

**Commission to Study the Need to Codify or Recodify Laws Regarding
Residential Community Ownership Associations by Adopting the
Uniform Common Interest Ownership Act**

Resolve 2025, chapter 167

Wednesday, Oct. 14, 2026 at 10 a.m.

Room 206 (HED Committee Room)

Burton M. Cross State Office Building, Augusta, ME

Agenda: Meeting #2

10:00 am

Welcome

Chairs, Senator Chip Curry & Representative Marc Malon

10:05 a.m.

**Overview/discussion of how Uniform Common Interest
Ownership Act compares to current Maine Condominium Act**

*Lynne Westphal, Legislative Analyst, Office of Policy and Legal Analysis
Commission member discussion*

12:00 p.m.

Lunch break

1:00 p.m.

**Overview/discussion of how Uniform Common Interest
Ownership Act compares to current Maine Condominium Act
(cont.)**

Commission member discussion & next steps

- Information requests
- Next meeting dates

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MAINE CONDOMINIUM ACT (MCA)
&
UNIFORM COMMON INTEREST OWNERSHIP ACT (UCIOA)**

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UNIFORM COMMON INTEREST OWNERSHIP ACT (UCIOA)**

[ARTICLE] 1

GENERAL PROVISIONS

[PART] 1

DEFINITIONS AND OTHER GENERAL PROVISIONS

MCA §1601-101.¹

UCIOA §1-101. SHORT TITLE.

This Act shall be known and [act] may be cited as the Maine Condominium Act Uniform Common Interest Ownership Act (2021).

MCA §1601-102²

UCIOA 1-102. APPLICABILITY.

Applicability of this [act] is governed by [Part]2 of this [article].

~~(a) This Act applies to all condominiums created, in accordance with the provisions of this Act, within this State after the effective date of this Act and to all condominiums created within this State before the effective date of this Act which, on or after the effective date of this Act, amend the instruments creating the same so as to subject the condominium to the provisions of this Act and so as to conform those instruments to the provisions of this Act in all necessary respects. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by sections 560 through 587. Sections 1601-105 Separate titles and taxation, 1601-106 Applicability of local laws and regulations, 1601-107 Eminent domain, 1602-103 Construction and validity of declaration and bylaws, 1602-104 Description of units, 1603-102, subsection (a) paragraphs (1) through (6) and (11) through (16) Powers of unit owners' association, 1603-111 Tort and contract liability, 1603-116 Lien for assessments, 1603-118 Association records, 1604-108 Resales of units, and 1604-116 Effect of violation on rights of action and section 1601-103 Definitions, to the extent necessary in construing any of those sections, apply to all condominiums created in this State before the effective date of this Act; but those sections apply only with respect to events and circumstances occurring after the effective date of this Act and do not invalidate provisions of declarations, bylaws, floor plans, surveys or duly adopted administrative rules and regulations existing on the effective date of this Act.~~

~~(b) The provisions of sections 560 through 587 do not apply to condominiums created after the effective date of this Act or amended pursuant to subsection (a) so as to be subject to the provisions of this Act and do not invalidate any amendment to declarations, bylaws, floor plans, surveys or duly adopted administrative rules and regulations relating to any condominium created before the effective~~

¹ Unless otherwise indicated, the MCA statute remains as originally enacted in PL 1981, c. 699

² amended in 1983

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~~date of this Act if the amendment would be permitted by this Act. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by sections 560 through 587. If the amendment grants to any person any rights, powers or privileges permitted by this Act, all correlative obligations, liabilities and restrictions in this Act also apply to that person.~~

~~(e) This Act does not apply to condominiums or units located outside this State, but the public-offering statement provisions contained in sections 1604-102 through and including 1604-106 apply to all offers, contracts for disposition signed by any party in this State or dispositions in this State of condominiums or units unless exempt under section 1604-101, subsection (b).~~

MCA §1601-103. DEFINITIONS³

UCIOA §1-103. DEFINITIONS.

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

(1) “Affiliate of a declarant” means any person who controls, is controlled by, or is under common control with a declarant. For purposes of this definition:

(A) a person controls a declarant if the person:

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

(B) a person is controlled by a declarant if the declarant:

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

(C) control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

(2) “Allocated interests” means the ~~undivided~~ interests allocated to each unit:

³ amended in 1983

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(A) in a condominium, the undivided interest in the common elements, the common expense liability and votes in the association allocated to each unit;

(B) in a cooperative, the common expense liability, the ownership interest and votes in the association; and

(C) in a planned community, the common expense liability and votes in the association.

(3) "Assessment" means the sum attributable to each unit and due to the association pursuant to section 3-115.

(4) "Association" or "unit owners' association" means the unit owners' association organized under section 1603-101 3-101.

(5) "Bylaws" means the instruments, however denominated, that contain the procedures for conduct of the affairs of the association regardless of the form in which the association is organized, including any amendments to the instruments.

(6) "Common elements" means:

(A) in the case of:

(i) a condominium or cooperative, all portions of a condominium the common interest community other than the units; and

(ii) a planned community, any real estate within a planned community which is owned or leased by the association, other than a unit; and

(B) in all common interest communities, any other interests in real estate for the benefit of unit owners which are subject to the declaration.

(7) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 1602-107 2-107.

(8) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

(9) "Common interest community" means real estate described in a declaration with respect to which a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of or services or other expenses related to, common elements, other units or other real estate described in the declaration. The term does not include an arrangement described in section 1-209 or 1-210. For purposes of this paragraph, ownership of a unit does not include holding a leasehold interest of less than [20] years in a unit, including renewal options.

(10) "Condominium" means real estate, a common interest community in which portions of which the real estate are designated for separate ownership and the remainder of which the real estate is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to this Act. Real estate. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration;

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(11) **“Conversion building”** means a building that at any time before creation of the ~~econdominium~~ common interest community was occupied wholly or partially by ~~one or more persons other than~~ purchasers and persons ~~who~~ that occupy with the consent of purchasers.

(12) **“Cooperative”** means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member’s ownership interest in the association to exclusive possession of a unit.

(13) **“Dealer”** means a person in the business of selling units for the person’s own account.

(14) **“Declarant”** means any person or group of persons acting in concert ~~who~~ that:

(i)(A) as part of a common promotional plan, offers to dispose of ~~his or its~~ the interest of the person or group of persons in a unit not previously disposed of; or

(~~ii~~)(B) reserves or succeeds to any special declarant right.

(15) **“Declaration”** means ~~any instruments~~ the instrument, however denominated, ~~which that~~ creates a ~~econdominium and~~ common interest community, including any amendments to these instruments the instrument.

(16) **“Development rights”** means any right or combination of rights reserved by a declarant in the declaration to:

(A) add real estate to a ~~econdominium~~ common interest community;

(B) create units, common elements, or limited common elements within a ~~econdominium~~; to common interest community;

(C) subdivide units or convert units into common elements; or

(D) withdraw real estate from a econdominium common interest community.

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

(17-A) **“Electronic”** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(18) **“Executive board”** means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association.

(19) **“Identifying number”** means a symbol or address that identifies only one unit in a ~~econdominium~~ common interest community.

(20) **“Leasehold ~~econdominium~~ common interest community”** means a ~~econdominium~~ common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the ~~econdominium~~ common interest community or reduce its size.

(21) **“Limited common element”** means a portion of the common elements allocated by the declaration or by operation of section ~~1602-102, paragraphs (2) or (4)~~ 2-102(2) or (4) or the exclusive use of one or more but fewer than all of the units.

(22) **“Master association”** means:

(A) a unit owners’ association that serves more than one common interest community; or

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~~(B) an organization described in section 1602 that holds a power delegated under section 2-120(a)(1) whether or not it is also an association described in section 1603-101.~~

~~(23) "Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium common interest community not located in this state, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium common interest community is located;~~

~~(24) "Person" means a natural person an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity [In the case of a land trust, the term means the beneficiary of the trust rather than the trust or the trustee].~~

~~(25) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.~~

~~(26) "Proprietary lease" means an agreement with the association pursuant to which a member is entitled to exclusive possession of a unit in a cooperative.~~

~~(27) "Purchaser" means a person, other than a declarant, or a person in the business of selling real estate for his own account, who or a dealer, that by means of a voluntary transfer acquires a legal or equitable interest in a unit other than:~~

~~(A) a leasehold interest, including renewal options, of less than 20 years; or~~

~~(B) as security for an obligation.~~

~~(28) "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interest which interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.~~

~~(22) "Real estate trust" means an arrangement evidenced by a writing, the purposes of which include the ownership of real estate and the creation and management of a condominium, under which arrangement one or more trustees are empowered to hold legal title to real estate for the benefit of beneficiaries. Trustees may also be beneficiaries under a real estate trust;~~

~~(23) "Recorded" means that the instrument, plan or plat shall be duly recorded in every registry of deeds in each county or registry district in which the condominium or any portion thereof is located. Each such instrument, plan or plat shall be indexed by the Register of Deeds, in the name of the condominium and the parties thereto;~~

~~(29) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~(30) "Residential purposes" means use for dwelling or recreational purposes, or both.~~

~~(31) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association, however denominated, which is not set forth in the declaration or bylaws.~~

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(32) “Security interest” means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association and any other consensual lien or title retention contract intended as security for an obligation.

(33) “Special declarant rights” means rights reserved for the benefit of a declarant to:

(A) complete improvements ~~the declarant is not obligated to make that are~~ indicated on plats and plans filed with the ~~declaration, section 1602-109; to~~ or described in the public offering statement;

(B) under section 2-110, exercise any development right, ~~section 1602-110; to;~~

(C) under section 2-115, maintain sales offices, management offices, signs advertising the ~~condominium common interest community, and models section 1602-115; to;~~

(D) under section 2-116, use easements through the common elements for the purpose of making improvements within the ~~condominium common interest community or within real estate which may be added to the common interest community condominium, section 1602-116;~~

(E) under section 2-120, ~~to make the condominium common interest community~~ subject to a master association, ~~section 1602-120;~~

(F) under section 2-121, merge or consolidate a common interest community with another common interest community of the same form of ownership ~~to make the condominium part of a larger condominium or a planned community, section 1602-121;~~

(G) under section 3-103(d), appoint or remove any officer of the association or any master association or any executive board member ~~or to approve any acts of the association or the executive board,~~ during any period of declarant control, ~~section 1603-103, subsection (d)~~

(H) under section 3-120(c), control any construction, design review, or aesthetic standards committee or process;

(I) under section 3-108, attend meetings of the unit owners and, except during an executive session, the executive board; and

(J) under section 3-118, have access to the records of the association to the same extent as a unit owner.

(34) “Time share” [has the meaning in [cite to definition of “time share” in appropriate state statute⁴]] means an ownership right in, or right to use, a unit for less than a full year during any year on a recurring basis for more than one year, even if the years are not consecutive].

(35) “Unit” means a physical portion of the ~~condominium common interest community~~ designated for separate ownership or occupancy, the boundaries of which are described pursuant to section ~~1602-105, paragraph (5); 2-105(a)(5).~~ If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association’s interest in that unit is not thereby affected.

⁴ See 33 MRSA §591(6), (7) and (9)

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(36) “Unit owner” means a declarant or other person ~~who~~ that owns a unit, or a lessee of a unit in a leasehold ~~condominium~~ common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the ~~condominium common interest community~~, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

Legislative Note (from UCIOA): A state that defines “time share” or a similar term such as “timeshare plan” or “time-share interest” in another statute should cross-reference the definition in the first bracketed option of paragraph (34). A state that does not define the term should use the second bracketed option of paragraph (34).

MCA §1601-104. ~~VARIATION BY AGREEMENT~~

UCIOA §1-104. NO VARIATION BY AGREEMENT.

Except as expressly provided in this act, the effect of its provisions of this Act may not be varied by agreement, and rights conferred by this Act it may not be waived. Except as otherwise provided in section 1-207, a declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this act or the declaration.

MCA §1601-105. SEPARATE TITLES AND TAXATION.

UCIOA §1-105. SEPARATE TITLES AND TAXATION.

(a) In a cooperative, unless the declaration provides that a unit owner’s interest in a unit and its allocated interests is real estate for all purposes, that interest is personal property. [That interest is subject to the provisions of [insert reference to state homestead exemptions], even if it is personal property.]

(b) In a condominium or planned community:

(a)(1) If there is a unit owner other than the declarant, each unit which has been created, together with its appurtenant interests, constitutes for all purposes a separate parcel of real estate.

(b)(2) If there is any unit owner other than a declarant, each unit ~~shall~~ must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.

(c) Any portion of the common elements for which the declarant has reserved any development right ~~to add real estate to a condominium or to withdraw real estate from a condominium,~~ shall must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(d) If there is no unit owner other than a declarant, the real estate comprising the ~~condominium~~ common interest community may be taxed and assessed in any manner provided by law.

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**MCA §1601-106. APPLICABILITY OF LOCAL ORDINANCES, REGULATIONS, AND
~~BUILDING CODES~~⁵**

**UCIOA §1-106. APPLICABILITY OF LOCAL ORDINANCES, REGULATIONS, AND
BUILDING CODES.**

(a) A building code may not impose any requirement upon any structure in a common interest community which it would not impose upon a physically identical development under a different form of ownership.

(b) In condominiums and cooperatives, no zoning, subdivision, building code or other real estate use law, ordinance or regulation may not prohibit the condominium or cooperative form of ownership or impose any requirement upon a condominium or cooperative which it would not impose upon a physically identical development under a different form of ownership.

(c) Except as provided in subsections (a) and (b), the provisions of this act do not invalidate or modify any provision of any building code, zoning, subdivision, or other real estate use law, ordinance, rule, or regulation governing the use of real estate. Otherwise, no provision of this Act invalidates or modifies any provision of any zoning, subdivision, building code or other real estate use law, ordinance or regulation. No county, municipality, village corporation or other political subdivision, whether or not acting under the municipal home rule powers provided for under the Constitution of Maine, Article VIII, Part Second or Title 30-A, chapter 111, and section 3001, or any other authority from time to time, may adopt or enforce any law, ordinance, rule, regulation or policy which conflicts with the provisions of this Act.

MCA §1601-107. EMINENT DOMAIN

UCIOA §1-107. EMINENT DOMAIN

(a) If a unit is acquired by eminent domain or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant ~~which that~~ that may not practically or lawfully be used for any purpose permitted by the declaration, the award must ~~compensate~~ include compensation to the unit owner for ~~his that~~ that unit and its ~~interest in the common elements~~ allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition unless the decree otherwise provides: (1)(i) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and (2)(ii) the portion of the allocated interest, votes and common expense liability interests divested from the partially acquired unit are

⁵ amended in 1987 & 1989

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automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

(d) The court decree ~~shall~~ must be recorded in every county in which any portion of the common interest community is located.

(e) ~~Notwithstanding anything to the contrary in this section, lien holders on any unit, common element or limited common element, shall have a lien on any such awards in order of priority of their respective liens.~~

Legislative Note (from UCIOA): The practice of the states may vary with respect to the documentation of eminent domain awards, and the word "decree" should therefore be considered for amendment as appropriate.

MCA §1601-108. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE.

UCIOA §1-108. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE.

The principles of law and equity, including the law of corporations and any other form of organization authorized by the law of this state and unincorporated associations, the law of real property estate, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance or other validated validating or invalidating cause supplement the provisions of this act, except to the extent inconsistent with this act.

~~No consent or joinder of the spouse of a unit owner shall be required for any action of the unit owner required or permitted under this Act, except that in a case of a conveyance or transfer of a unit, the law of Maine relating to the rights of a spouse in real estate shall apply to such conveyance or transfer.~~

MCA §1601-109. CONSTRUCTION AGAINST IMPLICIT REPEAL.

UCIOA §1-109. CONSTRUCTION AGAINST IMPLICIT REPEAL.

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided

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MCA §1601-110. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

UCIOA §1-110. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This Act shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

MCA §1601-111. SEVERABILITY.

UCIOA §1-111. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Legislative Note (from UCIOA): Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

MCA §1601-112. UNCONSCIONABLE AGREEMENT OR TERM OF CONTRACT.

UCIOA §1-112. UNCONSCIONABLE AGREEMENT OR TERM OF CONTRACT.

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

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

- (1) the commercial setting of the negotiations;
- (2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy~~or~~, inability to understand the language of the agreement, or similar factors;
- (3) the effect and purpose of the contract or clause; and
- (4) if a sale, any gross disparity, at the time of contracting, between the amount charged for the real-estate property and the value of the real-estate that property measured by the price at which similar real-estate property was readily obtainable in similar transactions, ~~but~~. A disparity between the contract price and the value of the real-estate property measured by the price at which similar real-estate property was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

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MCA §1601-113. OBLIGATION OF GOOD FAITH.

UCIOA §1-113. OBLIGATION OF GOOD FAITH.

Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement.

MCA §1601-114. REMEDIES TO BE LIBERALLY ADMINISTERED.

UCIOA §1-114. REMEDIES TO BE LIBERALLY ADMINISTERED.

(a) The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this act or by other rule of law.

(b) ~~Any right or obligation declared by this Act is enforceable by judicial proceeding.~~

MCA §1601-115. ~~LEGAL INVESTMENTS~~

NO UCIOA §

~~Financial institutions may make loans to any person or persons to be secured by a mortgage of a unit or units together with their allocated interests, created pursuant to this chapter, to the extent that each of them may make loans secured by real estate mortgages, and subject to the applicable conditions and limitations imposed by law.~~

NO MCA §

UCIOA §1-115. ADJUSTMENT OF DOLLAR AMOUNTS.

(a) From time to time the dollar amount specified in section 1-203 must change, as provided in subsections (b) and (c), according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1967 = 100, compiled by the Bureau of Labor Statistics, United States Department of Labor, (the "Index"). The Index for December, 1979, which was 230, is the Reference Base Index.

(b) The dollar amount specified in section 1-203 and any amount stated in the declaration pursuant to that section, must change on July 1 of each year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is 10 percent or more, but (i) the portion of the percentage change in the Index in excess of a multiple of 10 percent must be disregarded and the dollar amount shall change only in multiples of 10 percent of the amount appearing in this act on the date of enactment; (ii) the dollar amount must not change if the amount required by this section is that currently in effect pursuant to this [act] as a result of earlier

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application of this section; and (iii) in no event may the dollar amount be reduced below the amount appearing in this act on the date of enactment.

(c) If the Index is revised after December 1, 1979, the percentage of change pursuant to this section must be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index must be determined by multiplying the Reference Base Index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics. If the Index is superseded, the Index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

MCA §1601-116. EFFECTIVE DATE.

SEE UCIOA §5-101 EFFECTIVE DATE

~~This Act shall be effective on January 1, 1983.~~

NO MCA§

UCIOA §1-116. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

NO MCA §

UCIOA § 1-117. MANDATORY AND DEFAULT RULES.

(a) Except as provided in subsection (b), the declaration or bylaws may not vary a provision of this [act] that gives a right to or imposes an obligation or liability on a unit owner, declarant, association, or executive board.

(b) The declaration or bylaws may vary the following provisions as provided in the provision:

(1) Section 1-105(a), concerning classification of a cooperative unit as real estate or personal property;

(2) Section 1-107(b) and (c), concerning reallocation of allocated interests and allocation of proceeds after a taking by eminent domain;

(3) Sections 1-202, 1-203, 1-206, 1-207, and 5-101, concerning elections regarding applicability of this [act];

(4) Section 2-102, concerning boundaries between units and common elements;

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- (5) Section 2-108(b), concerning reallocation of limited common elements;
- (6) Section 2-109(e), concerning horizontal boundaries of units;
- (7) Section 2-111, concerning alterations of units and common elements made by unit owners;
- (8) Section 2-112(a), concerning relocation of boundaries between units;
- (9) Section 2-113(a), concerning subdivision of units;
- (10) Section 2-115, concerning signs maintained by a declarant;
- (11) Section 2-116(a) and (c), concerning easements through, and rights to use, common elements;
- (12) Section 2-117(a), concerning the percentage of votes required to amend the declaration;
- (13) Section 2-118(a) and (i), concerning the percentage of votes required to terminate a common interest community and priority of creditors of a cooperative;
- (14) Section 3-102(a)(14), concerning an association's assignment of rights to future income;
- (15) Section 3-103(a), concerning the executive board acting on behalf of the association;
- (16) Section 3-107(a), concerning responsibility for maintenance, repair, and replacement of units and common elements;
- (17) Section 3-108, concerning meetings;
- (18) Section 3-109, concerning quorum requirements for meetings;
- (19) Section 3-110, concerning voting, proxies, and ballots;
- (20) Section 3-112(a), (b), and (g), concerning the percentage of votes required to convey or encumber common elements and the effect of conveyance or encumbrance of common elements;
- (21) Section 3-113, concerning insurance for a nonresidential common interest community;
- (22) Section 3-114, concerning payment of surplus funds of the association;
- (23) Section 3-116(a), concerning treatment of fees, costs, charges, and other sums as assessments for lien purposes; and
- (24) Section 3-123(a), concerning the percentage of votes required to reject a budget.

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**[PART] 2
APPLICABILITY**

NO MCA §

UCIOA §1-201. GENERAL APPLICABILITY TO COMMON INTEREST COMMUNITIES.
Except as otherwise provided in this [part] and [Article] 5, this [act] applies to all common interest communities. An amendment to this [act] applies to all common interest communities subject to the [act], regardless of when the amendment becomes effective.

NO MCA §

UCIOA §1-202. EXCEPTION FOR SMALL COOPERATIVES. If a cooperative contains no more than 12 units and is not subject to any development rights, it is subject only to sections 1-106 (Applicability of Local Ordinances, Regulations, and Building Codes) and 1-107 (Eminent Domain) of this [act] unless the declaration provides that the entire [act] is applicable.

NO MCA §

UCIOA §1-203. EXCEPTION FOR SMALL AND LIMITED EXPENSE LIABILITY PLANNED COMMUNITIES.

