



Council of the **DISTRICT OF COLUMBIA**

Code of the District of Columbia

Subchapter II. Establishment of Condominiums.

[§ 42-1902.01. Creation of condominiums; recordation of instruments; plats; contiguity of units.](#)

[§ 42-1902.02. Release of liens prior to conveyance of first unit; exemption; liens for labor or material applied to individual units or common areas; partial release.](#)

[§ 42-1902.03. Description of condominium units; undivided interest in common elements automatically included.](#)

[§ 42-1902.04. Declaration, bylaws and amendments of each to be executed by owners and lessees.](#)

[§ 42-1902.05. Recordation of condominium instruments; amendment and certification thereof.](#)

[§ 42-1902.06. Construction of terms in instruments; designation of unit boundaries; division of property within and without unit boundary; common element serving single unit.](#)

[§ 42-1902.07. Instruments construed together and incorporate one another; when conflict arises.](#)

[§ 42-1902.08. Provisions of instrument severable; unlawful provisions void; rule against perpetuities; restraints on alienation; unreasonable restraint.](#)

[§ 42-1902.09. Compliance with condominium chapter and instruments.](#)

[§ 42-1902.10. Contents of declaration; where condominium contains convertible land; expandable, contractable and leasehold condominiums; easements; additionally required descriptions.](#)

[§ 42-1902.11. Allocation of interests in common elements; proportionate or equal shares; statement in declaration; no alteration nor disposition without unit; no partition.](#)

[§ 42-1902.12. Allocation where condominium expandable or contains convertible land; reallocation following addition of land; where all convertible space converted to common elements; effect of reduction in number of units.](#)

[§ 42-1902.13. Assignments of limited common elements; method of reassignment; amendment of instruments and recordation thereof.](#)

[§ 42-1902.14. Recordation of plat and plans; contents; certification; when new plat, survey, and recordation necessary; provisions applicable to limited common elements; filing with Office of Surveyor.](#)

[§ 42-1902.15. Preliminary recordation of plans.](#)

[§ 42-1902.16. Easement for encroachments and support; where liability not relieved.](#)

[§ 42-1902.17. Conversion of convertible lands; recordation of appropriate instruments; character of convertible land; tax liability; time limitation on conversion.](#)

[§ 42-1902.18. Conversion of convertible spaces; amendment of declaration and bylaws; recordation; status of convertible space not converted.](#)

[§ 42-1902.19. Expansion of condominiums; amendment of declaration; recordation; reallocation of interests in common elements.](#)

[§ 42-1902.20. Contraction of the Condominium.](#)

[§ 42-1902.21. Declarant's easement over common elements for purpose of improvements, etc.](#)

[§ 42-1902.22. Sales offices, model units, etc.; authorization; when become common elements.](#)

[§ 42–1902.23. Representations or commitments relating to additional or withdrawable land; declarant's obligation to complete or begin improvements designated for such; liability for damages arising out of use of certain easements.](#)

[§ 42–1902.24. Improvements or alterations within unit; exterior appearance not to be changed; merger of adjoining units.](#)

[§ 42–1902.25. Relocation of boundaries between units; when permitted; written application; amendment of declaration and bylaws; reallocation of common elements; altered maps and plans; recordation and effect thereof; scope of provisions.](#)

[§ 42–1902.26. Subdivision of units; when permitted; written application; amendment of declaration and bylaws; reallocation of common elements; altered maps and plans; recordation and effect thereof; scope of provisions.](#)

[§ 42–1902.27. Amendment of instruments.](#)

[§ 42–1902.28. Termination of condominium.](#)

[§ 42–1902.29. Condominium lease; recordation; terms; leasehold payments; increases; sale or assignation; offer to unit owners' association; renewal.](#)

[§ 42–1902.30. Transfer of special declarant rights.](#)

§ 42–1902.01. Creation of condominiums; recordation of instruments; plats; contiguity of units.

No condominium shall come into existence except by the recordation of condominium instruments pursuant to the provisions of this chapter. No condominium instruments shall be recorded unless all units located or to be located on any portion of the submitted land, other than within the boundaries of any convertible lands, are depicted on plats and plans that comply with the provisions of subsections (a) and (b) of [§ 42-1902.14](#). The foreclosure of any mortgage, deed of trust or other lien shall not be deemed, ex proprio vigore, to terminate the condominium.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 201, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(h\), 38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1811.

1973 Ed., § 5-1211.

Section References

This section is referenced in [§ 42-1904.10](#).

Cross References

Bylaws and declaration copies for purchasers, see [§ 42-1904.10](#).

§ 42–1902.02. Release of liens prior to conveyance of first unit; exemption; liens for labor or material applied to individual units or common areas; partial release.

(a) At the time of the conveyance to the first purchaser of each condominium unit following the recordation of the declaration, every mortgage, deed of trust, any other perfected lien, or any mechanics' or materialmen's liens, affecting all of the condominium or a greater portion thereof than the condominium unit conveyed, shall be paid and satisfied of record, or the declarant shall forthwith have the said condominium unit released of record from all such liens not so paid and satisfied. The provisions of this subsection shall not apply, however, to any withdrawable land in a contractable condominium, nor shall any provision of this subsection be construed to prohibit the unit owners' association from mortgaging or causing a deed of trust to be placed on any portion of the condominium within which no units are located, so long as any time limit specified pursuant to [§ 42-1903.02\(a\)](#) has expired, and so long as the bylaws authorize the same.

