CHAPTER 515A

UNIFORM CONDOMINIUM ACT

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515A.1-100 MS 2006 [Renumbered 15.001]

ARTICLE 1
GENERAL PROVISIONS

515A.1-101 SHORT TITLE.

Sections 515A.1-101 to 515A.4-117 shall be known and may be cited as the "Uniform Condominium Act."

History: *1980 c 582 art 1 s 515.1-101*

515A.1-102 APPLICABILITY.

(a) Sections 515A.1-105 (Property Taxation), 515A.1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 515A.1-107 (Eminent Domain), 515A.2-103 (Construction and Validity of Declaration and Bylaws), 515A.2-104 (Description of Units), 515A.3-102 (a) (1) to (5) and (9) to (12) (Powers of Unit Owners' Association), 515A.3-111 (Tort and Contract Liability), 515A.3-112 (Insurance), 515A.3-115 (Lien for Assessments), 515A.3-116 (Association Records), 515A.4-107 (Resales of Units), 515A.4-1075 (Purchaser's Right to Cancel), and 515A.1-103 (Definitions) to the extent necessary in construing any of those sections, apply to all condominiums created in this state prior to August 1, 1980; provided, however, that these sections apply only with respect to events and circumstances occurring after July 31, 1980, and do not invalidate existing provisions of the declaration, bylaws, or floor plans of those condominiums.

(b) Sections 515A.1-101 to 515A.4-117 apply to all condominiums created within this state after August 1, 1980. The provisions of sections 515.01 to 515.29 do not apply to condominiums created after August 1, 1980, and do not invalidate any amendment to the declaration, bylaws, or floor plans of any condominium created before August 1, 1980, or to a condominium plat of any condominium created before August 1, 1986, if the amendment would be permitted by sections 515A.1-101 to 515A.4-117. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by sections 515.01 to 515.29. If the amendment grants to any person any rights, powers or privileges permitted by sections 515A.1-101 to 515A.4-117, all correlative obligations, liabilities, and restrictions in sections 515A.1-101 to 515A.4-117 also apply to that person.

History: *1980 c 582 art 1 s 515.1-102; 1983 c 216 art 1 s 73; 1984 c 655 art 1 s 72; 1986 c 342 s 4; 1989 c 98 s 1*

515A.1-103 DEFINITIONS.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in sections 515A.1-101 to 515A.4-117:

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

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant or (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, or (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. A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person or (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, or (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. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

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

(4) "Common element" means all portions of a condominium other than the units.

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

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

(7) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(8) "Conversion condominium" means a condominium in which a building was at any time before the recording of the declaration wholly or partially occupied by persons other than purchasers and persons who occupied with the consent of the purchasers.

(9) "Declarant" means:

(a) if the condominium has been created, (1) any person who has executed a declaration or an amendment to a declaration to add additional real estate, other than persons holding interests in the real estate solely as security for an obligation, persons whose interests in the real estate will not be conveyed to unit owners, or, in the case of a leasehold condominium, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (2) any person who succeeds under section 515A.3-104 to any special declarant rights; or

(b) any person who has offered prior to creation of a condominium to dispose of the person's interest in a unit to be created and not previously disposed of.

(10) "Dispose" or "disposition" means a voluntary transfer of any legal or equitable interest in a unit, other than as security for an obligation.

(11) "Flexible condominium" means a condominium to which additional real estate may be added.

(12) "Leasehold condominium" means a condominium in which all of the real estate is subject to a lease, the expiration or termination of which will terminate the condominium.

(13) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515A.2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.

(14) "Person" means a natural person, corporation, partnership, trust, or other entity, or any combination thereof.

(15) "Purchaser" means any person, other than a declarant, who prior to creation of the condominium enters into a purchase agreement with a declarant or who by means of a voluntary transfer after creation of the condominium holds a legal or equitable interest in a unit, other than (i) a leasehold interest (including renewal options) of less than three years, or (ii) as security for an obligation.

(16) "Real estate" means any leasehold for three years or more or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which 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" includes parcels with or without upper or lower boundaries.

(17) "Security for an obligation" means the vendor's interest in a contract for deed, mortgagee's interest in a mortgage, purchaser's interest under a sheriff's certificate of sale during the period of redemption, or the holder's interest in a lien.

(18) "Special declarant rights" means rights reserved for the benefit of a declarant to complete improvements indicated on the condominium plat (section 515A.2-110); to add additional real estate to a flexible condominium (section 515A.2-111); to subdivide or convert a unit (section 515A.2-115); to maintain sales offices, management offices, signs advertising the condominium, and models (section 515A.2-117); to use easements through the common elements for the purpose of making improvements within the condominium or any additional real estate (section 515A.2-118); or to appoint or remove any board member during any period of declarant control (section 515A.3-103(a)).

(19) "Unit" means a portion of the condominium, whether or not contained solely or partially within a building, designated for separate ownership, the boundaries of which are described pursuant to section 515A.2-110.

(20) "Unit owner" means a declarant who owns a unit, a person to whom ownership of a unit has been conveyed or transferred, or in a leasehold condominium a lessee of a unit whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a holder of an interest as security for an obligation.

History: *1980 c 582 art 1 s 515.1-103; 1986 c 342 s 5; 1986 c 444*

515A.1-104 VARIATION BY AGREEMENT.

Except as expressly otherwise provided in sections 515A.1-101 to 515A.4-117, provisions of sections 515A.1-101 to 515A.4-117 may not be varied by agreement, and rights conferred by sections 515A.1-101 to 515A.4-117 may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of sections 515A.1-101 to 515A.4-117 or the declaration.

History: *1980 c 582 art 1 s 515.1-104*

515A.1-105 PROPERTY TAXATION.

Subdivision 1. **Homestead.** (a) Each unit together with its common element interest constitutes for all purposes a separate parcel of real estate.

(b) If a declaration is recorded prior to 30 days before any installment of real estate taxes becomes payable, the local taxing authority shall split the taxes so payable on the condominium among the units. Interest and penalties which would otherwise accrue shall not begin to accrue until at least 30 days after the split is accomplished.

(c) A unit used for residential purposes together with not more than two units used for vehicular parking and their common element interests shall be treated the same as any other real estate in determining whether homestead exemptions or classifications shall apply.

Subd. 2. **Market valuation.** For purposes of property taxation, the residential units in a structure or building which are initially constructed as condominiums or are being converted into condominiums shall be valued as provided in section 273.11, subdivision 9.

History: *1980 c 582 art 1 s 515.1-105; 1983 c 342 art 2 s 26; 1991 c 291 art 12 s 28*

515A.1-106 APPLICABILITY OF LOCAL ORDINANCES, REGULATIONS, AND BUILDING CODES.

(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 condominium form of ownership or impose any requirement upon a condominium, upon the creation or disposition of a condominium or upon any part of the condominium conversion process which it would not impose upon a physically similar development under a different form of ownership. Otherwise, no provision of sections 515A.1-101 to 515A.4-117 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 to the condominium 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 conversion condominium or proposed conversion condominium 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 for which a notice of condominium conversion or intent to convert prescribed by section 515A.4-110(a), 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 showing that the condominium is not subject to an ordinance or showing that any conditions required under an ordinance have been complied with shall be prima facie evidence that the condominium was not created in violation thereof.

(e) A violation of an ordinance or charter provision adopted pursuant to the provisions of subsections (b) or (c) shall not affect the validity of a condominium. 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 subsections (b) or (c).

Any ordinance or charter provision enacted hereunder shall not be effective for a period exceeding 18 months.

History: *1980 c 582 art 1 s 515.1-106*

515A.1-107 EMINENT DOMAIN.

(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award shall compensate the unit owner and holders of an interest as security for an obligation in the unit and its common element interest as their interests may appear, whether or not any common element interest is acquired. Upon acquisition, unless the decree otherwise provides, that unit's entire common element interest, votes in the association, and common expense liability are automatically reallocated to the remaining units in proportion to the respective interests, votes, and liabilities of those units prior to the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award shall compensate the unit owner and the holders of an interest as security for an obligation as their interests may appear for the reduction in value of the unit and its common element interest. Upon acquisition, unless the apportionment thereof pursuant to the declaration is based upon equality, (1) that unit's common element interest, votes in the association, and common expense liability are reduced in proportion to the reduction in the size of the unit, and (2) the portion of common element interest, votes, and common expense liability divested from the partially acquired unit are automatically reallocated to that unit and the remaining units in proportion to the respective interests, votes, and liabilities of those units prior to the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced interests, votes, and liabilities.

