

28 Section 1. Section **57-8-10** is amended to read:

29 **57-8-10. Contents of declaration.**

30 (1) [~~Prior to~~] Before the conveyance of any unit in a condominium project, a
31 declaration shall be recorded that contains the covenants, conditions, and restrictions relating to
32 the project that shall be enforceable equitable servitudes, where reasonable, and which shall run
33 with the land. Unless otherwise provided, these servitudes may be enforced by [~~any~~] a unit
34 owner [~~and his successors~~] or a unit owner's successor in interest.

35 (2) (a) For every condominium project, the declaration shall:

36 (i) [~~The declaration shall~~] include a description of the land or interests in real property
37 included within the project[-];

38 (ii) [~~The declaration shall~~] contain a description of any buildings[~~, which~~] that states
39 the number of storeys and basements, the number of units, the principal materials of which the
40 building is or is to be constructed, and a description of all other significant improvements
41 contained or to be contained in the project[-];

42 (iii) [~~The declaration shall~~] contain the unit number of each unit, the square footage of
43 each unit, and any other description or information necessary to properly identify each unit[-];

44 (iv) [~~The declaration shall~~] describe the common areas and facilities of the project[-];
45 and

46 (v) [~~The declaration shall~~] describe any limited common areas and facilities and shall
47 state to which units the use of the common areas and facilities is reserved.

48 (b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or
49 other apparatus intended to serve a single unit, but located outside the boundaries of the unit,
50 shall constitute a limited common area and facility appertaining to that unit exclusively,
51 whether or not the declaration makes such a provision.

52 (c) The condominium plat recorded with the declaration may provide or supplement
53 the information required under Subsections (2)(a) and (b).

54 (d) (i) The declaration shall include the percentage or fraction of undivided interest in
55 the common areas and facilities appurtenant to each unit and [~~its~~] the unit owner for all
56 purposes, including voting, derived and allocated in accordance with Subsection **57-8-7(2)**.

57 (ii) If any use restrictions are to apply, the declaration shall state the purposes for which
58 the units are intended and [~~restricted as to~~] the use restrictions that apply.

59 (iii) (A) The declaration shall include the name and address of a person to receive
60 service of process on behalf of the project, in the cases provided by this chapter~~[, together with~~
61 ~~the residence or place of business of that person]~~.

62 (B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall
63 maintain a place of business within, this state.

64 (iv) The declaration shall describe the method by which ~~[it]~~ the declaration may be
65 amended consistent with this chapter.

66 (v) Any further matters in connection with the property may be included in the
67 declaration, which the person or persons executing the declaration may consider desirable,
68 consistent with this chapter.

69 (vi) The declaration shall contain a statement of intention that this chapter applies to
70 the property.

71 (e) The initial recorded declaration shall include:

72 (i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv);
73 and

74 (ii) the following statement: "The declarant hereby conveys and warrants pursuant to
75 U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all
76 improvements to the unit for the purpose of securing payment of assessments under the terms
77 of the declaration."

78 (3) (a) If the condominium project contains any convertible land, the declaration shall:

79 (i) ~~[The declaration shall]~~ contain a legal description by metes and bounds of each area
80 of convertible land within the condominium project~~[-];~~

81 (ii) ~~[The declaration shall]~~ state the maximum number of units that may be created
82 within each area of convertible land~~[-];~~

83 (iii) ~~[(A) The declaration shall]~~ state, with respect to each area of convertible land, the
84 maximum percentage of the aggregate land and floor area of all units that may be created and
85 the use of which will not or may not be restricted exclusively to residential purposes~~[- (B) The~~
86 ~~statements described in Subsection (3)(a)(iii)(A) need not be supplied if]~~, unless none of the
87 units on other portions of the land within the project are restricted exclusively to residential
88 use~~[-];~~

89 (iv) ~~[The declaration shall]~~ state the extent to which any structure erected on any

90 convertible land will be compatible with structures on other portions of the land within the
91 condominium project in terms of quality of construction, the principal materials to be used, and
92 architectural style[-];

93 (v) [~~The declaration shall~~] describe all other improvements that may be made on each
94 area of convertible land within the condominium project[-];

95 (vi) [~~The declaration shall~~] state that any units created within each area of convertible
96 land will be substantially identical to the units on other portions of the land within the project
97 or [~~it shall~~] describe in detail what other type of units may be created[-]; and

98 (vii) [~~The declaration shall~~] describe the declarant's reserved right, if any, to create
99 limited common areas and facilities within any convertible land in terms of the types, sizes, and
100 maximum number of the limited common areas within each convertible land.

101 (b) The condominium plat recorded with the declaration may provide or supplement
102 the information required under Subsection (3)(a).