(b) No labor performed or materials furnished with the consent of or at the request of a unit owner or such unit owner's agent or contractor or subcontractor shall be the basis for the filing of a lien pursuant to the provisions of [§ 40-301.01](#) against the property of any unit owner not expressly consenting to the same, except that such consent shall be deemed to be given by any unit owner in the case of emergency repairs to his unit. Labor performed or materials furnished for the common elements, if duly authorized by the unit owners' association or its executive board subsequent to any period of developer control pursuant to [§ 42-1903.02\(a\)](#), shall be deemed to be performed or furnished with the express consent of every unit owner and shall be the basis for the filing of a lien pursuant to the provisions of [§ 40-301.01](#) against all of the condominium units. Notice of such lien shall be served on the principal officer of the unit owners' association or any member of the executive board.

(c) In the event that any lien, other than a deed of trust or mortgage, becomes effective against 2 or more condominium units subsequent to the creation of the condominium, any unit owner may remove such unit owner's condominium unit from that lien by payment of the amount attributable to that condominium unit, or, in the case of any mechanic's or materialman's lien, by filing a written undertaking for such amount with surety approved by the court as provided in [§ 40-303.16](#). Such amount shall be computed by reference to the liability for common expenses appertaining to that condominium unit pursuant to [§ 42-1903.12\(c\)](#). Subsequent to such payment, discharge or other satisfaction, or filing of bond, the unit owner of that condominium unit shall be entitled to have that lien released as to such unit owner's condominium unit, and the unit owners' association shall not assess, or have a valid lien against that condominium unit for any portion of the common expenses incurred in connection with that lien, notwithstanding anything to the contrary in §§ [42-1903.12](#) and [42-1903.13](#).

([Mar. 29, 1977, D.C. Law 1-89, title II, § 202, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(i\), 38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1812.

1973 Ed., § 5-1212.

§ 42-1902.03. Description of condominium units; undivided interest in common elements automatically included.

After the creation of the condominium, no description of a condominium unit shall be deemed vague, uncertain, or otherwise insufficient or infirm which sets forth the identifying number of that unit, the name of the condominium and the instrument number and date of recordation of the declaration and the condominium book and page number where the plats and plans are recorded. Any such description shall be deemed to include the undivided interest in the common elements appertaining to such unit even if such interest is not defined or referred to therein.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 203, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1813.

1973 Ed., § 5-1213.

§ 42–1902.04. Declaration, bylaws and amendments of each to be executed by owners and lessees.

The declaration and bylaws, and any amendments of either made pursuant to [§ 42-1902.19](#), shall be executed by or on behalf of all of the owners and lessees of the submitted land. But the phrase “owners and lessees” in the preceding sentence and in [§ 42-1902.19](#) does not include, in their capacity as such, any mortgagee, any trustee or beneficiary under a deed of trust, any other lien holder, any person having an inchoate dower or curtesy interest, any person having an equitable interest under any contract for the sale or lease of a condominium unit, or any lessee whose leasehold interest does not extend to any portion of the common elements.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 204, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(j\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1814.

1973 Ed., § 5-1214.

§ 42–1902.05. Recordation of condominium instruments; amendment and certification thereof.

All amendments and certifications of the condominium instruments shall set forth the instrument number and date of recordation of the declaration and, when necessary, shall set forth the condominium book and page number where the plats and plans are recorded. All condominium instruments and all amendments and certifications thereof shall set forth the name and address of the condominium and shall be so recorded. The Recorder of Deeds shall accept for recordation any executed and acknowledged condominium instrument or any executed and acknowledged amendment and certification without further review of a condominium instrument or the imposition of any additional requirement.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 205, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(k\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1815.

1973 Ed., § 5-1215.

Section References

This section is referenced in [§ 42-1904.10](#).

Cross References

Bylaws and declaration copies for purchasers, see [§ 42-1904.10](#).

§ 42–1902.06. Construction of terms in instruments; designation of unit boundaries; division of property within and without unit boundary; common element serving single unit.

Except to the extent otherwise provided by the condominium instruments:

(1) The terms defined in [§ 42-1901.02](#) shall be deemed to have the meanings therein specified wherever they appear in the condominium instruments unless the context otherwise requires;

(2) To the extent that walls, floors, or ceilings are designated as the boundaries of the units or of any specified units, all doors and windows therein, and all lath, wallboard, plastering, and any other materials constituting any part of the finished surfaces thereof, shall be deemed a part of such units, while all other portions of such walls, floors, or ceilings shall be deemed a part of the common elements;

(3) If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit, while any portions thereof serving more than 1 unit or any portion of the common elements shall be deemed a part of the common elements;

(4) Subject to the provisions of paragraph (3) of this section, all space, interior partitions, and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit; and

(5) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, and any other apparatus designed to serve a single unit, but located outside the boundaries thereof, shall be deemed a limited common element appertaining to that unit exclusively.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 206, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1816.

1973 Ed., § 5-1216.

Section References

This section is referenced in [§ 42-1901.01](#), [§ 42-1902.10](#), [§ 42-1902.14](#), and [§ 42-1903.06](#).