(a) Unless the declaration provides that this entire [act] is applicable, a planned community that is not subject to any development right is subject only to sections 1-105, 1-106, and 1-107, if the community:

(1) contains no more than 12 units; or

(2) provides in its declaration that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed \$300, as adjusted pursuant to section 1-115.

(b) The exemption provided in subsection (a)(2) applies only if:

(1) the declarant reasonably believes in good faith that the maximum stated assessment will be sufficient to pay the expenses of the planned community; and

(2) the declaration provides that the assessment may not be increased above the limitation in subsection (a)(2) during the period of declarant control without the consent of all unit owners.

NO MCA §

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UCIOA §1-204. [RESERVED].

NO MCA §

UCIOA §1-205. [RESERVED].

NO MCA §

UCIOA §1-206. AMENDMENTS TO GOVERNING INSTRUMENTS.

(a) The declaration or bylaws of a cooperative under section 1-202 or a planned community under section 1-203 may be amended to:

(1) provide that all the sections listed in section 5-104(a) apply to the cooperative or planned community; or

(2) achieve any other result permitted by this [act], regardless of what applicable law provided before this [act] was adopted.

(b) Except as otherwise provided in section 2-117(i) and (j), an amendment under this section to the declaration or bylaws of a common interest community created before [the effective date of this [act]] must be adopted in conformity with any procedures and requirements for amending the instruments specified by those instruments or, if there are none, in conformity with the amendment procedures of this [act]. If an amendment grants to a person a right, power, or privilege permitted by this [act], any correlative obligation, liability, or restriction in this [act] also applies to the person.

NO MCA §

UCIOA §1-207. APPLICABILITY TO NONRESIDENTIAL AND MIXED-USE COMMON INTEREST COMMUNITIES.

(a) Except as otherwise provided in subsection (d), this section applies only to a common interest community in which all units are restricted exclusively to nonresidential purposes.

(b) A nonresidential common interest community is not subject to this [act] except to the extent the declaration provides that:

(1) this entire [act] applies to the community;

(2) [Articles] 1 and 2 apply to the community; or

(3) in the case of a planned community or a cooperative, only sections 1-105, 1-106, and 1-107 apply to the community.

(c) If this entire [act] applies to a nonresidential common interest community, the declaration may also require, subject to section 1-112, that:

(1) notwithstanding section 3-105, any management, maintenance, operations, or employment contract, lease of recreational or parking areas or facilities, and any other contract or lease between

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the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(2) notwithstanding section 1-104, purchasers of units must execute proxies, powers of attorney, or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

(d) A common interest community that contains units restricted exclusively to nonresidential purposes and other units that may be used for residential purposes is not subject to this [act] unless the units that may be used for residential purposes would comprise a common interest community that would be subject to this [act] in the absence of the nonresidential units or the declaration provides that this [act] applies as provided in subsection (b) or (c).

NO MCA §

UCIOA §1-208. APPLICABILITY TO OUT-OF-STATE COMMON INTEREST COMMUNITIES.

This [act] does not apply to a common interest community located outside this state, but sections 4-102 and 4-103 and, to the extent applicable, sections 4-104 through 4-106, apply to a contract for the disposition of a unit in that common interest community signed in this state by any party unless exempt under section 4-101(b).

NO MCA §

UCIOA §1-209. OTHER EXEMPT REAL ESTATE ARRANGEMENTS.

(a) An arrangement between the associations for two or more common interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in their arrangement or declarations does not create a separate common interest community.

(b) An arrangement between an association and the owner of real estate that is not part of a common interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in their arrangement does not create a separate common interest community. However, assessments against the units in the common interest community required by the arrangement must be included in the periodic budget for the common interest community, and the arrangement must be disclosed in all public offering statements and resale certificates required by this [act].

NO MCA §

UCIOA §1-210. OTHER EXEMPT COVENANTS.

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A covenant that requires the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community unless the owners otherwise agree.

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[ARTICLE] 2
CREATION, ALTERATION AND
TERMINATION OF CONDOMINIUMS COMMON INTEREST COMMUNITIES

MCA §1602-101. CREATION OF CONDOMINIUM⁶

UCIOA §2-101. CREATION OF COMMON INTEREST COMMUNITIES.

(a) A ~~econdominium~~ common interest community may be created pursuant to this Act only by recording a declaration executed in the same manner as a deed, ~~by all persons whose interests in the real estate will be conveyed to unit owners and by every lessor of a lease the expiration or termination of which will terminate the condominium or reduce its size.~~ In the creation of a condominium, and, in a cooperative, by conveying the real estate subject to that declaration to the association. The declaration must be recorded in the same manner as a deed and ~~plats and plans must every~~ [county] in which any portion of the common interest community is located and must be indexed [in the grantee's index] in the name of the common interest community and the association and [in the grantor's index] in the name of each person executing the declaration.

(b) ~~In a condominium, a declaration, or an amendment to a declaration, adding units may not be recorded in the same manner as plats and plans generally. All such documents must be indexed in the name of the condominium and the parties thereto and may be included in such other indices as determined by the Register of Deeds unless all structural components and mechanical systems of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by an independent [registered] engineer, surveyor, or architect.~~

~~(b) Except as provided in subsection (c), interest in any unit may not be conveyed to a purchaser until the unit is substantially completed as evidenced by a certificate or statement of substantial completion executed by an engineer or architect, or until a certificate of occupancy is issued by the municipal building official; except that this limitation does not apply to contracts, options or reservations for sale of units later to be so completed or to mortgages or transfers of units as security for an obligation, deeds in lieu of foreclosure, foreclosures and foreclosure sales, conveyances to successor declarants or to any person in the business of selling real estate for that person's own account, or to financial institutions.~~

~~(c) A condominium unit described in this subsection may be conveyed to a purchaser or transferee, whether or not the unit is constructed and whether or not the unit is completed, in accordance with this subsection. A condominium unit:~~

~~(1) To be used for nonresidential purposes may be conveyed by a declarant in any stage of completion to a purchaser or transferee. The purchaser or transferee and the declarant shall enter into a written agreement establishing the rights and responsibilities for completion of the unit and the common elements. The agreement must indicate whether the purchaser or transferee is treated as a successor declarant of the uncompleted unit;~~

⁶ amended in 2009 & 2023

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~~(2) That includes land on which improvements will be constructed and become part of the unit may be conveyed to a purchaser or transferee. The purchaser or transferee is responsible for completing the improvements, even if the improvements will include an individual dwelling unit; and~~

~~(3) That contains multiple dwelling units that are to be held and maintained as a single condominium unit containing multiple dwelling units may be conveyed by a declarant in any stage of completion to a purchaser or transferee. The purchaser or transferee and the declarant shall enter into a written agreement establishing the rights and responsibilities for completion of the unit and the common elements. The agreement must indicate whether the purchaser or transferee is treated as a successor declarant of the uncompleted unit.~~

MCA §1602-202. UNIT BOUNDARIES.

UCIOA §2-102. UNIT BOUNDARIES.

Except as provided by the declaration:

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

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

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

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

MCA §1602-103. CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.

UCIOA §2-103. CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.

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

(b) ~~Neither~~ The rule against perpetuities ~~nor the provisions of section 116, as it or its equivalent may be amended from time to time, may be applied~~ does not apply to defeat any provision of the declaration, bylaws or rules and regulations adopted pursuant to section 1603-102, subsection (a), paragraph (1).

(c) ~~In the event of~~ If a conflict exists between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this [act].

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(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this [act]. Whether a substantial failure impairs marketability is not affected by this Act.

MCA §1602-104. DESCRIPTION OF UNITS.

UCIOA §2-104. DESCRIPTION OF UNITS.

A description of a unit which sets forth the name of the condominium common interest community, the recording data for the declaration, the county-or-registry-district in which the condominium common interest community is located, and the identifying number of the unit, is a legally sufficient legal description of that unit and all rights, obligations, and interests appurtenant to that unit which were created by the declaration or bylaws.

MCA §1602-105. CONTENTS OF DECLARATION.

UCIOA §2-105. CONTENTS OF DECLARATION.

(a) The declaration ~~for a condominium contains~~ must contain:

(1) The name of the common interest community and the association and a statement that the common interest community is either a condominium, which includes the word "condominium" cooperative, or be followed by the words "a condominium," and of the association; planned community;

(2) the name of every ~~municipality and every county or registry district~~ in which any part of the condominium common interest community is situated;

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

(4) a statement of the maximum number of units ~~which~~ that the declarant reserves the right to create;

(5) in a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(6) a description of any limited common elements, other than those specified in section ~~1602-2-102, paragraphs (2) and (4), as provided in section 1602-109, subsection (b), paragraph (10) 2-109(b)(10) and, in a planned community, any real estate that is or must become common elements;~~

(7) a description of any real estate, except real estate subject to development rights, ~~which~~ that may be allocated subsequently as limited common elements, other than limited common elements specified in section ~~1602-102, paragraphs (2) and (4) 2-102(2) and (4), together with a statement that they may be so allocated;~~

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(8) a description of any development rights and any other special declarant rights, ~~section 1601-103, paragraph (25), reserved by the declarant, a time limit within which each of those rights must be exercised, and together with a legally sufficient description of the real estate to which each of those development rights applies, and a time limit within which each of those rights must be exercised;~~

(9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(A) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right; or a statement that no assurances are made in those regards; and

(B) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;

(10) any other conditions or limitations under which the rights described in paragraph (8) may be exercised or will lapse;

(11) an allocation to each unit of the allocated interests in the manner described in section ~~1602-107~~ 2-107;

(12) any restrictions on use, ~~occupancy and alienation of the units, including any restrictions on leasing which exceed the restrictions on leasing units which executive boards may impose pursuant to section 3-120(d) and on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;~~

(13). The recording data for recorded easements and licenses appurtenant to or included in the ~~condominium common interest community~~ or to which any portion of the ~~condominium common interest community~~ is or may become subject by virtue of a reservation in the declaration;

(14) any authorization pursuant to which the association may establish and enforce construction and design criteria and aesthetic standards as provided in sections 3-106 and 3-120; and

~~(14) (15) all matters required by sections 1602-106, 1602-107, 1602-108, 1602-109, 1602-115, 1602-116 and 1603-103, subsection (d) 2-106, 2-107, 2-108, 2-109, 2-115, 2-116 and 3-103; and~~

~~(15). Reasonable provisions regarding the manner in which notice of matters affecting the condominium may be given to unit owners by the association.~~

(b) The declaration may contain any other matters the declarant ~~deems~~ considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units.

MCA §1602-106. LEASEHOLD CONDOMINIUMS⁷

UCIOA §2-106. LEASEHOLD COMMON INTEREST COMMUNITIES.

⁷ repealed and replaced in 2013

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(a) Any lease the expiration or termination of which may terminate the condominium common interest community or reduce its size or a memorandum thereof, ~~shall must~~ be recorded. Every lessor of those leases in a condominium or planned community must shall sign the declaration ~~and~~. The declaration ~~shall must~~ state:

- (1) The recording data for the lease ~~or memorandum thereof~~ [or a statement of where the complete lease may be inspected];
- (2) the date on which the lease is scheduled to expire;
- (3) a legally sufficient description of the real estate subject to the lease;
- (4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;
- (5) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and
- (6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

(b) After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of the a unit owner's share of the rent and otherwise complies with all covenants ~~that which~~, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests; unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(d) If the expiration or termination of a lease decreases the number of units in a ~~condominium, common interest community~~, the allocated interests ~~shall must~~ be reallocated in accordance with section 1602-107, subsection (a) 1-107(a) ~~as though~~ if those units had been taken by eminent domain. Reallocations ~~shall must~~ be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.

**MCA §1602-107. ALLOCATION OF COMMON ELEMENTS INTERESTS, VOTES AND
COMMON EXPENSE LIABILITIES.**

UCIOA §2-107. ALLOCATION OF ALLOCATED INTERESTS .

(a) The declaration ~~shall must~~ allocate to each unit:

(1) in a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association to each unit and state the formulas used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant;

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(2) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association, and a portion of the votes in the association; and

(3) in a planned community, a fraction or percentage of the common expenses of the association, and a portion of the votes in the association.

(b) The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(b)(c) If units may be added to or withdrawn from the ~~condominium~~ common interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the ~~condominium~~ common interest community after the addition or withdrawal.

(e)(d) The declaration may provide:

(i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; and

(ii) for cumulative voting only for the purpose of electing members of the executive board; and

(iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class.

A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this act nor may units constitute a class because they are owned by a declarant.

(d)(e) Except for minor variations due to rounding, the sum of the common expense liabilities and, in a condominium, the sum of the undivided interests in the common elements ~~and common expense liabilities~~ allocated at any time to all the units shall must each equal one if stated as fractions a fraction or 100% if stated as percentages a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent ~~formulas~~ formula, the allocated interest prevails.

(e)(f) In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void, ~~except as permitted in section 1603-112.~~

(g) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

MCA §1602-108. LIMITED COMMON ELEMENTS.

UCIOA §2-108. LIMITED COMMON ELEMENTS.

(a) Except for the limited common elements described in section ~~1602-102, paragraphs (2) and (4)~~ 2-102(2) and (4), the declaration shall must specify to which unit or units each limited common element is allocated. ~~That~~ An allocation may not be altered without the consent of the unit owners whose units are affected.

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(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration upon application to the association executed by the unit owners between or among whose units the reallocation is made. ~~Unless the executive board determines within 30 days that the reallocation is unreasonable, the association shall prepare an amendment and any plats or plans needed to depict the amendment.~~ Upon execution by the unit owners, the amendment together with such plats or plans shall be recorded in the names of the parties and the condominium. The person executing the amendment shall provide a copy thereof to the association.

(c) A common element not previously allocated as a limited common element ~~may not be so allocated, except pursuant to provisions in the declaration made in accordance with section 1602-105, subsection (a), paragraph (7).~~ The allocation shall be made by ~~may be so allocated only by an amendment to the declaration.~~ A unit owner may request the executive board to amend the declaration to allocate all or part of a common element as a limited common element for the exclusive use of the owner's unit. The board may prescribe in the amendment a condition or obligation, including an obligation to maintain the new limited common element or pay a fee or charge to the association. If the board approves the amendment, the board shall give notice to all unit owners of its action and include a statement that unit owners may object in a record to the amendment not later than 30 days after delivery of the notice. The amendment becomes effective if the board does not receive a timely objection. If the board receives a timely objection, the amendment becomes effective only if the unit owners vote under section 3-110, whether or not a quorum is present, to approve the amendment by a vote of at least 67 percent of the votes cast, including at least 67 percent of the votes cast that are allocated to units not owned by the declarant. If the amendment becomes effective, the association and the owner of the benefitted unit shall execute the amendment.

(d) The association shall record the amendment as provided in section 2-117. If an amendment changes information shown in a plat or plan concerning a common element or limited common element other than a common wall between units, the association shall prepare and record a revised plat or plan.

MCA §1602-109. PLATS AND PLANS.

UCIOA §2-109. PLATS AND PLANS.

(a) Plats and plans are a part of the declaration, and are required for all common interest communities except cooperatives. ~~Separate plats and plans are not required by this [act] if all the information required by this section is contained in either a plat or plan. Each plat and plan must be clear and legible, bear the seal and signature of the land surveyor, engineer or architect under whose direction~~ contain a certification that the plat or plan was prepared contains all information required by this section.

(b) Each plat must show or project:

(1) the name and a survey or general schematic map of the entire condominium common interest community;

(2) the location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;

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(3) ~~The location and dimensions~~ a legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel, but plats and plans need not designate or label which development rights are applicable to each parcel if that information is clearly delineated in the declaration;

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

(5) ~~The location and dimensions~~ to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the ~~condominium~~ common interest community;

(6) except as otherwise provided in subsection (h), the approximate location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that ~~unit's~~ unit's identifying number;

(7) ~~The~~ except as otherwise provided in subsection (h), the approximate location with reference to any ~~an~~ established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number;

(8) ~~The location and dimensions~~ 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;"

(9) The distances and courses between noncontiguous parcels of real estate comprising the ~~condominium~~ common interest community;

(10) The approximate location and dimensions of any porches, decks, balconies, garages, or patios allocated as limited common elements, including porches, balconies and patios, other than parking spaces and the and show or contain a narrative description of any other limited common elements described in section 1602-102, paragraphs (2) and (4); and

(11) ~~In the case of~~ for real estate not subject to development rights, all other matters customarily shown on land surveys.

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the ~~condominium~~ common interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT".

(d) Except as otherwise provided in subsection (h), to the extent not shown or projected on the plats, plans of the units must show or project:

(1) The approximate location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(2) the approximate location of any horizontal unit boundaries, with reference to an established datum, and ~~the~~ that unit's identifying number; and

(3) the approximate location of any units in which the declarant has reserved the right to create additional units or common elements, ~~section 1602-110, subsection (e), identified appropriately.~~

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and plans.

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(f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b), and (d), or ~~the declarant may record an affidavit that new certifications of plats and plans previously recorded if those plats and plans otherwise~~ conform to the requirements of those subsections.

(g) A certification of a plat or plan required by this section or section 2-101(b) must be made by an independent [registered] surveyor, architect, or engineer.

(h) Plats and plans need not show the location and dimensions of the units' boundaries or their limited common elements if:

- (1) the plat shows the location and dimensions of all buildings containing or comprising the units; and
- (2) the declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements allocated to those units.

MCA §1602-110. EXERCISE OF DEVELOPMENT RIGHTS.

UCIOA §2-110. EXERCISE OF DEVELOPMENT RIGHTS.

(a) To exercise any development right reserved under section ~~1602-105, subsection (a), paragraph (8)~~ 2-105(a)(8), the declarant shall prepare, execute, and record an amendment to the declaration, ~~section 1602-117 (Section 20117), and in a condominium or planned community comply with section 1602-109~~ 2-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number ~~of to~~ each new unit created, and, except in the case of subdivision or conversion of units described in subsection ~~(e)(b)~~, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by section ~~1602-108, limited common elements 2-108 (Limited Common Elements)~~.

(b) Development rights may be reserved within any real estate added to the ~~condominium common interest community~~ if the amendment adding that real estate includes all matters required by section ~~1602-105 2-105~~ or section ~~1602-106 2-106~~, as the case may be, and, in a condominium or planned community, the plats and plans include all matters required by section ~~1602-109 2-109~~. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to section ~~1602-105, subsection (a), paragraph (8) 2-105(a)(8)~~.

(c) ~~When~~ Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both:

- (1) if the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain ~~section 1601-107 (Section 1-107); and~~
- (2) if the declarant subdivides the unit into 2 or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

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~~(3) Until written notice of conversion is given to the appropriate real estate tax assessor or the period during which conversion may occur expires, whichever occurs first, the declarant alone is liable for real estate taxes assessed against convertible real estate and all other expenses in connection with that real estate. No other unit owner and no other portion of the condominium is subject to a claim for payment of those taxes or expenses. Unless the declaration provides otherwise, any income or proceeds from convertible real estate inures to the declarant.~~

(d) If the declaration provides, pursuant to section 2-105(a)(8), that all or a portion of the real estate is subject to a right of withdrawal:

(1) if all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(2) if any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

MCA §1602-111. ALTERATIONS OF UNITS.

UCIOA §2-111. ALTERATIONS OF UNITS.

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

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

(2) may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium common interest community, without permission of the association;

(3) after acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium common interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

MCA §1602-112. RELOCATION OF UNIT BOUNDARIES.

UCIOA §2-112. RELOCATION OF UNIT BOUNDARIES.

(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations; ~~is executed by these~~

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~~unit owners, contains words of conveyance between them, and upon recordation, is indexed in the name of the grantor and the grantee.~~

~~(b) The boundary of a unit may be relocated only by an amendment to the declaration. A unit owner may request the executive board to amend the declaration to include all or part of a common element within the owner's unit. The board may prescribe in the amendment a fee or charge payable by the unit owner to the association in connection with the relocation. The board may approve the amendment only if the unit owners vote under section 3-110, whether or not a quorum is present, to approve the amendment by a vote of at least 67 percent of the votes cast, including at least 67 percent of the votes cast that are allocated to units not owned by the declarant.~~

(c) The association and the owners of the units whose boundaries are relocated shall execute an amendment under this section. The amendment must contain words of conveyance between the parties. The association shall record the amendment as provided in section 2-117. The association (i) in a condominium or planned community shall prepare and record plats or plans necessary to show the altered boundaries between adjoining affected units, and their dimensions and identifying numbers, and (ii) in a cooperative shall prepare and record amendments to the declaration, including any plans necessary to show or describe the altered boundaries of affected units, and their dimensions and identifying numbers.

MCA §1602-113. SUBDIVISION OF UNITS.

UCIOA §2-113. SUBDIVISION OF UNITS.

(a) If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and law other provisions of law, ~~than this [act]~~, upon application of a unit owner to subdivide a unit, the association shall prepare, execute, and record an amendment to the declaration including, in a condominium or planned community, the plats and plans subdividing that unit.

(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit or on any other basis the declaration requires.

MCA §1602-114. EASEMENT FOR ENCROACHMENTS

UCIOA §2-114. BUILDING ENCROACHMENT.

~~To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists.~~

Alternative A

(a) Except as provided in subsection (b), if the construction, reconstruction, or alteration of a building or the vertical or lateral movement of a building results in an encroachment due to a divergence between the existing physical boundaries of a unit and the boundaries described in the declaration under section 2-

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105(a)(5), an easement for the encroachment exists between adjacent units and between units and adjacent common areas.

Alternative B

(a) Except as provided in subsection (b), if the construction, reconstruction, or alteration of a building or the vertical or lateral movement of a building results in an encroachment due to a divergence between the existing physical boundaries of a unit and the boundaries described in the declaration under section 2-105(a)(5), the existing physical boundaries of the unit are its legal boundaries, rather than the boundaries described in the declaration.

End of Alternatives

(b) Subsection (a) does not apply if the encroachment:

(1) extends beyond 5 feet, as measured from any point on the common boundary along a line perpendicular to the boundary; or

(2) results from willful misconduct of the unit owner that claims a benefit under subsection (a).