(c) If part of the common elements is acquired by eminent domain, the award shall be paid to the association. The association shall divide any portion of the award not used for any restoration or repair of the remaining common elements among the unit owners and holders of an interest as security for an obligation as their interests may appear in proportion to their respective interests in the common elements before the taking, but the portion of the award attributable to the acquisition of a limited common element shall be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition and the respective holders of an interest as security for an obligation of the units as their interests may appear of the units to which that limited common element was allocated at the time of acquisition, or in such other manner as the declaration may provide.

(d) The court decree shall be recorded in every county in which any portion of the condominium is located.

History: *1980 c 582 art 1 s 515.1-107*

515A.1-108 SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE.

The principles of law and equity, including the law of corporations, the law of real property and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of sections 515A.1-101 to 515A.4-117, except to the extent inconsistent with

sections 515A.1-101 to 515A.4-117. Documents required by sections 515A.1-101 to 515A.4-117 to be recorded shall in the case of registered land be filed.

History: *1980 c 582 art 1 s 515.1-108*

515A.1-109 CONSTRUCTION AGAINST IMPLICIT REPEAL.

Sections 515A.1-101 to 515A.4-117 being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

History: *1980 c 582 art 1 s 515.1-109*

515A.1-110 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 515A.1-101 to 515A.4-117 shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of sections 515A.1-101 to 515A.4-117 among states enacting it.

History: *1980 c 582 art 1 s 515.1-110*

515A.1-111 SEVERABILITY.

If any provision of sections 515A.1-101 to 515A.4-117 or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of sections 515A.1-101 to 515A.4-117 which can be given effect without the invalid provisions or application, and to this end the provisions of sections 515A.1-101 to 515A.4-117 are severable.

History: *1980 c 582 art 1 s 515.1-111*

515A.1-112 UNCONSCIONABLE AGREEMENT OR TERM OF CONTRACT.

(a) The court, upon finding as a matter of law that a contract or contract clause to which the declarant or the affiliate of a declarant is a party was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause in order to avoid an unconscionable result.

(b) Whenever it is claimed, or appears to the court that such a contract or contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, shall be afforded a reasonable opportunity to present evidence as to:

(1) the commercial setting of the negotiations;

(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect the other party's interests by reason of physical or mental infirmity, illiteracy, or inability to understand the language of the agreement or similar factors;

(3) the effect and purpose of the contract or clause; and

(4) if a sale, any gross disparity, at the time of contracting, between the amount charged for the real estate and the value of the real estate measured by the price at which similar real estate was readily obtainable in similar transactions, but a disparity between the contract price and the value of the real estate measured

by the price at which similar real estate was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

History: *1980 c 582 art 1 s 515.1-112; 1986 c 444*

515A.1-113 OBLIGATION OF GOOD FAITH.

Every contract or duty governed by sections 515A.1-101 to 515A.4-117 imposes an obligation of good faith in its performance or enforcement.

History: *1980 c 582 art 1 s 515.1-113*

515A.1-114 REMEDIES TO BE LIBERALLY ADMINISTERED.

(a) The remedies provided by sections 515A.1-101 to 515A.4-117 shall be liberally administered to the end that the aggrieved party is put in as good a position as though the other party had fully performed, provided that rights of bona fide purchasers shall be protected. However, consequential, special, or punitive damages may not be awarded except as specifically provided in sections 515A.1-101 to 515A.4-117 or by other rule of law.

(b) Any right or obligation declared by sections 515A.1-101 to 515A.4-117 is enforceable by judicial proceeding unless the provision declaring it provides otherwise.

History: *1980 c 582 art 1 s 515.1-114*

515A.1-115 NOTICE.

Except as otherwise stated in sections 515A.1-101 to 515A.4-117 all notices required by sections 515A.1-101 to 515A.4-117 shall be in writing and shall be effective upon hand delivery or upon mailing if properly addressed with postage prepaid and deposited in the United States mail.

History: *1980 c 582 art 1 s 515.1-115*

515A.1-116 EFFECTIVE DATE.

Section 515A.1-106 is effective April 17, 1980.

History: *1980 c 582 art 1 s 515.1-116*

ARTICLE 2
CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

515A.2-101 CREATION OF CONDOMINIUM.

(a) A condominium may be created pursuant to sections 515A.1-101 to 515A.4-117 only by recording a declaration executed, in the same manner as a deed, by all persons whose interests in the real estate will be conveyed to unit owners, except vendors under contracts for deed, and by every lessor of a lease the expiration or termination of which will terminate the condominium. The condominium shall not include real estate covered by a lease affecting less than all of the condominiums and the expiration or termination of which will reduce the size of the condominium. The declaration and bylaws shall be recorded in every county in which any portion of the condominium is located. Failure of any party to join in a declaration shall

have no effect on the validity of a condominium provided that after the recording of the declaration the party acknowledges the condominium in a recorded instrument or the interest of the party is extinguished.

(b) A declaration, or an amendment to a declaration adding units to a condominium, may not be recorded unless all structural components and mechanical systems serving more than one unit of all buildings containing or comprising any units thereby created are substantially completed consistent with the floor plans, as evidenced by a certificate executed by a registered professional engineer or architect and recorded or attached to the floor plans.

(c) No possessory interest in a unit may be conveyed until the unit is substantially completed as evidenced by a recorded certificate of completion executed by a registered professional engineer or architect. For the purpose of this section "substantially completed" means entirely completed consistent with the floor plans. This subsection does not prevent the conveyance prior to substantial completion of all units owned by the declarant to a person who is a transferee of special declarant rights.

(d) The declaration, any amendment or amendments thereof, and every instrument affecting a condominium or any unit shall be entitled to be recorded.

(e) In addition to the records and indexes required to be maintained by the recording officer, the recording officer shall maintain an index or indexes whereby the record of each declaration contains a reference to the record of each conveyance of a unit affected by the declaration.

(f) The recording officer shall upon request assign a number to a condominium to be formed.

(g) The recording officer shall separate the floor plans from the declaration and the floor plans shall be kept by the recording officer in a separate file for each condominium indexed in the same manner as a conveyance entitled to record indicating the number of the condominium.

History: *1980 c 582 art 2 s 515.2-101*

515A.2-102 UNIT BOUNDARIES.

Except as otherwise provided by the declaration:

(1) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(2) If any chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside of the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to the provisions of paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) All exterior doors and windows and any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

History: *1980 c 582 art 2 s 515.2-102*

515A.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration or sections 515A.1-101 to 515A.4-117, or any instrument executed pursuant to the declaration or sections 515A.1-101 to 515A.4-117.

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent that the declaration is inconsistent with sections 515A.1-101 to 515A.4-117.

History: *1980 c 582 art 2 s 515.2-103*

515A.2-104 DESCRIPTION OF UNITS.

After the declaration is recorded, a description of a unit which sets forth the number of the condominium, the county in which the condominium is located, and the identifying number of the unit, is a sufficient legal description of that unit and its common element interest whether or not the common element interest is described or referred to therein.

History: *1980 c 582 art 2 s 515.2-104*

515A.2-105 CONTENTS OF DECLARATION; ALL CONDOMINIUMS.

The declaration for a condominium shall contain:

(1) the name and number of the condominium, which shall include the word "condominium" or be followed by the words "a condominium";

(2) the name of every county in which any part of the condominium is situated;

(3) a legally sufficient description of the real estate included in the condominium;

(4) a description or delineation of the boundaries of a unit;

(5) the condominium plat as required by section 515A.2-110;

(6) an allocation to each unit of an undivided interest in the common elements, a portion of the votes in the association, and a percentage or fraction of the common expenses of the association (section 515A.2-108);

(7) a statement of the maximum number of any units which may be created by the subdivision or conversion of units owned by the declarant pursuant to section 515A.2-115(c);

(8) an allocation of any limited common elements, as provided in section 515A.2-109;

(9) any restrictions on use, occupancy, and alienation of the units;

(10) a statement showing that the condominium is not subject to an ordinance provided for in section 515A.1-106 or showing that any conditions required under an ordinance have been complied with;

(11) any other matters the declarant deems appropriate.