§ 42–1902.07. Instruments construed together and incorporate one another; when conflict arises.

The condominium instruments shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of this chapter as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others. If any conflict exists among the condominium instruments, the declaration controls, except that a construction consistent with this chapter controls in all cases over any inconsistent construction.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 207, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1817.

1973 Ed., § 5-1217.

§ 42–1902.08. Provisions of instrument severable; unlawful provisions void; rule against perpetuities; restraints on alienation; unreasonable restraint.

(a) All provisions of the condominium instruments shall be deemed severable, and any unlawful provision thereof shall be void.

(b) No provision of the condominium instruments shall be deemed void by reason of the rule against perpetuities.

(c) No restraint on alienation shall discriminate or be used to discriminate on the basis of religious conviction, race, color, sex, or national origin. The condominium instruments may provide, however, for restraints on use of some or all of the units restricting the use of such units to persons meeting requirements based upon age, sex, marital status, physical disability or, in connection with programs of the federal or District of Columbia government, income levels.

(d) Subject to the provisions of subsection (c) of this section, the rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments restraining the alienation of condominium units not restricted exclusively to residential use.

(e) Title to a condominium unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the condominium instruments to comply with this chapter. Whether or not a substantial failure impairs marketability is not affected by this chapter.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 208, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(l\), 38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1818.

1973 Ed., § 5-1218.

§ 42–1902.09. Compliance with condominium chapter and instruments.

(a) Any lack of compliance with this chapter or with any lawful provision of the condominium instruments shall be grounds for an action or suit to recover damages or injunctive relief, or for any other available remedy maintainable by the unit owners' association, the unit owners' association's executive board, any managing agent on behalf of the unit owners' association, an aggrieved person on his or her own behalf, or, in an otherwise proper case, as a class action.

(b) The decisions and actions of the unit owners' association and its executive board shall be reviewable by a court using the "business judgment" standard. A unit owners' association shall have standing to sue in its own name for a claim or action related to the common elements. Unless otherwise provided in the condominium instruments, the substantially prevailing party in an action brought by a unit owners' association against a unit owner or by a unit owner against the unit owners' association shall be entitled to recover reasonable attorneys' fees and costs expended in the matter.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 209, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(m\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(c\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1819.

1973 Ed., § 5-1219.

Section References

This section is referenced in [§ 42-1903.13](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) added (b).

Cross References

Liens for unit assessments, enforcement and foreclosure sales, see [§ 42-1903.13](#).

§ 42–1902.10. Contents of declaration; where condominium contains convertible land; expandable, contractable and leasehold condominiums; easements; additionally required descriptions.

(a) The declaration for every condominium shall contain:

(1) The name of the condominium, which name shall include the word “condominium” or be followed by the words “a condominium”;

(2) A legally sufficient description of the land submitted to this chapter;

(3) A description or delineation of the boundaries of the units, including the horizontal (upper and lower) boundaries, if any, as well as the vertical (lateral or perimetric) boundaries;

(4) A description or delineation of any limited common elements not covered by [§ 42-1902.06\(5\)](#), showing or designating the unit or units to which each is assigned;

(5) A description or delineation of all common elements not within the boundaries of any convertible lands which may subsequently be assigned as limited common elements, together with a statement that they may be so assigned and a description of the method whereby any such assignments shall be made in accordance with the provisions of [§ 42-1902.13](#). The description of the method whereby an assignment shall be made shall include the following information:

(A) The name of any person who may assign the limited common elements;

(B) The name of any person who must execute the assignment;

(C) Whether or not the deed to a condominium unit will reflect the assignment, if previously made; and

(D) If there is any limited common expense payable by the unit owners of a condominium unit to which the limited common elements pertain;

(6) The allocation to each unit of an undivided interest in the common elements in accordance with the provisions of [§ 42-1902.11](#); and

(7) Such other matters as the declarant deems appropriate.

(b) If the condominium contains any convertible land the declaration shall also contain:

(1) A legally sufficient description of each convertible land within the condominium;

(2) A statement of the maximum number of units that may be created within each such convertible land;

(3) A statement, with respect to each such convertible land, of the maximum percentage of the aggregate land and floor area of all units that may be created therein that may be occupied by units not restricted exclusively to residential use;

(4) A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the submitted land in terms of quality of construction, the principal materials to be used and architectural style;

(5) A description of all other improvements that may be made in each convertible land within the condominium;

(6) A statement that any units created within each convertible land will be substantially identical to the units on other portions of the submitted land, or a statement describing in detail what other types of units may be created therein; and

(7) A description of the declarant's reserved right, if any, to create limited common elements within any convertible land, or to designate common elements therein which may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum number of such elements within each such convertible land; provided, that the plats and plans recorded pursuant to subsections (a) and (b) of [§ 42-1902.14](#) may be used to supplement information furnished pursuant to paragraphs (1), (4), (5), (6), and (7) of this subsection, and that paragraph (3) of this subsection need not be complied with if none of the units on other portions of the submitted land are restricted exclusively to residential use.