(c) The easement does not relieve a unit owner of liability in case of his willful misconduct or. This section does not relieve a declarant or any other person of liability for failure to adhere to the plats and plans or a representation in the public offering statement.

Legislative Note (from UCIOA): Two approaches are presented as alternatives because a number of states have previously adopted the "easement solution" of Alternative A or the "adjustment of boundary" solution of Alternative B. A state may choose to continue its existing law on the topic.

MCA §1602-115. USE FOR SALES PURPOSES.

UCIOA §2-115. USE FOR SALES PURPOSES.

A declarant may maintain sales offices, management offices and models in units or on common elements in the ~~econdominium~~ common interest community only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location and relocation thereof. In a cooperative or condominium, any sales office, management office or model not designated a unit by the declaration is a common element, and. If a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the econdominium common interest community in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the econdominium. The provisions of common interest community. This section is subject to the provisions of other state law and to local ordinances.

MCA §1602-116. EASEMENT TO FACILITATE EXERCISE OF SPECIAL DECLARANT RIGHTS

UCIOA §2-116. EASEMENT AND USE RIGHTS.

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(a) Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a the declarant's obligations or exercising special declarant rights, whether arising under this Act or reserved in the declaration.

(b) Subject to sections 3-102(a)(6) and 3-112, the unit owners have an easement in the common elements for access to their units.

(c) Subject to the declaration and rules, the unit owners have a right to use the common elements that are not limited common elements and all real estate that must become common elements for the purposes for which they were intended.

MCA §1602-117. AMENDMENT OF DECLARATION.

UCIOA §2-117. AMENDMENT OF DECLARATION.

(a) Except in cases of amendments that may be executed by a declarant under section 1602-109, subsection (f) or 1602-110 2-109(f) or 2-110, the association under section 1604-107, 1602-106, subsection (d), 1602-108, subsection (e), 1602-112, subsection (a) or 1602-113 1-107, 2-106(d), 2-108(c), 2-112 or 2-113, or certain unit owners under sections 1602-108, subsection (b), 1602-112, subsection (a), 1602-113, subsection (b) or 1602-118, subsection (b) 2-108(b), 2-113(b) or 2-118(b), and except as limited by subsections (d), (f), (g), and (h), the declaration, including the any plats and plans, may be amended only by vote or agreement of the unit owners of units to which at least 67% of the votes in the association are allocated, or any larger majority unless the declaration specifies a different percentage for all amendments or for specific subjects of amendment. If the declaration may specify a smaller number only if all requires the approval of the units are restricted exclusively to nonresidential use. another person as a condition of its effectiveness, the amendment is not valid without that approval.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration must be recorded in every county in which any portion of the common interest community is located and is effective only upon recordation. Notice of the An amendment shall must be sent to all unit owners and mortgagees known to indexed in the executive board, but failure to send such notices shall not affect grantee's index in the validity name of the common interest community and the association and in the grantor's index in the name of the parties executing the amendment.

(d) Except to the extent expressly permitted or required by other provisions of this Act, no amendment may create or increase special declarant rights, increase the number of units, change the boundaries of any unit, or change the allocated interests of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

(e) Amendments to the declaration required by this Act to be recorded by the association shall must be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

(f) An amendment to the declaration may prohibit or materially restrict the permitted uses of or behavior in a unit or the number or other qualifications of persons who may occupy units only by vote or

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agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, unless the declaration specifies that a larger percentage of unit owners must vote or agree to that amendment or that such an amendment may be approved by unit owners of units having at least 80 percent of the votes of a specified group of units that would be affected by the amendment. An amendment approved under this subsection must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.

(g) The time limits specified in the declaration pursuant to section 2-105(a)(8) within which reserved development rights must be exercised may be extended, and additional development rights may be created, if persons entitled to cast at least 80 percent of the votes in the association, including 80 percent of the votes allocated to units not owned by the declarant, agree to that action. The agreement is effective 30 days after an amendment to the declaration reflecting the terms of the agreement is recorded unless all the persons holding the affected special declarant rights, or security interests in those rights, record a written objection within the 30-day period, in which case the amendment is void, or consent in writing at the time the amendment is recorded, in which case the amendment is effective when recorded.

(h) A provision in the declaration creating special declarant rights that have not expired may not be amended without the consent of the declarant.

(i) If any provision of this act or of the declaration requires the consent of a holder of a security interest in a unit as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if a refusal to consent in a record is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder at an address for notice provided by the holder or mails the notice to the holder by certified mail, return receipt requested, at that address. If the holder has not provided to the association an address for notice, the association shall provide notice to the address in the security interest of record. Notwithstanding this section, an amendment to the declaration that affects the priority of a holder's security interest or the ability of that holder to foreclose its security interest may not be adopted without that holder's consent in a record if the declaration requires that consent as a condition to the effectiveness of the amendment.

(j) If the declaration contains a provision requiring that amendments to the declaration may be adopted only by the vote or agreement of unit owners of units to which more than 80 percent of the votes in the association are allocated, the amendment is approved:

(1) if:

(A) unit owners of units to which at least 80 percent of the votes in the association are allocated vote for or agree to the proposed amendment;

(B) no unit owner votes against the proposed amendment; and

(C) notice of the proposed amendment is delivered to the unit owners holding the votes in the association which have not voted or agreed to the proposed amendment and no written objection to the proposed amendment is received by the association within 60 days after the association delivers notice; or

(2) unit owners of units to which at least 80 per cent of the votes in the association are allocated vote for or agree to the proposed amendment but at least one unit owner objects to the proposed amendment and, pursuant to an action brought by the association in [insert appropriate court] against all objecting unit owners, the court finds that the objecting unit owners do not have an interest,

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different in kind from the interests of the other unit owners, that the voting requirement of the declaration was intended to protect.

MCA §1602-118. TERMINATION OF CONDOMINIUM

UCIOA §2-118. TERMINATION OF COMMON INTEREST COMMUNITY.

(a) ~~Except in the case of for a taking of all the units by eminent domain, section 1601-107, a condominium foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in section 2-124, a common interest community may be terminated only by agreement of unit owners of units to which at least 80% of the votes in the association are allocated, or including at least 80% of the votes allocated to units not owned by the declarant, and with any other approvals required by the declaration. The declaration may require a larger percentage the declaration specifies of total votes in the association for approval, but termination requires approval by at least 80 percent of the votes allocated to units not owned by the declarant. The declaration may specify a smaller percentage percentages only if all of the units in the condominium are restricted exclusively to nonresidential uses.~~

(b) ~~Such~~ An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement ~~will be~~ is void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the common interest community is situated and is effective only upon recordation.

(c) ~~In the case of a condominium containing only units having horizontal boundaries between units, a termination agreement may provide that for the sale of some or all of the common elements and units of the condominium shall be sold common interest community following termination. If, pursuant to the agreement, any real estate in the condominium common interest community is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.~~

(d) ~~In the case of a condominium containing any units not having horizontal boundaries between units, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale.~~

[(d) Reserved.]

(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the ~~condominium following termination~~ a common interest community, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate ~~in the condominium~~ is to be sold following termination, title to that real estate, not already owned by the association, ~~upon termination vests on termination~~, in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in ~~proportion to the respective interests of unit owners as provided in~~ accordance subsections (h), (i), (j) and (m). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and ~~his that unit owner's~~ successors in

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interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his the unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all assessments and other obligations imposed on unit owners by this Act or the declaration.

~~(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries between units, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.~~

(f) Termination does not change title to a unit or common element not to be sold following termination unless the termination agreement otherwise provides.

(g) Following termination of the ~~condominium~~ common interest community, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear.

(h) Following termination of a condominium or planned community, creditors of the association holding liens on the units which were [recorded] [docketed] [insert other procedures required under state law to perfect a lien on real estate as a result of a judgment] ~~prior to before~~ termination may enforce those liens in the same manner as any lien holder. All other creditors of the association shall are to be treated as if they had perfected liens on the unit immediately ~~prior to the~~ before termination.

(i) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were [recorded] [docketed] [insert other procedures required under state law to perfect a lien on real estate as a result of a judgment] before termination may enforce their liens in the same manner as any lien holder, and any other creditor of the association is to be treated as if the creditor had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(1) the lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(2) any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(3) the amount of the lien of an association's creditor described in paragraphs (1) and (2) against each of the unit owners' interest must be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;

(4) the lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's unit as of the date the lien was perfected;

(5) the assets of the association must be distributed to all unit owners and all lien holders as their interests may appear in the order described above; and

(6) creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

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~~(h)(i)~~ (i) The respective interests of unit owners referred to in subsections ~~(e), (d) and (e)~~, (f), (g), (h), (i) and (m) are as follows:

(1) Except as otherwise provided in paragraph (2) ~~(4)~~, the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements and common element interests immediately before the termination, as determined by appraisal made by one or more independent appraisers selected by the association. The decision of the independent appraisers shall The appraisal must be distributed to the unit owners and becomes final unless:

(A) disapproved within not later than 30 days after distribution by unit owners of units to which at least 25% of the votes in the association are allocated; or

(B) a unit owner objects in a record not later than 30 days after distribution to the determination of value of the owner's unit.

(2) A unit owner that objects under paragraph (1)(B) may select an appraiser to represent the owner and make an appraisal of the owner's unit. If the association's appraisal and the unit owner's appraisal of the fair market value of the owner's interest differ, a panel consisting of an appraiser selected by the association, the unit owner's appraiser, and a third appraiser mutually selected by the first two appraisers shall determine, by majority vote, the value of the unit owner's interest. The determination of value by the panel is final.

(3) The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and ~~common element interest~~ its allocated interests by the total fair market values of all the units and ~~common elements~~ their allocated interests.

~~(2)(4)~~ (4) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof prior to before destruction cannot be made, the interests of all unit owners are; ~~their respective common element interests immediately before the termination.~~

(A) in a condominium, their respective common element interests immediately before the termination;

(B) in a cooperative, their respective ownership interests immediately before the termination; and

(C) in a planned community, their respective common expense liabilities immediately before the termination.

(k) In a condominium or planned community, except as otherwise provided in subsection (j)(1), foreclosure or enforcement of a lien or encumbrance against the entire ~~econdominium~~ common interest community does not of itself terminate the ~~econdominium~~, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the ~~econdominium~~ common interest community, other than withdrawable real estate, does not withdraw that portion from the ~~econdominium~~ common interest community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate, or against common elements that have been subjected to a security interest by the association under section 3-112, does not withdraw, of itself ~~withdraw~~, that real estate from the ~~econdominium~~ common interest community, but the person taking title thereto has the right to may require from the association, upon request, an amendment excluding the real estate from the ~~econdominium~~ common interest community.

(j)(l) In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the ~~econdominium~~ common interest community has priority over the declaration, and the

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lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance ~~may~~, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the ~~condominium~~ common interest community.

(m) A termination agreement complying with this section may provide for termination of fewer than all of the units in a common interest community, subject to the following rules:

(1) In addition to the approval required by subsection (a), the termination agreement must be approved by at least 80 percent of the votes allocated to the units being terminated.

(2) The termination agreement must reallocate under Section 2-107 the allocated interests for the units that remain in the common interest community after termination.

(3) The aggregate values of the units and common elements being terminated must be determined under subsection (j). The termination agreement must specify the allocation of the proceeds of sale for the units and common elements being terminated and sold.

(4) Security interests and liens on remaining units and remaining common elements continue, and security interests and liens on units being terminated no longer extend to any remaining common elements.

(5) The unit owners' association continues as the association for the remaining units.

(6) The association shall record with the termination agreement under subsection (b) an amendment to the declaration or an amended and restated declaration.

MCA §1602-119.

UCIOA §2-119. RIGHTS OF SECURED LENDERS.

(a) The declaration may require that all or a specified number or percentage of the ~~mortgagees or beneficiaries of deeds of trust~~ lenders who hold security interests encumbering the units or who have extended credit to the association approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to:

(1) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board; or

(2) prevent the association or the executive board from commencing, intervening in, or settling any litigation or proceeding, or (iii) prevent any insurance trustee or the association from receiving and distributing any insurance proceeds except pursuant to section 1603-113.3-113.

~~(b) The association shall send reasonable prior written notice by prepaid United States mail to eligible mortgage holders as hereinafter defined of the consideration by the association of following proposed actions:~~

~~(1) The termination of the condominium pursuant to section 1602-118;~~

~~(2) A change in the allocated interest of a unit, a change in the boundaries of a unit or a subdivision of a unit;~~

~~(3) The merger or consolidation of the condominium with another condominium;~~

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- (4) ~~The conveyance or subjection to a security interest of any portion of the common elements;~~
- (5) ~~The proposed use of any proceeds of hazard insurance required to be maintained by the association under section 1603-113, subsection (a), for purposes other than the repair or restoration of the damaged property;~~
- (6) ~~The adoption of any proposed budget by the executive board under section 1603-103, subsection (e), and of the date of the scheduled unit owners meeting to consider ratification thereof; a summary of the proposed budget shall accompany this notice; and~~

(7) ~~Any default in the performance or payment by a unit owner of any obligations under the condominium declaration, including, without limitation, default in the payment of common expense liabilities.~~

An "eligible mortgage holder" means the holder of a recorded first mortgage on a unit which has delivered written notice to the association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the unit owner's name and address, and the identifying number of the unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed action if sent at the time notice thereof is given to the unit owners. In addition, the declaration may require that similar notice be given to other persons or of other proposed actions.

(e) ~~In the event of any proposed actions described in subsection (b), paragraphs (1), (2), (3), (4) or (5), an eligible mortgage holder shall have the right but not the obligation in place of the unit owner to cast the votes allocated to that unit or give or withhold any consent required of the unit owner for such action by delivering written notice to the association with a copy to the unit owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the eligible mortgage holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the unit owner from exercising such right. In the event of any default described in subsection (b), paragraph (7), the eligible mortgage holder shall have the right but not the obligation to cure such default.~~

(d) ~~In addition, an eligible mortgage holder, or its representative, shall have the right to attend association and executive board meetings for the purposes of discussing the matters described in subsection (b), paragraphs (1) to (6).~~

(b) A lender who has extended credit to an association secured by an assignment of income (section 3-102(14)) or an encumbrance on the common elements (section 3-112) may enforce its security agreement in accordance with its terms, subject to the requirements of this act and other law. Requirements that the association must deposit its periodic common charges before default with the lender to which the association's income has been assigned, or increase its common charges at the lender's direction by amounts reasonably necessary to amortize the loan in accordance with its terms, do not violate the prohibitions on lender approval contained in subsection (a).

MCA §1602-120.

UCIOA §2-120. MASTER ASSOCIATIONS.

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(a) A declaration may:

- (1) delegate a power under Section 3-102(a) from the unit owners' association to a master association;
- (2) provide for exercise of the powers under Section 3-102(a) by a master association that also serves as the unit owners' association for the common interest community; and
- (3) reserve a special declarant right to make the common interest community subject to a master association.

~~If the declaration for a condominium provides that any of the powers described in section 1603-102 are to be exercised by or may be delegated to a profit or nonprofit corporation, or unincorporated association, which exercises these or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums,~~

(b) All provisions of this Act applicable to unit owners' associations apply to such corporations or unincorporated association the master association, except as modified by this section.

(b)⁸ ~~Unless a master association is acting in the capacity of an association described in section 1603-101, it may exercise the powers set forth in section 1603-102, subsection (a), paragraph (2), only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from such condominiums to the master association.~~

(c)⁹ ~~If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.~~

(d)¹⁰ ~~The rights and responsibilities of unit owners with respect to the unit owners' association set forth in sections 1603-103, 1603-106, 1603-108, 1603-110 and 1603-113, apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not such persons are otherwise unit owners within the meaning of this Act.~~

(e)¹¹ ~~Notwithstanding the provisions of section 1603-103 with respect to the election of the executive board of an association, by all unit owners after the period of declarant control ends and even if a master association is also an association described in section 1603-101, the articles of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association shall be elected after the period of declarant control in any of the following ways:~~

- ~~(1) All unit owners of all condominiums subject to the master association may elect all members to that executive board;~~
- ~~(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board;~~

⁸ See UCIOA sub-§f below

⁹ See UCIOA sub-§g below for similar language

¹⁰ See UCIOA sub-§h below

¹¹ See UCIOA sub-§i below

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~~(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board; or~~

~~(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.~~

(c) A unit owners' association may delegate a power under Section 3-102(a) to a master association without amending the declaration. The executive board of the unit owners' association shall give notice to the unit owners of a proposed delegation and include a statement that unit owners may object in a record to the delegation not later than 30 days after delivery of the notice. The delegation becomes effective if the board does not receive a timely objection from unit owners of units to which at least 10 percent of the votes in the association are allocated. If the board receives a timely objection by at least 10 percent of the votes, the delegation becomes effective only if the unit owners vote under Section 3-110 to approve the delegation by a majority vote. The delegation is not effective until the master association accepts the delegation.

(d) A delegation under subsection (a)(1) may be revoked only by an amendment to the declaration.

(e) At a meeting of the unit owners which lists in the notice of the meeting the subject of delegation of powers from the executive board to a master association, the unit owners may revoke the delegation by a majority of the votes cast at the meeting. The effect of revocation on the rights and obligations of parties under a contract between a unit owners' association and a master association is determined by law of this state other than this [act].

(f)¹² Unless it is acting in the capacity of a unit owners' association, a master association is acting in the capacity of an association described in section 1-603-101; it may exercise the powers set forth in section 1-603-102, subsection (a), paragraph (b) 3-102(a)(2) only to the extent expressly permitted in the declarations of condominium common interest communities which are part of the master association or expressly described in the delegations of power from those condominiums common interest communities to the master association.

(g)¹³ After a unit owners' association delegates a power to a master association, the unit owners' association, its executive board members, and its officers are not liable for an act or omission of the master association with respect to the delegated power.

(h)¹⁴ The rights and responsibilities of unit owners with respect to the unit owners' association set forth in Sections 3-103, 3-108, 3-109, 3-110, and 3-112 apply in the conduct of the affairs of a master association only to persons who elect the executive board of a master association, whether or not those persons are otherwise unit owners within the meaning of this act.

(i)¹⁵ Not later than 90 days after termination of a period of declarant control of the master association, the executive board of the master association must be elected in one of the following ways:

(1) The unit owners of all common interest communities subject to the master association elect all members of the master association's executive board.

(2) The unit owners in, or the executive board of, each common interest community subject to the master association elect one or more members of the master association's executive board if the

¹² See MCA sub-§b above

¹³ See MCA §sub-§c above for similar language

¹⁴ See MCA sub-§d above

¹⁵ See MCA sub-§e above

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instruments governing the master association apportion the seats on the board to each common interest community in a manner roughly proportional to the number of units in each common interest community.

(i) A period of declarant control of the master association under subsection (i) terminates not later than the earlier of:

(1) the termination under Section 3-103 of all periods of declarant control of all common interest communities subject to the master association under Section 3-103; or

(2) [60] days after conveyance to unit owners other than a declarant of [three-fourths] of the units that may be created in all common interest communities subject to the master association.

MCA §1602-121

UCIOA §2-121. MERGER OR CONSOLIDATION OF ~~CONDOMINIUMS~~ COMMON INTEREST COMMUNITIES.

(a) Any 2 or more ~~econdeminiums~~ common interest communities may, ~~by agreement of the unit owners as provided in~~ be merged or consolidated under subsection (b) into a single econdeminium- common interest community by agreement of the unit owners or exercise of a special declarant right. ~~In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant econdeminium shall be, for all purposes, common interest community is the legal successor, for all purposes, of all of the preexisting econdeminiums common interest communities, and the operations and activities of all associations of the preexisting econdeminiums common interest communities shall be are merged or consolidated into a single association which shall hold that holds all powers, rights, obligations, assets and liabilities of all preexisting associations.~~

(b) An agreement of 2 or more ~~econdeminiums~~ common interest communities to merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the preexisting ~~econdeminiums common interest communities~~ following approval by owners of units to which are allocated the percentage of votes in each econdeminium required to terminate that econdeminium. ~~Any such common interest community required to terminate that common interest community. If a special declarant right is exercised in a common interest community, approval by the unit owners is not required and the declarant may execute the agreement on behalf of the common interest community. The agreement must be recorded in every county in which a portion of the econdeminium common interest community is located and is not effective until recorded.~~

(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the units of the resultant ~~econdeminium-common interest community~~ either:

(1) ~~by stating~~ by stating the reallocations or the formulas upon which they are based; or

(2) By stating the percentage of overall allocated interests of the new econdeminium-common interest community which are allocated to all of the units comprising each of the preexisting econdeminiums common interest communities and providing that the portion of such percentages allocated to each unit formerly comprising a part of such preexisting econdeminium shall common

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interest community must be equal to the percentages of allocated interests allocated to such unit by the declaration of the preexisting ~~condominiums~~ common interest community.

~~(d) Every merger or consolidation of 2 or more condominium associations shall comply with the requirements of Title 13-B, the Maine Nonprofit Corporation Act, except to the extent inconsistent with this Act.~~

NO MCA §

UCIOA §2-122. ADDITION OF UNSPECIFIED REAL ESTATE.

In a planned community, if the right is originally reserved in the declaration, the declarant in addition to any other development right, may amend the declaration at any time during as many years as are specified in the declaration for adding additional real estate to the planned community without describing the location of that real estate in the original declaration; but, the amount of real estate added to the planned community pursuant to this section may not exceed 10 percent of the real estate described in section 2-105(a)(3) and the declarant may not in any event increase the number of units in the planned community beyond the number stated in the original declaration pursuant to section 2-105(a)(5).

NO MCA §

UCIOA §2-123. MASTER PLANNED COMMUNITIES.

(a) The declaration for a common interest community may state that it is a master planned community if the declarant has reserved the development right to create at least [500] units that may be used for residential purposes, and at the time of the reservation that declarant owns or controls more than [500] acres on which the units may be built.

