section 515B.2-1101(d)(1) and (2), and cooperatives, which are limited by the declaration to nonresidential uses ~~alone or in combination with residential rental uses in which individual dwellings do not constitute units or other separate parcels of real estate~~; or

(5) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.

(f) Section 515B.4-101(e) applies to any platted lot or other parcel of real estate that is subject to a master declaration and is not subject to or is exempt from this chapter.

(g) Section 515B.1-106 shall apply to all common interest communities.

(h) Sections 515B.1-103(33a), 515B.2-110, 515B.3-105, 515B.3-115, 515B.4-102, and 515B.4-115 apply only to common interest communities created before August 1, 2010. Sections 515B.1-103(33b), 515B.2-1101, 515B.3-1051, 515B.3-1151, 515B.4-1021, and 515B.4-1151 apply only to common interest communities created on or after August 1, 2010.

(i) Section 515B.3-114 applies to common interest communities only for the association's fiscal years commencing before January 1, 2012. Section 515B.3-1141 applies to common interest communities only for the association's fiscal years commencing on or after January 1, 2012.

(j) Section 515B.3-104 applies only to transfers of special declarant rights that are effective before August 1, 2010. Section 515B.3-1041, subsections (a) through (i), apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Section 515B.3-1041, subsections (j) and (k), apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

Sec. 2. Minnesota Statutes 2017 Supplement, section 515B.1-103, is amended to read:

#### **515B.1-103 DEFINITIONS.**

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" or "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on, one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate which satisfies the definition of a common interest community is a common interest community whether or not it is subject to this chapter. Real estate subject to a master declaration, regardless of when the master declaration was recorded, shall not collectively constitute a separate common interest community unless so stated in the master declaration.

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(11a) "Construction defect claim" means a civil action or an arbitration proceeding based on any legal theory including, but not limited to, claims under chapter 327A for damages, indemnity, or contribution brought against a development party to assert a claim, counterclaim, cross-claim, or third-party claim for damages or loss to, or the loss of use of, real or personal property caused by a defect in the initial design or construction of an improvement to real property that is part of a common interest community, including an improvement that is constructed on additional real estate pursuant to section 515B.2-111. "Construction defect claim" does not include claims related to subsequent maintenance, repairs, alterations, or modifications to, or the addition of, improvements that are part of the common interest community, and that are contracted for by the association or a unit owner.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied, in whole or in part, for (i) residential

use ~~wholly or partially~~ or (ii) for residential rental purposes by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled to a proprietary lease by virtue of the member's ownership interest in the association.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or a supplemental declaration or amendment to a declaration adding additional real estate, except secured parties, a spouse holding only an inchoate interest, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; ~~or~~

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred; or

(iii) if (A) a unit has been restricted to nonresidential use and sold to a purchaser who has agreed to modify or waive, in whole or in part, sections 515B.4-101 to 515B.4-118, and (B) the restriction expires or is modified or terminated such that residential use of the unit is permitted, the unit owner at the time the restriction expires or is so modified or terminated is a declarant with respect to that unit and any improvements subject to use rights by a purchaser of the unit.

(16) "Declaration" means any instrument, however denominated, that creates a common interest community.

(16a) "Development party" means an architect, contractor, construction manager, subcontractor, developer, declarant, engineer, or private inspector performing or furnishing the design, supervision, inspection, construction, coordination, or observation of the construction of any improvement to real property that is part of a common interest community, or any of the person's affiliates, officers, directors, shareholders, members, or employees.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-109(c) or (d) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity created on or after June 1, 1994, that directly or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners' associations described in section 515B.2-121 (b)(iv). A person (i) hired by an association to perform maintenance, repair, accounting, bookkeeping or management services, or (ii) granted authority under an instrument recorded primarily for the purpose of creating rights or obligations with respect to

utilities, access, drainage, or recreational amenities, is not, solely by reason of that relationship, a master association.

(22) "Master declaration" means a written instrument, however named, (i) recorded on or after June 1, 1994, and (ii) complying with section 515B.2-121, subsection (e).