(c) If the condominium is an expandable condominium the declaration shall also contain:

(1) The explicit reservation of an option to expand the condominium;

(2) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and if so, a statement as to the method whereby such consent shall be ascertained; or a statement that there are no such limitations;

(3) A time limit, not exceeding 5 years from the recording of the declaration, upon which the option to expand the condominium shall expire, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(4) A legally sufficient description of all land that may be added to the condominium, henceforth referred to as "additional land";

(5) A statement as to whether, if any of the additional land is added to the condominium, all of it or any particular portion of it must be added, and if not, a statement of any limitations as to what portions may be added or a statement that there are no such limitations;

(6) A statement as to whether portions of the additional land may be added to the condominium at different times, together with any limitations fixing the boundaries of those portions by legally sufficient descriptions regulating the order in which they may be added to the condominium;

(7) A statement of any limitations as to the locations of any improvements that may be made on any portions of the additional land added to the condominium, or a statement that no assurances are made in that regard;

(8) A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium and the boundaries of those portions are fixed in accordance with paragraph (6) of this subsection, the declaration shall also state the maximum number of units that may be created on each portion added to the condominium. If portions of the additional land may be added to the condominium and the boundaries of those portions are not fixed in accordance with paragraph (6) of this subsection, then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium;

(9) A statement, with respect to the additional land and to any portion or portions thereof that may be added to the condominium, of the maximum percentage of the aggregate land and floor area of all units that may be created thereon that may be occupied by units not restricted exclusively to residential use;

(10) A statement of the extent to which any structures erected on any portion of the additional land added to the condominium will be compatible with structures on the submitted land in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that no assurances are made in those regards;

(11) A description of all other improvements that will be made on any portion of the additional land added to the condominium, or a statement of any limitations as to what other improvements may be made thereon, or a statement that no assurances are made in that regard;

(12) A statement that any units created on any portion of the additional land added to the condominium will be substantially identical to the units on the submitted land, or a statement of any limitations as to what types of units may be created thereon, or a statement that no assurances are made in that regard; and

(13) A description of the declarant's reserved right, if any, to create limited common elements within any portion of the additional land added to the condominium, or to designate common elements therein which may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum number of such elements within each such portion, or a statement that no assurances are made in those regards; provided, that the plats and plans recorded pursuant to subsections (a) and (b) of [§ 42-1902.14](#) may be used to supplement information furnished pursuant to paragraphs (4), (5), (6), (7), (10), (11), (12) and (13) of this subsection, and that paragraph (9) of this subsection need not be complied with if none of the units on the submitted land is restricted exclusively to residential use.

(d) If the condominium is a contractable condominium the declaration shall also contain:

(1) The explicit reservation of an option to contract the condominium;

(2) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and if so, a statement as to the method whereby such consent shall be ascertained; or a statement that there are no such limitations;

(3) A time limit, not exceeding 5 years from the recording of the declaration, upon which the option to contract the condominium shall expire, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(4) A legally sufficient description of all land that may be withdrawn from the condominium, henceforth referred to as "withdrawable land";

(5) A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with any limitations fixing the boundaries of those portions by legally sufficient descriptions clearly delineating such portions and regulating the order in which such portions may be withdrawn from the condominium; and

(6) A legally sufficient description of all of the submitted land to which the option to contract the condominium does not extend; provided, that the plats recorded pursuant to [§ 42-1902.14\(a\)](#) may be used to supplement information furnished pursuant to paragraphs (4), (5) and (6) of this subsection, and that paragraph (6) of this subsection shall not be construed in derogation of any right the declarant may have to terminate the condominium in accordance with the provisions of [§ 42-1902.27](#).

(e) If the condominium is a leasehold condominium, then with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium, the declaration shall set forth:

(1) The instrument number and date of recordation of each such lease;

(2) The date upon which each such lease is due to expire and the rights, if any, to renew such lease and the conditions pertaining to any such renewal;

(3) A statement as to whether any land or improvements, or both, will be owned by the unit owners in fee simple, and if so, either:

(A) A description of the same, including without limitation a legally sufficient description of any such land; or

(B) A statement of any rights the unit owners shall have to remove such improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights; and

(4) A statement of the rights the unit owners shall have to redeem the reversion or any of the reversions, or a statement that they shall have no such rights; provided, that after the recording of the declaration, no lessor who executed the same, and no successor in interest to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person or persons designated in the declaration for the receipt of such rent and who otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder shall not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the condominium are thus acquired or reacquired.

(f) Wherever this section requires a legally sufficient description of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed to require a legally sufficient description of any easements that are submitted to this chapter or that may be added to or withdrawn from the condominium, as the case may be. In the case of each such easement, the declaration shall contain:

(1) A description of the permitted use or uses;

(2) If less than all of those entitled to the use of all the units may utilize such easement, a statement of the relevant restrictions and limitations on utilization; and

(3) If any persons other than those entitled to the use of the units may utilize such easement, a statement of the rights of others to utilization of the same.

(g) Wherever this section requires a legally sufficient description of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common or joint tenants with any other persons, and a separate legally sufficient description of all lands in which the unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the declaration shall describe the nature of the unit owners' estates therein. No such lands shall be shown on the same plat or plats showing other portions of the condominium, but shall be shown instead on separate plats.

[\(Mar. 29, 1977, D.C. Law 1-89, title II, § 210, 23 DCR 9532b; Mar. 8, 1991, D.C. Law 8-233, § 2\(n\), 38 DCR 261.\)](#)

Prior Codifications

1981 Ed., § 45-1820.

1973 Ed., § 5-1220.

Section References

This section is referenced in [§ 42-1902.12](#), [§ 42-1902.13](#), [§ 42-1902.15](#), [§ 42-1902.19](#), [§ 42-1902.20](#), and [§ 42-1903.02](#).