(b) If the requirements of subsection (a) are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required by section 2-105(a)(3) through (14) until the declaration is amended under subsection (c).

(c) When each unit in a master planned community is conveyed to a purchaser, the declaration must contain:

(1) a sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser; and

(2) all the information required by section 2-105(a)(3) through (14) with respect to that real estate.

(d) The only real estate in a master planned community subject to this act are units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection (c). Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.

(e) If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements contained in [Article] 4 apply only with respect to units

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that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection (c).

(f) Limitations in this act on the addition of unspecified real estate do not apply to a master planned community.

(g) The period of declarant control of the association for a master planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving notice in a record to all the unit owners, voluntarily surrenders all rights to control the activities of the association.

NO MCA §

UCIOA §2-124. TERMINATION FOLLOWING CATASTROPHE.

If substantially all the units in a common interest community have been destroyed or are uninhabitable and the available methods for giving notice under section 3-121 of a meeting of unit owners to consider termination under section 2-118 will not likely result in receipt of the notice, the executive board or any other interested person may commence an action in [insert appropriate court] seeking to terminate the common interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including appointment of a receiver. After a hearing, the court may terminate the common interest community or reduce its size and may issue any other order the court considers to be in the best interest of the unit owners and persons holding an interest in the common interest community.

NO MCA §

UCIOA § 2-125. ADVERSE POSSESSION; PRESCRIPTIVE EASEMENT. A unit owner or person claiming through a unit owner may not acquire title by adverse possession to, or an easement by prescription in, a common element in derogation of the title of another unit owner or the association.

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[ARTICLE] 3

MANAGEMENT OF THE ~~CONDOMINIUM~~ COMMON INTEREST COMMUNITY

MCA §1603-101.

UCIOA §3-101. ORGANIZATION OF UNIT OWNERS' ASSOCIATION.

A unit owners' association ~~shall must~~ be organized prior to any conveyance, ~~except a conveyance as security for an obligation, of a unit by the declarant, no later than the date the first unit in the common interest community is conveyed.~~ The membership of the association at all times shall ~~consist~~ consists exclusively of all the unit owners or, following termination of the ~~condominium~~ common interest community, of all former unit owners entitled to distributions of proceeds under section ~~1602-118~~ 2-118, or their heirs, successors, or assigns. The association shall ~~must~~ have an executive board. The association ~~must be organized as a profit or nonprofit corporation under Title 13-B, as it or its equivalent may be amended from time to time, trust, limited liability company, partnership, [unincorporated association,] or any other form of organization authorized by the law of this state.~~

MCA §1603-102.

UCIOA §3-102. POWERS AND DUTIES OF UNIT OWNERS' ASSOCIATION.

(a) ~~Subject to the provisions of the declaration, the association may:~~ Except as otherwise provided in subsection (b) and other provisions of this Act, the association

- (1) Shall adopt and may amend bylaws and may adopt and amend rules and regulations;
- (2) Shall adopt and may amend budgets for revenues, expenditures and reserves and under section 3-123, may collect assessments for common expenses from unit owners, and may invest funds of the association;
- (3) May hire and terminate ~~discharge~~ managing agents and other employees, agents and independent contractors;
- (4) May institute, defend or intervene in litigation or in arbitration, mediation, or administrative proceedings in its own name on behalf of itself or 2 or more unit owners on matters affecting the ~~condominium~~ common interest community, subject to section 3-124;
- (5) May make contracts and incur liabilities;
- (6) May regulate the use, maintenance, repair, replacement and modification of common elements;
- (7) May cause additional improvements to be made as a part of the common elements;
- (8) May acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, ~~provided that but:~~

(A) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 1603-112 3-112; and

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(B) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 3-112;

~~(9) May grant easements, leases, and licenses and concessions through or over the common elements, but a grant to a unit owner that benefits the owner's unit is allowed only by reallocation under section 2-108(c) of the common element to a limited common element;~~

(10) May impose and receive any payments, fees or charges for:

(A) the use, rental or operation of the common elements, other than limited common elements described in section 1-602-102, paragraphs (2) and (4) 2-102(2) and (4); and

(B) services provided to unit owners;

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

(12) May impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by section 1-604-108 4-109, or statements of unpaid assessments;

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

14) ~~Except to the extent limited by the declaration, may~~ assign its right to future income, including the right to receive assessments, ~~but only if approval of a majority of unit owners is obtained;~~

(15) May exercise any other powers conferred by the declaration or bylaws;

(16) May exercise all other powers that may be exercised in this state by legal entities organizations of the same type as the association;

(17) May exercise any other powers necessary and proper for the governance and operation of the association;

(18) May require that disputes between the association and unit owners or between two or more unit owners regarding the common interest community be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding¹⁶; and

(19) May suspend any right or privilege of a unit owner that fails to pay an assessment, but may not:

(A) Deny a unit owner or other occupant access to the unit owner's unit; or

(B) Suspend a unit owner's right to vote;

(C) Prevent a unit owner from seeking election as a director or officer of the association; or

(D) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

~~(20) (b) Notwithstanding subsection (a),~~ The declaration may not impose limitations on limit the power of the association beyond the limit authorized in subsection (a)(19) to:

¹⁶ See deleted language in §3-102(20)(B)

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(A) Deal with the declarant ~~that are if the limit is more restrictive than the limitations limit~~ imposed on the power of the association to deal with other persons ~~except as permitted by this Act; or~~

(B) ~~A provision requiring arbitration of disputes between the declarant and the association and the association or between the declarant and unit owners does not violate this section. Institute~~ litigation or an arbitration, mediation, or administrative proceeding against any person, subject to the following:

(1) the association shall comply with section 3-124, if applicable, before instituting any proceeding described in section 3-124 (a) in connection with construction defects; and

(2) the executive board promptly shall provide notice to the unit owners of any legal proceeding in which the association is a party other than proceedings involving enforcement of rules or to recover unpaid assessments or other sums due the association.

(c) If a tenant of a unit owner violates the declaration, bylaws or rules of the association, in addition to exercising any of its powers against the unit owner, the association may:

(1) exercise directly against the tenant the powers described in subsection (a)(11);

(2) after giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation; and

(3) enforce any other rights against the tenant for the violation which the unit owner as landlord could lawfully have exercised under the lease or which the association could lawfully have exercised directly against the unit owner, or both.

(d) The rights referred to in subsection (c)(3) may be exercised only if the tenant or unit owner fails to cure the violation within 10 days after the association notifies the tenant and unit owner of that violation.

(e) Unless a lease otherwise provides, this section does not:

(1) affect rights that the unit owner has to enforce the lease or that the association has under other law; or

(2) permit the association to enforce a lease to which it is not a party in the absence of a violation of the declaration, bylaws, or rules.

(f) The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(1) the association's legal position does not justify taking any or further enforcement action;

(2) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with law;

(3) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(4) it is not in the association's best interests to pursue an enforcement action.

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(g) The executive board's decision under subsection (f) not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

(h) The executive board shall establish a reasonable method for unit owners to communicate among themselves and with the executive board on matters concerning the association.

**MCA §1603-103. EXECUTIVE BOARD MEMBERS AND OFFICERS; DECLARANT-
CONTROL**

UCIOA §3-103. EXECUTIVE BOARD MEMBERS AND OFFICERS.

(a) Except as otherwise provided in the declaration, the bylaws, ~~in subsection (b) or other provisions of this Act, the executive board may in all instances, the executive board acts on behalf of the association. The declarant is a fiduciary for the unit owners with respect to actions taken or omitted at his direction by~~ In the performance of their duties, officers and members of the executive board appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee. Officers and members of the executive board appointed by the declarant, and acting in those capacities, or elected by the members at a time when more than 50% of the voting rights are held by the declarant not appointed by the declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized, and are subject to the conflict of interest rules governing directors and officers, under [insert reference to state nonprofit corporation law]. The standards of care and loyalty described in this section apply regardless of the form in which the association is organized.

(b) ~~The executive board may not act on behalf of the association to:~~

~~(1) amend the declaration, section 1602-117 except as provided in section 2-117, to;~~

~~(2) amend the bylaws;~~

~~(3) terminate the condominium, section 1602-118, or to common interest community;~~

~~(4) elect members of the executive board or ¹⁷ but may fill vacancies in its membership for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of executive board members; or~~

~~(5) determine the qualifications, powers and, duties, or terms of office of executive board members, subsection (e).~~

~~(c) The executive board shall adopt budgets as provided in section 3-123.¹⁸ (e) Within 30 days after adoption of a proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 10 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected,~~

¹⁷ Language in MCA located here is in ¶5 immediately following

¹⁸ A similar version of this sub-§(c) appears in the UCIOA §3-123, sub-§(a) below

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~~the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.~~

~~(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the executive board. — Any period of declarant control extends from the date of the first conveyance of a unit to a person other than a declarant for a period not exceeding 7 years in the case of a condominium in which the declarant has reserved development rights, or 5 years in the case of any other condominium. — Regardless of the period provided in the declaration, a period of declarant control terminates no later than 60 days after conveyance of 75% of the units to unit owners other than a declarant.¹⁹ A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that the period, but ends. In that event, the declarant may require, for during the duration remainder of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.~~

~~Within the above limits, the~~ Regardless of the period provided in the declaration, and except as provided in section 2-123(g), a period of declarant control terminates no later than the earliest of:

- ~~(1) [60] days after conveyance of [three-fourths] 50% of the units that may be created to unit owners other than a declarant;~~
- ~~(2) Termination of any right of declarant to appoint officers or members of the executive board;~~
- ~~(3) Termination of any right of declarant to approve or veto any actions of the association or the executive board.~~
- ~~(2) two years after all declarants have ceased to offer units for sale in the ordinary course of business;~~
- ~~(3) two years after any right to add new units was last exercised; or~~
- ~~(4) the day the declarant, after giving notice in a record to unit owners, records an instrument voluntarily surrendering all rights to control activities of the association.~~

~~(e) Not later than 60 days after conveyance of [one-fourth] of the units that may be created to unit owners other than a declarant, at least one member and not less than 25% of the members of the executive board must be elected by unit owners other than the declarant. Not later than 60 days after conveyance of [one-half] of the units that may be created to unit owners other than a declarant, not less than [one-third] of the members of the executive board must be elected by unit owners other than the declarant.~~

~~(f) Except as otherwise provided in section 2-120(i), not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least 3 persons members, at least a majority of whom must be unit owners or spouses of unit owners or, in the case of a unit owner which is a corporation, partnership, trust or estate, a designated agent thereof. The declaration may provide for staggered terms for the executive board. Unless the declaration provides for the election of officers by the unit owners, the executive board shall elect the officers. The executive board members and officers shall take office upon election or appointment.~~

~~(g) A declaration may provide for the appointment of specified positions on the executive board by persons other than the declarant during or after the period of declarant control. It also may provide a~~

¹⁹ See ¶ immediately below

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method for filling vacancies in those positions, other than by election by the unit owners. However, after the period of declarant control, appointed members:

- (1) may not comprise more than [one third] of the board; and
- (2) have no greater authority than any other member of the board.

MCA §1603-104. ~~TRANSFER OF SPECIAL DECLARANT RIGHTS.~~

UCIOA §3-104. SPECIAL DECLARANT RIGHTS.

(a) In this section:

(1) "Involuntary transfer" means a transfer by foreclosure of a mortgage, deed in lieu of foreclosure, tax sale, judicial sale, or sale in a bankruptcy or receivership proceeding of real estate owned by a declarant.

(2) "Non-affiliate successor" means a person that succeeds to a special declarant right and is not an affiliate of the declarant that transferred the special declarant right to the person.

(b) A special declarant right is an interest in real estate. The interest is appurtenant to:

- (1) all units owned by the declarant, and
- (2) real estate that is subject to a development right.

(c) A declarant that no longer owns a unit or a development right ceases to have any special declarant rights.

(a). No special declarant rights, section 1601-103, paragraph (25), created or reserved under this Act may be transferred except by a recorded instrument. The instrument is not effective unless executed by the transferee.

(d) A declarant may voluntarily transfer part or all of a special declarant right only by an instrument that describes the special declarant right being transferred. The transfer becomes effective when recorded in every county in which any portion of the common interest community is located.

(b)(1) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows. (1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this Act. Lack of privity does not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor.

(e) Except as otherwise provided subsection (h), (i), (k), or (l), a successor to a special declarant right is subject to all obligations and liabilities imposed on the transferor by this act or the declaration.

(b)(2) If the successor to any special declarant right is an affiliate of a declarant, section 1601-103, paragraph (1), the transferor is jointly and severally liable with the successor for any obligation or liability of the successor which relates to the condominium.

(f) If a declarant transfers a special declarant right to an affiliate of the declarant, the transferor and the successor are jointly and severally liable for all obligations and liabilities imposed on either person by

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this act or the declaration. Lack of privity does not deprive a unit owner of standing to maintain an action to enforce any obligation or liability of the transferor or successor.

~~(e)(1) The liabilities and obligations of persons who succeed to special declarant rights are as follows:~~

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

(g) A declarant that transfers a special declarant right to a non-affiliate successor:

(1) remains liable for an obligation or liability imposed by this act or the declaration, including a warranty obligation, that arose before the transfer; and

(2) is not liable for an obligation or liability imposed on the successor by this act or the declaration that arose after the transfer.

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

~~(b)(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.~~

(h) A non-affiliate successor that succeeds to fewer than all special declarant rights held by the transferor is not subject to an obligation or liability that relates to a special declarant right not transferred to the successor.

~~(e)(3) A successor to only a right reserved in the declaration to maintain models, sales offices and signs, section 1602-115, if he is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.~~

~~(e)(2) A successor to any special declarant rights other than a successor described in paragraphs (3) or (4), who is not an affiliate of a declarant, is subject to all obligations and liabilities imposed by this Act or the declaration:~~

~~(A) On a declarant which relate to his exercise or nonexercise of special rights; or~~

~~(B) On his transferor, other than:~~

~~(i) Misrepresentations by any prior declarant;~~

~~(ii) Warranty obligations on improvements made by any previous declarant, or made before the condominium was created;~~

~~(iii) Breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or~~

~~(iv) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.~~

(i) A non-affiliate successor is not liable for an obligation or liability imposed by this act or the declaration that relates to:

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(1) a misrepresentation by a previous declarant;

(2) a warranty obligation on an improvement made by a previous declarant or before the common interest community was created;

(3) breach of a fiduciary obligation by a previous declarant or the previous declarant's appointees to the executive board; or

(4) an obligation or liability imposed on the transferor as a result of the transferor's act or omission after the transfer.

(j) If an involuntary transfer includes a special declarant right, the transferee may elect to acquire or reject the special declarant right. A transferee that elects to acquire the special declarant right is a successor declarant. The election is effective only if the judgment or instrument conveying title describes the special declarant right.

(k) A successor to a special declarant right by an involuntary transfer may declare in a recorded instrument the successor's intent to hold the right solely for transfer to another person. After recording the instrument, the successor may not exercise a special declarant right, other than a right under Section 3-103(d) to control the executive board, and an attempt to exercise a special declarant right in violation of this subsection is void. A successor that complies with this subsection is not liable for an obligation or liability imposed by this act or the declaration other than liability for the successor's act or omission under Section 3-103(d).

~~(e). Unless otherwise provided in a mortgage instrument in case of foreclosure of a mortgage, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of any units owned by a declarant or real estate in a condominium subject to development rights, a person acquiring title to all the real estate being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to that real estate held by that declarant, or only to any rights reserved in the declaration pursuant to section 1602-115 and held by that declarant to maintain models, sales offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.~~

~~(d). Upon foreclosure, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of all units and other real estate in a condominium owned by a declarant:~~

~~(1) The declarant ceases to have any special declarant rights; and~~

~~(2) The period of declarant control, section 1603-103, subsection (d), terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.~~

~~(e)(4) A successor to all special declarant rights held by his transferor, who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection (e), may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with the provisions of section 1603-103, subsection (d), for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under section 1603-103, subsection (d).~~

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~~(f)(1) Nothing in this section subjects any~~ This section does not subject a successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and or obligations arising under imposed by this Act or the declaration.

MCA §1603-105. TERMINATION OF CONTRACTS AND LEASES OF DECLARANT

UCIOA §3-105. TERMINATION OF CONTRACTS AND LEASES.

~~If entered into before the executive board elected by the unit owners pursuant to section 1603-103, subsection (e) takes office:~~

(a) Within two years after the executive board elected by the unit owners pursuant to Section 3-103(f) takes office, the association may terminate without penalty, upon not less than [90] days' notice to the other party, any of the following if it was entered into before the executive board was elected:

- (1) any management ~~contract~~, maintenance, operations or employment contract or lease of recreational or parking areas or facilities; or
- (2) any other contract or lease between the association and a declarant or an affiliate of a declarant; or

(b) The association may terminate without penalty, at any time after the executive board elected by the unit owners pursuant to section 3-103(f) takes office upon not less than [90] days' notice to the other party, any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into

~~under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the unit owners pursuant to section 1603-103, subsection (e), takes office upon not less than 90 days' notice to the other party.~~

(c) This section does not apply to:

(1) any lease, the termination of which would terminate the ~~econdominium~~ common interest community or reduce its size, unless the real estate subject to that lease was included in the ~~econdominium~~ common interest community for the purpose of avoiding the right of the association to terminate a lease under this section; or

(2) a proprietary lease.

MCA §1603-106. BYLAWS²⁰

UCIOA §3-106. BYLAWS.

(a) The bylaws of the association must ~~provide for~~:

(1) Provide the number of members of the executive board and the titles of the officers of the association;

²⁰ amended in 2015

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- (2) Provide for election by the executive board or, if the declaration requires, by the unit owners, of a president, treasurer, secretary, and any other officers of the association the bylaws specify;
- (3) Specify the qualifications, powers and duties, terms of office and manner of electing and removing executive board members and officers and filling vacancies;
- (4) ~~Which, if any, of its~~ Specify the powers the executive board or officers may delegate to other persons or to a managing agent;
- (5) ~~Which of its~~ Specify the officers who may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and
- (6) ~~The~~ Specify a method of amending for the unit owners to amend the bylaws;
- (7) Contain any provision necessary to satisfy requirements in this act or the declaration concerning meetings, voting, quorums, and other activities of the association; and
- (8) Provide for any matter required by law of this state other than this act to appear in the bylaws of organizations of the same type as the association.
- (b) Subject to the provisions of the declaration and this act, the bylaws may provide for any other ~~matters the association deems necessary and~~ or appropriate matters, including matters that could be adopted as rules.
- ~~(c) An association may not include in its bylaws or declaration, or any rule adopted pursuant to the bylaws or declaration, or any deed a restriction that prohibits a unit owner from displaying on that unit owner's unit a sign that supports or opposes a candidate for public office or a referendum question during the period from 6 weeks prior to the date that a primary or general election or special election is held regarding that candidate or referendum question to one week after the election for that political candidate or vote for that referendum question is held.~~

MCA §1603-107. UPKEEP OF ~~THE~~ CONDOMINIUM

UCIOA §3-107. UPKEEP OF COMMON INTEREST COMMUNITY.

(a) Except to the extent provided by the declaration, subsection (b), or section ~~1603-113, subsection (h)~~ 3-113(h), the association is responsible for maintenance, repair and replacement of the common elements, and each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

(b) In addition to the liability ~~which that~~ a declarant as a unit owner has under this Act ~~as a unit owner~~, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other portion of the ~~condominium~~ common interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant.

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(c) In a planned community, if all development rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

MCA §1603-108. MEETINGS²¹

UCIOA §3-108. MEETINGS.

~~A meeting of the~~

(a) The following requirements apply to unit owner meetings:

(1) A meeting of the association must be held at least once each year. An association shall hold a meeting of unit owners annually at a time, date, and place stated in or fixed in accordance with the bylaws.

(2) Special meetings of the association may be called as provided in the Maine Nonprofit Corporation Act. An association shall hold a special meeting of unit owners to address any matter affecting the common interest community or the association if its president, a majority of the executive board, or unit owners having at least 20 percent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special meeting within 30 days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify all the unit owners of the meeting. The unit owners may discuss at a special meeting a matter not described in the notice under paragraph (3) but may not take action on the matter without the consent of all unit owners.

(3) The bylaws must specify which of the associations' officers, not less than 10 nor more than 60 days in advance of any meeting, shall cause notice to be hand delivered or sent prepaid by United States' mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner or sent by electronic means to any other address, including an e-mail address, specifically designated by the unit owner. An association shall notify unit owners of the time, date, and place of each annual and special unit owners meeting not less than 10 days or more than 60 days before the meeting date. Notice may be by any means described in Section 3-121. The notice of any meeting must state the time, date and place of the meeting and the items on the agenda, including:

(A) a statement of the general nature of any proposed amendment to the declaration or bylaws;

(B) any budget changes; and

(C) any proposal to remove a director or an officer, or member of the executive board.

~~The executive board shall give timely notice reasonably calculated to inform unit owners of the date, time and place of and topics proposed to be discussed at meetings of the executive board. The notice may be given by a posting in a prominent place in the common elements or elsewhere, by e-mail or by other means, but actual notice need not be delivered to each unit owner. Failure of a unit owner to receive notice does not invalidate any action taken by the executive board at the meeting. Unit~~

²¹ amended in 2011 & 2015

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~~owners have the right to attend meetings of the executive board, subject to reasonable rules established by the executive board.~~

(4) Unit owners must be given a reasonable opportunity at any meeting to comment regarding any matter affecting the common interest community or the association.²²

(5) A meeting of unit owners is not required to be held at a physical location if:

(A) the meeting is conducted by a means of communication that enables owners in different locations to communicate in real time to the same extent as if they were physically present in the same location; and

(B) the declaration or bylaws do not require that the owners meet at a physical location.

(6) In the notice for a meeting held at a physical location, the executive board may notify all unit owners that they may participate remotely in the meeting by a means of communication described in paragraph (5).

