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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3552

- 03/08/2018 Authored by Smith; Dehn, R., and Hausman
- The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy
- 03/22/2018 Adoption of Report: Placed on the General Register as Amended
- Read for the Second Time
- 04/24/2018 Calendar for the Day
- Read for the Third Time
- Passed by the House and transmitted to the Senate
- 05/03/2018 Passed by the Senate and returned to the House
- 05/04/2018 Presented to Governor
- 05/08/2018 Governor Approval

1.1 A bill for an act

1.2 relating to real property; modifying the definition of residential use under the

1.3 Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2016,

1.4 sections 515B.1-102; 515B.1-106; 515B.2-113; 515B.4-111; Minnesota Statutes

1.5 2017 Supplement, section 515B.1-103.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 515B.1-102, is amended to read:

1.8 **515B.1-102 APPLICABILITY.**

1.9 (a) Except as provided in this section, this chapter, and not chapters 515 and 515A,

1.10 applies to all common interest communities created within this state on and after June 1,

1.11 1994.

1.12 (b) The applicability of this chapter to common interest communities created prior to

1.13 June 1, 1994, shall be as follows:

1.14 (1) This chapter shall apply to condominiums created under chapter 515A with respect

1.15 to events and circumstances occurring on and after June 1, 1994; provided (i) that this

1.16 chapter shall not invalidate the declarations, bylaws or condominium plats of those

1.17 condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and

1.18 obligations of a declarant of a condominium created under chapter 515A, and the rights and

1.19 claims of unit owners against that declarant.

1.20 (2) The following sections in this chapter apply to condominiums created under chapter

1.21 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation);

1.22 515B.1-106 (Applicability of Local Requirements); 515B.1-107 (Eminent Domain);

1.23 515B.1-108 (This Chapter Prevails; Supplemental Law); 515B.1-109 (Construction Against

2.1 Implicit Repeal); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113
2.2 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered);
2.3 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of
2.4 Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation
2.5 of Interests); 515B.2-109(f) (Common Elements and Limited Common Elements);
2.6 515B.2-112 (Subdivision, Combination, or Conversion of Units); 515B.2-113 (Alteration
2.7 of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115
2.8 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119
2.9 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners'
2.10 Association); 515B.3-103(a), (b), and (g) (Board of Directors, Officers, and Declarant
2.11 Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings);
2.12 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract
2.13 Liability); 515B.3-112 (Conveyance of, or Creation of Security Interests in, Common
2.14 Elements); 515B.3-113 (Insurance); 515B.3-114 (Replacement Reserves); 515B.3-115 (c),
2.15 (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for
2.16 Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119
2.17 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units);
2.18 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action;
2.19 Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in
2.20 construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106,
2.21 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110,
2.22 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107,
2.23 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring
2.24 on and after June 1, 1994. All other sections referenced in this section apply only with
2.25 respect to events and circumstances occurring after July 31, 1999. A section referenced in
2.26 this section does not invalidate the declarations, bylaws or condominium plats of
2.27 condominiums created before August 1, 1999. But all sections referenced in this section
2.28 prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of
2.29 condominiums created before August 1, 1999, except to the extent that this chapter defers
2.30 to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

2.31 (3) This chapter shall not apply to cooperatives and planned communities created prior
2.32 to June 1, 1994, or to planned communities that were created on or after June 1, 1994, and
2.33 before August 1, 2006, and that consist of more than two but fewer than 13 units; except
2.34 by election pursuant to subsection (d), and except that sections 515B.1-116, subsections
2.35 (a), (c), (d), and (e), 515B.4-107, and 515B.4-108, apply to all planned communities and

3.1 cooperatives regardless of when they are created, unless they are exempt under subsection
3.2 (e).

3.3 (c) This chapter shall not invalidate any amendment to the declaration, bylaws or
3.4 condominium plat of any condominium created under chapter 515 or 515A if the amendment
3.5 was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall
3.6 be adopted in conformity with the procedures and requirements specified by those instruments
3.7 and by this chapter. If the amendment grants to any person any rights, powers or privileges
3.8 permitted by this chapter, all correlative obligations, liabilities and restrictions contained
3.9 in this chapter shall also apply to that person.