§ 42–1902.11. Allocation of interests in common elements; proportionate or equal shares; statement in declaration; no alteration nor disposition without unit; no partition.

(a) The declaration may allocate to each unit depicted on plats and plans that comply with subsections (a) and (b) of [§ 42-1902.14](#) an undivided interest in the common elements proportionate to either the size or par value of each unit.

(b) Otherwise, the declaration shall allocate to each such unit an equal undivided interest in the common elements, subject to the following exception: Each convertible space so depicted shall be allocated an undivided interest in the common elements proportionate to the size of each such space, vis-à-vis the aggregate size of all units so depicted, while the remaining undivided interest in the common elements shall be allocated equally to the other units so depicted.

(c) The undivided interests in the common elements allocated in accordance with subsection (a) or (b) of this section shall add up to 1 if stated as fractions or 100% if stated as percentages.

(d) If, in accordance with subsection (a) or (b) of this section, an equal undivided interest in the common elements is allocated to each unit, the declaration may simply state that fact and need not express the fraction or percentage so allocated.

(e) Otherwise, the undivided interest allocated to each unit in accordance with subsection (a) or (b) of this section shall be reflected by a table in the declaration, or by an exhibit or schedule accompanying the declaration and recorded simultaneously therewith, containing 3 columns. The first column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective areas or par values of those units and the fraction or percentage of undivided interest in the common elements allocated thereto.

(f) Except to the extent otherwise expressly provided by this chapter, the undivided interest in the common elements allocated to any unit shall not be altered, and any purported transfer, encumbrance, or other disposition of that interest without the unit to which it appertains shall be void.

(g) The common elements shall not be subject to any suit for partition until and unless the condominium is terminated.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 211, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1821.

1973 Ed., § 5-1221.

Section References

This section is referenced in [§ 42-1902.10](#).

§ 42–1902.12. Allocation where condominium expandable or contains convertible land; reallocation following addition of land; where all convertible space converted to common elements; effect of reduction in number of units.

(a) If a condominium contains any convertible land or is an expandable condominium, then the declaration shall not allocate undivided interests in the common elements on the basis of par value unless the declaration:

(1) Prohibits the creation of any units not substantially identical to the units depicted on the plats and plans recorded pursuant to subsections (a) and (b) of [§ 42-1902.14](#); or

(2) Prohibits the creation of any units not described pursuant to [§ 42-1902.10\(b\)\(6\)](#) (in the case of convertible lands) or [§ 42-1902.10\(c\)\(12\)](#) (in the case of additional land), and contains from the outset a statement of the par value that shall be assigned to every such unit that may be created.

(b) No allocation of interests in the common elements to any units created within any convertible land or within any additional land shall be effective until plats and plans depicting such units are recorded pursuant to [§ 42-1902.14\(c\)](#). The declarant shall reallocate the undivided interests in the common elements so that the units within the convertible land or additional land shall be allocated undivided interests in the common elements on the same basis as the units depicted on the plats and plans recorded pursuant to subsections (a) and (b) of [§ 42-1902.14](#). Promptly upon recording the amendment to the declaration, the declarant shall record an amendment to the plats and plans depicting the units created within the convertible land or additional land.

(c) If all of a convertible space is converted into common elements, then the undivided interest in the common elements appertaining to such space shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common elements. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

(d) In the case of a leasehold condominium, if the expiration or termination of any lease causes a contraction of the condominium which reduces the number of units, then the undivided interest in the common elements appertaining to any units thereby withdrawn from the condominium shall thenceforth appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common elements. The principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced thereby.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 212, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1822.

1973 Ed., § 5-1222.

Section References

This section is referenced in [§ 42-1902.15](#), [§ 42-1902.17](#), [§ 42-1902.19](#), and [§ 42-1903.01](#).

§ 42–1902.13. Assignments of limited common elements; method of reassignment; amendment of instruments and recordation thereof.

(a) All assignments and reassignments of limited common elements shall be reflected by the condominium instruments. No limited common element shall be assigned or reassigned except in accordance with the provisions of this chapter. No amendment to any condominium instrument shall alter any rights or obligations with respect to any limited common elements without the consent of all unit owners adversely affected thereby as evidenced by their execution of such amendment, except to the extent that the condominium instrument expressly provided otherwise prior to the first assignment of that limited common element.

(b) Unless expressly prohibited by the condominium instruments, a limited common element may be reassigned upon written application of the condominium unit owners concerned to the principal officer of the unit owners' association or to any officer the condominium instruments may specify. The officer to whom the application is made shall prepare and execute an amendment to the condominium instruments that reassigns any right or obligation with respect to the limited common element involved. The amendment shall be executed by the unit owners of the condominium units concerned and shall be recorded by the unit owners' association upon payment by the unit owners of reasonable costs for preparation and acknowledgment of the amendment.