History: *1980 c 582 art 2 s 515.2-105; 1986 c 342 s 6*

515A.2-106 CONTENTS OF DECLARATION; FLEXIBLE CONDOMINIUMS.

The declaration for a flexible condominium shall include, in addition to the matters specified in section 515A.2-105:

(1) an explicit reservation of any options to add additional real estate;

(2) a statement of any time limit, not exceeding seven years after the recording of the declaration, upon which any option reserved under paragraph (1) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit. If no time limit is set forth in the declaration, the time limit shall be seven years after the recording of the declaration;

(3) a statement of any limitations on any option reserved under paragraph (1), other than limitations created by or imposed pursuant to law;

(4) legally sufficient descriptions of each portion of additional real estate;

(5) if portions of any additional real estate may be added at different times, a statement to that effect together with a statement fixing the boundaries of those portions and regulating the order in which they may be added or a statement that no assurances are made in those regards;

(6) a statement of (i) the maximum number of units that may be created within any additional real estate and within any portion, the boundaries of which are fixed pursuant to paragraph (5), and (ii) how many of those units will be restricted exclusively to residential use;

(7) a statement that any buildings and units that may be erected upon the additional real estate or a portion thereof will be compatible with the other buildings and units in the condominium in terms of architectural style, quality of construction, principal materials employed in construction, and size, or a statement of any differences with respect to the buildings or units, or a statement that no assurances are made respecting those matters;

(8) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to units created in the additional real estate, or a statement of any differentiations that may be made as to those units;

(9) general descriptions of all other improvements and common elements that may be made or created upon or within the additional real estate or each portion thereof;

(10) a statement of the extent to which any assurances made in the declaration regarding additional real estate pursuant to paragraphs (5) to (9) apply in the event any additional real estate is not added to the condominium, or a statement that those assurances do not apply if the real estate is not added to the condominium.

History: *1980 c 582 art 2 s 515.2-106*

515A.2-107 LEASEHOLD CONDOMINIUMS.

(a) Any lease the expiration or termination of which may terminate the condominium shall be recorded and the declaration shall include, in addition to the matters specified in section 515A.2-105:

(1) the county of recording and recorder's document number for the lease;

(2) the date on which the lease is scheduled to expire;

(3) any right of the unit owners to purchase the lessor's interest in the real estate and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(4) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(5) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

(b) After the declaration for a leasehold condominium is recorded, neither the lessor nor a successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of the unit owner's share of the rent which shall be the same portion thereof as that of that unit owner's common area expense and who otherwise complies so far as practicable with a share of all other covenants which, if violated, would entitle the lessor to terminate the lease. No unit owner's leasehold interest is affected by failure of any other person to pay rent or fulfill any other covenant.

(c) Acquisition of the leasehold interest of any unit owner by the lessor does not merge the leasehold and fee simple interests and the lessor shall hold the title to the unit subject to the declaration unless the leasehold interests of all unit owners subject to the lease are so acquired.

History: *1980 c 582 art 2 s 515.2-107; 1986 c 444*

515A.2-108 ALLOCATION OF COMMON ELEMENT INTERESTS, VOTES, AND COMMON EXPENSE LIABILITIES.

(a) The declaration shall allocate a fraction or percentage of the undivided interests in the common elements, common expenses and votes in the association to each unit in such manner that each of the items is equally allocated or is allocated according to the proportion of the area or volume of each unit to the area or volume of all units, and the items need not be allocated the same for all purposes. The declaration may provide that a portion of each common expense assessment may be allocated on the basis of equality and the remainder on the basis of area or volume of each unit. The sum of the percentages or fractions shall equal 100 percent or 1.

(b) Except in the case of eminent domain (section 515A.1-107), expansion of a flexible condominium (section 515A.2-111), relocation of boundaries between adjoining units (section 515A.2-114), or subdivision of units (section 515A.2-115), the common element interest, votes and common expense liability allocated to any unit may not be altered, except as an amendment to the declaration which is signed by all unit owners and first mortgagees, and which complies with section 515A.2-119. The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest or involuntary transfer of an undivided interest in the common elements without the unit to which the interest is allocated is void.

(c) The association may assess certain common expenses against fewer than all units pursuant to section 515A.3-114.

History: *1980 c 582 art 2 s 515.2-108*

515A.2-109 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

Common elements other than limited common elements may be used in common with all unit owners. Except for the limited common elements described in section 515A.2-102(2) and (4), the declaration shall specify to which unit each limited common element is allocated.

History: *1980 c 582 art 2 s 515.2-109*

515A.2-110 CONDOMINIUM PLATS.

(a) Condominium plats are a part of the declaration. The condominium plat shall contain a certification by a registered professional land surveyor or registered professional architect, as to the parts of the plat prepared by each, that the condominium plat accurately depicts all information required by this section. The portions of the condominium plat depicting the dimensions of the portions of the condominium described in paragraphs (b)(3), (8), (9), (10), and (11), may be prepared by either a land surveyor or an architect. The other portions of the plat must be prepared only by a land surveyor. All measurements must be undertaken in accordance with good professional practice. The certification must indicate that the work was undertaken by or under the supervision of the certifying architect or land surveyor. Certification by the architect or land surveyor does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of the condominium.

(b) Each condominium plat shall show:

(1) the number of the condominium and the boundaries and dimensions of the land included in the condominium;

(2) the dimensions and location of all existing structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the condominium labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such;

(5) the extent of any encroachments by or upon any portion of the condominium;

(6) the location and dimensions of all recorded easements within the condominium serving or burdening any portion of the condominium;

(7) the distance between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, including porches, balconies and patios, other than limited common elements described in section 515A.2-102(2) and (4);

(9) the location and dimensions of the vertical boundaries of each unit and that unit's identifying number;

(10) the location and dimensions of the horizontal unit boundaries with reference to established or assumed datum and that unit's identifying number;

(11) any units which may be converted by the declarant to create additional units or common elements (section 515A.2-115) identified separately.

(c) When adding additional real estate (section 515A.2-111), the declarant shall record supplemental condominium plats for that real estate conforming to the requirements of subsection (b). If less than all

additional real estate is being added, the supplemental condominium plats shall also show the location and dimensions of the remaining portion.

(d) If a declarant subdivides or converts any unit into two or more units, common elements or limited common elements (section 515A.2-115), the declarant shall record an amendment to the condominium plat showing the location and dimensions of any new units, common elements and limited common elements thus created.

History: *1980 c 582 art 2 s 515.2-110; 1986 c 342 s 7; 1986 c 444; 1987 c 387 s 5*

515A.2-111 EXPANSION OF FLEXIBLE CONDOMINIUMS.

(a) To add additional real estate pursuant to an option reserved under section 515A.2-106(1), all persons having an interest in the additional real estate, excepting any holder of an easement or any holder of an interest to secure an obligation which interest was recorded or created subsequent to the recording of the declaration, shall prepare and execute and, after notice as provided in subsection (b), record an amendment to the declaration. The amendment to the declaration shall assign an identifying number to each unit formed in the additional real estate, and reallocate common element interests, votes in the association, and common expense liabilities according to section 515A.2-108. The amendment shall describe or delineate any limited common elements formed out of the additional real estate, showing or designating the unit to which each is allocated to the extent required by section 515A.2-109 (Limited Common Elements).

(b) The declarant shall serve notice of an intention to add additional real estate as follows:

(1) To the association in the same manner as service of summons in a civil action in district court at least 30 days prior to recording the amendment. The amendment shall be attached to the notice and shall not thereafter be changed so as to materially affect the rights of unit owners.

(2) To the occupants of each unit by notice given in the manner provided in section 515A.1-115 not less than 20 days prior to recording the amendment addressed to "Occupant Entitled to Legal Notice" at each unit. Attached to the notice shall be a statement that the amendment has been served on the association.

(3) Proof of service upon the association and the occupants shall be attached to the recorded amendment.

(c) A lien upon the additional real estate that is not also upon the existing condominium is a lien only upon the units and their percentage of the common elements that are created from the additional real estate. Units within the condominium as it existed prior to expansion are transferred free of liens that are liens only upon the additional real estate, notwithstanding the fact that the percentage of common elements for the units is a percentage of the entire condominium, including the additional real estate.

History: *1980 c 582 art 2 s 515.2-111; 1986 c 444; 1989 c 98 s 2*

515A.2-113 ALTERATIONS OF UNITS.