(23) "Master developer" means a person who is designated in the master declaration as a master developer or, in the absence of such a designation, the owner or owners of the real estate subject to the master declaration at the time the master declaration is recorded, except (i) secured parties and (ii) a spouse holding only an inchoate interest. A master developer is not a declarant unless the master declaration states that the real estate subject to the master declaration collectively is or collectively will be a separate common interest community.

(24) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

(25) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(26) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(27) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(28) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years, including renewal options, or (ii) a security interest.

(29) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

(30) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not (i) transient use such as hotels or motels-, (ii) use for residential rental purposes if the individual dwellings are not separate units or if the individual dwellings are not located on separate parcels of real estate. For purposes of this chapter, a unit is restricted to nonresidential use if the unit is subject to a restriction that prohibits residential use as defined in this section whether or not the restriction also prohibits the uses described in this paragraph.

(31) "Secured party" means the person owning a security interest as defined in paragraph (32).

(32) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, in a cooperative, a lender's interest in a member's ownership interest in the association, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

(33a) This definition of special declarant rights applies only to common interest communities created before August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to:

(i) complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the CIC is located;

(ii) add additional real estate to a common interest community;

(iii) subdivide or combine units, or convert units into common elements, limited common elements, or units;

(iv) maintain sales offices, management offices, signs advertising the common interest community, and models;

(v) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate;

(vi) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners;

(vii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or

(viii) appoint or remove any officer or director of the association, or the master association where applicable, during any period of declarant control.

(33b) This definition of special declarant rights applies only to common interest communities created on or after August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant and expressly identified in the declaration as special declarant rights. Such special declarant rights may include but are not limited to the following:

(i) to complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the common interest community is located, and to have and use easements for itself and its employees, agents, and contractors through the common elements for such purposes;

(ii) to add additional real estate to a common interest community;

(iii) to subdivide or combine units, or convert units into common elements, limited common elements and/or units, pursuant to section 515B.2-112;

(iv) to maintain and use sales offices, management offices, signs advertising the common interest community, and models, and to have and use easements for itself and its employees, agents, and invitees through the common elements for such purposes;

(v) to appoint or remove any officer or director of the association during any period of declarant control;

(vi) to utilize an alternate common expense plan as provided in section 515B.3-115(a)(2);

(vii) to grant common element licenses as provided in section 515B.2-109(e); or

(viii) to review, and approve or disapprove, the exterior design, materials, size, site location, and other exterior features of buildings and other structures, landscaping and other exterior improvements, located within the common interest community, and any modifications or alterations thereto.

Special declarant rights shall not be reserved or utilized for the purpose of evading any limitation or obligation imposed on declarants by this chapter.

(34) "Time share" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with a fee title interest in the common interest community or a specified portion thereof.

(35) "Unit" means a portion of a common interest community the boundaries of which are described in the common interest community's declaration and which is intended for separate ownership, or separate occupancy pursuant to a proprietary lease.

(36) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

(37) "Unit owner" means a declarant or other person who owns a unit, a lessee under a proprietary lease, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

Sec. 3. Minnesota Statutes 2016, section 515B.1-106, is amended to read:

**515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.**

(a) Except as provided in subsections (b) and (c), a zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation may not directly or indirectly prohibit the common interest community form of ownership or impose any requirement upon a common interest community, upon the creation or disposition of a common interest community or upon any part of the common interest community conversion process which it would not impose upon a physically similar development under a different form of ownership. Otherwise, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation.

(b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision or contract provision relating to the financing of housing construction, rehabilitation, or purchases provided by or through a housing finance program established and operated pursuant to state or federal law by a state or local agency or local unit of government.

