

515B.1-102 APPLICABILITY.

[subsections (a) through (g) omitted.]

~~(h) The amendments in this act to the following Sections apply only to common interest communities created on or after August 1, 2010: section 515B.1-103(33a), and sections 515B.2-110, 515B.3-105, 515B.3-115, 515B.3-116, 515B.4-102, and 515B.4-115. apply only to common interest communities created before August 1, 2010. Sections 515B.1-103(33b), and sections 515B.2-1101, 515B.3-1051, 515B.3-1151, 515B.3-116, 515B.4-1021, and 515B.4-1151, apply only to common interest communities created on or after August 1, 2010.~~

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

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

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.1-103 DEFINITIONS.

[subsections (1) through (32) omitted]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[subsections (34) through (36) omitted]

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.1-116 RECORDING.

[Subsections (a) through (d) omitted]

(e) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration or amended declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat; provided, that if the declaration, amendment or restatement changes the boundaries of an existing tax parcel, then the recording officer shall require a certification as to the payment of current and delinquent taxes on any tax parcel the boundaries of which are changed. ~~In order for an instrument to be accepted and recorded under the preceding sentence, the instrument must not create or change unit or common area boundaries.~~

EFFECTIVE DATE. This section is effective August 1, 2011.

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

[subsections (a) through (d) omitted]

(e) If the declaration so provides, and subject to any different licensing provisions in a declaration recorded before August 1, 2010, the declarant may grant to a unit owner an exclusive license for the use of a common element originally designed and constructed to serve as a garage stall, storage locker, or other similar common element space, in which case the common element license shall be deemed to be appurtenant to the unit owner's unit, subject to transfer if so provided by the declaration. The declarant shall, at the time the license is granted, provide to the unit owner association a common element license evidenced by a separate instrument signed by the declarant, and provide a copy of the instrument to the association. ~~that~~ The instrument shall, at a minimum, identify identifies the licensed common element, the unit identifier of the unit to which it is appurtenant, and a reference to the section of the declaration governing common element licenses. If the declaration so provides, the declarant may require the one-time onetime payment to the declarant of a consideration for the grant of a license.

(1) A common element license may be held only by a unit owner, and the purported transfer of a license to a person other than a unit owner shall be void. Except as provided in the declaration or this subsection, no interest in the common element license may be held or transferred separate from the unit, ~~and the purported transfer of any interest in the license other than to another unit owner shall be void.~~

[subsections (e)(2), (e)(3), (e)(4), and (f) omitted]

EFFECTIVE DATE. This section is effective August 1, 2011.

515B.2-110 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).

~~(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.~~

~~(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).~~

~~(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.~~

~~(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier, and its location within the cooperative property.~~

~~(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.~~

~~(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, shall show:~~

~~(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;~~

~~(2) the dimensions and location of all existing, roadways and material structural improvements that are part of the common elements;~~

~~(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";~~

~~(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;~~

~~(5) the extent of any encroachments by or upon any portion of the common interest community;~~

~~(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;~~

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

~~(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios, shall be shown;~~

~~(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;~~

~~(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and~~

~~(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";~~

~~(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:~~

~~(1) comply with chapter 505, 508, or 508A, as applicable; and~~

~~(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.~~

~~(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.~~

~~(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.~~

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying the building, and showing the perimeter walls of each unit created or changed by the declaration or any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this

subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

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

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

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

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

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

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) If, pursuant to section 515B.2-112, a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, or combines two or more units, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements or limited common elements thus created.

(g) A CIC plat which complies with subsection (c) is not subject to chapter 505.

(h) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.2-1101 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier, and its location within the cooperative property.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing, roadways and material structural improvements that are part of the common elements;

(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

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

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

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

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios, shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";.

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.

(g) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.2-121 MASTER ASSOCIATIONS.

[subsections (a) to (e)(2)(i) omitted]

(e)(2)(ii) authorize the ~~master~~-board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to the master association.

[subsections (e)(3), (e)(4), (e)(5), (e)(6) and (f) to (i) omitted]

EFFECTIVE DATE. This section is effective August 1, 2011.

515B.2-124 SEVERANCE OF COMMON INTEREST COMMUNITY.