3.10 (d) Any condominium created under chapter 515, any planned community or cooperative
3.11 which would be exempt from this chapter under subsection (e), or any planned community
3.12 or cooperative created prior to June 1, 1994, or any planned community that was created
3.13 on or after June 1, 1994, and prior to August 1, 2006, and that consists of more than two
3.14 but fewer than 13 units, may elect to be subject to this chapter, as follows:

3.15 (1) The election shall be accomplished by recording a declaration or amended declaration,
3.16 and a new or amended CIC plat where required, and by approving bylaws or amended
3.17 bylaws, which conform to the requirements of this chapter, and which, in the case of
3.18 amendments, are adopted in conformity with the procedures and requirements specified by
3.19 the existing declaration and bylaws of the common interest community, and by any applicable
3.20 statutes.

3.21 (2) In a condominium, the preexisting condominium plat shall be the CIC plat and an
3.22 amended CIC plat shall be required only if the amended declaration or bylaws contain
3.23 provisions inconsistent with the preexisting condominium plat. The condominium's CIC
3.24 number shall be the apartment ownership number or condominium number originally
3.25 assigned to it by the recording officer. In a cooperative in which the unit owners' interests
3.26 are characterized as real estate, a CIC plat shall be required. In a planned community, the
3.27 preexisting plat or registered land survey recorded pursuant to chapter 505, 508, or 508A,
3.28 or the part of the plat or registered land survey upon which the common interest community
3.29 is located, shall be the CIC plat.

3.30 (3) The amendment shall comply with section 515B.2-118(a)(3) and (c); except that the
3.31 unanimous consent of the unit owners shall not be required for (i) a clarification of the unit
3.32 boundary description if the clarified boundary description is substantially consistent with
3.33 the preexisting CIC plat, or (ii) changes from common elements to limited common elements
3.34 that occur by operation of section 515B.2-109(c) and (d).

4.1 (4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association,
4.2 master association nor unit owner may acquire, increase, waive, reduce or revoke any
4.3 previously existing warranty rights or causes of action that one of said persons has against
4.4 any other of said persons by reason of exercising the right of election under this subsection.

4.5 (5) A common interest community which elects to be subject to this chapter may, as a
4.6 part of the election process, change its form of ownership by complying with section
4.7 515B.2-123.

4.8 (e) Except as otherwise provided in this subsection, this chapter shall not apply, except
4.9 by election pursuant to subsection (d), to the following:

4.10 (1) a planned community which consists of two units, which utilizes a CIC plat complying
4.11 with section 515B.2-110(d)(1) and (2), or section 515B.2-1101(d)(1) and (2), which is not
4.12 subject to any rights to subdivide or convert units or to add additional real estate, and which
4.13 is not subject to a master association;

4.14 (2) a common interest community that consists solely of platted lots or other separate
4.15 parcels of real estate designed or utilized for detached single family dwellings or agricultural
4.16 purposes, with or without common property, where no association or master association
4.17 has an obligation to maintain any building containing a dwelling or any agricultural building
4.18 located or to be located on such platted lots or parcels; except that section 515B.4-101(e)
4.19 shall apply to the sale of such platted lots or parcels of real estate if the common interest
4.20 community is or will be subject to a master declaration;

4.21 (3) a cooperative where, at the time of creation of the cooperative, the unit owners'
4.22 interests in the dwellings as described in the declaration consist solely of proprietary leases
4.23 having an unexpired term of fewer than 20 years, including renewal options;

4.24 (4) planned communities utilizing a CIC plat complying with section 515B.2-110(d)(1)
4.25 and (2), or section 515B.2-1101(d)(1) and (2), and cooperatives, which are limited by the
4.26 declaration to nonresidential uses ~~alone or in combination with residential rental uses in~~
4.27 ~~which individual dwellings do not constitute units or other separate parcels of real estate;~~
4.28 or

4.29 (5) real estate subject only to an instrument or instruments filed primarily for the purpose
4.30 of creating or modifying rights with respect to access, utilities, parking, ditches, drainage,
4.31 or irrigation.

4.32 (f) Section 515B.4-101(e) applies to any platted lot or other parcel of real estate that is
4.33 subject to a master declaration and is not subject to or is exempt from this chapter.

5.1 (g) Section 515B.1-106 shall apply to all common interest communities.