(c) A common element not previously assigned as a limited common element shall be assigned only pursuant to [§ 42-1902.10\(a\)\(5\)](#). The assignment shall be made as follows:

(1) If the assignment is made by the declarant, the amendment to the declaration that makes an assignment shall be prepared, executed, and recorded by the declarant and a copy sent to the unit owners' association. Unless the declaration provides otherwise, the amendment shall be executed by the condominium unit owner of the unit concerned. The recordation of an amendment shall be conclusive evidence of compliance with the method prescribed by [§ 42-1902.10\(a\)\(5\)](#).

(2) If the assignment is made by the unit owners' association, the amendment to the declaration that makes an assignment shall be prepared and executed by the principal officer of the unit owners' association or any other officer the condominium instruments may specify. An amendment shall be executed by the condominium unit owner of the unit concerned, and upon payment by the unit owner for the reasonable costs for the preparation and acknowledgment of the amendment, the amendment shall be recorded by the unit owners' association. The recordation of an amendment shall be conclusive evidence of compliance with the method prescribed by [§ 42-1902.10\(a\)\(5\)](#).

(3) Any assignment made prior to March 8, 1991, shall be considered valid if the assignment would be permitted pursuant to this section.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 213, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(o\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(e\), 39 DCR 683](#).)

Prior Codifications

1981 Ed., § 45-1823.

1973 Ed., § 5-1223.

Section References

This section is referenced in [§ 42-1902.10](#).

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(e) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

§ 42–1902.14. Recordation of plat and plans; contents; certification; when new plat, survey, and recordation necessary; provisions applicable to limited common elements; filing with Office of Surveyor.

(a) There shall be recorded promptly upon recordation of the declaration, 1 or more plats of survey showing the location and dimensions of the submitted land, the location and dimensions of any convertible lands within the submitted land, the location and dimensions of any existing improvements, the intended location and dimensions of any contemplated improvements which are to be located on any portion of the submitted land other than within the boundaries of any convertible lands, and, to the extent feasible, the location and dimensions of all easements appurtenant to the submitted land or otherwise submitted to this chapter as a part of the common elements. If the submitted land is not contiguous, then the plats shall indicate the distances between the parcels constituting the submitted land. The plats shall label every convertible land as a convertible land, and if there be more than 1 such land the plats shall label each such land with 1 or more letters or numbers, or both, different from those designating any other convertible land and different also from the identifying number of any unit. The plats shall show the location and dimensions of any withdrawable lands, and shall label each such land with 1 or more letters or numbers, or both, different from those designating any other convertible land and different also from the identifying number of any unit. The plats shall show the location and dimensions of any withdrawable lands, and shall label each such land as a withdrawable land. If, with respect to any portion or portions, but less than all, of the submitted land, the unit owners are to own only an estate for years, the plats shall show the location and dimensions of any such portions, and shall label each such portion as a leased land. If there is more than 1 withdrawable land, or more than 1 leased land, the plats shall label each such land with 1 or more letters or numbers, or both, different from those designating any convertible land or other withdrawable or leased land, and different also from the identifying number of any unit. The plats shall show all easements to which the submitted land or any portion thereof is subject, and shall show the location and dimensions of all such easements to the extent feasible. The plats shall also show all encroachments by or on any portion of the condominium. In the case of any improvements located or to be located on any portion of the submitted land other than within the boundaries of any convertible lands, the plats shall indicate which, if any, have not been begun by the use of the phrase "not yet begun," and which, if any, have been begun but have not been substantially completed by the use of the phrase "not yet completed." In the case of any units the vertical boundaries of which lie wholly or partially outside of structures for which plans pursuant to subsection (b) of this section are simultaneously recorded, the plats shall show the location and dimensions of such vertical boundaries to the extent that they are not shown on such plans, and the units or portions thereof thus depicted shall bear their identifying numbers. Each plat shall be certified as to its accuracy and compliance with the provisions of this subsection by a registered land surveyor, and the said surveyor shall certify that all units or portions thereof depicted thereon pursuant to the preceding sentence of this subsection have been substantially completed. The specification within

this subsection of items that shall be shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily shown or hereafter required for land title surveys.

(b) There shall also be recorded, promptly upon recordation of the declaration, plans of every structure which contains or constitutes all or part of any unit or units, and which is located on any portion of the submitted land other than within the boundaries of any convertible lands. The plans shall show the location and dimensions of the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units or portions thereof thus depicted shall bear their identifying numbers. In addition, each convertible space thus depicted shall be labeled a convertible space. The horizontal boundaries of each unit having horizontal boundaries shall be identified on the plans with reference to established datum. Unless the condominium instruments expressly provide otherwise, it shall be presumed that in the case of any unit not wholly contained within or constituting 1 or more such structures, the horizontal boundaries thus identified extend, in the case of each such unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any such unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of such structures. The plans shall be certified as to their accuracy and compliance with the provisions of this subsection by a registered architect or registered engineer, and the said architect or engineer shall certify that all units or portions thereof depicted thereon have been substantially completed.

(c) When converting all or any portion of any convertible land, or adding additional land to an expandable condominium, the declarant shall record new plats of survey conforming to the requirements of subsection (a) of this section. In any case where less than all of a convertible land is being converted, such plats shall show the location and dimensions of the remaining portion or portions of such land in addition to otherwise conforming with the requirements of subsection (a) of this section. At the same time, the declarant shall record, with regard to any structures on the land being converted, or added, either plans conforming to the requirements of subsection (b) of this section, or certifications, conforming to the certification requirements of said subsection, of plans previously recorded pursuant to [§ 42-1902.15](#).