[subsections (a) to (f) omitted]

(g) If the ~~unit owners whose units~~ that are being severed from the common interest community ~~will be included in~~ intend to form a new common interest community, then ~~said unit owners~~ entitled to cast ~~shall, by~~ at least 80 percent of the votes allocated by the existing declaration to said units, ~~shall~~ approve a new declaration, articles of incorporation and bylaws to govern the new common interest community no later than 60 days before the effective date of the severance agreement. However, the new declaration shall not create, increase or extend special declarant rights, increase the number of units, change unit boundaries, change the formula for allocations of interests, change the use of a unit from residential to non-residential, or conversely, or change the form of common interest community, unless agreed to in writing by all owners whose units are being severed. The new declaration shall be recorded simultaneously with the amendment to the existing declaration. ~~No later than 30 days after the date of the severance agreement,~~ The articles of incorporation creating the association intended to govern the new common interest community shall be filed with the secretary of state and ~~promptly thereafter~~ the unit owners whose units are being severed shall elect a board of directors to act on behalf of the new association before the recording of the new declaration. The new association shall have a power of attorney coupled with an interest to execute and record the new declaration, any instruments of conveyance and all related instruments on behalf of the unit owners whose units are being severed from the common interest community, but shall not thereby acquire any rights or obligations of a declarant. The board of directors of the new association shall cooperate with the board of directors of the existing association to complete the severance. The existing association shall retain all authority to act on behalf of the common interest community until the amendment to the existing declaration and the new declaration are recorded.

EFFECTIVE DATE. This section is effective August 1, 2011.

[subsections (h) to (j) omitted]

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

[subsections (a)(1) to (a)(8) omitted]

(a)(9) grant or amend easements for public utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by a vote of unit owners other than declarant or its affiliates, grant or amend other easements, leases, and licenses through, over or under the common elements;

EFFECTIVE DATE. This section is effective August 1, 2011.

[subsections (a)(10) to (a)(16), (b) and (c) omitted]

~~515B.3-104 SPECIAL DECLARANT RIGHTS; TRANSFER OF SPECIAL DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND TRANSFEREE, AND TERMINATION.~~

~~(a) Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.~~

~~(1) A transfer shall be recorded in compliance with applicable law, and is not effective (i) unless recorded and (ii) unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded.~~

~~(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).~~

~~(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.~~

~~(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited land sale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right that relates to the transferor's ownership interest in the units or additional real estate transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.~~

~~(c) If a declarant is an individual rather than a legal entity, and the individual dies, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.~~

~~(d) A transferor's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant and arising on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4 112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d)(2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).~~

~~(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferee.~~

~~(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) Except as set forth in subsection (e)(3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4 112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior~~

~~transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.~~

~~(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferor.~~

~~(f) For purposes of this section, a declarant's obligations under section 515B.3 111(a) arise when the tort or contract violation occurs; a declarant's obligations to a purchaser under section 515B.4 112 arise when the declarant makes an express warranty to the purchaser; and a declarant's obligations to a purchaser under sections 515B.4 113 and 515B.4 118(a), arise when the declarant conveys a unit to the purchaser.~~

~~(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1 103(33)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4 101(b) and 515B.4 102(b), and sections 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 113, 515B.4 117, and 515B.4 118, and for any express warranties under section 515B.4 112 that the transferee makes to purchasers.~~

~~(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent re-transfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1 103(33)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3 115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3 103, 515B.3 111, and 515B.3 120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.~~

~~(i) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1 115; or (ii) the conveyance, whether~~

~~voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.~~

~~(j) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions. Nothing in this section shall subject any transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.~~

(a) A special declarant right created or reserved under this chapter may be voluntarily transferred only by a separate instrument evidencing the transfer recorded in every county in which any part of the common interest community is located. The separate instrument shall be recorded against all units in the common interest community, or in the case of a cooperative, against the real estate owned by the cooperative, or in the case of a condominium on registered land, the instrument must be filed pursuant to section 508.351, subdivision 3, or 508A.351, subdivision 3. The instrument may provide for the conveyance of less than all of the special declarant rights, and is not effective unless executed by the transferor and transferee. A deed in lieu of foreclosure, or other conveyance arising out of a foreclosure or cancellation, shall not be deemed a voluntary transfer within the meaning of this section.