5.2 (h) Sections 515B.1-103(33a), 515B.2-110, 515B.3-105, 515B.3-115, 515B.4-102, and
5.3 515B.4-115 apply only to common interest communities created before August 1, 2010.
5.4 Sections 515B.1-103(33b), 515B.2-1101, 515B.3-1051, 515B.3-1151, 515B.4-1021, and
5.5 515B.4-1151 apply only to common interest communities created on or after August 1,
5.6 2010.

5.7 (i) Section 515B.3-114 applies to common interest communities only for the association's
5.8 fiscal years commencing before January 1, 2012. Section 515B.3-1141 applies to common
5.9 interest communities only for the association's fiscal years commencing on or after January
5.10 1, 2012.

5.11 (j) Section 515B.3-104 applies only to transfers of special declarant rights that are
5.12 effective before August 1, 2010. Section 515B.3-1041, subsections (a) through (i), apply
5.13 only to transfers of special declarant rights that are effective on or after August 1, 2010.
5.14 Section 515B.3-1041, subsections (j) and (k), apply only to special declarant rights reserved
5.15 in a declaration that is first recorded on or after August 1, 2010.

5.16 Sec. 2. Minnesota Statutes 2017 Supplement, section 515B.1-103, is amended to read:

5.17 **515B.1-103 DEFINITIONS.**

5.18 In the declaration and bylaws, unless specifically provided otherwise or the context
5.19 otherwise requires, and in this chapter:

5.20 (1) "Additional real estate" means real estate that may be added to a flexible common
5.21 interest community.

5.22 (2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under
5.23 common control with a declarant.

5.24 (A) A person "controls" a declarant if the person (i) is a general partner, officer, director,
5.25 or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more
5.26 other persons, or through one or more subsidiaries, owns, controls, holds with power to
5.27 vote, or holds proxies representing, more than 20 percent of the voting interest in the
5.28 declarant, (iii) controls in any manner the election of a majority of the directors of the
5.29 declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

5.30 (B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer,
5.31 director, or employer of the person, (ii) directly or indirectly or acting in concert with one
5.32 or more other persons, or through one or more subsidiaries, owns, controls, holds with

6.1 power to vote, or holds proxies representing, more than 20 percent of the voting interest in
6.2 the person, (iii) controls in any manner the election of a majority of the directors of the
6.3 person, or (iv) has contributed more than 20 percent of the capital of the person.

6.4 (C) Control does not exist if the powers described in this subsection are held solely as
6.5 a security interest and have not been exercised.

6.6 (3) "Allocated interests" means the following interests allocated to each unit: (i) in a
6.7 condominium, the undivided interest in the common elements, the common expense liability,
6.8 and votes in the association; (ii) in a cooperative, the common expense liability and the
6.9 ownership interest and votes in the association; and (iii) in a planned community, the common
6.10 expense liability and votes in the association.

6.11 (4) "Association" means the unit owners' association organized under section 515B.3-101.

6.12 (5) "Board" means the body, regardless of name, designated in the articles of
6.13 incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a
6.14 master association when so identified.

6.15 (6) "CIC plat" means a common interest community plat described in section 515B.2-110.

6.16 (7) "Common elements" means all portions of the common interest community other
6.17 than the units.

6.18 (8) "Common expenses" means expenditures made or liabilities incurred by or on behalf
6.19 of the association, or master association when so identified, together with any allocations
6.20 to reserves.

6.21 (9) "Common expense liability" means the liability for common expenses allocated to
6.22 each unit pursuant to section 515B.2-108.

6.23 (10) "Common interest community" or "CIC" means contiguous or noncontiguous real
6.24 estate within Minnesota that is subject to an instrument which obligates persons owning a
6.25 separately described parcel of the real estate, or occupying a part of the real estate pursuant
6.26 to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate
6.27 taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of;
6.28 or (iv) construction, maintenance, repair or replacement of improvements located on, one
6.29 or more parcels or parts of the real estate other than the parcel or part that the person owns
6.30 or occupies. Real estate which satisfies the definition of a common interest community is
6.31 a common interest community whether or not it is subject to this chapter. Real estate subject
6.32 to a master declaration, regardless of when the master declaration was recorded, shall not

7.1 collectively constitute a separate common interest community unless so stated in the master
7.2 declaration.