103 (4) If the condominium project is an expandable condominium project, the declaration
104 shall:

105 (a) (i) [~~(A) The declaration shall~~] contain an explicit reservation of an option to expand
106 the project[-];

107 [~~(B)~~] (ii) [~~The declaration shall~~] include a statement of any limitations on the option to
108 expand, including a statement as to whether the consent of any unit owners [~~shall be~~] is
109 required and, a statement as to the method by which consent shall be ascertained, or a
110 statement that there are no such limitations[-];

111 [~~(ii)~~] (iii) [~~The declaration shall~~] include a time limit, not exceeding seven years [~~from~~
112 ~~the date of the recording of~~] after the day on which the declaration is recorded, upon which the
113 option to expand the condominium project [~~shall expire, together with~~] expires and a statement
114 of any circumstances [~~which~~] that will terminate the option [~~prior to~~] before expiration of the
115 specified time limits[-];

116 [~~(iii)~~] (iv) [~~The declaration shall~~] contain a legal description by metes and bounds of all
117 land that may be added to the condominium project, which is known as additional land[-];

118 [~~(iv)~~] (v) [~~The declaration shall~~] state:

119 (A) if any of the additional land is added to the condominium project, whether all of it
120 or any particular portion of it must be added;

121 (B) any limitations as to what portions may be added; or

122 (C) a statement that there are no such limitations[-];

123 [~~(v)~~] (vi) [~~The declaration shall~~] include a statement as to whether portions of the
124 additional land may be added to the condominium project at different times, [~~together with~~]
125 including any limitations fixing the boundaries of those portions by legal descriptions setting
126 forth the metes and bounds of these lands and regulating the order in which they may be added
127 to the condominium project[-];

128 [~~(vi)~~] (vii) [~~The declaration shall~~] include a statement of any limitations [~~as to~~] on the
129 locations of any improvements that may be made on any portions of the additional land added
130 to the condominium project, or a statement that no assurances are made in that regard[-];

131 [~~(vii)~~] (viii) (A) [~~The declaration shall~~] state the maximum number of units that may be
132 created on the additional land[-ff];

133 (B) if portions of the additional land may be added to the condominium project and the
134 boundaries of those portions are fixed in accordance with Subsection (4)(a)[~~(v)~~](vi), the
135 declaration shall also state the maximum number of units that may be created on each portion
136 added to the condominium project[-ff]; and

137 (C) if portions of the additional land may be added to the condominium project and the
138 boundaries of those portions are not fixed in accordance with Subsection (4)(a)[~~(v)~~](vi), [~~then~~
139 ~~the declaration shall also~~] state the maximum number of units per acre that may be created on
140 any portion added to the condominium project[-];

141 [~~(viii)~~] (ix) [~~With~~] with respect to the additional land and to any portion of [~~it~~] the
142 additional land that may be added to the condominium project, [~~the declaration shall~~] state the
143 maximum percentage of the aggregate land and floor area of all units that may be created on it,
144 the use of which will not or may not be restricted exclusively to residential purposes[-
145 ~~However, these statements need not be supplied if~~], unless none of the units on the land
146 originally within the project are restricted exclusively to residential use[-];

147 [~~(ix)~~] (x) [~~The declaration shall~~] state the extent to which any structures erected on any
148 portion of the additional land added to the condominium project will be compatible with
149 structures on the land originally within the project in terms of quality of construction, the
150 principal materials to be used, and architectural style[- ~~The declaration may also state~~], or that
151 no assurances are made in those regards[-];

152 ~~[(x)]~~ (xi) ~~[The declaration shall]~~ describe all other improvements that will be made on
 153 any portion of the additional land added to the condominium project, ~~[or it shall contain a~~
 154 ~~statement of]~~ including any limitations ~~[as to]~~ on what other improvements may be made on ~~[it.~~
 155 ~~The declaration may also]~~ the additional land, or state that no assurances are made in that
 156 regard[-];

157 ~~[(xi)]~~ (xii) ~~[The declaration shall]~~ contain a statement that any units created on any
 158 portion of the additional land added to the condominium project will be substantially identical
 159 to the units on the land originally within the project, ~~[or]~~ a statement of any limitations ~~[as to]~~
 160 on what types of units may be created on ~~[it. The declaration may also contain]~~ the additional
 161 land, or a statement that no assurances are made in that regard[-]; and

162 ~~[(xii)]~~ (xiii) ~~[The declaration shall]~~ describe the declarant's reserved right, if any, to
 163 create limited common areas and facilities within any portion of the additional land added to
 164 the condominium project, in terms of the types, sizes, and maximum number of limited
 165 common areas within each portion~~[-. The declaration may also], or~~ state that no assurances are
 166 made in those regards.

