

57-8-41 Lender approval -- Declaration amendments and association action.

- (1) If a security holder's consent is a condition for amending a declaration or bylaw, or for an action of the association of unit owners or management committee, then, subject to Subsection (4), the security holder's consent is presumed if:
 - (a) written notice of the proposed amendment or action is sent by certified or registered mail to the security holder's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest;
 - (b) 60 days have passed after the day on which notice was mailed; and
 - (c) the person designated for receipt of the response in the notice has not received a written response from the security holder either consenting to or refusing to accept the amendment or action.
- (2) The provisions of Subsection (1) shall apply to:
 - (a) an association of unit owners formed before and after May 12, 2009; and
 - (b) documents created and recorded before and after May 12, 2009.
- (3) If, under Subsection (1), a security holder's address for receiving notice is not provided in the recorded documents evidencing the security interest, the association of unit owners:
 - (a) shall use reasonable efforts to find a mailing address for the security holder; and
 - (b) may send the notice to any address obtained under Subsection (3)(a).
- (4) If a security holder responds in writing within 60 days after the day on which the notice is mailed under Subsection (1), indicating that the security interest has been assigned or conveyed to another person, without any recorded document evidencing such a conveyance, the association of unit owners:
 - (a) may not presume the security holder's consent under Subsection (1); and
 - (b) shall send a notice in accordance with Subsection (1) to the person assigned or conveyed the security interest.
- (5) The association of unit owners shall:
 - (a) send a notice as described in Subsection (4)(b) to the person assigned or conveyed the interest at an address provided by the security holder under Subsection (4); or
 - (b) if no address is provided, shall use reasonable efforts to find a mailing address for, and send notice to, the person assigned or conveyed the interest.

Enacted by Chapter 178, 2009 General Session