Subject to the provisions of the declaration and other provisions of law, a unit owner:

(1) may make any improvements or alterations to the unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium;

(2) after acquiring an adjoining unit or an adjoining part of an adjoining unit, may with consent of the association and first mortgagees of the affected units, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. The

adjoining unit owners shall have the exclusive license to use the space occupied by the common elements, but the use shall not create an easement or vested right. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries. The association may reasonably require that the owner or owners of units affected replace or restore any such partition.

History: *1980 c 582 art 2 s 515.2-113; 1986 c 444*

515A.2-114 RELOCATION OF BOUNDARIES BETWEEN ADJOINING UNITS.

(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. The owners of the adjoining units shall specify the proposed reallocation between their units of their common element interests, votes in the association, and common expense liabilities in the application and in accord with section 515A.2-108. Unless the board of directors determines within 60 days after receipt of the application by the association that the proposed amendment is not in the best interests of the condominium, the unit owners shall prepare an amendment which shall identify the units involved, state the reallocation, be executed by those unit owners and by any holder of an interest as security for an obligation, contain words of conveyance between them, contain written consent of the association, and upon recordation be indexed in the name of the grantor and the grantee. The amendment shall include an amended floor plan or if amended after July 31, 1986, an amended condominium plat, to show the altered boundaries between the adjoining units and their dimensions and identifying numbers. If a holder of an interest as security for an obligation joins in the amendment pursuant to this section, the extent of the interest and the remedies shall be deemed to be modified as provided in the amendment. The association shall incur no liability to any party by reason of performing those acts enumerated in this section.

(b) The association may require the owners of the affected units to build a boundary wall and other common elements between the units.

(c) The applicant shall deliver a certified copy of the amendment to the association.

History: *1980 c 582 art 2 s 515.2-114; 1986 c 342 s 8*

515A.2-115 SUBDIVISION OR CONVERSION OF UNITS.

(a) If the declaration expressly so permits, (i) a unit may be subdivided into two or more units, or, (ii) if owned by a declarant, a unit may be subdivided or converted into two or more units, limited common elements, common elements, or a combination of units, limited common elements and common elements. Subject to the provisions of the declaration and other provisions of law, the unit owner shall prepare and execute an amendment to the declaration, including the floor plans or if amended after July 31, 1986, the condominium plat, subdividing or converting that unit. The amendment to the declaration shall be executed by the unit owner and any holder of an interest as security for an obligation of the unit to be subdivided or converted, assign an identifying number to each unit created, and reallocate the common element interest, votes in the association, and common expense liability formerly allocated to the subdivided unit to the units in accord with section 515A.2-108.

(b) The unit owner shall deliver a certified copy of the recorded amendment to the association.

(c) In the case of a unit owned by a declarant, if a declarant converts part or all of a unit to common elements, the amendment to the declaration shall reallocate among the other units the common element interest, votes in the association, and common expense liability formerly allocated to the converted unit or portion thereof on the same basis used for the initial allocation thereof.

(d) If a holder of an interest as security for an obligation joins in the amendment pursuant to this section, the interest and remedies shall be deemed to apply to the units and the common element interests that result from the subdivision or conversion under this section. In the event of enforcement of any remedy, including foreclosure by advertisement, all instruments and notices shall describe the subject property in terms of the amended description.

History: *1980 c 582 art 2 s 515.2-115; 1986 c 342 s 9*

515A.2-116 MINOR VARIATION IN BOUNDARIES.

The existing physical boundaries of a unit or of a unit reconstructed in substantial accordance with the condominium plat are conclusively presumed to be its boundaries regardless of settling or lateral movement of the building.

History: *1980 c 582 art 2 s 515.2-116; 1986 c 342 s 10*

515A.2-117 USE FOR SALES PURPOSES.

If the declaration so provides and specifies the rights of a declarant with regard to their number, size, location and relocation, a declarant may maintain sales offices, management offices, and models in the condominium. Any sales office, management office, or model not designated a unit by the declaration is a common element, and a declarant ceasing to be a unit owner, ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the condominium.

History: *1980 c 582 art 2 s 515.2-117; 1986 c 444*

515A.2-118 EASEMENT TO FACILITATE COMPLETION, CONVERSION, AND EXPANSION.

Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under sections 515A.1-101 to 515A.4-117 or reserved in the declaration.

History: *1980 c 582 art 2 s 515.2-118*

515A.2-119 AMENDMENT OF DECLARATION.

(a) Except in cases of amendments which may be executed by a declarant under sections 515A.2-110(c) and (d), 515A.2-111(a); the association under section 515A.1-107(a); or certain unit owners under sections 515A.2-114, 515A.2-115, or 515A.2-120(b), and except as limited by subsection (d), the declaration may be amended by the association only by a vote or written agreement of unit owners to which at least 67 percent of the votes in the association are allocated, and 67 percent of the first mortgagees of the units (each mortgagee having one vote per unit financed) or any larger or smaller majority the declaration specifies. The declaration may specify any percentage if all of the units are restricted exclusively to nonresidential use.

(b) Every amendment to the declaration shall be recorded in every county in which any portion of the condominium is located, and is effective only when recorded.

(c) Except to the extent expressly permitted or required by other provisions of sections 515A.1-101 to 515A.4-117, no amendment may create or increase special declarant rights, increase the number of units, convert common elements to limited common elements, or change the boundaries of any unit, the common element interest, common expense liability, or voting strength in the association allocated to a unit, or the

uses to which any unit is restricted, in the absence of unanimous written agreement of the unit owners and holders of an interest as security for an obligation.

(d) Limited common elements shall not be altered without the written agreement of the unit owners and holders of an interest to secure an obligation of the units to which the limited common elements are allocated.

(e) An affidavit of the secretary of the association stating that the votes or agreements required by this section have occurred, shall be attached to the amendment and shall constitute prima facie evidence of the representations contained therein.

History: *1980 c 582 art 2 s 515.2-119*

515A.2-120 TERMINATION OF CONDOMINIUM.

(a) Except in the case of a taking of all the units by eminent domain (section 515A.1-107), a condominium may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, and 80 percent of the first mortgagees of the units (each mortgagee having one vote per unit financed), or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses.

(b) An agreement of unit owners and mortgagees to terminate a condominium must be evidenced by their execution of a termination agreement or ratification thereof. If, pursuant to a termination agreement, the real estate constituting the condominium is to be sold following termination, the termination agreement shall set forth the terms of the sale. A termination agreement and all ratifications thereof shall be effective upon recording in every county in which a portion of the condominium is situated.

(c) If the termination agreement provides that the real estate constituting the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. The association as trustee thereafter has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers and responsibilities it had before termination whether under the declaration or otherwise. Unless the termination agreement otherwise provides, proceeds of the sale shall be paid to the association as trustee and shall be distributed to the unit owners and holders of an interest as security for an obligation as their interests may appear and according to the priority enjoyed prior to termination in proportion to the respective interests of unit owners as provided in subsection (f). Any interest as security for an obligation formerly affecting a unit shall constitute a claim against the proceeds in the amount existing at the time of termination plus interest and other amounts accrued until distribution. Except as otherwise specified in the termination agreement, as long as the association as trustee holds title to the real estate, each unit owner and successors in interest have the right to use the real estate that formerly constituted the common elements and have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit and limited common elements. During the period of such occupancy, each unit owner and successors in interest remain liable for all assessments and other obligations imposed on unit owners by sections 515A.1-101 to 515A.4-117, the declaration, or the termination agreement.

(d) If the real estate constituting the condominium is not to be sold following termination, title to the real estate, upon termination, vests in the unit owners as tenants in common in proportion to their respective interests as provided in subsection (f). Any interests held as security for an obligation and the respective instruments formerly affecting a unit shall be deemed to be an interest affecting the resulting undivided interest in the same manner as they formerly affected the unit. As long as the tenancy in common exists, each unit owner and successors in interest have an exclusive right to occupancy of the portion of the real

estate that formerly constituted that unit owner's unit and limited common elements. Unless the termination agreement otherwise provides during the period of tenancy in common, the cotenants and the association shall have the rights and obligations under sections 515A.1-101 to 515A.4-117, the declaration and bylaws and the termination agreement.

(e) Following termination of the condominium, and after payment of or provision for the claims of the association's creditors, the assets of the association shall be distributed to unit owners and holders of an interest as security for an obligation in proportion to their respective interests as provided in subsection (f). The proceeds of sale described in subsection (c) and held by the association as trustee are not assets of the association.