(b) Upon the voluntary 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 arising before the transfer and remains liable for warranty obligations imposed on the transferor by this chapter. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights and arising before or after the transfer.

(4) A transferor 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) Upon the voluntary transfer of any special declarant right, the liability of a successor declarant is as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.

(2) A successor to any special declarant right who is not an affiliate of a declarant is subject to all obligations and liabilities imposed by this chapter or the declaration, except: (i) misrepresentations by any previous declarant; (ii) warranty obligations on improvements made by any previous declarant, or made before the common interest community was created; (iii) breach of any fiduciary obligation by any previous declarant or the declarant's appointees to the board; (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer; and (v) any liability arising out of a special declarant right which was not transferred as provided in subsection (a).

(d) In case of foreclosure of a mortgage or cancellation of a contract for deed or other security interest (or conveyance in lieu thereof), sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of any units or additional real estate, or interest therein, owned by a declarant, a person acquiring title to the property or interests succeeds to all special declarant rights related to the property or interests held by that declarant and acquired by it unless (i) the mortgage instrument or other instrument creating the security interest, (ii) the instrument conveying title or (iii) a separate instrument signed by the person and recorded within 60 days after the person acquires title to the property or interests, provides for transfer of less than all special declarant rights. The separate instrument need be recorded only against the title to the units or interests other than those being acquired under this subsection, or in the case of a cooperative, against the real estate owned by the cooperative. The declarant shall cease to have or exercise any special declarant rights which are transferred. If the person has limited the transfer of certain special declarant rights as provided in this subsection, then it and its successor's liability shall be limited, as follows:

(1) If the person or its successor limits its rights and liabilities only to maintain models, sales office and signs, and if that party is not an affiliate of a declarant, it is not subject to any liability or obligations as a declarant, except the obligation to provide a disclosure statement and any liability arising from that obligation, and it may not exercise any other special declarant rights.

(2) If the person or its successor is not an affiliate of a declarant, it may declare its intention in a recorded instrument as provided in subsection (a) to acquire all special declarant rights and hold those rights solely for transfer to another person. Thereafter,

until the special declarant rights are transferred to a person acquiring title to any unit owned by the successor, or until a separate instrument is recorded permitting exercise of all of 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 515B.3-103 for the duration of any period of declarant control. So long as any successor may not exercise its special declarant rights under this subsection, it is not subject to any liability or obligation as a declarant other than liability for its acts and omissions under section 515B.3-103.

(e) Any attempted exercise by a purported successor to a special declarant right which is not transferred as provided in this section is void, and any purported successor attempting to exercise that right shall be liable for any damages arising out of its actions.

(f) Nothing in this section shall subject 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 this chapter, or the declaration or bylaws.

(g) This section applies only to transfers of special declarant rights that are effective before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-1041 SPECIAL DECLARANT RIGHTS; TRANSFER OF SPECIAL DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND TRANSFEREE, AND TERMINATION.

(a) Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.

(1) A transfer shall be recorded in compliance with applicable law, and is not effective (i) unless recorded and (ii) unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded. Transfers recorded on or after [Effective Date], 2011 shall be recorded against title to all units in the common interest community.

(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).

(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.

(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited land sale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. From and after [Effective Date], 2011, a separate instrument recorded pursuant to subsection (b)(iii) shall be recorded against title to all units in the common interest community. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right that relates to the transferor's ownership interest in the units or additional real estate

transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.

(c) If a declarant is an individual rather than a legal entity, and the individual dies, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.

(d) A transferor's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:

(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant and arising on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4-112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d)(2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).

(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or 515B.4-118, to any purchaser from or through the transferee.

(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:

(1) Except as set forth in subsection (e)(3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4-112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.

(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or 515B.4-118, to any purchaser from or through the transferor.

(f) For purposes of this section, a declarant's obligations under section 515B.3-111(a) arise when the tort or contract violation occurs; a declarant's obligations to a purchaser under section 515B.4-112 arise when the declarant makes an express warranty to the purchaser; and a declarant's obligations to a purchaser under sections 515B.4-113 and 515B.4-118(a), arise when the declarant conveys a unit to the purchaser.