(c) A statutory or home rule charter city, pursuant to an ordinance or charter provision establishing standards to be applied uniformly within its jurisdiction, may prohibit or impose reasonable conditions upon the conversion of buildings occupied wholly or partially for (i) residential use or (ii) residential rental purposes to the common interest community form of ownership only if there exists within the city a significant shortage of suitable rental dwellings available to low and moderate income individuals or families or to establish or maintain the city's eligibility for any federal or state program providing direct or indirect financial assistance for housing to the city. Prior to the adoption of an ordinance pursuant to the authority granted in this subsection, the city shall conduct a public hearing. Any ordinance or charter provision adopted pursuant to this subsection shall not apply to any existing or proposed conversion common interest community (i) for which a bona fide loan commitment for a consideration has been issued by a lender and is in effect on the date of adoption of the ordinance or charter provision, or (ii) for which a notice of conversion or intent to convert required by section 515B.4-111, containing a termination of tenancy, has been given to at least 75 percent of the tenants and subtenants in possession prior to the date of adoption of the ordinance or charter provision.

(d) For purposes of providing marketable title, a statement in the declaration that the common interest community is not subject to an ordinance or that any conditions required under an ordinance have been complied with shall be prima facie evidence that the common interest community was not created in violation of the ordinance.

(e) A violation of an ordinance or charter provision adopted pursuant to the provisions of subsection (b) or (c) shall not affect the validity of a common interest community. This subsection shall not be construed to in any way limit the power of a city to enforce the provisions of an ordinance or charter provision adopted pursuant to subsection (b) or (c).

(f) Any ordinance or charter provision enacted hereunder that prohibits the conversion of buildings to the common interest community form of ownership shall not be effective for a period exceeding 18 months.

Sec. 4. Minnesota Statutes 2016, section 515B.2-113, is amended to read:

**515B.2-113 ALTERATION OF UNITS.**

(a) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, make any improvements or alterations to the unit, provided: (i) that they do not impair the structural integrity or mechanical systems, affect the common elements, or impair the support of any portion of the common interest community; (ii) that prior arrangements are made with the association to ensure that other unit owners are not disturbed; (iii) that the common elements are not damaged; and (iv) that the common elements and other units are protected against mechanics' liens.

(b) Subject to the provisions of applicable law, a unit owner of a unit ~~in residential use~~ that is used as a dwelling, whether primary, secondary, or seasonal, may, at the unit owner's expense, make improvements or alterations to the unit as necessary for the full enjoyment of the unit by any person residing in the unit who has a disability, as provided in the Fair Housing Amendments Act, United States Code, title 42, section 3601, et seq., and the Minnesota Human Rights Act, chapter 363A, and any amendments to those acts. This subsection applies to all common interest communities subject to this chapter, chapter 515, or 515A, notwithstanding any contrary provision of section 515B.1-102.

(c) The declaration, bylaws, rules, and regulations, or agreements with the association may not prohibit the improvements or alterations referred to in subsection (b), but may reasonably regulate the type, style, and quality of the improvements or alterations, as they relate to health, safety, and architectural standards. In addition, improvements or alterations made pursuant to subsection (b) must comply with subsection (a)(i), (ii), (iii), and (iv).

(d) The unit owner's rights under this section may not be waived.

(e) Subsection (b) does not apply to restrictions on improvements or alterations imposed by statute, rule, or ordinance.

(f) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, after acquiring title to an adjoining unit or an adjoining part of an adjoining unit, with the prior written approval of the association and first mortgagees of the affected units, remove or alter any intervening partition or create apertures therein, even if the partition is part of the common elements, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community. The adjoining unit owners shall have the exclusive license to use the space occupied by the removed partition, but the use shall not create an easement or vested right. Removal of partitions or creation of apertures under this subsection is not an alteration of boundaries. The association may require that the owner or owners of units affected replace or restore any removed partition, that the unit owner comply with subsection (a)(i), (ii) and (iii), and that the unit owner pay all fees and costs incurred by the association in connection with the alteration.