(f) The respective interests of unit owners referred to in subsections (c), (d), and (e) are as follows:

(1) except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be delivered in the manner provided in section 515A.1-115 addressed to the "Occupant Entitled to Legal Notice" at each unit and the first mortgagee of each unit at its last known address and becomes final unless disapproved within 30 days after delivery by unit owners of units to which 25 percent of the votes in the association are allocated or by 25 percent of the first mortgagees, each mortgagee having one vote per unit financed. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's interest by the total fair market values of the interests of all unit owners.

(2) if any unit is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made and there is not satisfactory evidence to afford such an appraisal, the interests of all unit owners are their respective common element interests immediately before the termination.

History: *1980 c 582 art 2 s 515.2-120; 1986 c 444*

515A.2-121 RIGHTS OF HOLDERS OF AN INTEREST AS SECURITY FOR AN OBLIGATION.

(a) Nothing in sections 515A.1-101 to 515A.4-117 unless expressly stated diminishes the rights of holders of an interest as security for an obligation or prevents the declaration from requiring that all or a specified number or percentage of holders of an interest as security for an obligation affecting the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to (1) deny or delegate control over the general administrative affairs of the association by the unit owners, or (2) prevent the association from commencing, intervening in or settling any litigation or proceeding, or receiving and distributing any insurance proceeds pursuant to section 515A.3-112.

(b) Foreclosure or enforcement of an interest as security for an obligation against the entire condominium does not of itself terminate the condominium. Foreclosure or enforcement of an interest as security for an obligation against a portion of the condominium without redemption withdraws that portion from the condominium unless (i) the interest is recorded subsequent to the recording of the declaration or is otherwise subordinate to the declaration, or (ii) the holder or the holder's predecessor has issued a release or deed for a unit.

History: *1980 c 582 art 2 s 515.2-121; 1986 c 444*

ARTICLE 3
MANAGEMENT OF THE CONDOMINIUM

515A.3-101 ORGANIZATION OF UNIT OWNERS' ASSOCIATION.

A unit owners' association shall be organized no later than the date the condominium is created. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under section 515A.2-120, or their heirs, successors, or assigns. The association shall be organized as a profit or nonprofit corporation.

History: *1980 c 582 art 3 s 515.3-101*

515A.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.

(a) Unless limited by the provisions of the declaration, the association may:

(1) adopt and amend rules and regulations;

(2) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;

(3) hire and terminate managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

(5) regulate the use, maintenance, repair, replacement and modification of common elements;

(6) cause improvements to be made as a part of the common elements;

(7) grant leases, licenses, and concessions not to exceed one year and utility easements through or over the common elements; provided, however, that after conveyance to owners other than the declarant or affiliate of a declarant of units to which more than 50 percent of the voting power is allocated, the association may by resolution of a meeting of the members duly called grant leases, licenses, and concessions in excess of one year and easements through or over the common elements;

(8) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements described in section 515A.2-102(2) and (4);

(9) impose reasonable charges including reasonable costs and attorneys' fees, for the evaluation, preparation and recordation of amendments to the declaration, resale certificates required by section 515A.4-107, or statements of unpaid assessments;

(10) provide for the indemnification of its officers and board and maintain directors' and officers' liability insurance;

(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) exercise any other powers conferred by state law, the declaration, or bylaws.

(b) Notwithstanding subsection (a), the declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

History: *1980 c 582 art 3 s 515.3-102*

515A.3-103 BOARD OF DIRECTORS, MEMBERS AND OFFICERS.

(a) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may elect the members of the board of directors. Any period of declarant control extends from the date of the first conveyance of a unit to a unit owner other than a declarant for a period not exceeding five years in the case of a flexible condominium or three years in the case of any other condominium. Regardless of the period provided in the declaration, a period of declarant control terminates upon surrender of control by the declarant or no later than 60 days after conveyance of 75 percent of the units to unit owners other than a declarant.

(b) Not later than 60 days after conveyance of 50 percent of the units to unit owners other than a declarant not less than 33-1/3 percent of all of the members of the board of directors shall be elected by unit owners other than the declarant.

(c) Not later than the termination of the period of declarant control and thereafter the unit owners shall elect a board of directors of at least three members, at least a majority of whom shall be unit owners or the individual nominees of unit owners other than individuals. The board of directors shall elect the officers. The persons elected shall take office upon election.

(d) In determining whether the period of declarant control has terminated under subsection (a), or whether unit owners other than a declarant are entitled to elect members of the board of directors under subsection (b), the percentage of the units which has been conveyed is presumed to be that percentage which would have been conveyed if all the units which the declarant has built or reserved the right to build in the declaration were included in the condominium.

History: *1980 c 582 art 3 s 515.3-103; 1986 c 444*

515A.3-104 TRANSFER OF SPECIAL DECLARANT RIGHTS.

(a) No special declarant rights (section 515A.1-103(18)) created or reserved under sections 515A.1-101 to 515A.4-117 may be transferred except by an instrument evidencing the transfer recorded in every county where any portion of the condominium is located. The instrument shall be recordable and is not effective unless executed by the transferor and transferee. If additional real estate is transferred by the declarant, the transferee shall be deemed to receive all special declarant rights with respect thereto and shall be subject to any obligations imposed by the declaration respecting the additional real estate so transferred.

(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) a transferor is not relieved of any obligation or liability which arose before the transfer, and remains liable for warranty obligations imposed by sections 515A.1-101 to 515A.4-117. Lack of privity does not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor;

(2) if a transferor retains any special declarant right, or if a successor to any special declarant right is an affiliate of a declarant (section 515A.1-103(2)), the transferor is subject to liability for all obligations and liabilities imposed on a declarant by sections 515A.1-101 to 515A.4-117 or by the declaration arising after

the transfer and is jointly and severally liable with the successor for the liabilities and obligations of the successor which relate to the condominium; and

(3) a transferor who retains no special declarant right has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) In case of foreclosure of a mortgage or cancellation of a contract for deed or sale under the bankruptcy act or receivership proceeding or the foreclosure of any other lien against any unit owned by a declarant in the condominium, a person first acquiring title to all the units being canceled, foreclosed or sold, succeeds to all then existing special declarant rights except the special declarant rights with respect to additional real estate, unless the mortgage or other instrument or proceeding also covers additional real estate.

(d) The liabilities and obligations of persons who succeed to special declarant rights are as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all the obligations and liabilities imposed on any declarant by sections 515A.1-101 to 515A.4-117 or by the declaration.

(2) A successor to any special declarant right, other than a successor described in paragraph (3) or (4), who is not an affiliate of a declarant, is subject to all obligations and liabilities imposed on a declarant by sections 515A.1-101 to 515A.4-117 or the declaration, except that the successor is not subject to liability for misrepresentations or warranty obligations on improvements made by any previous declarant, or made before the condominium was created, or for a breach of fiduciary obligation by any previous declarant.

(3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs (section 515A.2-117), if the successor is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a disclosure statement and any liability arising as a result thereof.

(4) A successor to all special declarant rights, who is not an affiliate of a declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or by reason of subsection (c), may declare an intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than the right to control the board of directors in accordance with the provisions of section 515A.3-103 for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as any successor declarant may not exercise special declarant rights under this subsection, the successor declarant is not subject to any liability or obligation as a declarant other than liability for acts and omissions under section 515A.3-103.

(e) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under sections 515A.1-101 to 515A.4-117 or the declaration.

History: *1980 c 582 art 3 s 515.3-104; 1986 c 444*

515A.3-105 TERMINATION OF CONTRACTS AND LEASES OF DECLARANT.

If entered into prior to expiration of the period of declarant control pursuant to section 515A.3-103, (1) any management contract, employment contract, or lease of recreational or parking areas or facilities, (2) any other contract or lease binding the association or any unit owner other than the declarant or an affiliate

of the declarant to which a declarant or an affiliate of a declarant is a party, or (3) any contract or lease binding the association or any unit owner other than the declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the expiration of declarant control upon not less than 90 days' notice to the other party. This section does not apply to any lease the termination of which would terminate the condominium.

History: *1980 c 582 art 3 s 515.3-105*

515A.3-106 BYLAWS.

The bylaws and any amendments thereto must be recorded to be effective and shall provide:

(a) The meeting of the members shall be held at least once each year and shall specify an officer who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place and complete agenda of the meeting. The notice shall be hand delivered or sent by United States mail to all unit owners of record at the address of the respective units and to other addresses as any of them may have designated to the officer.