7.3 (11) "Condominium" means a common interest community in which (i) portions of the
7.4 real estate are designated as units, (ii) the remainder of the real estate is designated for
7.5 common ownership solely by the owners of the units, and (iii) undivided interests in the
7.6 common elements are vested in the unit owners.

7.7 (11a) "Construction defect claim" means a civil action or an arbitration proceeding based
7.8 on any legal theory including, but not limited to, claims under chapter 327A for damages,
7.9 indemnity, or contribution brought against a development party to assert a claim,
7.10 counterclaim, cross-claim, or third-party claim for damages or loss to, or the loss of use of,
7.11 real or personal property caused by a defect in the initial design or construction of an
7.12 improvement to real property that is part of a common interest community, including an
7.13 improvement that is constructed on additional real estate pursuant to section 515B.2-111.
7.14 "Construction defect claim" does not include claims related to subsequent maintenance,
7.15 repairs, alterations, or modifications to, or the addition of, improvements that are part of
7.16 the common interest community, and that are contracted for by the association or a unit
7.17 owner.

7.18 (12) "Conversion property" means real estate on which is located a building that at any
7.19 time within two years before creation of the common interest community was occupied, in
7.20 whole or in part, for (i) residential use wholly or partially or (ii) for residential rental purposes
7.21 by persons other than purchasers and persons who occupy with the consent of purchasers.

7.22 (13) "Cooperative" means a common interest community in which the real estate is
7.23 owned by an association, each of whose members is entitled to a proprietary lease by virtue
7.24 of the member's ownership interest in the association.

7.25 (14) "Dealer" means a person in the business of selling units for the person's own account.

7.26 (15) "Declarant" means:

7.27 (i) if the common interest community has been created, (A) any person who has executed
7.28 a declaration, or a supplemental declaration or amendment to a declaration adding additional
7.29 real estate, except secured parties, a spouse holding only an inchoate interest, persons whose
7.30 interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold
7.31 common interest community, a lessor who possesses no special declarant rights and who
7.32 is not an affiliate of a declarant who possesses special declarant rights, or (B) any person
7.33 who reserves, or succeeds under section 515B.3-104 to any special declarant rights; ~~or~~

8.1 (ii) any person or persons acting in concert who have offered prior to creation of the
8.2 common interest community to transfer their interest in a unit to be created and not previously
8.3 transferred; or

8.4 (iii) if (A) a unit has been restricted to nonresidential use and sold to a purchaser who
8.5 has agreed to modify or waive, in whole or in part, sections 515B.4-101 to 515B.4-118, and
8.6 (B) the restriction expires or is modified or terminated such that residential use of the unit
8.7 is permitted, the unit owner at the time the restriction expires or is so modified or terminated
8.8 is a declarant with respect to that unit and any improvements subject to use rights by a
8.9 purchaser of the unit.

8.10 (16) "Declaration" means any instrument, however denominated, that creates a common
8.11 interest community.

8.12 (16a) "Development party" means an architect, contractor, construction manager,
8.13 subcontractor, developer, declarant, engineer, or private inspector performing or furnishing
8.14 the design, supervision, inspection, construction, coordination, or observation of the
8.15 construction of any improvement to real property that is part of a common interest
8.16 community, or any of the person's affiliates, officers, directors, shareholders, members, or
8.17 employees.

8.18 (17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal
8.19 or equitable interest in the common interest community, but the term does not include the
8.20 transfer or release of a security interest.

8.21 (18) "Flexible common interest community" means a common interest community to
8.22 which additional real estate may be added.

8.23 (19) "Leasehold common interest community" means a common interest community in
8.24 which all or a portion of the real estate is subject to a lease the expiration or termination of
8.25 which will terminate the common interest community or reduce its size.

8.26 (20) "Limited common element" means a portion of the common elements allocated by
8.27 the declaration or by operation of section 515B.2-109(c) or (d) for the exclusive use of one
8.28 or more but fewer than all of the units.