(b) The following requirements apply to meetings of the executive board and committees of the association authorized to act for the association:

(1) Meetings must be open to the unit owners except during executive sessions. ~~The executive board may restrict or prohibit attendance by unit owners and others during executive sessions. The executive board and those committees may hold an executive session only during a regular or special meeting of the board or a committee. A final vote or action may not~~ No final vote or action may be taken during an executive session. An executive session may be held only to:

(A) consult with the associations' attorney concerning legal matters;

(B) discuss existing or potential litigation or mediation, arbitration or administrative proceedings;

(C) discuss labor or personnel matters;

(D) discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or

(E) prevent public knowledge of the matter to be discussed if the executive board or committee determines that public knowledge would violate the privacy of any person.

(2) For purposes of this section, a gathering of board members at which the board members do not conduct association business is not a meeting of the executive board. The executive board and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this section.

(3) During the period of declarant control, the executive board shall meet at least four times a year. At least one of those meetings must be held at the common interest community or at a place convenient to the community. After termination of the period of declarant control, all executive board meetings must be at the common interest community or at a place convenient to the community unless the unit owners amend the bylaws to vary the location of those meetings.

²² How does this differ from sub-§b(4) below (unit owner meetings)

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(4) At each executive board meeting, the executive board shall provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association.²³

(5) Unless the meeting is included in a schedule given to the unit owners, the secretary or other officer specified in the bylaws shall give notice of each executive board meeting to each board member and to the unit owners. The notice must be given at least 10 days before the meeting and must state the time, date, place, and agenda of the meeting.

(6) If any materials are distributed to the executive board before the meeting, the executive board at the same time shall make copies of those materials reasonably available to unit owners, except that the board need not make available copies of unapproved minutes or materials that are to be considered in executive session.

(7) Unless the declaration or bylaws otherwise provide, the executive board may meet by telephonic, video, or other conferencing process if:

(A) the meeting notice states the conferencing process to be used and provides information explaining how unit owners may participate in the conference directly or by meeting at a central location or conference connection; and

(B) the process provides all unit owners the opportunity to hear or perceive the discussion and to comment as provided in paragraph (4).

(8) After termination of the period of declarant control, unit owners may amend the bylaws to vary the procedures for meetings described in paragraph (7).

(9) During the period of declarant control, without meeting, the executive board may act by unanimous consent as documented in a record authenticated by all its members. The secretary promptly shall give notice to all unit owners of any action taken by unanimous consent. After termination of the period of declarant control, the executive board may act by unanimous consent only to undertake ministerial actions or to implement actions previously taken at a meeting of the executive board.

(10) Even if an action by the executive board is not in compliance with this section, it is valid unless set aside by a court. An action seeking relief for failure of the executive board to comply with this section may not be brought more than [60] days after the minutes of the executive board of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.

MCA §1603-109. QUORUM.

UCIOA §3-109. QUORUM.

(a) Unless the bylaws provide otherwise provide, a quorum is deemed present throughout any meeting of the association if unit owners if at the beginning of the meeting persons entitled to cast 20% of the votes which may be cast for election of the executive board are present in the association attend in person-

²³ How does this differ from sub-§a(4) above (executive board / association meetings)

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~~or, by proxy or by means of communication under section 3-108(a)(5) or (6), at the beginning of the meeting. The bylaws may require a larger percentage or a smaller percentage not less than 10%~~

~~(b) Unless the bylaws specify a larger percentage number, a quorum of the executive board is deemed present throughout for purposes of determining the validity of any action taken at a meeting of the executive board only if persons individuals entitled to cast 50% a majority of the votes on that board are present at the beginning of the meeting time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the board members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.~~

MCA §1603-110. VOTING; PROXIES.

UCIOA §3-110. VOTING; PROXIES; BALLOTS

~~(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.~~

~~(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates 11 months after its date, unless it specifies a shorter term.~~

(a) Unit owners may vote at a meeting under subsection (b) or (c) or, when a vote is conducted without a meeting, by ballot in the manner provided in subsection (d).

(b) At a meeting of unit owners the following requirements apply:

(1) Unless the declaration or bylaws otherwise provide, unit owners may vote by voice vote, show of hands, standing, or any other method authorized at the meeting.

(2) If unit owners attend the meeting by a means of communication under section 3-108(a)(5) or (6), the association shall implement reasonable measures to verify the identity of each unit owner attending remotely.

(c) Unless the declaration or bylaws otherwise provide, unit owners may vote by proxy subject to the following requirements:

(1) Votes allocated to a unit may be cast pursuant to a directed or undirected proxy executed by a unit owner.

(2) When a unit owner votes by proxy, the association shall implement reasonable measures to verify the identity of the unit owner and the proxy holder.

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(3) A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding at a meeting.

(4) A proxy is void if it is not dated or purports to be revocable without notice.

(5) A proxy is valid only for the meeting at which it is cast and any recessed session of that meeting.

(6) A person may not cast undirected proxies representing more than [15] percent of the votes in the association.

(d) Unless the declaration or bylaws otherwise provide, an association may conduct a vote without a meeting. The following requirements apply:

(1) The association shall notify the unit owners that the vote will be taken by ballot without a meeting.

(2) The association shall deliver with the notice:

(A) instructions for casting a ballot;

(B) a paper ballot to every unit owner except a unit owner that has consented in a record to electronic voting; and

(C) if the association allows electronic voting, instructions for electronic voting.

(3) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(4) In the notice under paragraph (1) the association shall:

(A) state the percent of votes necessary to approve each matter other than election of directors;

(B) specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than [three] days after the date the association delivers the ballot; and

(C) describe the time, date, and manner by which unit owners wishing to deliver information to all unit owners regarding the subject of the vote may do so.

(5) A unit owner may revoke a ballot before the time and date under paragraph (4) by which the ballot must be delivered to the association. Unless the declaration or bylaws otherwise provide, a ballot is not revoked by death or disability after delivery to the association.

(6) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

(7) The association shall verify that each paper and electronic ballot is cast by the unit owner having a right to do so.

(8) A unit owner consents in a record to electronic voting by casting an electronic ballot.

(9) An association that allows electronic ballots shall create a record of electronic votes capable of retention, retrieval, and review.

(e) The declaration may provide for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize class voting for the purpose of evading any limitation imposed on declarants by this Act.

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(e) If the declaration requires that votes on specified matters affecting the common interest community be cast by lessees rather than unit owners of leased units:

~~(1) this section applies to lessees as if they were unit owners;~~

(2) unit owners that have leased their units to other persons may not cast votes on those specified matters;

(3) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners.

(f) Unit owners are entitled to notice of all meetings at which lessees are entitled to vote.

~~(e) No votes allocated to a unit owned by the association may be cast.~~

(g) Votes allocated to a unit owned by the association must be cast in any vote of the unit owners in the same proportion as the votes cast on the matter by unit owners other than the association.

(h) Unless a different number or fraction of the votes in an association is required by this [act] or the declaration, a majority of the votes cast determines the outcome of a vote taken at a meeting or without a meeting.

(i) If a unit is owned by more than one person and:

(1) only one owner casts a vote, that vote must be counted as casting all votes allocated to the unit by the declaration; and

(2) more than one owner casts a vote for the unit, no vote from any owner of the unit may be counted unless the declaration provides a manner for allocating votes cast by multiple owners of a unit.

MCA §1603-111. TORT AND CONTRACT LIABILITY

UCIOA. 103-111. TORT AND CONTRACT LIABILITY; TOLLING OF LIMITATION PERIOD.

(a) A unit owner is not liable, solely by reason of being a unit owner, for an injury or damage arising out of the condition or use of the common elements. Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium common interest community which that declarant has the responsibility to maintain.

(b) ~~Otherwise,~~ An action alleging a wrong done by the association shall be brought, including an action arising out of the condition or use of the common elements, may be maintained only against the association and not against any unit owner. If the wrong ~~accrued~~ occurred during any period of declarant control and if the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner: ~~(1) for all tort losses not covered by insurance suffered by the association or that unit owner, and~~ ~~(2) for all costs which that~~ the association would not have incurred but for the a breach of contract or other wrongful act or omission. ~~In any case where~~ Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation expenses, including reasonable attorneys' fees, incurred by the association. ~~During any period in which the control of the declarant is limited to the power to approve actions of the association or executive board, as provided in section~~

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~~1603-103, subsection d, the declarant shall be liable under this section only for losses caused by the exercise of declarant's right of disapproval.~~

~~(c) Except as provided in section 4-116(d), with respect to warranty claims, any statute of limitation affecting the association's right of action against a declarant under this section [act] is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing maintaining an action contemplated by this section because he is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by section 1603-147 3-117, other liens affecting the condominium.~~

MCA §1603-112. ALIENATION OF COMMON ELEMENTS

UCIOA §3-112. CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS.

(a) In a condominium or planned community, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 80% of the votes in the association, including 80% of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; provided that but all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to non-residential uses. Proceeds of the sale are an asset of the association, but the proceeds of the sale of limited common elements must be distributed equitably among the owners of units to which the limited common elements were allocated.

(b) Part of a cooperative may be conveyed and all or part of a cooperative may be subjected to a security interest by the association if persons entitled to cast at least [80] percent of the votes in the association, including [80] percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but, if fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all unit owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. Any purported conveyance or other voluntary transfer of an entire cooperative, unless made pursuant to section 2-118, is void.

~~(b)(c)~~ (c) An agreement to convey common elements in a condominium or planned community, or to subject them to a security interest, or in a cooperative, an agreement to convey any part of a cooperative or subject it to a security interest, must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every [county] in which a portion of the condominium common interest community is situated, and is effective only upon recordation.

~~(e) (d)~~ The association, on behalf of the unit owners, may contract to sell real estate in the condominium or subject real estate to a security convey an interest, in a common interest community pursuant to subsection (a), but the contract is not enforceable against the association until approved pursuant to subsections (a), and (b) and (c). Thereafter, the association has all powers necessary and

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appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instrument.

~~(d)~~ (e) Unless made pursuant to this section, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of common elements, unless made in accordance with this section or in accordance with section 1603-117, subsection (e), or of any other part of a cooperative is void.

(e) (f) Any vote to sell, transfer or encumber common elements under this section may include a release of that real estate from any or all restrictions imposed on that real estate by the declaration or this Act, but may A conveyance or encumbrance of common elements or of a cooperative pursuant to this section does not deprive any unit of its rights of access and support.

(g) Unless the declaration otherwise provides, if the holders of first security interests on 80 percent of the units that are subject to security interests on the day the unit owners' agreement under subsection (c) is recorded consent in writing:

(1) a conveyance of common elements pursuant to this section terminates both the undivided interests in those common elements allocated to the units and the security interests in those undivided interests held by all persons holding security interests in the units; and

(2) an encumbrance of common elements pursuant to this section has priority over all preexisting encumbrances on the undivided interests in those common elements held by all persons holding security interests in the units.

(h) The consents by holders of first security interests on units described in subsection (g), or a certificate of the secretary affirming that those consents have been received by the association, may be recorded at any time before the date on which the agreement under subsection (c) becomes void. Consents or certificates so recorded are valid from the date they are recorded for purposes of calculating the percentage of consenting first security interest holders, regardless of later sales or encumbrances on those units. Even if the required percentage of first security interest holders so consent, a conveyance or encumbrance of common elements does not affect interests having priority over the declaration, or created by the association after the declaration was recorded.

(i) In a cooperative, the association may acquire, hold, encumber, or convey a proprietary lease without complying with this section.

MCA §1603-113. INSURANCE

UCIOA §103-113. INSURANCE.

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

(1) property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion condominium, against fire and extended coverage perils. The total amount of, which insurance, after application of any deductibles shall, must be not less than 80% of the actual cash value of the insured property at the time the insurance is purchased and at each

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renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; ~~and-~~

~~(2) commercial general liability insurance, including medical payments' insurance, in an amount~~ determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for ~~death~~, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the common elements and, in cooperatives, also of all units; and

(3) fidelity insurance.

(b) In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under subsection (a), ~~paragraph (1), to the extent reasonably available, may, and in the case of buildings containing units having horizontal boundaries between them, shall~~ must include the units, but need not include improvements and betterments installed by unit owners.

(c) If the insurance described in subsection (a) and (b) is not reasonably available, the association promptly shall cause notice of that fact to be ~~hand delivered or sent prepaid by United States' mail given~~ to all unit owners. The declaration may require the association to carry any other insurance, and the association ~~in any event may~~ carry any other insurance it ~~deems~~ considers appropriate to protect the association or the unit owners.

(d) Insurance policies carried pursuant to subsections (a) and (b) must provide that:

(1) each unit owner is an insured person under the policy with respect to liability arising out of ~~his~~ ownership of ~~an undivided~~ the owner's interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner or member of the condominium or members of his owner's household;

(3) no act or omission by ~~any~~ a unit owner, unless acting within the owner's scope of ~~his~~ authority on behalf of the association, ~~will void~~ voids the policy or ~~be~~ is a condition to recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

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

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for the owner's own benefit.

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(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon request, made in a record, to any unit owner or mortgagee holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until ~~20~~ 30 days after notice of the proposed cancellation or ~~nonrenewal~~ non-renewal has been mailed to the association, each unit owner, and each mortgagee holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(h) Any portion of the ~~econdominium~~ common interest community for which insurance is required under this section which is damaged or destroyed shall must be repaired or replaced promptly by the association unless

(1) The ~~econdominium~~ common interest community is terminated, in which case section 2-118 applies;

(2) repair or replacement would be illegal under any state, or local health or safety statute or ordinance; or

(3) 80% of the unit owners, including every owner of a unit or assigned limited common element ~~which that~~ will not be rebuilt, vote not to rebuild.

(i) The cost of repair or replacement in excess of insurance proceeds, deductibles and reserves is a common expense. If the entire ~~econdominium~~ common interest community is not repaired or replaced:

(1) the insurance proceeds attributable to the damaged common elements shall must be used to restore the damaged area to a condition compatible with the remainder of the ~~econdominium~~; ~~(2) common interest community; and~~

(2) except to the extent that other persons will be distributees:

(A) the insurance proceeds attributable to units and limited common elements ~~which that~~ are not ~~rebuilt shall repaired or replaced must~~ be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to their respective lien holders, as their interests may appear; and

(3)(B) the remainder of the proceeds shall must be distributed to all the unit owners or lien holders, as their interests may appear, as follows:

(i) in a condominium, in proportion to the common element interests of all the ~~unit owners~~ units; and

(ii) in a cooperative or planned community, in proportion to the common expense liabilities of all the units.

(j) If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under section 1601-107, subsection (a) 1-107(a), and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations. ~~Notwithstanding the provisions of this subsection, section 1602-118 governs the distribution of insurance proceeds if the condominium is terminated.~~

(k) ~~The provisions of (k)~~ This section may be varied or waived in the case of a ~~econdominium~~ common interest community all of whose units are restricted to nonresidential use.

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MCA §1603-114. SURPLUS FUNDS.

UCIOA §3-114. SURPLUS FUNDS.

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

MCA §11603-115. ASSESSMENTS FOR COMMON EXPENSES.

UCIOA §103-115. ASSESSMENTS.

(a) Until the association makes a common expense assessment, the declarant shall pay all ~~the~~ common expenses. After ~~any~~ an assessment has been made by the association, assessments ~~thereafter~~ must be made at least annually, based on a budget adopted at least annually by the association.

(b) Except for assessments under subsections (c) ~~and (d)~~ through (f), or as otherwise provided in this act, all common expenses ~~shall~~ must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to section ~~1602-107~~ 2-107(a) and (b). The association may charge interest on any past due common expense assessment or installment portion thereof shall bear interest at the rate established by the association not exceeding 18% per year.

(c) ~~To the extent required by~~ The declaration may provide that:

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

(2) ~~Any~~ A common expense benefiting identified in the declaration benefiting fewer than all of the units or their owners shall must be assessed exclusively against the units benefited; ~~and but if the common expense is for the maintenance, repair or replacement of a common element other than a limited common element, the expense may be assessed exclusively against them only if the declaration reasonably identifies the common expense by specific listing or category;~~

(3) ~~Any payments, fees or charges for the use, rental or operation of any common element shall be applied first to reduce the common expense relating to such common element. Any excess thereof shall be applied to common expenses generally.~~

(3) the costs of insurance must be assessed in proportion to risk; and

(4) the costs of utilities must be assessed in proportion to usage, whether metered or reasonably estimated.

(d) Assessments to pay a judgment against the association, ~~section 1603-117, subsection (a), shall~~ may be made only against the units in the condominium common interest community at the time the judgment was entered, in proportion to their common expense liability.

(e) ~~If any~~ The association may assess exclusively against an owner's unit a common expense is, including expense relating to damage to or loss of property, caused by the;

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(1) willful misconduct of any the unit owner, or a guest or invitee of the unit owner; or

(2) failure of the unit owner to comply with a maintenance standard prescribed by the declaration or a rule, if the standard contains a statement that an owner may be liable for damage or loss caused by failure to comply with the standard.

~~The association may assess that expense exclusively against his unit.~~

(f) Before an association makes an assessment under subsection (e), the association must give notice to the unit owner and provide an opportunity for a hearing. The assessment is limited to the expense the association incurred under subsection (e) less any insurance proceeds received by the association, whether the difference results from the application of a deductible or otherwise.

~~(f)(g)~~ If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due ~~shall~~ must be recalculated in accordance with the reallocated common expense liabilities.

~~MCA §1603-115 A. OPTIONAL ESCROW OF ASSESSMENTS~~

~~NO UCIOA §~~

~~(a) The association may require that a person who purchases a unit after October 1, 2009 make payments into an escrow account established by the association until the balance in the escrow account for that unit is equal to 6 months of assessments as established under section 1603-115.~~

~~(b) All assessment payments made under this section and received after October 1, 2009 must be held in an account of a bank or other financial institution under terms that place these assessment payments beyond the claim of creditors of the association. Upon request by a unit owner, the association shall disclose the name of the institution and the account number where these assessment payments are being held. An association may use a single escrow account to hold assessment payments made under this section from all of the unit owners.~~

~~(c) The association shall pay interest on the assessment payments under this section in an amount equivalent to the rate required under Title 9-B, section 429.~~

~~(d) The association shall return the assessment payments made under this section, together with the interest earned under subsection (c), to the unit owner when the owner sells the unit and has fully paid all assessments under section 1603-115. The association may use the balance in the account to offset any assessments remaining unpaid.~~

~~(e) The assessment payments made under this section may be used by the association to cover up to 6 months of the costs attributable to a unit for which assessment payments have not been made.~~

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MCA §1603-116. LIEN FOR ~~ASSESSMENTS~~²⁴

UCIOA §103-116. LIEN FOR SUMS DUE ASSOCIATION; ENFORCEMENT.

(a) The association has a statutory lien on a unit for any assessment levied against attributable to that unit or fines imposed against its unit owner ~~from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate. Any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer.~~ Unless the declaration ~~provides otherwise~~ provides, reasonable attorney's fees and costs, other fees, charges, late charges, fines and interest charged pursuant to section 1603-102, subsection (a), paragraphs (10), (11) and (12) 3-102(a)(10), (11) and (12) and any other sums due to the association under the declaration, this [act], or as a result of an administrative, arbitration, mediation or judicial decision are enforceable as in the same manner as unpaid assessments under this section. If an assessment is payable in installments, the lien is for the full amount of the assessment is a lien from the time the first installment thereof becomes due. [A lien under this section is not subject to [insert appropriate reference to state homestead, dower and curtesy, or other exemptions.]]

(b) A lien under this section ~~has priority over~~ is prior to all other liens and encumbrances on a unit except:

(1) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(2) except as otherwise provided in subsection (c), a first mortgage security interest on the unit recorded before or after the date on which the assessment sought to be enforced becomes delinquent or, in a cooperative, the first security interest encumbering only the unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(3) liens for real estate taxes and other governmental assessments or charges against the unit. ~~This subsection does not affect the priority of mechanics' or materialmen's cooperative; and~~

~~This section does not affect the priority of mechanics or materialmen's liens, or the prior of liens for other assessments made by the association.~~

(4) mechanics' or materialmen's liens to the extent that law of this state other than this act gives priority to mechanics' or materialmen's liens;

~~The lien under this section is not subject to the provisions of Title 14, section 4651 and Title 18-C, Article 2, as they or their equivalents may be amended or modified from time to time.~~

(c) A lien under this section also has priority over a security interest described in subsection (b)(2), but only to the extent of:

(1) the unpaid amount of assessments for common expenses, not to exceed six months for each budget year of the association, as based on the periodic budget adopted by the association under Section 3-115(a) for the applicable year; and

(2) reasonable attorney's fees and costs incurred by the association in enforcing the association's lien.

²⁴ amended in 1983; repealed & replaced in 2011, amended in 2017 & 2019

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~~(e)~~(d) Unless the declaration otherwise provides, if 2 or more associations have liens for assessments created at any time on the same real estate property, those liens have equal priority.

~~(d)~~(e) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~(e)~~(f) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 6 [3] years after the full amount of the assessments becomes due.

~~(f)~~(g) This section does not prohibit ~~actions~~ an action by an association against a unit owner to recover past due sums for which subsection (a) creates a lien, or to prohibit an association from taking a deed in lieu of foreclosure.

~~(g)~~(h) A judgment or decree in any action or suit brought under this section ~~shall~~ must include costs and reasonable attorney's fees for the prevailing party.

~~(h)~~(i) The association upon request made in a record shall furnish to a unit owner upon written request a recordable a statement setting forth the amount of unpaid assessments currently levied against his the unit. If the unit owner's interest is real estate, the statement must be in recordable form. The statement shall must be furnished within [10] business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

~~(i)~~ Assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of a condominium until pursuant to Title 14, section 6323.

~~(i)~~ On nonpayment of an assessment on a unit, the association is entitled to obtain possession of the unit under [insert reference to forcible entry and detainer act of this State].