(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1-103(33)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4-101(b) and 515B.4-102(b), and sections 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-113, 515B.4-117, and 515B.4-118, and for any express warranties under section 515B.4-112 that the transferee makes to purchasers.

(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent re-transfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1-103(33)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3-115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3-103, 515B.3-111, and 515B.3-120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.

(i) Nothing in this section shall subject any transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.

(j) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1-115; or (ii) the conveyance, whether voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.

(k) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions.

(l) Subsections (a) through (i) of this section apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Subsections (j) and (k) of this section apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-105 TERMINATION OF CONTRACTS, LEASES, LICENSES.

~~(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of a declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.~~

~~(b) If entered into prior to the termination of the period of master developer control described in section 515B.2 121, subsection (c), paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.~~

~~(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1 115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the period of master developer control, as applicable.~~

~~(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a)(iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4 102:~~

~~(i) a lease the termination of which would terminate the common interest community;~~

~~(ii) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);~~

~~(iii) an agreement between a declarant or an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities or other public purpose; or~~

~~(iv) subject to the requirements of section 515B.4 110(a), a lease, easement, covenant, condition, or restriction that (i) is recorded before the recording of the~~

~~declaration, and (ii) runs in favor of a person other than a declarant or an affiliate of a declarant.~~

(a) If entered into prior to termination of the period of declarant control, (i) any management contract, employment contract, or lease of recreational facilities, or garages or other parking facilities, (ii) any contract, lease, or license binding the association, and to which a declarant or an affiliate of a declarant is a party, or (iii) any contract, lease or license 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 under the procedures described in this section.

(b) If prior to expiration of the suspension period described in section 515B.2-121, subsection (c), paragraph (3), a contract, lease, or license of a type described in subsection (a) is entered into by a person having authority to appoint the directors of the master association and is binding upon the master association, then the master association, and not any association, may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the suspension period described in section 515B.2-121, subsection (c), paragraph (3), as applicable.

(d) This section does not apply to:

(1) any lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c); or

(3) an agreement between a declarant or an affiliate of a declarant, or a person having authority pursuant to section 515B.2-121(c)(3) to appoint the directors of the master association, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, or utilities.

(e) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-1051 TERMINATION OF CONTRACTS, LEASES, LICENSES.

(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of a declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.

(b) If entered into prior to the termination of the period of master developer control described in section 515B.2-121, subsection (c) , paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the period of master developer control, as applicable.

(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a)(iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4-102:

(1) a lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);

(3) an agreement between a declarant or, an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities or other public purpose;

(4) subject to the requirements of section 515B.4-110(a), a lease, easement, covenant, condition, or restriction that is recorded before the recording of the declaration,

to the extent that it benefits a person other than a declarant or an affiliate of a declarant;
or

(5) a license granted by a declarant pursuant to subsection 515B.2-109(e).

(e) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-114 REPLACEMENT RESERVES; SURPLUS FUNDS.

~~(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:~~

~~(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component; provided that portions of replacement reserves need not be segregated for the replacement of specific components.~~

~~(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that have a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-115(e)(1), or approved in compliance with clause (5).~~

~~(3) The association shall keep the replacement reserves in an account or accounts separate from the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.~~

~~(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.~~

~~(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval (i) by the board and (ii) by unit owners, other than declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments levied under section 515B.3-115(c), or by assessments levied under section 515B.3-115(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.~~

~~(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.~~

~~(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.~~

(a) The annual budgets of the association shall provide from year to year, on a cumulative basis, for adequate reserve funds to cover the replacement of those parts of the common interest community which the association is obligated to replace. These reserve requirements shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing before January 1, 2012.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-1141 REPLACEMENT RESERVES.

(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:

(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component; provided that portions of replacement reserves need not be segregated for the replacement of specific components.

(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that have a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-115(e)(1), or approved in compliance with clause (5).

(3) The association shall keep the replacement reserves in an account or accounts separate from the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.

(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.

(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval (i) by the board and (ii) by unit owners, other than declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments, if the declaration authorizes special assessments, or by assessments levied under section 515B.3-115(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.