(b) No vote in the association of unit owners shall be deemed to inure to any unit during the time when the unit owner is the association.

(c) For a mechanism to resolve disputes regarding voting among more than one unit owner of a unit in such a way that the vote allocated to the unit is not split or otherwise cast separately by the several unit owners.

(d) An annual report be prepared by the association and a copy of the report be provided to each unit owner and the report contain a minimum of the following:

(1) A statement of any capital expenditures in excess of two percent of the current budget or $5,000 whichever is the greater anticipated by the association during the current year or succeeding two fiscal years.

(2) A statement of the status and amount of any reserve or replacement fund and portion of the fund designated for any specified project by the board of directors.

(3) A copy of the statement of financial condition for the association for the last fiscal year.

(4) A statement of the status of any pending suits or judgments to which the association is a party.

(5) A statement of the insurance coverage provided by the association.

(6) A statement of any unpaid assessments by the association on individual units identifying the unit number and the amount of the unpaid assessment.

History: *1980 c 582 art 3 s 515.3-106*

515A.3-107 UPKEEP OF THE CONDOMINIUM.

Except to the extent otherwise provided by the declaration or section 515A.3-112(d), the association is responsible for maintenance, repair, and replacement of the common elements and each unit owner is responsible for maintenance, repair, and replacement of the owner's unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through the unit reasonably necessary for those purposes.

If damage is inflicted on the common elements or any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

History: *1980 c 582 art 3 s 515.3-107; 1986 c 444*

515A.3-111 TORT AND CONTRACT LIABILITY.

(a) If a tort or breach of contract occurred during any period of declarant control (section 515A.3-103), the declarant shall indemnify the association for all liability incurred by the association as a result of that tort or breach of contract, including legal fees. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates.

(b) No unit owner shall have tort liability arising out of ownership of the common elements provided that the association has liability insurance coverage on the occurrence in an amount not less than $1,000,000.

History: *1980 c 582 art 3 s 515.3-111; 1986 c 444*

515A.3-112 INSURANCE.

(a) Commencing not later than the time of the first conveyance of a unit to a unit owner other than a declarant, the association shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements and units, exclusive of land, excavations, foundations, and other items normally excluded from property policies, insuring against all risks of direct physical loss. The total amount of insurance after application of any deductibles shall be not less than 80 percent of the full insurable replacement cost of the insured property. The association or its authorized agent may enter a unit at reasonable times upon reasonable notice for the purpose of making appraisals for insurance purposes.

(2) Comprehensive general liability insurance, in an amount determined by the board of directors but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) If the insurance described in subsection (a) is not maintained, the association shall immediately cause notice of that fact to be sent postage prepaid by United States mail to all unit owners at their respective units and other addresses provided to the association. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners.

(c) Insurance policies carried pursuant to subsection (a) shall provide that:

(1) Each unit owner and holder of a vendor's interest in a contract for deed is an insured person under the policy with respect to liability arising out of ownership of an undivided interest in the common elements;

(2) The insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of the unit owner's household and against the association and members of the board of directors;

(3) No act or omission by any unit owner or holder of an interest as security for an obligation, unless acting within the scope of authority on behalf of the association, shall void the policy or be a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same property covered by the policy, the policy is primary insurance not contributing with the other insurance.

(d) Any loss covered by the property policy under subsection (a)(1) shall be adjusted with the association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the association. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and holders of an interest as security for an obligation as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units, and unit owners and holders of an interest as security for an obligation are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored, or the condominium is terminated.

(e) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for personal benefit.

(f) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance, upon request, to any unit owner, or holder of an interest as security for an obligation. The insurance may not be canceled until 60 days after notice of the proposed cancellation has been mailed to the association and to each unit owner and holder of an interest as security for an obligation to whom certificates of insurance have been issued.

(g) Any portion of the condominium damaged or destroyed shall be promptly repaired or replaced by the association unless (1) the condominium is terminated and the association votes not to repair or replace all or part thereof, (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (3) 80 percent of the unit owners, including every owner and first mortgagee of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement of a unit or the common area in excess of insurance proceeds and reserves shall be a common expense. If less than the entire condominium is repaired or replaced, (1) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, (2) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the holders of an interest as security for an obligation of those units and the owners and holders of an interest as security for an obligation of the units to which those limited common elements were assigned, as their interests may appear, and (3) the remainder of the proceeds shall be distributed to all the unit owners and holders of an interest as security for an obligation as their interests may appear in proportion to their common element interest. In the event the unit owners vote not to rebuild a unit, that unit's entire common element interest, votes in the association, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under section 515A.1-107(a), and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, if the condominium is terminated, insurance proceeds not used for repair or replacement shall be distributed in the same manner as sales proceeds pursuant to section 515A.2-120.

(h) The provisions of this section may be varied or waived in the case of a condominium all of the units of which are restricted to nonresidential use.

History: *1980 c 582 art 3 s 515.3-112; 1986 c 444; 1995 c 258 s 64*

515A.3-113 SURPLUS FUNDS.

Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves shall be credited to the unit owners to reduce their future common expense assessments.

History: *1980 c 582 art 3 s 515.3-113*

515A.3-114 ASSESSMENTS FOR COMMON EXPENSES.

(a) Until the association levies a common expense assessment, the declarant shall pay all accrued expenses of the condominium. After any assessment has been levied by the association, assessments shall be levied at least annually and shall be based on a budget adopted at least annually by the association.

(b) Except for assessments under subsections (c) and (d), common expenses shall be assessed against all the units in accordance with the common expense liability allocated to each unit (section 515A.2-108). Any past due assessment or installment thereof shall bear interest at the rate established by the association not exceeding the rate of interest provided in section 549.09.

(c) Except as provided by the declaration any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the unit or in equal shares against the units to which that limited common element was assigned at the time the expense was incurred.

(d) If the declaration so provides, the association may assess any common expense benefiting less than all of the units against the units benefited. In that case the common expense shall be allocated among units benefited in proportion to their common expense liability.

History: *1980 c 582 art 3 s 515.3-114*

515A.3-115 LIEN FOR ASSESSMENTS.

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes payable. The association's lien may be foreclosed as provided by the laws of this state as if it were a lien under a mortgage containing a power of sale but the association shall give reasonable notice of its action to all lienholders of the unit whose interest would be affected. The rights of the parties shall be the same as those provided by law except that the period of redemption for unit owners shall be six months from the date of sale. Unless the declaration otherwise provides, fees, charges, late charges, and interest charges pursuant to section 515A.3-102(a), (9), and (11) are enforceable as assessments under this section.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (1) liens and encumbrances recorded before the recordation of the declaration, (2) any recorded mortgage on the unit securing a first mortgage holder, and (3) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or material suppliers' liens.

(c) Recording of the declaration constitutes record notice and perfection of the lien, and no further recordation of any claim of lien for assessment under this section is required.

(d) Proceedings to enforce an assessment must be instituted within three years after the last installment of the assessment becomes payable.

(e) Unit owners at the time an assessment is payable are personally liable to the association for payment of the assessments.

(f) A foreclosure sale, judgment, or decree in any action, proceeding, or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

(g) The association shall furnish to a unit owner or the owner's authorized agent upon written request of the unit owner or the authorized agent a recordable statement setting forth the amount of unpaid assessments currently levied against the owner's unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and every unit owner.

History: *1980 c 582 art 3 s 515.3-115; 1985 c 251 s 14; 1986 c 444; 1989 c 209 art 1 s 41*

515A.3-116 ASSOCIATION RECORDS.

The association shall keep financial records sufficiently detailed to enable the association to comply with section 515A.4-107. All financial records shall be made reasonably available for examination by any unit owner and the unit owner's authorized agents.

History: *1980 c 582 art 3 s 515.3-116; 1986 c 444*

515A.3-117 ASSOCIATION AS TRUSTEE.

With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers and a third person, without actual knowledge that the association is exceeding its powers or improperly exercising them, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

History: *1980 c 582 art 3 s 515.3-117*

ARTICLE 4
PROTECTION OF PURCHASERS

515A.4-101 APPLICABILITY; WAIVER.

(a) Sections 515A.4-101 to 515A.4-118 apply to all units subject to sections 515A.1-101 to 515A.4-117 except as provided in subsection (b) and section 515A.4-113 or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to nonresidential use.