167 (b) The condominium plat recorded with the declaration may provide or supplement
 168 the information required under Subsections (4)(a)~~[(iii)]~~(iv) through ~~[(a)(vi)]~~ (vii) and
 169 ~~(a)~~[(ix)]~~~~(x) through ~~[(a)(xii)]~~ (xiii).

170 (5) If the condominium project is a contractible condominium, the declaration shall:

171 (a) (i) ~~[The declaration shall]~~ contain an explicit reservation of an option to contract the
 172 condominium project[-];

173 (ii) ~~[The declaration shall]~~ contain a statement of any limitations on the option to
 174 contract, including a statement ~~[as to]~~ regarding whether the consent of any unit owners ~~[shall~~
 175 ~~be]~~ is required, and if so, a statement ~~[as to]~~ regarding the method by which this consent shall
 176 be ascertained~~[-. The declaration may also contain], or~~ a statement that there are no such
 177 limitations[-];

178 (iii) ~~[The declaration shall]~~ state the time limit, not exceeding seven years ~~[from the~~
 179 ~~recording of]~~ after the day on which the declaration is recorded, upon which the option to
 180 contract the condominium project ~~[shall expire]~~ expires, together with a statement of any
 181 circumstances ~~[which]~~ that will terminate ~~[this]~~ the option ~~[prior to]~~ before expiration of the
 182 specified time limit[-];

183 ~~[(b)(i)]~~ (iv) ~~[The declaration shall]~~ include a legal description by metes and bounds of
 184 all land that may be withdrawn from the condominium project, which is known as
 185 withdrawable land~~[-];~~

186 ~~[(ii)]~~ (v) ~~[The declaration shall]~~ include a statement as to whether portions of the
 187 withdrawable land may be withdrawn from the condominium project at different times,
 188 together with any limitations fixing the boundaries of those portions by legal descriptions
 189 setting forth the metes and bounds and regulating the order in which they may be withdrawn
 190 from the condominium project~~[-];~~ and

191 ~~[(iii)]~~ (vi) ~~[The declaration shall]~~ include a legal description by metes and bounds of all
 192 of the land within the condominium project to which the option to contract the project does not
 193 extend.

194 ~~[(e)]~~ (b) The condominium plat recorded with the declaration may provide or
 195 supplement the information required under ~~[Subsection (5)(b)]~~ Subsections (5)(a)(iv) through
 196 (vi).

197 (6) (a) If the condominium project is a leasehold condominium, ~~[then]~~ the declaration
 198 shall, with respect to any ground lease or other leases the expiration or termination of which
 199 will or may terminate or contract the condominium project:

200 (i) ~~[The declaration shall]~~ include recording information enabling the location of each
 201 lease in the official records of the county recorder~~[-];~~

202 (ii) ~~[The declaration shall]~~ include the date upon which each lease is due to expire~~[-];~~

203 (iii) ~~[The declaration shall]~~ state whether any land or improvements will be owned by
 204 the unit owners in fee simple~~[-]f~~;

205 (iv) if there is to be fee simple ownership of any land or improvement, as described in
 206 Subsection (6)(a)(iii), ~~[the declaration shall]~~ include:

207 (A) a description of the land or improvements, including ~~[without limitation,]~~ a legal
 208 description by metes and bounds of the land; or

209 (B) a statement of any rights the unit owners have to remove these improvements
 210 within a reasonable time after the expiration or termination of the lease or leases involved, or a
 211 statement that they shall have no such rights~~[-];~~ and

212 ~~[(iv)]~~ (v) ~~[The declaration shall]~~ include a statement of the rights the unit owners have
 213 to extend or renew any of the leases or to redeem or purchase any of the reversions, or a

214 statement that they have no such rights.

215 (b) After the recording of the declaration, ~~[no]~~ a lessor who executed the declaration,
216 ~~[and no]~~ or the lessor's successor in interest [to this lessor], [has any right or power to] may not
217 terminate any part of the leasehold interest of any unit owner who:

218 (i) makes timely payment of ~~[his]~~ the unit owner's share of the rent to the persons
219 designated in the declaration for the receipt of the rent; and

220 (ii) otherwise complies with all covenants which would entitle the lessor to terminate
221 the lease if ~~[they]~~ the covenants were violated.

222 (7) (a) If the condominium project contains time period units, the declaration shall also
223 contain the location of each condominium unit in the calendar year. This information shall be
224 set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the
225 exhibit or schedule accompanies the declaration.

226 (b) The declaration shall also put timeshare owners on notice that tax notices will be
227 sent to the management committee, not each timeshare owner.

