

515B.2-111 EXPANSION OF FLEXIBLE COMMON INTEREST COMMUNITY.

(a) To add additional real estate pursuant to a right reserved under section 515B.2-106(a)(1), the declarant and the owners of the additional real estate to be added, except vendors under a contract for deed, shall execute and record an instrument, titled a "supplemental declaration," as provided in this section. The supplemental declaration shall be limited to matters authorized by this section, and shall include:

- (1) a legally sufficient description of the real estate added by the supplemental declaration;
- (2) a description of the boundaries of each unit created by the supplemental declaration, consistent with the declaration, and the unit's unit identifier;
- (3) in a planned community containing common elements, a legally sufficient description of the common elements;
- (4) a reallocation of the common element interests, votes in the association, and common expense liabilities as applicable, in compliance with the declaration and section 515B.2-108;
- (5) a description of any limited common elements formed out of the additional real estate, designating the unit to which each is allocated to the extent required by section 515B.2-109;
- (6) a statement, based upon the declarant's current good faith estimate, of the total number of units that may be created within any remaining additional real estate;
- (7) a statement as to whether or not the period of declarant control has terminated, regardless of the reason for such termination; and
- (8) an attached affidavit attesting to the giving of the notice required by subsection (b), if such notice is required.

(b) If the period of declarant control has terminated, a declarant shall give notice of its intention to add additional real estate to the association (Attention: president of the association) by a notice given in the manner provided in section 515B.1-115 not less than 15 days prior to recording the supplemental declaration which adds the additional real estate. A copy of the supplemental declaration shall be attached to the notice. The supplemental declaration may be in proposed form; however, following notice, the supplemental declaration shall not be changed so as to materially and adversely affect the rights of unit owners or the association unless a new 15-day notice is given in accordance with this section.

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

(d) If a supplemental declaration in a planned community creates common elements, then a conveyance of the common elements to the association shall be recorded simultaneously with the supplemental declaration. If a supplemental declaration adds additional real estate to a cooperative, then a conveyance of the additional real estate to the association shall be recorded simultaneously with the supplemental declaration.

History: 1993 c 222 art 2 s 11; 2005 c 121 s 13; 2010 c 267 art 2 s 8