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*