(b) A disclosure statement need not be prepared in case of:

(1) a gratuitous transfer of a unit;

(2) a disposition pursuant to court order;

(3) a disposition by a government or governmental agency;

(4) a disposition by foreclosure or deed in lieu of foreclosure and subsequent disposition by the purchaser at mortgage foreclosure sale, or grantee in the deed in lieu of foreclosure;

(5) a transfer to which section 515A.4-107 (Resales of Units) applies.

History: *1980 c 582 art 4 s 515.4-101*

515A.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

A disclosure statement shall fully disclose:

(a) the name and principal address of the declarant and the address and the name, if any, and number, if available, of the condominium;

(b) a general description of the condominium; including without limitation the types and number of all buildings, units and amenities, and declarant's schedule of commencement and completion of construction thereof;

(c) the total number of additional units that may be included in the condominium and whether the declarant intends to rent or market blocks of units to investors;

(d) a copy of the declaration other than the condominium plat, condominium plat for the particular unit, bylaws, articles of incorporation, rules and regulations, and any contracts and leases to which the unit owners or association will be subject and which may not be canceled upon 30 days' notice by the association;

(e) any current balance sheet and a projected budget for the association for the first full or partial year during which a unit is conveyed to a unit owner other than a declarant and any projected budget for future years which the association has adopted, and a statement of who prepared the balance sheet, projected budget or budget. The budget or projected budget shall include, without limitation:

(1) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(2) a statement of any other reserves;

(3) the projected common expense assessment by category of expenditures for the association;

(4) the projected monthly common expense assessment for each type of unit;

(f) any supplies and services not reflected in the budget or projected budget which the declarant provides, or expenses which the declarant pays, and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

(g) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(h) a description of any liens, defects, or encumbrances on or affecting the title to the condominium after the contemplated conveyance;

(i) a description of any financing offered by the declarant;

(j) the terms of any warranties provided by the declarant, including the warranties set forth in sections 515A.4-111 and 515A.4-112, and limitations imposed by the declarant on the enforcement thereof;

(k) a statement that:

(1) within 15 days after receipt of a disclosure statement, a purchaser may, prior to conveyance, cancel any purchase agreement of a unit from a declarant;

(2) if a declarant fails to provide a disclosure statement to a purchaser before conveying a unit, that purchaser may recover from the declarant an amount not to exceed five percent of the sales price of the unit; and

(3) if a purchaser received the disclosure statement more than 15 days before signing a purchase agreement, the purchaser cannot cancel the agreement;

(l) a statement disclosing, to the extent of the actual knowledge of the declarant or an affiliate of the declarant after reasonable inquiry, any judgments against the association, the status of any pending suits to which the association is a party, and the status of any pending suits material to the condominium;

(m) a statement that any earnest money paid in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the purchase agreement pursuant to section 515A.4-106;

(n) a description of the insurance coverage to be provided for the benefit of unit owners;

(o) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium;

(p) whether financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to section 515A.4-117 (Declarant's Obligation to Complete and Restore); and

(q) a statement (1) that there are no delinquent taxes on the property or, if there are delinquent taxes on the property, the amount of the delinquent taxes and the length of the delinquency, and (2) that discloses the amount, if known, of taxes due in the current year.

History: *1980 c 582 art 4 s 515A.4-102; 1986 c 342 s 11; 1986 c 444; 1991 c 291 art 1 s 52*

515A.4-104 SAME; CONVERSION CONDOMINIUMS.

The disclosure statement of a conversion condominium the units of which may be used for residential purposes shall contain, in addition to the information required by section 515A.4-102:

(a) A professional opinion prepared by an architect licensed in this state or a registered professional engineer licensed in this state, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium to the extent reasonably ascertainable without disturbing the improvements or dismantling the equipment;

(b) A statement by the declarant of the expected useful life of each item reported on in subsection (a) or a statement that no representations are made in this regard;

(c) A list of any outstanding notices of uncured violations of building code or other municipal regulations, which will be outstanding at the time of the first conveyance of a unit, together with the estimated cost of curing those violations.

History: *1980 c 582 art 4 s 515.4-104*

515A.4-106 PURCHASER'S RIGHT TO CANCEL.

(a) Unless delivery of a disclosure statement is not required under section 515A.4-101(b), a declarant shall provide at least one of the purchasers of a unit with a copy of a disclosure statement not later than the date of any purchase agreement. Unless a purchaser is given the disclosure statement more than 15 days prior to execution of a purchase agreement for the unit, the purchaser may, prior to the conveyance, cancel the agreement within 15 days after receiving the disclosure statement.

If the conveyance occurs within 15 days after the date of the execution of the purchase agreement by the purchaser, any purchaser may waive in writing all rights to receive a disclosure statement under this section.

(b) A purchaser who elects to cancel a purchase agreement pursuant to subsection (a), may do so by hand delivering notice thereof to the declarant or by mailing notice thereof by postage prepaid United States mail to the declarant or to the declarant's agent for service of process. Cancellation is without penalty, and all payments made by the purchaser pursuant to the purchase agreement shall be refunded promptly.

(c) If a declarant fails to provide a purchaser to whom a unit is conveyed with a disclosure statement and all amendments thereto as required by subsections (a) and (d), that purchaser, in addition to any rights to damages or other relief, is entitled to receive from the declarant an amount not to exceed five percent of the sales price of the unit.

(d) The disclosure statement and any information furnished in connection therewith may be amended prior to conveyance if the amendment is delivered to the purchaser to whom the disclosure statement was delivered. If the amendment materially adversely affects a purchaser, then the purchaser shall have 15 days after delivery of the amendment to cancel the purchase agreement in accordance with this section.

History: *1980 c 582 art 4 s 515.4-106; 1986 c 444*

515A.4-107 RESALES OF UNITS.

(a) In the event of a resale of a unit by a unit owner other than a declarant, the unit owner shall furnish to a purchaser before execution of any purchase agreement for a unit, or otherwise before conveyance, a copy of the declaration, other than the condominium plat, the bylaws, the rules and regulations of the association, and any amendments thereto, and a certificate dated not more than 90 days prior to the date of the purchase agreement or otherwise before conveyance, containing:

(1) a statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration, bylaws, rules and regulations, or any amendment thereof;

(2) a statement setting forth the amount of periodic installments of common expense assessments and special assessments and any unpaid common expense or special assessment currently payable;

(3) a statement of any other fees payable by unit owners;

(4) a statement of any capital expenditures approved by the association for the current and next succeeding two fiscal years;

(5) a statement that a copy of the condominium plat and any amendments thereof are available in the office of the association for inspection;

(6) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;

(7) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(8) the current budget of the association;

(9) a statement of any judgments against the association and the status of any pending suits to which the association is a party;

(10) a statement describing any insurance coverage provided for the benefit of unit owners.

(b) The association shall, within seven days after a request by a unit owner or the unit owner's authorized agent, furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner without actual knowledge providing a certificate pursuant to subsection (a) shall have no liability to the purchaser for any erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for any unpaid assessment or fee existing as of the date of the certificate greater than the amount set forth in the certificate prepared by the association. A unit owner is not responsible to a purchaser for the failure or delay of the association to provide the certificate in a timely manner.

History: *1980 c 582 art 4 s 515.4-107; 1986 c 342 s 12; 1986 c 444*

515A.4-1075 PURCHASER'S RIGHT TO CANCEL.

(a) The information required to be delivered by section 515A.4-107 shall be delivered to a purchaser not later than the date of any purchase agreement. Unless a purchaser is given the information more than 15 days prior to the execution of the purchase agreement for the unit the purchaser may, prior to the conveyance, cancel the agreement within 15 days after receiving the information.

(b) A purchaser who elects to cancel a purchase agreement pursuant to subsection (a), may do so by hand delivering notice thereof to the seller or the seller's agent or by mailing notice thereof by postage prepaid United States mail to the seller or the agent. Cancellation is without penalty and all payments made by the purchaser shall be refunded promptly.

History: *1980 c 582 art 4 s 515.4-1075; 1986 c 444*

515A.4-108 ESCROW OF DEPOSITS.

Any earnest money paid in connection with the purchase or reservation of a unit from a declarant shall be escrowed and held in this state in an account, savings deposit or certificate of deposit designated solely for that purpose in an institution whose accounts are insured by a governmental agency or instrumentality until (1) delivered to the declarant at closing; (2) delivered to the declarant because of purchaser's default under the purchase agreement or reservation; or (3) delivered to the purchaser.