(d) When converting all or any portion of any convertible space into 1 or more units or limited common elements, the declarant shall record, with regard to the structure or portion thereof constituting that convertible space, plans showing the location and dimensions of the vertical boundaries of each unit or limited common elements formed out of such space. Such plans shall be certified as to their accuracy and compliance with the provisions of this subsection by a registered architect or registered engineer.

(e) For the purposes of subsections (a), (b), and (c) of this section, all provisions and requirements relating to units shall be deemed equally applicable to limited common elements. The limited common elements shall be labeled as such, and each limited common element depicted on the plats and plans shall bear the identifying number or numbers of the unit or units to which it is assigned, if it has been assigned, unless the provisions of [§ 42-1902.06\(5\)](#) make such designations unnecessary.

(f) The Office of the Surveyor shall receive plats and plans filed pursuant to this chapter. Unless such plats and plans are filed pursuant to [§ 42-1902.15](#), the Office of the Surveyor shall ascertain whether such plats and plans contain the certification required by subsections (a) and (b) of this section. If plats and plans are filed pursuant to [§ 42-1902.15](#) or if plats and plans are filed with the required certification, the Office of the Surveyor shall record such plats and plans without further certification or review. If plats and plans filed pursuant to [§ 42-1902.15](#) are thereafter certified as required by this section, the Office of the Surveyor shall record such certification with such plats and plans without further certification or review.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 214, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1824.

1973 Ed., § 5-1224.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.01](#), [§ 42-1902.10](#), [§ 42-1902.11](#), [§ 42-1902.12](#), [§ 42-1902.15](#), [§ 42-1902.17](#), [§ 42-1902.18](#), [§ 42-1902.19](#), [§ 42-1903.01](#), [§ 42-1903.05](#), and [§ 42-1904.03](#).

§ 42–1902.15. Preliminary recordation of plans.

Plans previously recorded pursuant to the provisos set forth in subsections (b) and (c) of [§ 42-1902.10](#) may be used in lieu of new plans to satisfy in whole or in part the requirements of §§ [42-1902.12\(b\)](#), [42-1902.17\(b\)](#) and [42-1902.19](#) if certifications thereof are recorded by the declarant in accordance with [§ 42-1902.14\(b\)](#); and if such certifications are so recorded, the plans which they certify shall be deemed recorded pursuant to [§ 42-1902.14\(c\)](#) within the meaning of the 3 sections aforesaid.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 215, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1825.

1973 Ed., § 5-1225.

Section References

This section is referenced in [§ 42-1902.14](#).

§ 42–1902.16. Easement for encroachments and support; where liability not relieved.

(a) To the extent that any unit or common element encroaches on any other unit or common element, whether by reason of any deviation from the plats and plans in the construction, repair, renovation, restoration, or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall exist; provided, however, such easement shall not relieve unit owners of liability in cases of wilful and intentional misconduct by them or their agents or employees, nor shall the declarant or any contractor, subcontractor, or materialman be relieved of any liability which any of them may have by reason of any failure to adhere strictly to the plats and plans.

(b) Each unit and common element shall have an easement for support from every other unit and common element.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 216, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1826.

1973 Ed., § 5-1226.

§ 42–1902.17. Conversion of convertible lands; recordation of appropriate instruments; character of convertible land; tax liability; time limitation on conversion.

(a) The declarant may convert all or any portion of any convertible land into 1 or more units or common elements, or both, subject to any restrictions and limitations which the condominium instruments may specify. Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments pursuant to subsection (b) of this section and [§ 42-1902.14\(c\)](#).

(b) The declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such amendment shall assign an identifying number to each unit formed out of a convertible land and shall reallocate undivided interests in the common elements in accordance with [§ 42-1902.12\(b\)](#). Such amendment shall describe or delineate the limited common elements formed out of the convertible land, showing or designating the unit or units to which each is assigned.

(c) All convertible lands shall be deemed a part of the common elements except for such portions thereof as are converted in accordance with the provisions of this section. Until the expiration of the period during which conversion may occur or until actual conversion, whichever occurs first, real estate taxes shall be assessed against the declarant rather than the unit owners as to both the convertible land and any improvements thereon. No such conversion shall occur after 5 years from the recordation of the declaration, or such shorter period of time as the declaration may specify.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 217, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1827.

1973 Ed., § 5-1227.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.15](#), and [§ 42-1902.19](#).

§ 42–1902.18. Conversion of convertible spaces; amendment of declaration and bylaws; recordation; status of convertible space not converted.

(a) The declarant may convert all or any portion of any convertible space into 1 or more units or common elements, or both, including without limitation, limited common elements, subject to any restrictions and limitations which the condominium instruments may specify. Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments pursuant to subsection (b) of this section and [§ 42-1902.14\(d\)](#).

(b) Simultaneously with the recording of plats and plans pursuant to [§ 42-1902.14\(d\)](#), the declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such amendment shall assign an identifying number to each unit formed out of a convertible space and shall allocate to each unit a portion of the undivided interest in the common elements appertaining to that space. Such amendment shall describe or delineate the limited common elements formed out of the convertible space, showing or designating the unit or units to which each is assigned.