~~(k)~~ The association's lien may be foreclosed as provided in this subsection and subsection (p):

~~(1)~~ in condominium or planned community, the association's lien must be foreclosed in like manner as a mortgage on real estate [or by power of sale under [insert appropriate state statute]];

~~(2)~~ in a cooperative whose unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate [or by power of sale under [insert appropriate state statute]] [or by power of sale under subsection (l)]; [and]

~~(3)~~ in a cooperative whose unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under [insert reference to Article 9, Uniform Commercial Code][;and]

~~[(4)~~ in a foreclosure under [insert reference to state power of sale statute], the association shall give the notice required by statute or, if there is no such requirement, reasonable notice of its action to all lien holders of the unit whose interest would be affected].

~~(l)~~ If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

~~(1)~~ The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation and at any time, date, and place. The association shall give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private disposition may be made. The same notice must also be sent to any other person that has a recorded interest in the unit which would be cut

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off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required by this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(2) Unless otherwise agreed, the unit owner is liable for any deficiency in a foreclosure sale.

(3) The proceeds of a foreclosure sale must be applied in the following order:

(A) the reasonable expenses of sale;

(B) the reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorney's fees, costs, and other legal expenses incurred by the association;

(C) satisfaction of the association's lien;

(D) satisfaction in the order of priority of any subordinate claim of record; and

(E) remittance of any excess to the unit owner.

(4) A good faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale shall execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required by this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(5) At any time before the association has disposed of a unit in a cooperative or entered into a contract for its disposition under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other disposition by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney's fees and costs of the creditor.]

(m) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed by [insert state law generally applicable to receiverships]. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to Title 14, section 6323, section 3-115.

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(n) An association may not commence an action to foreclose a lien on a unit under this section or to evict a unit owner under subsection (i) unless:

(1) the unit owner, at the time the action is commenced, owes a sum equal to at least [three] months of common expense assessments based on the periodic budget last adopted by the association pursuant to section 3-115(a) and the unit owner has failed to accept or comply with a payment plan offered by the association; and

(2) the executive board votes to commence a foreclosure action specifically against that unit or to evict the unit owner.

(o) Unless the parties otherwise agree, the association shall apply any sums paid by unit owners that are delinquent in paying assessments in the following order:

(1) unpaid assessments;

(2) late charges;

(3) reasonable attorney's fees and costs and other reasonable collection charges; and

(4) all other unpaid fees, charges, fines, penalties, interest, and late charges.

(p) If the only sums due with respect to a unit are fines and related sums imposed against the unit, a foreclosure action may not be commenced against the unit unless the association has a judgment against the unit owner for the fines and related sums and has perfected a judgment lien against the unit under [insert reference to state statute on perfection of judgments].

(q) Every aspect of a foreclosure, sale, or other disposition under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

[(r) Foreclosure of a lien under this section does not terminate an interest that is subordinate to the lien to any extent unless the association provides notice of the foreclosure to the record holder of the subordinate interest.]

Legislative Note (from UCIOA): In a state that permits only judicial foreclosure of an association's lien, subsection (r) should be omitted. In a state that permits non-judicial foreclosure, but by statute provides that a foreclosure sale does not extinguish a subordinate lien unless the subordinate lienholder was provided notice of the sale, subsection (r) should be omitted.

MCA §1603-117. OTHER LIENS AFFECTING THE CONDOMINIUM²⁵

UCIOA §3-117. OTHER LIENS

(a) In a condominium or planned community:

(a)-(1) Except as otherwise provided in paragraph (2), a judgment for money against the association, if a lien order is filed with the register of deeds of the county where the condominium is located, as provided in Title 14, section 3-131, subsection 9, paragraph B, [if recorded] [if docketed] [if insert other procedures required under state law to perfect a lien on real estate as a result of a judgment], is

²⁵ Amended in 2025

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not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the other real estate of the association and all of the units in the condominium common interest community at the time the judgment was entered. Other property of a unit owner is not subject to the claims of creditors of the association.

~~(b) Notwithstanding the provisions of subsection (a),~~ (2) If the association has granted a security interest in the common elements to a creditor of the association pursuant to section ~~1603-112~~ 3-112, the holder of that security interest ~~must~~ shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

~~(e)~~ (3) Whether perfected before or after the creation of the ~~condominium~~ common interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the ~~condominium common interest community~~, becomes effective against 2 or more units, the unit owner of an affected unit may pay to the lienholder the amount of the lien attributable to the unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering ~~the~~ that unit. The amount of the payment must be proportionate to the ratio ~~which~~ that the unit owner's common expense liability bears to the common expense liabilities of all unit owners ~~whosethe units of which~~ are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.

~~(d)~~ (4) A judgment against the association shall must be indexed in the name of the ~~condominium common interest community~~ and the association and, ~~if~~ when so indexed, is ~~constructive~~ notice of the lien against the units.

(b) In a cooperative:

(1) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each unit owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

(2) Whether a unit owner's unit is subject to the claims of the association's creditors, no other property of a unit owner is subject to those claims.

MCA §1603-118. ASSOCIATION RECORDS²⁶

UCIOA §3-118. ASSOCIATION RECORDS.

(a) An association must retain the following:

(1) detailed records of receipts and expenditures affecting the operation and administration of the association and other appropriate accounting records ~~for the past 6 years~~;

(2) minutes of all meetings of its unit owners and executive board other than executive sessions, a record of all actions taken by the unit owners or executive board without a meeting, and a record of all actions taken by a committee in place of the executive board on behalf of the association;

²⁶ amended in 2011

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- (3) the names of ~~current~~ unit owners in a form that permits preparation of a list of the names of all-unit owners and the addresses at which the association communicates with them, in alphabetical order showing the number of votes each unit-owner is entitled to cast;
- (4) ~~Copies of its original or restated organizational documents and, if required by law other than this~~ act, bylaws and all amendments to them, and all rules currently in effect;
- (5) all financial statements and tax returns of the association for the past 3 years;
- (6) a list of the names and addresses of its current executive board members and officers;
- (7) its most recent annual report delivered to the Secretary of State, if any;
- (8) financial and other records sufficiently detailed to enable the association to comply with section ~~1604-108 4-109~~;
- (9) copies of current contracts to which it is a party;
- (10) records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners; and
- (11) ballots, proxies, and other records related to voting by unit owners for one year after the election, action or vote to which they relate.
- (b) Subject to subsections (c) and (d), all records retained by an association must be available for examination and copying by a unit owner or the ~~unit-owner's~~ authorized agent:
- (1) during reasonable business hours or at a mutually convenient time and location; and
- (2) Upon ~~10~~ 5 days' notice in ~~writing a record~~ reasonably identifying the specific records of the association requested.
- (c) Records retained by an association may be withheld from inspection and copying to the extent that they concern:
- (1) personnel, salary and medical records relating to specific individuals;
- (2) contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated;
- (3) existing or potential litigation or mediation, arbitration or administrative proceedings;
- (4) existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the declaration, bylaws or rules;
- (5) communications with the association's attorney that which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;
- (6) information the disclosure of which would violate law other than this Act;
- (7) records of an executive session of the executive board; or
- (8) individual unit files other than those of the requesting ~~unit-owner~~.
- (d) An association may charge a reasonable fee for providing copies of any records under this section and for supervising the unit owner's inspection.

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(e) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner.

(f) An association is not obligated to compile or synthesize information.

(g) Information provided pursuant to this section may not be used for commercial purposes or any other purpose not reasonably related to the management of the association or the duties, rights or responsibilities of unit owners, officers or executive board members under this Act or the association's governing documents.

MCA §1603-119. ASSOCIATION AS TRUSTEE.

UCIOA §3-119. ASSOCIATION AS TRUSTEE.

With respect to a 3rd person dealing with the association in the association's capacity as a trustee under section 1602-118 and 1603-113, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A 3rd person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers and a 3rd person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A 3rd person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

NO MCA §

UCIOA §3-120. RULES.

(a) Before adopting, amending, or repealing any rule, the executive board shall give all unit owners notice of:

(1) its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and

(2) a date on which the executive board will act on the proposed rule or amendment after considering comments from unit owners.

(b) Following adoption, amendment, or repeal of a rule, the association shall notify the unit owners of its action and provide a copy of any new or revised rule.

(c) An association may adopt rules to establish and enforce construction and design criteria and aesthetic standards if the declaration so provides. If the declaration so provides, the association shall adopt procedures for enforcement of those standards and for approval of construction applications, including a reasonable time within which the association must act after an application is submitted and the consequences of its failure to act.

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(d) A rule regulating display of the flag of the United States must be consistent with federal law. In addition, the association may not prohibit display on a unit or on a limited common element adjoining a unit of the flag of this state, or signs regarding candidates for public or association office or ballot questions, but the association may adopt rules governing the time, place, size, number, and manner of those displays.

(e) Unit owners may peacefully assemble on the common elements to consider matters related to the common interest community, but the association may adopt rules governing the time, place, and manner of those assemblies.

(f) An association may adopt rules that affect the use of or behavior in units that may be used for residential purposes, only to:

(1) implement a provision of the declaration;

(2) regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; or

(3) restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on units in common interest communities or regularly purchase those mortgages.

(g) An association's internal business operating procedures need not be adopted as rules.

(h) Every rule must be reasonable.

NO MCA §

UCIOA §3-121. NOTICE TO UNIT OWNERS.

(a) An association shall deliver any notice required to be given by the association under this [act] to any mailing or electronic mail address a unit owner designates. Otherwise, the association may deliver notices by:

(1) hand delivery to each unit owner;

(2) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit;

(3) electronic means, if the unit owner has given the association an electronic address; or

(4) any other method reasonably calculated to provide notice to the unit owner.

(b) The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

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NO MCA §

UCIOA §3-122. REMOVAL OF OFFICERS AND DIRECTORS.

(a) Notwithstanding any provision of the declaration or bylaws to the contrary, unit owners, at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board and any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, but:

(1) a member appointed by the declarant may not be removed by a unit owner vote during the period of declarant control;

(2) a member appointed under section 3-103(g) may be removed only by the person that appointed that member, and

(3) the unit owners may not consider whether to remove a member of the executive board or an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting.

(b) At any meeting at which a vote to remove a member of the executive board or an officer is to be taken, the member or officer being considered for removal must have a reasonable opportunity to speak before the vote.

NO MCA §

UCIOA §3-123. ADOPTION OF BUDGETS; SPECIAL ASSESSMENTS.

NOTE: Sub-§(a) below appears in the MCA, §1603-103, sub-§(c)

(a) The executive board, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Within Not later than 30 days after adoption of any a proposed budget for the condominium the executive board shall provide to all the unit owners a summary of the budget, including any reserves, and a statement of the basis on which any reserved are calculated and funded. Simultaneously, the board shall set a date not less than 10 days or more than 30 60 days after mailing of providing the summary for a meeting of the unit owners to consider ratification of the budget. Unless at that meeting a majority of all the unit owners or any larger vote number specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the If a proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued continues until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(b) The executive board, at any time, may propose a special assessment. The assessment is effective only if the executive board follows the procedures for ratification of a budget described in subsection (a) and the unit owners do not reject the proposed assessment.

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NO MCA §

UCIOA §3-124. LITIGATION INVOLVING DECLARANT.

(a) The following requirements apply to an association's authority under section 3-102 (a)(4) to institute and maintain a proceeding alleging a construction defect with respect to the common interest community, whether by litigation, mediation, arbitration, or administratively, against a declarant or an employee, independent contractor, or other person directly or indirectly providing labor or materials to a declarant:

(1) Subject to subsection (e), before the association institutes a proceeding described in this section, it shall provide notice in a record of its claims to the declarant and those persons that the association seeks to hold liable for the claimed defects. The text of the notice may be in any form reasonably calculated to give notice of the general nature of the association's claims, including a list of the claimed defects. The notice may be delivered by any method of service and may be addressed to any person if the method of service used:

(A) provides actual notice to the person named in the claim; or

(B) would be sufficient to give notice to the person in connection with commencement of an action by the association against the person.

(2) Subject to subsection (e), the association may not institute a proceeding against a person until [45] days after the association sends notice of its claim to that person.

(3) During the period described in paragraph (2), the declarant and any other person to which the association gave notice may present to the association a plan to repair or otherwise remedy the construction defects described in the notice. If the association does not receive a timely remediation plan from a person to which it gave notice, or if the association does not accept the terms of any plan submitted, the association may institute a proceeding against the person.

(4) If the association receives one or more timely remediation plans, the executive board shall consider promptly those plans and notify the persons to which it directed notice whether the plan is acceptable as presented, acceptable with stated conditions, or not accepted.

(5) If the association accepts a remediation plan from a person the association seeks to hold liable for the claimed defect, or if a person agrees to stated conditions to an otherwise acceptable plan, the parties shall agree on a period for implementation of the plan. The association may not institute a proceeding against the person during the time the plan is being diligently implemented.

(6) Except as otherwise provided in section 4-116(d) for warranty claims, any statute of limitation affecting the association's right of action against a declarant or other person is tolled during the period described in paragraph (2) and during any extension of that time because a person to which notice was directed has commenced and is diligently pursuing the remediation plan.

(b) After the time described in subsection (a)(2) expires, whether or not the association agrees to any remediation plan, a proceeding may be instituted by:

(1) the association against a person to which notice was directed which fails to submit a timely remediation plan, the plan of which is not acceptable, or which fails to pursue diligent implementation of that plan; or

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(2) a unit owner with respect to the owner's unit and any limited common elements assigned to that unit; regardless of any action of the association.

(c) This section does not preclude the association from making repairs necessary to mitigate damages or to correct any defect that poses a significant and immediate health or safety risk.

(d) Subject to the other provisions of this section, the determination of whether and when the association may institute a proceeding described in this section may be made by the executive board. The declaration may not require a vote by any number or percent of unit owners as a condition to institution of a proceeding.

(e) This section does not prevent an association from seeking equitable relief at any time without complying with subsection (a)(1) or (2).

NO MCA §

UCIOA §3-125. EMERGENCY POWERS.

(a) In this section, "emergency" means:

(1) a state of emergency declared by a government for an area that includes the common interest community; or

(2) an event or condition that constitutes an imminent:

(A) threat to the health or safety of the public or residents of the common interest community;

(B) threat to the habitability of units; or

(C) risk of substantial economic loss to the association.

(b) In an emergency, this section governs the authority of an executive board to respond to the emergency. If another provision of this [act] is inconsistent with this section, this section prevails.

(c) The executive board may call a unit owners meeting to respond to an emergency by giving notice to the unit owners in a manner that is practicable and appropriate under the circumstances.

(d) The executive board may call a board meeting to respond to an emergency by giving notice to the unit owners and board members in a manner that is practicable and appropriate under the circumstances. A quorum is not required for a meeting under this subsection. After giving notice under this subsection, the board may take action by vote without a meeting.

(e) In an emergency, the executive board may, without regard to limitations in the declaration, bylaws, or rules, take action it considers necessary to protect the interests of the unit owners and other persons holding interests in the common interest community, acting in a manner reasonable under the circumstances.

(f) If, under subsection (e), the board determines by a two-thirds vote that a special assessment is necessary:

(1) the assessment becomes effective immediately or in accordance with the terms of the vote; and

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(2) the board may spend funds paid on the assessment only in accordance with the action taken by the board.

~~(g) The executive board may use funds of the association, including reserves, to pay the reasonable costs of an action under subsection (e).~~

(h) After taking an action under this section, the executive board promptly shall notify the unit owners of the action in a manner that is practicable and appropriate under the circumstances.

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[ARTICLE] 4

PROTECTION OF CONDOMINIUM PURCHASERS

MCA §1604-101. APPLICABILITY; WAIVER

UCIOA §4-101. APPLICABILITY; WAIVER

(a) This [article] applies to all units subject to this Act, except as provided in subsection (b) or as modified or waived by agreement of purchasers of units in a condominium common interest community in which all units are restricted to nonresidential use.

(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:

- (1) a gratuitous disposition of a unit;
- (2) a disposition pursuant to court order;
- (3) a disposition by a government or governmental agency;
- (4) a disposition by foreclosure or deed in lieu of foreclosure;
- (5) a disposition to a person in the business of selling real estate who intends to offer those units to purchasers; or dealer;
- (6) a disposition ~~which that~~ may be ~~canceled~~ canceled at any time and for any reason by the purchaser without penalty; or
- (7) a disposition of a unit restricted to nonresidential purposes.

MCA §1604-102. LIABILITY FOR PUBLIC OFFERING STATEMENT REQUIREMENTS.

UCIOA §4-102. LIABILITY FOR PUBLIC OFFERING STATEMENT REQUIREMENTS.

(a) Except as otherwise provided in subsection (b) ~~or section 1604-106~~, a declarant ~~must, prior to the~~ before offering of any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of sections ~~1604-103, 1604-104 and 1604-105~~ 4-103, 4-104, 4-105 and 4-106.

(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant (section 3-104) or to a person in the business of selling real estate who dealer that intends to offer units in the ~~condominium for his own account~~ common interest community. In the event of any such transfer, the transferor must provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a).

(c) Any declarant or ~~other person in the business of selling real estate who~~ dealer that offers a unit ~~for his own account~~ to a purchaser must deliver a public offering statement in the manner prescribed in section ~~1604-107, subsection (a)~~ 4-108(a). ~~If the offeror.~~ The declarant or dealer that prepared all or a part of the public offering statement ~~he is liable under sections 1604-107 and 1604-116~~ 4-108 and 4-117

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for any materially false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he prepared. ~~If a declarant did not prepare any part of a public offering statement that he delivers, he is not liable for any materially false or misleading statement set forth therein or for any omission of material fact therefrom unless he had actual knowledge of such statement or omission or, in the exercise of reasonable care, could have known of such statement or omission.~~

(d) If a unit is part of a condominium common interest community and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this state, a single public offering statement conforming to the requirements of sections ~~1604-103, 1604-104 and 1604-105~~ 4-103, 4-104 and 4-105 as those requirements relate to all real estate ~~regimes~~ each regime in which the unit is located, and to any other requirements imposed under the laws of this state, may be prepared and delivered in lieu of providing 2 or more public offering statements.

MCA §1604-103. PUBLIC OFFERING STATEMENT; GENERAL PROVISIONS

UCIOA §4-103. PUBLIC OFFERING STATEMENT; GENERAL PROVISIONS.

(a) Except as otherwise provided in subsection (b), a public offering statement must contain or fully and accurately disclose:

(1) the name and principal address of the declarant and of the common interest community, and a statement that the common interest community is a condominium, cooperative, or planned community;

(2) a general description of the condominium common interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities ~~which~~ that the declarant anticipates including in the condominium common interest community;

(3) the number of units in the condominium common interest community;

(4) copies and a brief narrative description of the significant features of the declaration, other than the any plats and plans, and any other recorded covenants, conditions, restrictions and reservations affecting the condominium common interest community; the bylaws and any rules and regulations of the association; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under section ~~1603-105~~ 3-105;

(5)²⁷ ~~Any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser; and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:~~

²⁷ This mirrors UCIOA sub-§b below

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

~~(ii) A statement of the amount and purpose of any other reserves;~~

~~(iii) The projected common expense assessment by category of expenditures for the association; and~~

~~(iv) The projected monthly common expense assessment for each type of unit;~~

(5) the financial information required by subsection (b);

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

(7) any initial or special fee due from the purchaser at closing or seller at the time of sale, together with a description of the purpose and method of calculating the fee;

(8) a description of any liens, defects, or encumbrances on or affecting the title to the ~~condominium~~ common interest community which are noted in the property description included in the declaration;

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

(10) the terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;

(11) a statement that:

~~(A) (i) Unless a purchaser has received and reviewed a copy within 15 days after receipt of the a public offering statement prior to the execution of a contract for sale, a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant; and~~

~~(ii) If a purchaser accepts the conveyance of a unit, he may not cancel the contract;~~

(B) if a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant [10]% of the sales price of the unit plus [10]% of the share, proportionate to the purchaser's common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community; and

(C) if a purchaser receives the public offering statement more than 15 days before signing a contract, the purchaser may not cancel the contract;

(12) a statement of any unsatisfied judgment or pending suits action against the association, and the status of any pending suits action material to the ~~condominium~~ common interest community of which a declarant has actual knowledge;

(13) a statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to section ~~4604-407~~ 4-108, together with the name and address of the escrow agent;

(14) any restraints on alienation of any portion of the ~~condominium~~ common interest community and any restrictions;

(A) on use, occupancy, and alienation of the units: and

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(B) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(15) a description of the insurance coverage provided for the benefit of unit owners;

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

(17) the extent to which financial arrangements have been provided for completion of all improvements labeled "~~MUST BE BUILT~~" that the declarant is obligated to build pursuant to section 1604-118, 4-119 Declarant's obligation to complete and restore;

~~(18) A description of any common elements which may be alienated pursuant to section 1603-112, and any conditions on that right to alienate; and~~

~~(19)~~(18) a brief narrative description of any zoning and other land use requirements affecting the common interest community;

(19) any other unusual and material circumstances, features, and characteristics of the common interest community and the units;

(20) in a cooperative, a statement whether the unit owners will be entitled, for federal, state, and local income tax purposes, to a pass-through of deductions for payments made by the association for real estate taxes and interest paid the holder of a security interest encumbering the cooperative and a statement as to the effect on every unit owner if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative;

(21) a description of any arrangement described in section 1-209 binding the association; and

(22) in a condominium; or planned community containing a unit not having horizontal boundaries described in the declaration, a statement whether the unit may be sold after termination under section 2-118 of the common interest community without consent of all the unit owners.

~~(b)²⁸ Any~~ The public offering statement must contain any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:

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

(B) a statement of any other reserves;

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

(D) the projected monthly common expense assessment for each type of unit.