228 (c) The time period units created with respect to any given physical unit shall be such
229 that the aggregate of the durations involved constitute a full calendar year.

230 (8) (a) The declaration, bylaws, and condominium plat shall be duly executed and
231 acknowledged by all of the owners and any lessees of the land which is made subject to this
232 chapter.

233 (b) As used in Subsection (8)(a), "owners and lessees" does not include, in their
234 respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other
235 lien holder, any person having an equitable interest under any contract for the sale or lease of a
236 condominium unit, or any lessee whose leasehold interest does not extend to any portion of the
237 common areas and facilities.

238 (9) (a) As used in this section, "rentals" or "rental unit" means:

239 (i) a unit owned by an individual not described in Subsection (9)(a)(ii) that is occupied
240 by someone while no unit owner occupies the unit as the unit owner's primary residence; and

241 (ii) a unit owned by an entity or trust, regardless of who occupies the unit.

242 (b) (i) Subject to Subsections (9)(c), (f), and (g), and except as provided in Subsection
243 (10), an association of unit owners may:

244 (A) create restrictions on the number and term of rentals in a condominium project; or

- 245 (B) prohibit rentals in the condominium project.
- 246 (ii) An association of unit owners that creates a rental restriction or prohibition in
247 accordance with Subsection (9)(b)(i) shall create the rental restriction or prohibition in a
248 declaration or by amending the declaration.
- 249 (c) [~~H~~] Subject to Subsection (9)(h), if an association of unit owners prohibits or
250 imposes restrictions on the number and term of rentals, the restrictions shall include:
- 251 (i) a provision that requires a condominium project to exempt from the rental
252 restrictions the following unit owner and the unit owner's unit:
- 253 (A) a unit owner in the military for the period of the unit owner's deployment;
- 254 (B) a unit occupied by a unit owner's parent, child, or sibling;
- 255 (C) a unit owner whose employer has relocated the unit owner for no less than two
256 years; or
- 257 (D) a unit owned by a trust or other entity created for estate planning purposes if the
258 trust or other estate planning entity was created for the estate of:
- 259 (I) a current resident of the unit; or
- 260 (II) the parent, child, or sibling of the current resident of the unit;
- 261 (ii) a provision [~~allowing~~] that allows a unit owner who has a rental in the
262 condominium project before the time the rental restriction described in Subsection (9)(b)(i) is
263 recorded with the county recorder of the county in which the condominium project is located to
264 continue renting until:
- 265 (A) the unit owner occupies the unit; or
- 266 (B) an officer, owner, member, trustee, beneficiary, director, or person holding a
267 similar position of ownership or control of an entity or trust that holds an ownership interest in
268 the unit, occupies the unit; and
- 269 (iii) a requirement that the association of unit owners create, by rule or resolution,
270 procedures to:
- 271 (A) determine and track the number of rentals and units in the condominium project
272 subject to the provisions described in Subsections (9)(c)(i) and (ii); and
- 273 (B) ensure consistent administration and enforcement of the rental restrictions.
- 274 (d) For purposes of Subsection (9)(c)(ii), a transfer occurs when one or more of the
275 following occur:

276 (i) the conveyance, sale, or other transfer of a unit by deed;
277 (ii) the granting of a life estate in the unit; or
278 (iii) if the unit is owned by a limited liability company, corporation, partnership, or
279 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,
280 membership interests, or partnership interests in a 12-month period.

281 (e) This section does not limit or affect residency age requirements for an association
282 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42
283 U.S.C. Sec. 3607.

284 (f) A declaration or amendment to a declaration recorded [~~prior to~~] before transfer of
285 the first unit from the initial declarant may prohibit or restrict rentals without providing for the
286 exceptions, provisions, and procedures required under Subsection (9)(c).

287 (g) This section does not apply to:

288 (i) a condominium project [~~containing~~] that contains a time period unit as defined in
289 Section [57-8-3](#);

290 (ii) any other form of timeshare interest as defined in Section [57-19-2](#); or

291 (iii) a condominium project in which the initial declaration is recorded before May 12,
292 2009.

293 (h) [~~Notwithstanding this section, an~~] An association of unit owners may, upon
294 unanimous approval by all unit owners, restrict or prohibit rentals without an exception
295 described in Subsection (9)(c).

296 (10) If a condominium project's initial declaration was recorded before May 12, 2009,
297 the association of unit owners may not prohibit or restrict a unit owner's ability to lease or rent
298 the unit owner's unit to any greater extent than is described in the declaration that was recorded
299 at the time the unit owner purchased the unit owner's unit, unless the unit owner provides
300 written consent.

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