8.29 (21) "Master association" means an entity created on or after June 1, 1994, that directly
8.30 or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one
8.31 or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also
8.32 exercises those powers on behalf of one or more property owners' associations described
8.33 in section 515B.2-121 (b)(iv). A person (i) hired by an association to perform maintenance,

9.1 repair, accounting, bookkeeping or management services, or (ii) granted authority under an
9.2 instrument recorded primarily for the purpose of creating rights or obligations with respect
9.3 to utilities, access, drainage, or recreational amenities, is not, solely by reason of that
9.4 relationship, a master association.

9.5 (22) "Master declaration" means a written instrument, however named, (i) recorded on
9.6 or after June 1, 1994, and (ii) complying with section 515B.2-121, subsection (e).

9.7 (23) "Master developer" means a person who is designated in the master declaration as
9.8 a master developer or, in the absence of such a designation, the owner or owners of the real
9.9 estate subject to the master declaration at the time the master declaration is recorded, except
9.10 (i) secured parties and (ii) a spouse holding only an inchoate interest. A master developer
9.11 is not a declarant unless the master declaration states that the real estate subject to the master
9.12 declaration collectively is or collectively will be a separate common interest community.

9.13 (24) "Period of declarant control" means the time period provided for in section
9.14 515B.3-103(c) during which the declarant may appoint and remove officers and directors
9.15 of the association.

9.16 (25) "Person" means an individual, corporation, limited liability company, partnership,
9.17 trustee under a trust, personal representative, guardian, conservator, government,
9.18 governmental subdivision or agency, or other legal or commercial entity capable of holding
9.19 title to real estate.

9.20 (26) "Planned community" means a common interest community that is not a
9.21 condominium or a cooperative. A condominium or cooperative may be a part of a planned
9.22 community.

9.23 (27) "Proprietary lease" means an agreement with a cooperative association whereby a
9.24 member of the association is entitled to exclusive possession of a unit in the cooperative.

9.25 (28) "Purchaser" means a person, other than a declarant, who by means of a voluntary
9.26 transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of
9.27 less than 20 years, including renewal options, or (ii) a security interest.

9.28 (29) "Real estate" means any fee simple, leasehold or other estate or interest in, over,
9.29 or under land, including structures, fixtures, and other improvements and interests that by
9.30 custom, usage, or law pass with a conveyance of land though not described in the contract
9.31 of sale or instrument of conveyance. "Real estate" may include spaces with or without upper
9.32 or lower boundaries, or spaces without physical boundaries.

10.1 (30) "Residential use" means use as a dwelling, whether primary, secondary or seasonal,
10.2 but not (i) transient use such as hotels or motels; (ii) use for residential rental purposes if
10.3 the individual dwellings are not separate units or if the individual dwellings are not located
10.4 on separate parcels of real estate. For purposes of this chapter, a unit is restricted to
10.5 nonresidential use if the unit is subject to a restriction that prohibits residential use as defined
10.6 in this section whether or not the restriction also prohibits the uses described in this paragraph.

10.7 (31) "Secured party" means the person owning a security interest as defined in paragraph
10.8 (32).

10.9 (32) "Security interest" means a perfected interest in real estate or personal property,
10.10 created by contract or conveyance, which secures payment or performance of an obligation.
10.11 The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for
10.12 deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's
10.13 certificate of sale during the period of redemption, an assignee's interest in an assignment
10.14 of leases or rents intended as security, in a cooperative, a lender's interest in a member's
10.15 ownership interest in the association, a pledgee's interest in the pledge of an ownership
10.16 interest, or any other interest intended as security for an obligation under a written agreement.

10.17 (33a) This definition of special declarant rights applies only to common interest
10.18 communities created before August 1, 2010. "Special declarant rights" means rights reserved
10.19 in the declaration for the benefit of a declarant to:

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

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

10.23 (iii) subdivide or combine units, or convert units into common elements, limited common
10.24 elements, or units;

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

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

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

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

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

11.3 (33b) This definition of special declarant rights applies only to common interest
11.4 communities created on or after August 1, 2010. "Special declarant rights" means rights
11.5 reserved in the declaration for the benefit of a declarant and expressly identified in the
11.6 declaration as special declarant rights. Such special declarant rights may include but are not
11.7 limited to the following:

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

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

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

11.15 (iv) to maintain and use sales offices, management offices, signs advertising the common
11.16 interest community, and models, and to have and use easements for itself and its employees,
11.17 agents, and invitees through the common elements for such purposes;

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

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

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

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

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

11.28 (34) "Time share" means a right to occupy a unit or any of several units during three or
11.29 more separate time periods over a period of at least three years, including renewal options,
11.30 whether or not coupled with a fee title interest in the common interest community or a
11.31 specified portion thereof.