(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing on or after January 1, 2012.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-115 ASSESSMENTS FOR COMMON EXPENSES.

~~(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expense assessments expenses shall be as follows:~~

~~(1) If a common expense assessment has not been levied by the association, the declarant shall pay all operating common expenses of the common interest community, and shall fund including the payment of the replacement reserve component of the common expenses as required by for all units in compliance with subsection (b).~~

~~(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments allocated to levied against their units, subject to the following except as follows:~~

~~(i) If The declaration so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate. may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection, and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant; provided, that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii).~~

~~(ii) If The declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of declarant control, to make up any operating deficit incurred by the association during the period of declarant control. The existence and amount, if any, of the operating deficit shall be determined using the accrual basis of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts. alternate common expense plan may be authorized only by including in the declaration and the disclosure statement~~

~~required by section 515B.4 102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected.~~

~~(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternate common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.~~

~~(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3 121(b). The audit shall be binding on the declarant and the association.~~

~~(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.~~

~~(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.~~

~~(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3 103(d), through the use of a special assessment described in subsection (c) or by assessments described in subsections (e), (f), and (g).~~

~~(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws or this chapter, or as represented in the disclosure statement required by section 515B.4 102, except as to matters authorized by this chapter.~~

~~(b) The replacement reserve component of the common expenses—reserves required by section 515B.3-114 shall be funded paid to the association by each unit owner for each unit owned by that unit owner in accordance with the projected association's annual budget required by section 515B.4-102(23); provided, that the funding of replacement reserves with respect to a unit shall commence no later than the date that approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that the unit or structure and exterior of the building containing the unit, or the structure and exterior of any building located within the unit boundaries is, but excluding the interior finishing of the structure itself, are substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102.~~

~~(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon a an annual budget approved at least annually by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g), subject to the requirements of section 515B.3-114(a)(5), with respect to assessments under section 515B.3-115(e)(2).~~

~~(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.~~

~~(e) Unless otherwise required by the declaration:~~

~~(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;~~

~~(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;~~

~~(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and~~

~~(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3 116(a).~~

~~(f) Assessments levied under section 515B.3 116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.~~

~~(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.~~

~~(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.~~

~~(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.~~

~~(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.~~

(d) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.3-1151 ASSESSMENTS FOR COMMON EXPENSES.

(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses shall be as follows:

(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common expenses of the common interest community, including the payment of the replacement reserve component of the common expenses for all units in compliance with subsection (b).

(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against their units, except as follows:

(i) The declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection, and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant; provided, that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii).

(ii) The alternate common expense plan may be authorized only by including in the declaration and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected.

(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternate common expense plan prior to the termination of the period of declarant control only by giving notice to the

association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.

(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.

(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.

(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (c) or by assessments described in subsections (e), (f), and (g).

(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.

(b) The replacement reserves required by section 515B.3-114 shall be paid to the association by each unit owner for each unit owned by that unit owner in accordance with the association's annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that the structure and exterior of the building containing the unit, or the structure and exterior of any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual budget approved by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g). An assessment under section 515B.3-1151(e)(2) for replacement reserves is subject to the requirements of section 515B.3-1141(a)(5).

(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(d) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

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

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

(2) the name and principal address of ~~the each~~ declarant ~~holding any special declarant rights~~; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);

(3) the ~~total~~ number of units which ~~the declarant has~~ all declarants have the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain, ~~and (vii) a description of any declarant licensing rights under section 515B.2-109(e)~~;

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that ~~the~~ a declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; and an explanation ~~a description~~ of declarant's limited assessment liability ~~any alternate common expense plan~~ under section 515B.3-115(b) ~~515B.3-115(a)(2)(i)~~; and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;

(7) 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;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or damages;