History: *1980 c 582 art 4 s 515.4-108*

515A.4-109 RELEASE OF INTERESTS AS SECURITY FOR AN OBLIGATION.

(a) Before conveying a unit to a purchaser other than a declarant, the seller shall furnish to the purchaser releases for that unit and its common element interest of all interests as security for an obligation affecting more real estate than that unit and its common element interest, or if the purchaser expressly agrees, a policy of title insurance insuring against loss or damage by reason of such interests. Failure to furnish the releases

does not of itself invalidate the lien or the conveyance. This subsection does not apply to conveyance of all of the units in the condominium or to deeds in lieu of foreclosure.

(b) Whether perfected before or after creation of the condominium, if a lien other than a mortgage, including a lien attributable to work performed or materials supplied before creation of the condominium, becomes effective against two or more units, the unit owner of such a unit may pay to the lienholder the amount of the lien attributable to that owner's unit, and the lienholder, upon receipt of payment, shall promptly deliver a release of the lien covering that unit and its common element interest. The amount of the payment shall be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.

(c) Labor performed or materials furnished for the common elements, if duly authorized by the association, 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 lien law against each of the units and shall be subject to the provisions of subsection (b).

History: *1980 c 582 art 4 s 515.4-109; 1986 c 444*

515A.4-110 CONVERSION CONDOMINIUMS.

(a) A declarant of a conversion condominium shall give each of the tenants and any subtenant in possession of buildings subject to sections 515A.1-101 to 515A.4-117 notice of the conversion or the intent to convert no later than 120 days before the declarant will require them to vacate. The notice shall set forth generally the rights conferred by this section and shall have attached thereto a form of purchase agreement setting forth the terms of sale contemplated by subsection (b) and a statement of any significant restrictions on the use and occupancy of the unit to be imposed by the declarant and shall be hand delivered or mailed by postage prepaid United States mail to the tenant and subtenant at the address of the unit. The notice shall further state that the tenants or subtenants in possession of a 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 62 years of age or older, disabled as defined in section 268A.01, or 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 condominium conversion is delivered or mailed. The notice shall be contained in an envelope upon which the following words shall be boldly printed: "Notice of Condominium Conversion." No tenant or subtenant may be required by the declarant to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste, or conduct which disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period, except that a tenant or subtenant in possession of a residential unit may vacate upon 30 days' written notice to the declarant. Nothing in this section prevents the declarant and the tenant or subtenant in possession of the unit from agreeing to an extension of the tenancy on a month to month basis beyond the 120-day notice period. 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 tenants or subtenants in possession of the premises. Failure of a declarant to give notice as required by this section constitutes a defense to an action for possession.

(b) For 60 days after delivery or mailing of the notice described in subsection (a), the holder of the lessee's interest for each unit on the date the notice is delivered or mailed 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 conditions preventing the purchase of the unit by the holder because of the age of

the holder or of persons residing with the holder. If the holder fails to exercise the option during that 60-day period, the declarant 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 does not apply to any unit in a conversion condominium if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(c) If a declarant, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, delivery of the deed conveying the unit extinguishes any right which a holder of a lessee's interest not in possession may have under subsection (b) to purchase that unit, but does not affect the right of the holder to recover damages from the declarant for a violation of subsection (b).

(d) Nothing in this section permits termination of a lease by a declarant in violation of its terms.

History: *1980 c 582 art 4 s 515.4-110; 2005 c 56 s 1*

515A.4-111 EXPRESS WARRANTIES.

(a) Express warranties made by a declarant or an affiliate of a declarant to a purchaser of a unit if reasonably relied upon by the purchaser, are created as follows:

(1) any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominium that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

(2) any model or description of the physical characteristics of the condominium, including plans and specifications of or for improvements, creates an express warranty that the condominium will conform to the model or description. A notice prominently displayed on a model or description shall prevent a purchaser from reasonably relying upon the model or description to the extent of the disclaimer set forth on the notice;

(3) any description of the quantity or extent of the real estate comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerance; and

(4) a provision that a buyer may put a unit only to a specified use is an express warranty that the specified use is lawful.

(b) Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty, are necessary to create an express warranty. A statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

(c) Any conveyance of a unit transfers to the purchaser all express warranties made by a declarant or an affiliate of a declarant.

History: *1980 c 582 art 4 s 515.4-111*

515A.4-112 IMPLIED WARRANTIES.

(a) A declarant warrants to a purchaser that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

(b) A declarant warrants to a purchaser that a unit and the common elements in the condominium are structurally suitable for the ordinary uses of real estate of its type and that any improvements or repairs made or contracted for by the declarant or made by any person in contemplation of the creation of the condominium, will be:

(1) free from defective materials; and

(2) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.

(c) A declarant warrants to a purchaser of a unit which may be used for residential use that the residential use does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(d) Warranties imposed by this section may be excluded or modified as specified in section 515A.4-113.

(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant (section 515A.1-103(2)) are made or contracted for by the declarant.

(f) Any conveyance of a unit transfers to the purchaser all of any declarant's implied warranties.

History: *1980 c 582 art 4 s 515.4-112; 1986 c 444*

515A.4-113 EXCLUSION OR MODIFICATION OF IMPLIED WARRANTIES.

(a) Except as limited by subsection (b) implied warranties:

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

(2) are 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 the exclusion of warranties.

(b) With respect to a purchaser of a unit which may be occupied for residential use, no general disclaimer of implied warranties is effective, but a declarant may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.

History: *1980 c 582 art 4 s 515.4-113*

515A.4-114 STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of any obligation arising under section 515A.4-111 or 515A.4-112 must be commenced within six years after the cause of action accrues, but the parties may reduce the period of limitation to not less than two years. With respect to a unit which may be occupied for residential use, an agreement to reduce the period of limitation shall be evidenced by a separate instrument executed by the purchaser.

(b) Subject to subsection (c), a cause of action under section 515A.4-111 or 515A.4-112, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, when the purchaser to whom the warranty is first made enters into possession after a conveyance of a possessory interest if a possessory interest is conveyed or otherwise at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(2) as to each common element, the later of (i) the time the common element is completed, (ii) the time the first unit in the condominium is conveyed to a bona fide purchaser, or (iii) as to a common element

within any additional real estate or portion thereof the time the first unit therein is conveyed to a bona fide purchaser.

(c) If a warranty under section 515A.4-111 or 515A.4-112 explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

History: *1980 c 582 art 4 s 515.4-114*

515A.4-115 EFFECT OF VIOLATIONS ON RIGHTS OF ACTION; ATTORNEY'S FEES.

If a declarant or any other person subject to sections 515A.1-101 to 515A.4-117 violates any provision thereof or any provision of the declaration or bylaws, any person or class of persons adversely affected by the violation has a claim for appropriate relief. Punitive damages may be awarded in the case of a willful violation of sections 515A.1-101 to 515A.4-117. The court, in an appropriate case, may award reasonable attorneys' fees.

History: *1980 c 582 art 4 s 515.4-115*

515A.4-116 LABELING OF PROMOTIONAL MATERIAL.

If any improvement contemplated in a condominium is required by section 515A.2-110(b)(3) to be labeled "NEED NOT BE BUILT" on the condominium plat, no promotional material may be displayed or delivered to prospective purchasers which describes or depicts that improvement unless the description or depiction of the improvement is conspicuously labeled or identified as "NEED NOT BE BUILT."

History: *1980 c 582 art 4 s 515.4-116; 1986 c 342 s 13*

515A.4-117 DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE.

(a) The declarant shall complete all improvements labeled "MUST BE BUILT" on the condominium plat prepared pursuant to section 515A.2-110.

(b) The declarant is subject to liability for the prompt repair and restoration to a condition compatible with the remainder of the condominium of any portion of the condominium affected by the exercise of rights reserved pursuant to or created by sections 515A.2-111, 515A.2-117, and 515A.2-118.

History: *1980 c 582 art 4 s 515.4-117; 1986 c 342 s 14*

515A.4-118 REFERENCES.

When used in sections 515A.1-101 to 515A.4-118, the term "this act" and similar terms refer to sections 515A.1-101 to 515A.4-118.

History: *1980 c 582 art 4 s 515.4-118*