12.1 (35) "Unit" means a portion of a common interest community the boundaries of which
12.2 are described in the common interest community's declaration and which is intended for
12.3 separate ownership, or separate occupancy pursuant to a proprietary lease.

12.4 (36) "Unit identifier" means English letters or Arabic numerals, or a combination thereof,
12.5 which identify only one unit in a common interest community and which meet the
12.6 requirements of section 515B.2-104.

12.7 (37) "Unit owner" means a declarant or other person who owns a unit, a lessee under a
12.8 proprietary lease, or a lessee of a unit in a leasehold common interest community whose
12.9 lease expires simultaneously with any lease the expiration or termination of which will
12.10 remove the unit from the common interest community, but does not include a secured party.
12.11 In a common interest community, the declarant is the unit owner of a unit until that unit has
12.12 been conveyed to another person.

12.13 Sec. 3. Minnesota Statutes 2016, section 515B.1-106, is amended to read:

12.14 **515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.**

12.15 (a) Except as provided in subsections (b) and (c), a zoning, subdivision, building code,
12.16 or other real estate use law, ordinance, charter provision, or regulation may not directly or
12.17 indirectly prohibit the common interest community form of ownership or impose any
12.18 requirement upon a common interest community, upon the creation or disposition of a
12.19 common interest community or upon any part of the common interest community conversion
12.20 process which it would not impose upon a physically similar development under a different
12.21 form of ownership. Otherwise, no provision of this chapter invalidates or modifies any
12.22 provision of any zoning, subdivision, building code, or other real estate use law, ordinance,
12.23 charter provision, or regulation.

12.24 (b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision
12.25 or contract provision relating to the financing of housing construction, rehabilitation, or
12.26 purchases provided by or through a housing finance program established and operated
12.27 pursuant to state or federal law by a state or local agency or local unit of government.

12.28 (c) A statutory or home rule charter city, pursuant to an ordinance or charter provision
12.29 establishing standards to be applied uniformly within its jurisdiction, may prohibit or impose
12.30 reasonable conditions upon the conversion of buildings occupied wholly or partially for (i)
12.31 residential use or (ii) residential rental purposes to the common interest community form
12.32 of ownership only if there exists within the city a significant shortage of suitable rental
12.33 dwellings available to low and moderate income individuals or families or to establish or

13.1 maintain the city's eligibility for any federal or state program providing direct or indirect
13.2 financial assistance for housing to the city. Prior to the adoption of an ordinance pursuant
13.3 to the authority granted in this subsection, the city shall conduct a public hearing. Any
13.4 ordinance or charter provision adopted pursuant to this subsection shall not apply to any
13.5 existing or proposed conversion common interest community (i) for which a bona fide loan
13.6 commitment for a consideration has been issued by a lender and is in effect on the date of
13.7 adoption of the ordinance or charter provision, or (ii) for which a notice of conversion or
13.8 intent to convert required by section 515B.4-111, containing a termination of tenancy, has
13.9 been given to at least 75 percent of the tenants and subtenants in possession prior to the date
13.10 of adoption of the ordinance or charter provision.

13.11 (d) For purposes of providing marketable title, a statement in the declaration that the
13.12 common interest community is not subject to an ordinance or that any conditions required
13.13 under an ordinance have been complied with shall be prima facie evidence that the common
13.14 interest community was not created in violation of the ordinance.

13.15 (e) A violation of an ordinance or charter provision adopted pursuant to the provisions
13.16 of subsection (b) or (c) shall not affect the validity of a common interest community. This
13.17 subsection shall not be construed to in any way limit the power of a city to enforce the
13.18 provisions of an ordinance or charter provision adopted pursuant to subsection (b) or (c).

13.19 (f) Any ordinance or charter provision enacted hereunder that prohibits the conversion
13.20 of buildings to the common interest community form of ownership shall not be effective
13.21 for a period exceeding 18 months.