(12) a statement that: (i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a); (ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the association or the purchaser of the unit ~~unit or other parcel of real estate being purchased is or may be a member of subject to a master association declaration at the time of the conveyance from the declarant to the purchaser,~~ a statement to that effect, and all of the following information with respect to the master association: (i) ~~a copy of copies of the following documents (which may be in proposed form if the master declaration has not been recorded):~~ the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) ~~the name and address of the master developer, and the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members;~~ (iii) a description of any nonresidential use permitted on any property subject to the master association declaration; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and the degree and a description of any period of control of the master association and rights to appoint master association directors by a declarant-master developer or other person pursuant to section 515B.2-121(e); (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly ~~or other periodic~~ common expense assessment ~~payment~~ for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a declarant-master developer or a other person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by

the master association pursuant to section 515B.2-121(f)(e)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section ~~515B.4-112(b)-515B.4-113(b)(2)~~; (xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) ~~a copy~~ copies of the following documents ~~(which may be in proposed form if the declaration has not been recorded):~~ the declaration and any supplemental declaration, and any amendments thereto, (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, ~~and~~ or reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; ~~the names of the current members of the association's board of directors;~~ any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any (i) contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105 and (ii) any material contracts, leases, or other agreements entered into between the declarant and a governmental entity that affect ~~affecting~~ the common interest community; and

(23) a balance sheet for the association, ~~following the creation of the association,~~ current within 90 days ~~of the date of delivery of the disclosure statement;~~ a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for replacement, ~~the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components;~~ (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; (iv) the projected monthly common expense assessment for each type of unit; and (v) a footnote or other reference to those components of the common interest community the maintenance, repair, or replacement of which the budget assumes will be funded by assessments under section 515B.3-115(e) rather than by assessments included in the

association's annual budget, and a statement referencing section 515B.3-115(e)(1) or (2) as the source of funding~~a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(e) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a).~~ If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.4-1021 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

(2) the name and principal address of each declarant holding any special declarant rights; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);

(3) the total number of units which all declarants have the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain, and (vii) a description of any declarant licensing rights under section 515B.2-109(e);

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that the a declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; a description of any alternate common expense plan under section 515B.3-115(a)(2)(i); and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;

(7) 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;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that: (i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a); (ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the unit or other parcel of real estate being purchased is or may be subject to a master declaration at the time of the conveyance from the declarant to the purchaser, a statement to that effect, and all of the following information with respect to the master association: (i) copies of the following documents (which may be in proposed form if the master declaration has not been recorded): the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) the name and address of the master developer, and the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject to the master declaration; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and a description of any period of control of the master association and rights to appoint master association directors by a master developer or other person pursuant to section 515B.2-121(c); (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly or other periodic common expense assessment payment for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a master developer or a other person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(e)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to

property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-113(b)(2); (xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) copies of the following documents (which may be in proposed form if the declaration has not been recorded): the declaration and any supplemental declaration, and any amendments thereto, (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; the names of the current members of the association's board of directors; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a description of any material contracts, leases, or other agreements affecting the common interest community; and

(23) a balance sheet for the association, following the creation of the association, current within 90 days; a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for replacement, the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components; (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; (iv) the projected monthly common expense assessment for each type of unit; and (v) a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(c) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a). If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.4-115 STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d), shall be commenced within ~~six~~¹² months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation ~~signed by one purchaser of a unit~~ shall be binding on ~~any copurchasers of the unit, and the purchaser's successor purchasers' successors and assigns.~~ With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by ~~the~~^a purchaser ~~of the unit.~~

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the ~~purchasers~~^{purchaser's} lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of ~~any interest in~~ the unit by ~~the~~^a declarant to a bona fide purchaser ~~of the unit~~, other than an affiliate of a declarant, or the time ~~the~~^a purchaser enters into possession of the unit. ~~As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and~~

(2) as to each common element, the latest of (i) the time the common element is completed;[;] (ii) the time the first ~~interest in~~ a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that ~~is~~^{was} additional real estate, at the time the first ~~interest in~~ a unit ~~therein created thereon~~ is conveyed to a bona fide purchaser;[;] or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, 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.

(e) This section applies only to common interest communities created before August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

515B.4-1151 STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d), shall be commenced within 12 months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation signed by one purchaser of a unit shall be binding on any copurchasers of the unit, and the successor purchasers' successors and assigns. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of any interest in the unit by a declarant to a bona fide purchaser, other than an affiliate of a declarant, or the time a purchaser enters into possession of the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first interest in a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was additional real estate, at the time the first interest in a unit created thereon is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, 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.

(e) This section applies only to common interest communities created on or after August 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.