Sec. 5. Minnesota Statutes 2016, section 515B.4-111, is amended to read:

**515B.4-111 CONVERSION PROPERTY.**

(a) A unit owner of a unit ~~occupied for residential use~~ in a common interest community containing conversion property shall not, for a period of one year following the recording of the declaration creating the common interest community, require any occupant ~~of the unit~~ who was residing in the unit at the time the declaration was recorded to vacate the unit unless the unit owner gives notice to the occupant in the manner described in this section. The notice shall be given no later than 120 days before the occupant is required to vacate the unit. The notice shall be sufficient as to all occupants of a unit if it is hand delivered

or mailed to the unit to be vacated, addressed to the occupants thereof. If the holder of the lessee's interest in the unit has given the unit owner an address different than that of the unit, then the notice shall also be given to the holder of the lessee's interest at the designated address. The notice shall comply with the following requirements:

(1) The notice shall set forth generally the rights conferred by this section.

(2) The notice shall have attached a form of purchase agreement setting forth the proposed terms of sale of the unit to the holder of the lessee's interest as contemplated by subsection (d) and a statement of any significant restrictions imposed by the declaration on the use and occupancy of the unit.

(3) The notice shall state that the occupants of the ~~residential~~ unit may demand to be given 60 additional days before being required to vacate, if any of them, or any person residing with them, is (i) 62 years of age or older, (ii) a person with a disability as defined in section 268A.01, or (iii) a minor child on the date the notice is given. This demand must be in writing, contain reasonable proof of qualification, and be given to the declarant within 30 days after the notice of conversion is delivered or mailed.

(4) The notice shall be contained in an envelope upon which the following shall be boldly printed: "Notice of Conversion."

(b) Notwithstanding subsection (a), an occupant may be required to vacate a unit upon less than 120 days' notice by reason of nonpayment of rent, utilities or other monetary obligations, violations of law, waste, or conduct that disturbs other occupants' peaceful enjoyment of the premises. The terms of the tenancy may not be altered during the notice period, except that the holder of the lessee's interest or other party in possession may vacate and terminate the tenancy upon one month's written notice to the declarant. Nothing in this section prevents the unit owner and any occupant from agreeing to a right of occupancy on a month-to-month basis beyond the 120-day notice period, or to an earlier termination of the right of occupancy.

(c) No repair work or remodeling may be commenced or undertaken in the occupied units or common areas of the building during the notice period, unless reasonable precautions are taken to ensure the safety and security of the occupants.

(d) For 60 days after delivery or mailing of the notice described in subsection (a), the holder of the lessee's interest in the unit on the date the notice is mailed or delivered shall have an option to purchase that unit on the terms set forth in the purchase agreement attached to the notice. The purchase agreement shall contain no terms or provisions which violate any state or federal law relating to discrimination in housing. If the holder of the lessee's interest fails to sign a binding purchase agreement for the unit during that 60-day period, the unit owner may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the holder. This subsection and subsection (a)(2) do not apply to any unit in a conversion property if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the boundaries of the residential unit before conversion.

(e) If a unit owner, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, the recording of the deed conveying the unit or, in a cooperative, the conveyance of the right to possession of the unit, extinguishes any right a holder of a lessee's interest who is not in possession of the unit may have under subsection (d) to purchase that unit, but the conveyance does not affect the right of the holder to recover damages from the unit owner for a violation of subsection (d).

(f) If a notice described in subsection (a) specifies a date by which a unit or proposed unit must be vacated or otherwise complies with the provisions of chapter 504B, the notice also constitutes a notice to vacate specified by that statute.

(g) An occupant ~~of residing in space for residential use~~ in a conversion property shall not have any of the rights set out in this section or under any municipal ordinance if the holder of the lessee's interest in the space received written notice of intent to convert to a common interest community (i) before signing a lease

or a lease renewal or before occupying the space and (ii) less than two years before the common interest community is created.

(h) A notice of intent to convert to a common interest community shall identify the conversion property by both legal description and street address and state that (i) the declarant intends to convert the property to a planned community, condominium, or cooperative form of common interest community, specifying the intended form, and (ii) persons entering into leases subsequent to the receipt of the notice of intent to convert will not have the rights available to an occupant or a person holding the lessee's interest under this section.

(i) Nothing in this section permits a unit owner to terminate a lease in violation of its terms.

(j) Failure to give notice as required by subsection (a) is a defense to an action for possession.

Presented to the governor May 4, 2018

Signed by the governor May 8, 2018, 12:29 p.m.