13.22 Sec. 4. Minnesota Statutes 2016, section 515B.2-113, is amended to read:

13.23 **515B.2-113 ALTERATION OF UNITS.**

13.24 (a) Subject to the provisions of the declaration and applicable law, a unit owner may, at
13.25 the unit owner's expense, make any improvements or alterations to the unit, provided: (i)
13.26 that they do not impair the structural integrity or mechanical systems, affect the common
13.27 elements, or impair the support of any portion of the common interest community; (ii) that
13.28 prior arrangements are made with the association to ensure that other unit owners are not
13.29 disturbed; (iii) that the common elements are not damaged; and (iv) that the common
13.30 elements and other units are protected against mechanics' liens.

13.31 (b) Subject to the provisions of applicable law, a unit owner of a unit ~~in residential use~~
13.32 that is used as a dwelling, whether primary, secondary, or seasonal, may, at the unit owner's
13.33 expense, make improvements or alterations to the unit as necessary for the full enjoyment

14.1 of the unit by any person residing in the unit who has a disability, as provided in the Fair
14.2 Housing Amendments Act, United States Code, title 42, section 3601, et seq., and the
14.3 Minnesota Human Rights Act, chapter 363A, and any amendments to those acts. This
14.4 subsection applies to all common interest communities subject to this chapter, chapter 515,
14.5 or 515A, notwithstanding any contrary provision of section 515B.1-102.

14.6 (c) The declaration, bylaws, rules, and regulations, or agreements with the association
14.7 may not prohibit the improvements or alterations referred to in subsection (b), but may
14.8 reasonably regulate the type, style, and quality of the improvements or alterations, as they
14.9 relate to health, safety, and architectural standards. In addition, improvements or alterations
14.10 made pursuant to subsection (b) must comply with subsection (a)(i), (ii), (iii), and (iv).

14.11 (d) The unit owner's rights under this section may not be waived.

14.12 (e) Subsection (b) does not apply to restrictions on improvements or alterations imposed
14.13 by statute, rule, or ordinance.

14.14 (f) Subject to the provisions of the declaration and applicable law, a unit owner may, at
14.15 the unit owner's expense, after acquiring title to an adjoining unit or an adjoining part of an
14.16 adjoining unit, with the prior written approval of the association and first mortgagees of the
14.17 affected units, remove or alter any intervening partition or create apertures therein, even if
14.18 the partition is part of the common elements, if those acts do not impair the structural
14.19 integrity or mechanical systems or lessen the support of any portion of the common interest
14.20 community. The adjoining unit owners shall have the exclusive license to use the space
14.21 occupied by the removed partition, but the use shall not create an easement or vested right.
14.22 Removal of partitions or creation of apertures under this subsection is not an alteration of
14.23 boundaries. The association may require that the owner or owners of units affected replace
14.24 or restore any removed partition, that the unit owner comply with subsection (a)(i), (ii) and
14.25 (iii), and that the unit owner pay all fees and costs incurred by the association in connection
14.26 with the alteration.

14.27 Sec. 5. Minnesota Statutes 2016, section 515B.4-111, is amended to read:

14.28 **515B.4-111 CONVERSION PROPERTY.**

14.29 (a) A unit owner of a unit ~~occupied for residential use~~ in a common interest community
14.30 containing conversion property shall not, for a period of one year following the recording
14.31 of the declaration creating the common interest community, require any occupant ~~of the~~
14.32 unit who was residing in the unit at the time the declaration was recorded to vacate the unit
14.33 unless the unit owner gives notice to the occupant in the manner described in this section.

15.1 The notice shall be given no later than 120 days before the occupant is required to vacate
15.2 the unit. The notice shall be sufficient as to all occupants of a unit if it is hand delivered or
15.3 mailed to the unit to be vacated, addressed to the occupants thereof. If the holder of the
15.4 lessee's interest in the unit has given the unit owner an address different than that of the
15.5 unit, then the notice shall also be given to the holder of the lessee's interest at the designated
15.6 address. The notice shall comply with the following requirements:

15.7 (1) The notice shall set forth generally the rights conferred by this section.

15.8 (2) The notice shall have attached a form of purchase agreement setting forth the proposed
15.9 terms of sale of the unit to the holder of the lessee's interest as contemplated by subsection
15.10 (d) and a statement of any significant restrictions imposed by the declaration on the use and
15.11 occupancy of the unit.