~~(b)(c)~~ If a ~~condominium~~ common interest community composed of not more than 12 units is not subject to any development right and no power is reserved to a declarant to make the ~~condominium~~ common interest community part of a larger ~~condominium~~ common interest community, group of

28 This mirrors MCA sub-§a, ¶5 above

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~~condominiums common interest communities~~ or other real estate, ~~the a public offering statement, for all purposes under this Act, may consist of a copy of the declaration, including plots and plans and the bylaws, and need not contain any additional~~ may include the information specified in otherwise required by subsection (a)(9), (10), (15), (16), (17), (18), and (19) and the narrative descriptions of documents required by subsection (a)(4).

~~(e)-(d)~~ A declarant promptly shall amend the public offering statement to report any material change in the information required by this section.

MCA §1604-104. SAME. COMMON INTEREST COMMUNITIES SUBJECT TO DEVELOPMENT RIGHTS²⁹

UCIOA §4-104. SAME. COMMON INTEREST COMMUNITIES SUBJECT TO DEVELOPMENT RIGHTS.

If the declaration provides that a ~~condominium common interest community~~ is subject to any development rights, the public offering statement shall must disclose, in addition to the information required by section ~~1604-103 4-103~~:

- (1) the maximum number of units, and the maximum number of units per acre, that may be created;
- (2) a statement of how many or what percentage of the units ~~which~~ that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;
- (3) if any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas, and the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use;
- (4) a brief narrative description of any development rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;
- (5) a statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in ~~subsection (4) paragraph (3)~~;
- (6) a statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the ~~condominium common interest community~~ will be compatible with existing buildings and improvements in the ~~condominium common interest community~~ in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;
- (7) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the ~~condominium common interest community~~ pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

²⁹ amended in 1983

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(8) a statement of any limitations as to the locations of any building or other improvement that may be made within any part of the ~~condominium~~ common interest community pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

(9) a statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the ~~condominium~~ common interest community, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

(10) a statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the ~~condominium~~ common interest community, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

(11) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

(12) a statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.

NO MCA §

UCIOA §4-105. SAME; TIME SHARES. If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by section 4-103:

(1) the number and identity of units in which time shares may be created;

(2) the total number of time shares that may be created;

(3) the minimum duration of any time shares that may be created; and

(4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in section 3-116.

**MCA §1604-105. PUBLIC OFFERING STATEMENT; CONDOMINIUMS CONTAINING
CONVERSION BUILDINGS.**

**UCIOA §4-106. SAME; COMMON INTEREST COMMUNITIES CONTAINING CONVERSION
BUILDINGS.**

(a) The public offering statement of a ~~condominium~~ common interest community containing any conversion building must contain, in addition to the information required by section ~~1604-103~~ 4-103:

(1) a statement by the declarant, based on a report prepared by an independent [registered] architect or engineer, ~~who is not affiliated with the declarant,~~ describing the present condition of all structural

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components, ~~waste disposal system, water system~~ and mechanical and electrical installations material to the use and enjoyment of the building;

~~(2) a statement by the declarant of the expected useful life of each item reported on in paragraph (1)~~ or a statement that no representations are made in that regard; and

(3) a list of any outstanding notices of uncured violations of building code or other municipal, ~~state or federal laws or regulations~~, together with the estimated cost of curing those violations.

(b) This section applies only to buildings containing units that may be occupied for residential use, ~~and does not apply to a condominium governed by section 1604-103, subsection (b).~~

~~MCA §1604-106. PUBLIC OFFERING STATEMENT; CONDOMINIUM SECURITIES~~³⁰

UCIOA §4-107. SAME; REGISTRATION WITH GOVERNMENT AGENCY.

If an interest in a ~~condominium~~ common interest community is currently registered with the Securities and Exchange Commission of the United States or the Office of Securities of this State, a declarant satisfies all requirements relating to ~~the preparation of a public offering statement of this Act relating to the preparation of a public offering statement~~ if the declarant delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission of the United States or the Office of Securities. [An interest in a common interest community is not a security under [cite to appropriate state securities regulation statutes]. ~~When a condominium is located in a state other than Maine, under the laws of which a public offering statement is required in detail similar to the requirements of this Act, a declarant satisfies all requirements relating to the preparation of a public offering statement if the declarant delivers to the purchaser a copy of that public offering statement.~~

Legislative Note (from UCIOA): A state that has an agency that regulates time-share developments or other types of common interest communities and requires the preparation of a public offering statement should refer in the brackets in the first sentence to the statute and provide the name of the state agency. If a state's securities regulation statute classifies an interest in a common interest community as a security, the second sentence should be inserted if the state considers that classification inappropriate.

MCA §1604-107. PURCHASER'S RIGHT TO CANCEL

UCIOA §4-108. PURCHASER'S RIGHT TO CANCEL.

(a) A person required to deliver a public offering statement pursuant to section ~~1604-102~~ ~~subsection (e) 4-102(c)~~ shall provide a purchaser of a unit with a copy of the public offering statement and all amendments thereto before the conveyance of the unit, and not later than the date of any contract of sale. ~~Unless prior to the execution of a contract for sale, a purchaser acknowledges in writing receipt and review of such offering statement, the purchaser, upon written notice to the declarant, may cancel the contract at any time prior to conveyance of the unit, unless the purchaser shall, subsequently, expressly~~

³⁰ amended in 2001

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~~and in writing waive such right to cancel after having received and reviewed such offering statement. Unless a purchaser is given the public offering statement more than 15 days before execution of a contract the purchase of a unit, the purchaser, before conveyance, may cancel the contract within 15 days after first receiving the public offering statement.~~

(b) If a purchaser elects to cancel a contract pursuant to subsection (a), he may do so by hand delivering notice thereof to the ~~declarant~~ offeror or by mailing notice thereof by prepaid United States' mail to the ~~declarant~~ offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall must be refunded promptly.

~~(c) A purchaser who accepts a conveyance of a unit may not later exercise the right to cancel or rescind the contract for sale under this section, and all persons may rely on the conveyance.~~

(c) If a person required to deliver a public offering statement pursuant to section 4-102(c) fails to provide a purchaser to whom a unit is conveyed with that public offering statement and all amendments thereto as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from that person an amount equal to [10]% of the sale price of the unit, plus [10]% of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community.

MCA §1604-108. RESALES OF UNIT.

UCIOA §4-109. RESALES OF UNITS.

(a) Except in the case of a sale ~~where in which~~ delivery of a public offering statement is required, or unless exempt under section ~~1604-101, subsection (b)~~ 4-101(b), a unit owner shall furnish to a purchaser before ~~execution of any contract for sale~~ the earlier of conveyance or transfer of the right to possession of a unit, ~~or otherwise before conveyance~~, a copy of the bylaws, the rules of the association, and the declaration, other than the plats and plans, ~~the bylaws, the rules or regulations of the association, and a reasonably current.~~ The unit owner also shall furnish a certificate containing:

- (1) a statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit held by the association;
- (2) a statement setting forth the amount of the monthly periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;
- (3) a statement of any other fees payable by the owner of the unit owners being sold;
- (4) a statement of any capital expenditures ~~anticipated~~ approved by the association for the current and succeeding fiscal years;
- (5) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;
- (6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;
- (7) the current operating budget of the association;

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(8) a statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant;

(9) a statement describing any insurance coverage provided for the benefit of unit owners;

(10) a statement as to whether the executive board has knowledge given or received notice in a record that any existing uses, occupancies, alterations, or improvements in or to the unit or to the limited common elements assigned thereto violate any provisions provision of the declaration;

(11) a statement as to whether the executive board has knowledge received notice in a record from a governmental agency of any violations violation of the environmental, health, or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium and common interest community which has not been cured;

(12) a statement of the remaining term of any leasehold estate affecting the condominium common interest community and the provisions governing any extensions extension or renewal thereof;

(13) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale, condemnation, casualty loss to the unit or the common interest community, or termination of the common interest community;

(14) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real estate taxes and interest paid by the association;

(15) a statement describing any pending sale or encumbrance of common elements; and

(16) a statement disclosing the effect on the unit to be conveyed of any restriction on the right to use or occupy the unit, including a restriction on a lease or other rental of the unit.

(b) The association, within 10 days after a request by a unit owner and payment by such owner of any reasonable fee therefor established by the association, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for 5 days thereafter or until conveyance, whichever first occurs.

MCA §1604-109. ESCROW OF DEPOSITS

UCIOA §4-110. ESCROW OF DEPOSITS.

Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to section 1604-102, subsection (e) 4-102(c) shall must be placed in escrow by declarant and held either in this state or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed

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real estate broker [an independent bonded escrow company] or an institution whose accounts are insured by a governmental agency or instrumentality until: (i) delivered to the declarant at closing; (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or (iii) refunded to the purchaser.

MCA §1604-11. RELEASE OF LIENS.

UCIOA §4-111. RELEASE OF LIENS.

(a) In the case of a sale of a unit where delivery of a public offering statement is required pursuant to section ~~1604-102, subsection (e)~~ 4-102(c), a seller shall;

(1) ~~before or simultaneously with conveying a unit, record or furnish to the purchaser releases of all liens affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume, or shall provide a surety bond or substitute collateral for or insurance against the lien. This section does not apply to any real estate which a declarant has the right to withdraw except liens on real estate that a declarant has the right to withdraw from the common interest community, that the purchaser does not expressly agree to take subject to or assume and that encumber;~~

(A) in a condominium, that unit and its common element interest; and

(B) in a cooperative or planned community, that unit and any limited common elements assigned thereto; or

(2) shall provide a surety bond or substitute collateral for or insurance against the lien as provided for liens on real estate in [cite to appropriate references to general state law].

(b) Before conveying real estate to the association, the declarant shall have that real estate released from:

(1) all liens, the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units; and

(2) all other liens on that real estate unless the public offering statement describes certain real estate which that may be conveyed subject to liens in specified amounts.

MCA §1604-111. CONVERSION BUILDINGS

UCIOA §4-112. CONVERSION BUILDINGS.

(a) A declarant of a condominium common interest community containing conversion buildings, and any person in the business of selling real estate for his own account dealer who intends to offer units in such a condominium common interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the declarant will require the tenants and any subtenant in possession are required to vacate. The notice must set forth

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generally the rights of tenants and subtenants under this section and ~~shall~~ must be hand delivered to the unit or mailed by prepaid United States' mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required by the declarant to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a declarant to give notice as required by this section is a defense to an action for possession.

(b) For 60 days after delivery or mailing of the notice described in subsection (a), the ~~declarant person~~ required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60 day period, the ~~declarant~~ offer or may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(c) If a ~~declarant~~ seller, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection (b) to purchase that unit if the deed states that the seller has complied with subsection (b), but the conveyance does not affect the right of a tenant to recover damages from the ~~declarant~~ seller for a violation of subsection (b).

(d) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise complies with the provisions of Title 14, section 6001, the notice also constitutes a notice to vacate specified by that statute.

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

~~(f) Nothing in this Act, including section 1601-106, shall be construed to prohibit a municipality from enacting ordinances imposing more stringent standards than those contained in subsections (a) and (b), or otherwise providing for the protection of tenants or the conversion of rental housing stock, including ordinances controlling the number of housing units within a municipality that may be converted to the condominium form of ownership.~~

MCA §1604-112. EXPRESS WARRANTIES OF QUALITY

UCIOA §4-113. EXPRESS WARRANTIES OF QUALITY.

(a) Express warranties made by ~~any seller~~ a declarant to a purchaser of a unit, if relied upon by the purchaser, are ~~only~~ created as follows:

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

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(2) any model or description of the physical characteristics of the ~~econdominium~~ common interest community, including plans and specifications of or for improvements, creates an express warranty that the ~~econdominium common interest community~~ will substantially conform to the model or description unless the model or description clearly discloses that it is only proposed or is subject to change;

(3) any ~~written~~ description of the quantity or extent of the real estate comprising the ~~econdominium~~ common interest community, including plats or surveys, creates an express warranty that the ~~econdominium~~ common interest community will conform to the description, subject to customary tolerances; and

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

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

(c) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by ~~previous sellers~~ the declarant.

MCA §1604-113. IMPLIED WARRANTIES OF QUALITY

UCIOA §4-114. IMPLIED WARRANTIES OF QUALITY.

(a) A declarant and any person ~~in the business of selling real estate for his own account~~ dealer warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

(b) A declarant and any person ~~in the business of selling real estate for his own account~~ dealer impliedly warrants that a unit and the common elements in the ~~econdominium~~ common interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by the declarant or dealer or made by any person before the creation of the ~~econdominium~~ common interest community, will be:

(1) free from defective materials; and

(2) constructed in accordance with applicable law, according to sound engineering and construction standards and in a workmanlike manner. ~~Construction complying with the National Building Code and Code Administrators (BOCA), Basic Building Code or equivalent applicable local building code, if any, shall be deemed to satisfy such sound engineering or construction standards.~~

(c) ~~In addition,~~ A declarant and any dealer warrants to a purchaser ~~from him~~ of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(d) Warranties imposed by this section may be excluded or modified as specified in section ~~1604-114~~ 4-115.

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(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant ~~section 1601-103, paragraph (1),~~ are made or contracted for by the declarant.

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

MCA §1604-114. EXCLUSION OR MODIFICATION OF IMPLIED WARRANTIES OF QUALITY

UCIOA §4-115. EXCLUSION OR MODIFICATION OF IMPLIED WARRANTIES OF QUALITY.

(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:

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

(2) are excluded by expression of disclaimer, such as “as is,” “with all faults,” or other language ~~which that~~ in common understanding calls the buyer's purchaser's attention to the exclusion of warranties.

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

MCA §1604-115. STATUTE OF LIMITATIONS FOR WARRANTIES

UCIOA §4-116. STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) Unless a period of limitation is tolled under section 3-111 or affected by subsection (d), a judicial proceeding for breach of any obligation arising under section 1604-112 or 1604-113 4-113 or 4-114 must be commenced within 6 years after the [claim for relief] [cause of action] accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

(b) Subject to subsection (c), a [claim for relief] [cause of action] for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

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

(2) as to each common element, at the time the common element is completed or, if later, as to:

(A) a common element that is added to the common interest community by exercise of development rights, at the time the first unit which ~~may be~~ was added to the condominium or—

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~~portion thereof, at the time the first unit therein by the same exercise of development rights is conveyed to a bona fide purchaser; or~~

(B) a common element within any other portion of the ~~condominium common interest community~~, at the time the first unit in the ~~condominium~~ is conveyed to a bona fide purchaser.

(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the ~~condominium common interest community~~, the ~~[claim for relief]~~ ~~[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.

(d) During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce any warranty claims involving the common elements, and to compromise those claims. Only members of the executive board elected by unit owners other than the declarant and other persons appointed by those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association under section 3-115. If the committee is so created, the period of limitation for a warranty claim considered by the committee begins to run from the date of the first meeting of the committee.

MCA §1604-116. EFFECT OF VIOLATIONS ON RIGHTS OF ACTION

UCIOA §4-117. EFFECT OF VIOLATIONS ON RIGHTS OF ACTION; ATTORNEY'S FEES.

~~If a declarant or any other person subject to this Act fails to comply with any provision hereof or any provision of the declaration or bylaws, any person or class of persons adversely affected by that failure has a claim for appropriate relief.~~

(a) A declarant, association, unit owner, or any other person subject to this [act] may bring an action to enforce a right granted or obligation imposed by this [act], the declaration, or the bylaws. [Punitive damages may be awarded for a willful failure to comply with this [act].] The court may award reasonable attorney's fees and costs.

(b) Parties to a dispute arising under this [act], the declaration, or the bylaws may agree to resolve the dispute by any form of binding or nonbinding alternative dispute resolution, but:

(1) a declarant may agree with the association to do so only after the period of declarant control has expired unless the agreement is made with an independent committee of the executive board elected pursuant to section 4-116(d); and

(2) an agreement to submit to any form of binding alternative dispute resolution must be in a record authenticated by the parties.

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MCA §1604-117. LABELING OF PROMOTIONAL MATERIAL

UCIOA §4-118. LABELING OF PROMOTIONAL MATERIAL.

~~If any improvement contemplated in a condominium is labeled "NEED NOT BE BUILT" on a plat or plan, or is to be located within a portion of the condominium with respect to which the declarant has reserved a development right, a~~ No promotional material may be displayed or delivered to prospective purchasers which describes or portrays an improvement that is not in existence unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or as "NEED NOT BE BUILT."

MCA §1604-118. DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE

UCIOA §4-119. DECLARANT'S OBLIGATION TO COMPLETE AND RESTORE.

(a) ~~The declarant shall complete all improvements labeled "MUST BE BUILT" on plats or plans prepared pursuant to section 1602-109.~~ Except for improvements labeled "NEED NOT BE BUILT," the declarant shall complete all improvements depicted on any site plan or other graphic representation, including any plats of plans prepared pursuant to Section 2-109, whether or not that site plan or other graphic representation is contained in the public offering statement or in any promotional material distributed by or for the declarant.

(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the ~~condominium common interest community~~, of any portion of the ~~condominium common interest community~~ affected by the exercise of rights reserved pursuant to or created by sections ~~1602-110, 1604-111, 1602-112, 1602-113, 1602-115 and 1602-116~~ 2-110, 2-111, 2-112, 2-113, 2-115 or 2-116.

NO MCA §

UCIOA §4-120. SUBSTANTIAL COMPLETION OF UNITS.

In the case of a sale of a unit in which delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an independent [registered] architect, surveyor, or engineer, or by issuance of a certificate of occupancy authorized by law.

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[ARTICLE] 5

APPLICABILITY AND TRANSITION

See MCA §1601-116. Effective Date.

UCIOA §5-101 EFFECTIVE DATE.

Alternative A

(a) This amendment to this [act] takes effect on [the effective date of this [amendment]].

(b) Before [all-inclusive date], this amendment to this [act] applies only to:

(1) a common interest community created on or after [the effective date of this [act]]; and

(2) a common interest community created before [the effective date of this [act]] that amends its declaration to elect to be subject to this [act] as amended.

(c) [Except as provided in subsection (d), on] [On] and after [all-inclusive date] this amendment to this [act] applies to all common interest communities.

(d) This amendment to this [act] does not apply to a common interest community created before [the effective date of this [act]] that elects not to be subject to this [act] by amending its declaration by vote or agreement of unit owners of units to which more than 50 percent of the votes in the association are allocated and recording the amendment before [all-inclusive date]. This subsection supersedes section 2-117(a), any inconsistent provision of other law of this state, and any inconsistent provision in the declaration or bylaws of the common interest community.]

Alternative B

(a) This [act] takes effect on [the effective date of this [act]].

(b) Before [all-inclusive date], this [act] applies only to:

(1) a common interest community created on or after [the effective date of this [act]]; and

(2) a common interest community created before [the effective date of this [act]] that amends its declaration to elect to be subject to this [act].

(c) [Except as provided in subsection (d), on] [On] and after [all-inclusive date] this [act] applies to all common interest communities.

[(d) This [act] does not apply to a common interest community created before [the effective date of this [act]] that elects not to be subject to this [act] by amending its declaration by vote or agreement of unit owners of units to which more than 50 percent of the votes in the association are allocated and recording the amendment before [all-inclusive date]. This subsection supersedes section 2-117(a), any inconsistent provision of other law of this state, and any inconsistent provision in the declaration or bylaws of the common interest community.]

Legislative Note (from UCIOA): A state that has previously adopted the Uniform Common Interest Ownership Act should use Alternative A. A state that has no previous version of the Uniform Common Interest Ownership Act (2021) should use Alternative B.

The "all-inclusive" date should be three years after the effective date of the act.

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If a state decides that full application of the act to all pre-existing common interest communities is not appropriate, subsection (d) provides a procedure for pre-existing communities to elect to opt out of the act.

NO MCA §

UCIOA §5-102. PRIOR STATUTES.

[Section] [Sections] [cite to all statutes expressly applicable to a planned community, condominium, cooperative, or horizontal property regime]:

(1) do not apply to a common interest community that is subject to this [act]; and

(2) apply to a common interest community created before [the effective date of this [act]] only until the community becomes subject to this [act].

Legislative Note (from UCIOA): For a state that previously adopted the Uniform Common Interest Ownership Act, the effective date in this section should be the effective date stated in the earlier adoption. After the all-inclusive date, unless the state adopts the optional bracketed provision in Section 5-101(d), the state should repeal any previous condominium statute identified in this section because this act will then apply to all condominiums in the state.

NO MCA §

UCIOA §5-103. RETROACTIVE APPLICATION.

(a) Except as provided in subsection (b), if a common interest community created before [the effective date of this [act]] becomes subject to this [act] on [all-inclusive date] or earlier, a provision of its declaration or bylaws inconsistent with this [act] is invalid unless:

(1) the provision is expressly permitted under section 1-117; or

(2) the common interest community is a cooperative described in section 1-202, a planned community described in section 1-203, or a nonresidential or mixed-use common interest community described in section 1-207.

(b) This [act] does not require ~~that you include~~ a common interest community validly created before [the effective date of this [act]] to:

(1) comply with the requirements of this [act] for creation of a common interest community; or

(2) prepare or amend surveys, plats, or plans.

(c) This [act] does not invalidate an action validly taken or transaction validly entered into before a common interest community becomes subject to this [act].

Legislative Note (from UCIOA): For a state that previously adopted the Uniform Common Interest Ownership Act, the effective date in this section should be the effective date stated in the earlier adoption.

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NO MCA §

UCIOA §5-104. APPLICABILITY TO PRE-EXISTING COMMON INTEREST COMMUNITY.

(a) Except for a cooperative described in section 1-202, a planned community described in section 1-203, and a nonresidential or mixed-use common interest community described in section 1-207, the following sections apply to a common interest community created before [the effective date of this [act]]:

- (1) Section 1-105;
- (2) Section 1-106;
- (3) Section 1-107;
- (4) Section 1-206;
- (5) Section 2-102;
- (6) Section 2-103;
- (7) Section 2-104;
- (8) Section 2-117(h) and (i);
- (9) Section 2-121;
- (10) Section 2-124;
- (11) Section 3-102(a)(1) through (6) and (11) through (16);
- (12) Section 3-103;
- (13) Section 3-111;
- (14) Section 3-116;
- (15) Section 3-118;
- (16) Section 3-124;
- (17) Section 4-109;
- (18) Section 4-117; and
- (19) Section 1-103 to the extent necessary to construe the sections listed in paragraphs (1) through (18).