15.12 (3) The notice shall state that the occupants of the ~~residential~~ unit may demand to be
15.13 given 60 additional days before being required to vacate, if any of them, or any person
15.14 residing with them, is (i) 62 years of age or older, (ii) a person with a disability as defined
15.15 in section 268A.01, or (iii) a minor child on the date the notice is given. This demand must
15.16 be in writing, contain reasonable proof of qualification, and be given to the declarant within
15.17 30 days after the notice of conversion is delivered or mailed.

15.18 (4) The notice shall be contained in an envelope upon which the following shall be boldly
15.19 printed: "Notice of Conversion."

15.20 (b) Notwithstanding subsection (a), an occupant may be required to vacate a unit upon
15.21 less than 120 days' notice by reason of nonpayment of rent, utilities or other monetary
15.22 obligations, violations of law, waste, or conduct that disturbs other occupants' peaceful
15.23 enjoyment of the premises. The terms of the tenancy may not be altered during the notice
15.24 period, except that the holder of the lessee's interest or other party in possession may vacate
15.25 and terminate the tenancy upon one month's written notice to the declarant. Nothing in this
15.26 section prevents the unit owner and any occupant from agreeing to a right of occupancy on
15.27 a month-to-month basis beyond the 120-day notice period, or to an earlier termination of
15.28 the right of occupancy.

15.29 (c) No repair work or remodeling may be commenced or undertaken in the occupied
15.30 units or common areas of the building during the notice period, unless reasonable precautions
15.31 are taken to ensure the safety and security of the occupants.

15.32 (d) For 60 days after delivery or mailing of the notice described in subsection (a), the
15.33 holder of the lessee's interest in the unit on the date the notice is mailed or delivered shall
15.34 have an option to purchase that unit on the terms set forth in the purchase agreement attached

16.1 to the notice. The purchase agreement shall contain no terms or provisions which violate
16.2 any state or federal law relating to discrimination in housing. If the holder of the lessee's
16.3 interest fails to sign a binding purchase agreement for the unit during that 60-day period,
16.4 the unit owner may not offer to dispose of an interest in that unit during the following 180
16.5 days at a price or on terms more favorable to the offeree than the price or terms offered to
16.6 the holder. This subsection and subsection (a)(2) do not apply to any unit in a conversion
16.7 property if that unit will be restricted exclusively to nonresidential use or if the boundaries
16.8 of the converted unit do not substantially conform to the boundaries of the residential unit
16.9 before conversion.

16.10 (e) If a unit owner, in violation of subsection (b), conveys a unit to a purchaser for value
16.11 who has no knowledge of the violation, the recording of the deed conveying the unit or, in
16.12 a cooperative, the conveyance of the right to possession of the unit, extinguishes any right
16.13 a holder of a lessee's interest who is not in possession of the unit may have under subsection
16.14 (d) to purchase that unit, but the conveyance does not affect the right of the holder to recover
16.15 damages from the unit owner for a violation of subsection (d).

16.16 (f) If a notice described in subsection (a) specifies a date by which a unit or proposed
16.17 unit must be vacated or otherwise complies with the provisions of chapter 504B, the notice
16.18 also constitutes a notice to vacate specified by that statute.

16.19 (g) An occupant of residing in space ~~for residential use~~ in a conversion property shall
16.20 not have any of the rights set out in this section or under any municipal ordinance if the
16.21 holder of the lessee's interest in the space received written notice of intent to convert to a
16.22 common interest community (i) before signing a lease or a lease renewal or before occupying
16.23 the space and (ii) less than two years before the common interest community is created.

16.24 (h) A notice of intent to convert to a common interest community shall identify the
16.25 conversion property by both legal description and street address and state that (i) the declarant
16.26 intends to convert the property to a planned community, condominium, or cooperative form
16.27 of common interest community, specifying the intended form, and (ii) persons entering into
16.28 leases subsequent to the receipt of the notice of intent to convert will not have the rights
16.29 available to an occupant or a person holding the lessee's interest under this section.

16.30 (i) Nothing in this section permits a unit owner to terminate a lease in violation of its
16.31 terms.

16.32 (j) Failure to give notice as required by subsection (a) is a defense to an action for
16.33 possession.