(b) The sections listed in subsection (a) apply only to an event or circumstance that occurs after [the effective date of this [act]] and do not invalidate provisions of the declaration or bylaws of the common interest community existing on [the effective date of this [act]].

(c) This section does not apply to a common interest community that becomes subject to this [act] under section 5-101 or by election under section 1-202, 1-203, or 1-207.

Legislative Note (from UCIOA): *For a state that previously adopted the Uniform Common Interest Ownership Act, the effective date in this section should be the effective date stated in the earlier adoption.*

State Laws on Retroactive Application of the Common Interest Ownership Act

State	Applicability to Pre-Existing Common Interest Communities	Exceptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
Alaska <u>Alaska Statutes §34.08.010 et seq.</u>	Communities created before January 1, 1986, are governed by their original declarations, bylaws, plats, statutes, and laws passed prior to the passage of Alaska Uniform Common Interest Ownership Act (AUCIOA).	- Specific provisions of AUCIOA apply to communities created before January 1, 1986. - When these select provisions apply to pre-existing communities, they apply only to events and circumstances occurring on or after January 1, 1986.	Exceptions include AUCIOA provisions regarding separate titles and taxation; applicability of local ordinances, regulations, and building codes; takings by eminent domain and compensation; and definitions.	Provisions of AUCIOA do not invalidate pre-existing declarations, bylaws, plats or plans, even if a provision in the pre-existing community's documents conflicts with the AUCIOA.
Colorado <u>CO Rev Stat §38-33.3-115</u> <u>CO Rev Stat §38-33.3-117.</u>	The Colorado Common Interest Ownership Act (CCIOA) does not apply to common interest communities created before July 1, 1992.	Certain specific sections of CCIOA apply to pre-existing communities, regardless of when the communities were formed. When determining which sections of CCIOA apply to a pre-1992 association, several variables must be considered, including but not limited to the date in which the community was created; the type of community (i.e. co-op, condo, planned community); the size of the community; and the amount of expenses the community incurs.	Provisions of CCIOA that apply to pre-1992 communities include recognition of condominium ownership, definitions, separate taxation, mandatory bylaw contents, records right, misdemeanor penalty, owner-liability cap, assessment lien provisions, collections rules, attorney-fee caps; open-meeting rules; and the annual registration rules.	A pre-1992 community may also opt into CCIOA by a vote of at least 67 percent of the votes of those present in person or by proxy of these entitled to cast a vote.
Connecticut <u>CGS 47§ 214, §216, §215, §217, §218</u>	- The Connecticut Common Interest Ownership Act (CIOA) does not apply to common interest communities created before January 1, 1984. - CIOA does not invalidate existing declarations, bylaws, surveys or plans created before January 1, 1984.	Certain provisions of CIOA do apply to communities created before 1984. Provisions of CIOA that apply to pre-1984 communities only apply to events and circumstances occurring after January 1, 1984.	The following CIOA provisions apply to pre-1984 communities: - General definitions and interpretations; - Separate titles and taxation; - Recording of certificate by cooperatives and conveyance of interest in a cooperative; - Eminent domain procedures and compensation; - Unconscionable contracts, including leases that are presumed to be unconscionable;	If a common interest community created in Connecticut before January 1, 1984 (1) contains no more than twelve units and is not subject to any development rights, (2) contains only units restricted to nonresidential use or (3) if a planned community that is not subject to any development right provides that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums

State	Applicability to Pre-Existing Common Interest Communities	Exceptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
	Communities created before 1984 by a special act of the Legislature are completely exempt from CIOA unless a majority of the unit owners vote to adopt CIOA provisions.		- Applicability of local land use laws to building conversions; - Description of units and boundaries; - Certain provisions related to leaseholds; - Termination of common interest communities; - Merger or consolidation of common interest communities; - Association meetings, voting procedures and quorums; - Executive board operations, rules and election and removal of the executive board and officers; - Liability of unit owners; - Common-expense assessments and association liens; - Association records and budgets; - Insurance requirements; - Resale certificates; - Notice to unit owners requirements and methods; - Budgets, special assessments and loan agreements; - Resale of units; and - Statutory right of action of unit owners and methods to resolve disputes; attorney's fees and costs.	paid by the association, does not exceed three hundred dollars and the declarant reasonably believes in good faith that the maximum annual common expense liability assessed against the units will be sufficient to pay the expenses of the planned community, only provisions of the CIOA related to separate titles and taxation; recording of certificate by cooperative and conveyance of interest in a cooperative; applicability of local land use laws to building conversions; and eminent domain procedures and compensation apply. A majority of the unit owners may vote to apply CIOA provisions that are applied to other pre-1984 communities to their community.

State	Applicability to Pre-Existing Common Interest Communities	Exceptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
Minnesota <u>Minn. Stat. Chapter 515B.1-102</u>	The Minnesota Common Interest Ownership Act (MCIOA) does not apply to cooperatives and planned communities created prior to June 1, 1994, or to planned communities that were created on or after June 1, 1994, and before August 1, 2006, and that consist of more than two but fewer than 13 units.	Communities created before June 1, 1994 remain primarily governed by laws in effect prior to the passage of the MCIOA, although certain specific sections of MCIOA apply conditionally.	MCIOA sections that apply to cooperatives and planned communities created prior to June 1, 1994 include: • Variation by agreement; • Separate titles and taxation; • Applicability of local requirements; • Eminent domain; • Construction against implicit repeal; • Unconscionable agreement or term of contract; • Obligation of good faith; • Notice requirements; • Recording requirements; • Description of units; • Allocation of interests; subdivision, combination, or conversion of units; alteration of units • Relocation of boundaries between adjoining units; • Termination of common interest community; • Powers of unit owners' association; • Upkeep of the common interest community; • Meetings; quorums; voting; proxies; • Tort and contract liability; • Conveyance of, or Creation of Security Interests in, Common Elements; • Insurance; • Assessments for common expenses; • Lien for assessments; • Resale of units; • Purchaser's Right to Cancel Resale' • Rights of Action; and • Attorney's Fees.	Provisions of MCIOA do not invalidate prior declarations, bylaws or plats, but do require amendments recorded after June 1, 1994 be adopted in conformity with the procedures and requirements specified by those instruments and MCIOA.
Nevada <u>NRS 116.1201</u> <u>NRS 116.1203</u> <u>NRS 116.1206</u>	The Nevada Uniform Common Interest Ownership Act (NUCIO) generally applies to all	NUCIO has specific exceptions and grandfather provisions for communities created before January 1, 1992.	The following are exceptions of the NUCIO that apply to communities created before January 1, 1992: core operational, governance, and	NUCIO does not apply to pre-1992 communities located in counties with a population under 55,000

State	Applicability to Pre-Existing Common Interest Communities	Exceptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
	common-interest communities—including condominiums, cooperatives, and planned communities—created within the state, whether established before or after January 1, 1992.	• Creation and planning documents: Pre-1992 communities are not required to comply with creation and planning provisions. • Separate classes of voting: The law does not prohibit pre-1992 communities from providing separate classes of voting for unit owners. • Representative form of government: Pre-1992 communities are generally allowed to maintain a representative or delegate form of government. However, executive board member elections or removals cannot be exercised by delegates or representatives; unit owners must vote directly. • Historical assessments: NUCIO does not invalidate any assessments that were formally imposed on or before October 1, 1999 • Declarant-owned vacant lots: The association of a pre-1992 community is not required to make an assessment against a vacant lot located within the community that is still owned by the developer. • Amendments to governing documents: if an amendment to a pre-1992 community's declaration, bylaws, or plat was permitted by a prior law before January 1, 1992, the amendment may be proposed and adopted according to provisions in the prior law.	enforcement guidelines—such as good faith duties, meeting/voting rules, and assessment collection provisions (including the super-priority lien rules) and governing document conformance: Any governing document provisions that directly conflict with the applicable mandatory operational sections of NUCIO are deemed to conform by operation of law.	where less than 50% of the units are used for residential purposes.

State	Applicability to Pre-Existing Common Interest Communities	Exemptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
Vermont <u>27A V.S.A. §1-204</u>	The Vermont Common Interest Ownership Act (VCIOA) does not apply to condominiums, planned communities and cooperatives created before January 1, 1999	Some of the provisions within VCIOA do apply to common interest communities established prior to January 1, 1999, but those provisions only apply to events and circumstances that take place after December 31, 1998, while other provisions only apply to events and circumstances that take place after December 31, 2011.	The following exceptions apply to pre-existing communities only if events or circumstances occurred after December 31, 1998 and do not invalidate existing provisions of the declarations, bylaws, plats or plans of those common interest communities: - Definitions; separate titles and taxes; local ordinances, regulations and building codes; eminent domain takings and compensation; construction and validity of declarations and bylaws; description of units; merger or consolidation of common interest communities; powers of unit owners' associations; imposition of charges for late payments of assessments and liens; tort and contract liability; association records, resale of units; and effect of violations on rights of actions. The following exceptions apply to pre-existing communities only if the events and circumstances occurred after December 31, 2011 and do not invalidate existing provisions of the declarations, bylaws, plats or plans of those common interest communities: - Amendments to governing instruments; unit boundaries; timeframe for consent by unit owner to an amendment to the declaration and number of votes required to adopt an amendment; termination of a community following a catastrophe; duties, powers and selection of the Executive board members and officers; meeting requirements of the association; voting processes and procedures;	If a planned community created before January 1, 1999 contains no more than 24 units and is not subject to development rights or provides in its declaration that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed \$300.00 it is subject only to sections of the VCIOA regarding separate titles and taxation; application of local ordinances, regulations and building codes; and eminent domain procedures and compensation. A planned community may amend its declaration in conformity with applicable law and with the procedures and requirements of the community's declaration to take advantage of additional provisions of the VCIOA.

State	Applicability to Pre-Existing Common Interest Communities	Exceptions	Specific Exceptions that Apply to Pre-Existing Communities	Other Requirements
			and litigation involving a declarant concerning a construction defect.	
Washington <u>RCW 64.90.365</u>	The Washington Uniform Common Interest Ownership Act (WUCIOA) does not apply to communities created before July 1, 2018.	Beginning January 1, 2026, certain provisions of the WUCIOA began applying to communities created before July 1, 2018. Those provisions apply only to events and circumstances occurring on or after July 1, 2018, and do not invalidate existing provisions of the governing documents of those common interest communities existing on July 1, 2018.	Provisions of WUCIOA that currently apply to pre-existing communities include provisions concerning meetings (including the 15-minute owner comment period) of the community board, budgets of the community, the reserve study requirement, how assessments are paid, emergency powers of the community board, EV charging equipment and heat pumps.	Beginning January 1, 2028, every existing condominium, cooperative, homeowners' association, and planned community in the state will be governed by the Washington Uniform Common Interest Ownership Act (WUCIOA). Existing communities will not need to be recreated, but any provisions in their governing documents that conflict with WUCIOA will become unenforceable and must be amended.
West Virginia <u>W. Va. Code §36B-1-204</u>	The West Virginia Uniform Common Interest Ownership Act (WVUCIOA) does not apply to common interest communities, condominiums, and planned communities created before July 1, 1986.	- A limited subset of UCIOA sections are applicable to preexisting communities, but these exceptions only apply to events or actions that occurred after July 1, 1986. - Applicability of these provisions do not invalidate existing provisions of the declaration, bylaws, plats or plans of pre-existing common interest communities.	The WVUCIOA sections that apply to pre-existing communities include provisions regarding separate titles and taxation; applicability of local ordinances, regulations and building codes; eminent domain, construction and validity of declaration and bylaws; description of units; merger or consolidation of common interest communities; powers of unit owners' association; tort and contract liability; lien for assessments; association records; resales of units; and effect of violation on rights of action; and attorney's fees.	- Pre-existing cooperatives or planned communities with 12 or fewer units and no development rights are exempt from majority of the WVUCIOA provisions that apply to pre-existing communities, except provisions addressing separate titles and taxation; applicability of local ordinances, regulations and building codes; and eminent domain processes. - Pre-existing communities that fall into this category may opt in to the exceptions that are applicable to other pre-existing communities by amending their governing documents.

**COOPERATIVE AFFORDABLE
HOUSING CORPORATION**

STATE OF MAINE

ARTICLES OF INCORPORATION

Deputy Secretary of State A True Copy When Attested By Signature Deputy Secretary of State

Pursuant to 13 MRSA §1747, the undersigned executes and delivers the following Articles of Incorporation:

FIRST: Name of the cooperative affordable housing corporation is _____

SECOND: The Clerk is a: (select **either** a Commercial or Noncommercial Clerk – Person **must** be a Maine resident)

☐	Commercial Clerk	CRA Public Number: _____
(name of commercial clerk)		
☐	Noncommercial Clerk	
(name of noncommercial clerk)		
(physical location, not P.O. Box – street, city, state and zip code)		
(mailing address if different from above)		

THIRD: Pursuant to 5 MRSA §108.3, the clerk as listed above has consented to serve as the clerk for this corporation.

FOURTH: This cooperative affordable housing corporation is organized on a membership basis with capital stock.

FIFTH: There shall be only one class of stock and one class of members. (13 MRSA §§1747 & 1749)

The number of authorized shares is (13-C MRSA §202.1.B.): _____

SIXTH: ("X" one box only)

- ☒ The corporation will have a board of directors.
- ☐ There will be no directors; the business of the Corporation will be managed by its members. (13-C MRSA §743)

SEVENTH: (For corporations with directors, each of the following provisions is optional – "X" only if applicable)

- ☒ The number of directors is limited as follows: not fewer than _____ nor more than _____ directors. (13-C MRSA §803)
- ☐ To the fullest extent permitted by 13-C MRSA §202.2.D, a director shall have no liability to the Corporation or its members for money damages for an action taken or a failure to take an action as a director.
- ☒ Except as otherwise specified by contract or in its bylaws, the Corporation shall in all cases provide indemnification (including advances of expenses) to its directors and officers to the fullest extent permitted by law. (13-C MRSA §§202, 857 and 859)

EIGHTH: Restrictions on Transfers (if any)

Restrictions upon transfers of membership shares are set forth in Exhibit A attached hereto and made a part hereof. (13 MRSA §1747.2)

NINTH: Rate of Dividend (if any)

The rate of dividend allocable to membership shares (which may not exceed 6% per annum on invested capital) is set forth in Exhibit N/A attached hereto and made a part hereof. (13 MRSA §1747.3)

TENTH: Acquire Membership Shares (if any)

Conditions under which the cooperative affordable housing corporation reserves the right to acquire membership shares is set forth in Exhibit A attached hereto and made a part hereof. (13 MRSA §1747.4)

ELEVENTH: Distribution Upon Dissolution (required)

The basis for distribution of assets in the event of dissolution is set forth in Exhibit A attached hereto and made a part hereof. (13 MRSA §1747.5)

TWELFTH: Allocation of Ownership and Voting Interests (required)

The method of allocation of ownership and voting interests in the cooperative affordable housing corporation are set forth in Exhibit A attached hereto and made a part hereof. (13 MRSA §1747.6)

THIRTEENTH: Right of First Refusal (if any)

The conditions under which the cooperative affordable housing corporation has a right of first refusal upon proposed transfers of cooperative interest are set forth in Exhibit A attached hereto and made a part hereof. (13 MRSA §1747.7)

FOURTEENTH: ("X" only if applicable)

- ☐ The Corporation elects to have preemptive rights as defined in 13-C MRSA §641.

FIFTEENTH: ("X" only if applicable)

- ☒ This Corporation elects to be organized as a Limited Equity Cooperative. (13 MRSA §1754)

All requirements to be organized as a limited equity cooperative are set forth in Exhibit A attached hereto and made a part hereof.

SIXTEENTH: ("X" only if applicable)



Additional provisions of these Articles of Incorporation are set forth in Exhibit B attached hereto and made a part hereof. (13-C MRSA §202)

SEVENTEENTH: Name and address of each Incorporator is set forth below or on Exhibit C attached hereto.

(type or print name)

(street or mailing address)

(city, state and zip code)

(type or print name)

(street or mailing address)

(city, state and zip code)

(type or print name)

(street or mailing address)

(city, state and zip code)

Dated _____

***By** _____
(signature of incorporator)

(type or print name and capacity)

*These articles must be dated and executed by an incorporator pursuant to the provisions of 13-C MRSA §121.5.

Please remit your payment made payable to the Maine Secretary of State.

Submit completed form and payment to:

Secretary of State

Division of Corporations, UCC and Commissions

101 State House Station, Augusta, ME 04333-0101

Telephone Inquiries: (207) 624-7752

Email Inquiries: CEC.Corporations@Maine.gov

Articles of Incorporation _____, Cooperative, _____, Maine

Exhibit A

Supplemental Information Regarding 8th, 10th, 11th, 12th, 13th, and 15th Articles

Eighth, Tenth, Twelfth and Thirteenth Articles

Authorized shares; par value; dividend rights. There shall be one class of capital stock of the Corporation, to be designated Common Stock, and Common Stock shares are designated as Membership Shares pursuant to 13 M.R.S.A. §1751. Membership Shares shall have no par value. The Corporation shall issue Membership Shares to its Members as evidence of their ownership of a cooperative interest. The form of the shares and the designation, qualifications, requirements, method of acceptance and incidents of Membership shall be set forth in the Bylaws of the Corporation. Each Member of the Corporation shall own one and only one Membership Share, issued upon payment of a Membership Fee in an amount determined by the Members pursuant to the Bylaws, and only Members may own Membership Shares. Holders of Common Stock shall not be entitled to a dividend, except insofar as they are entitled to a patronage dividend, as that term is defined in Subchapter T of the federal Internal Revenue Code. Patronage allocations for Members shall be determined in accordance with the Bylaws of the Corporation. In accordance with Maine law, no patronage dividend may exceed a value of 6% return on invested capital per annum.

Membership; voting rights. The Corporation shall have one class of Members consisting of households who own and reside in a manufactured housing unit on a lot in the _____ (the "Community") and who have paid or are paying the Membership Fee required under their Membership Agreement. Each household shall have one and only one Membership, and the number of Memberships shall not exceed the total number of manufactured housing lots in the Community owned by the Corporation. The property rights of Members shall be equal with respect to their Membership interest, and all other property interest will be determined by occupancy or leasehold agreements. Members in good standing are entitled to all the benefits and privileges associated with Membership, including the right to elect the Board of Directors. Members of the Corporation vote on a one-vote per Member-household basis at all meetings of Members (and written actions in lieu of meetings). All Members who are in good standing are eligible to serve as Directors and Officers. Voting rights may not be assigned to nonresidents, and Members who are not in good standing shall not be entitled to vote and shall not be counted toward quorum. The Membership shall be responsible for and have the right to approve Bylaw changes, Community Rules, and annual budgets.

Membership shall be available without discrimination because of any person's age, sex, race, creed, color, marital status, familial status, sexual orientation, gender identity, physical or mental disability or national origin.

The Directors, Officers and Members of the Corporation shall not, as such, be liable on its obligations.

Limitations on transfer; right of first refusal; redemption. No Common Stock share or interest therein may be sold, assigned, or otherwise transferred, voluntarily or involuntarily, by operation of law or otherwise, except for a transfer to the Corporation, unless said transfer is authorized in these Articles or in the Bylaws. Any transfer in violation of this provision shall be void, and the Corporation shall not register such transfer on the books of the Corporation. No shareholder shall encumber, hypothecate, pledge, or grant a security interest in the stock of the Corporation, and any such transaction shall be void, unless such action is authorized by the Corporation in order to obtain financing for the mutual benefit of the Membership.

The Corporation shall have first right to repurchase a Member's share if the Member no longer resides in the Community or sells or transfers property located in the Community. The transfer value will be determined by a limited equity formula referenced in the Corporation's Bylaws.

Eleventh Article

Upon dissolution of this Corporation, assets shall be distributed in conformity with the requirements of state law, with any balance remaining after satisfaction of all liabilities to creditors of the Corporation and not eligible for distribution to Member households to be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to a public agency for a public purpose.

Fifteenth Article

As a Limited Equity Cooperative, the Corporation is subject to the following requirements.

Limited equity formula; maintenance of affordability. A Member may only transfer or redeem the cooperative interest evidenced by a Membership Share in accordance with the limited equity formula. According to the formula, the Share is valued at its purchase price and accumulates no interest. This formula is consistent with the objective of maintaining long-term affordability of cooperative interests for persons or households of low and moderate income. This formula may not be amended.

Uphold public purpose. The Corporation shall not sell all or substantially all of its assets if such sale is intended to circumvent the public purpose of 13 M.R.S.A. §1754.

Limit on capital distribution. The total distribution of capital to a Member may not exceed the transfer value.

Sublease limitations. A sublease of a lot within the Community may not require payments by the sublessee in excess of 100% of the monthly payments for the lot required in the proprietary lease.

Minimum Occupancy. At least 80% of the Corporation's occupied residential lots must be occupied by Members.

Exhibit B
Supplemental Information Regarding 16th Article

The Board of Directors shall consist of ____ Members who are in good standing with the Corporation. All Officers shall be Directors, and the Members shall elect Officer-Directors before electing other Directors at the Annual Meeting. All Directors shall serve for a term of two years. The President, the Secretary and 1 Director-at-Large will be elected in odd years. The Vice President, Treasurer and the 2 other Directors-at-Large will be elected in even years. No Director may serve for more than three consecutive two-year terms. The Board of Directors shall be elected by the Membership at the Annual Meeting of the Corporation.

Vacancies that result from resignation or other means may be filled by a majority vote of the Directors present at any meeting of the Board of Directors.

Any action required or permitted to be taken at a Membership meeting may be taken without a meeting, by means of a ballot clearly stating a Board-approved motion. To be passed, the motion must be approved by a majority of the entire Membership.

Exhibit C
Incorporators

Print name

Street Address/City/State/Zip