(c) If all or any portion of any convertible space is converted into 1 or more units in accordance with this section, the declarant shall prepare, execute, and record simultaneously with the amendment to the declaration, an amendment to the bylaws. The amendment to the bylaws shall reallocate votes in the unit owners' association, rights to future common profits, and liabilities for future common expenses not specially assessed, all as in the case of the subdivision of a unit in accordance with [§ 42-1902.26\(d\)](#).

(d) Any convertible space not converted in accordance with the provisions of this section, or any portion or portions thereof not so converted, shall be treated for all purposes as a single unit until and unless it is so converted, and the provisions of this chapter shall be deemed applicable to any such space, or portion or portions thereof, as though the same were a unit.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 218, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1828.

1973 Ed., § 5-1228.

Section References

This section is referenced in [§ 42-1901.02](#) and [§ 42-1902.26](#).

§ 42–1902.19. Expansion of condominiums; amendment of declaration; recordation; reallocation of interests in common elements.

No condominium shall be expanded except in accordance with the provisions of the declaration and of this chapter. Any such expansion shall be deemed to have occurred at the time of the recordation of plats and plans pursuant to [§ 42-1902.14\(c\)](#) and the recordation of an amendment to the declaration, duly executed by the declarant, including, without limitation, all of the owners and lessees of the additional land added to the condominium. Such amendment shall contain a legally sufficient description of the land added to the condominium, and shall reallocate undivided interests in the common elements in accordance with the provisions of [§ 42-1902.12\(b\)](#). Such amendment may create convertible or withdrawable lands within the land added to the condominium, but this provision shall not be construed in derogation of the time limits imposed by or pursuant to §§ [42-1902.10\(d\)\(3\)](#) and [42-1902.17\(c\)](#).

([Mar. 29, 1977, D.C. Law 1-89, title II, § 219, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1829.

1973 Ed., § 5-1229.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.04](#), and [§ 42-1902.15](#).

§ 42–1902.20. Contraction of the Condominium.

(a) Except as provided in subsection (b) of this section, a condominium shall be allowed to contract at the time of the recordation of an amendment to the declaration, containing a legally sufficient description of the property withdrawn from the condominium; provided, that:

(1) If portions of the withdrawable property were described pursuant to [§ 42-1902.10\(d\)\(5\)](#), then no such portion shall be withdrawn after the conveyance of any unit on such portion; or

(2) If no such portions were described, then none of the withdrawable land shall be withdrawn after the first conveyance of any unit thereon.

(b)(1) A condominium may contract when the unit owners' association ("association") votes to allow one or more separate buildings in the condominium to withdraw; provided, that:

(A) Each unit owner must vote affirmatively to allow the withdrawal;

(B) Each vote must be in writing;

(C) No unit owner may be permitted to vote by proxy; and

(D) The vote occurs after the time period for making a warranty claim under [§ 42-1903.16](#) has expired, or after the release of the warranty bond, whichever is later.

(2)(A) If at the time of contraction there are any encumbrances or liens against any of the units, the contraction will be effective only when all creditors holding such encumbrances or liens consent in writing to the amendment to the declaration and amended plat and plans or their encumbrances or liens are satisfied or expire by operation of law.

(B) The contraction will be effective only when the provider of the master property insurance policy for the condominium consents in writing to the amendment to the declaration and amended plat and plans, or when the contracted condominium and any new condominiums created as a result of the contraction each enter an agreement with a new provider to provide a master insurance policy.

(3) To effectuate the contraction, the declarant or the association shall:

(A) Record an amendment to the declaration with the Recorder of Deeds; and

(B) Submit an amended plat and plans to the Department of Buildings that depict:

(i) The withdrawn building and condominium tax lots; and

(ii) The remaining building and condominium tax lots.

(4) The amendment to the declaration shall reallocate in proportion to the respective percentages of units remaining in the contracted condominium:

(A) The percentages of common element ownership;

(B) Voting power in the unit owners' association; and

(C) Liability for common expenses.

(5)(A)(i) Upon contraction, the unit owners of the pre-existing condominium units on the withdrawn property shall own the property as a condominium or as tenants in common as provided in [§ 42-1902.28\(g\)](#).

(ii) The amendments required to be recorded pursuant to paragraph (3) of this subsection shall make clear how the withdrawn property shall be owned.

(iii) No new deeds shall be required to be recorded as a consequence of a contraction pursuant to this subsection.

(B) If the withdrawn property is to be owned as one or more new condominiums:

(i) A new declaration, bylaws, and plat and plans shall be recorded for each new condominium; and

(ii) The owners of withdrawn property shall not be required to pay any taxes or fees under [§ 42-3402.04](#); provided, that the record owner remains the same.

(c) For the purposes of this section, the term "building" includes an individual rowhouse attached to another rowhouse.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 220, 23 DCR 9532b](#); [Mar. 22, 2019, D.C. Law 22-265, § 2, 66 DCR 1392](#); [Apr. 5, 2021, D.C. Law 23-269, § 501\(v\), 68 DCR 001490](#).)

Prior Codifications

1981 Ed., § 45-1830.

1973 Ed., § 5-1230.

Section References

This section is referenced in [§ 42-1901.02](#).

§ 42–1902.21. Declarant’s easement over common elements for purpose of improvements, etc.

Subject to any restrictions and limitations the condominium instruments may specify, the declarant shall have a transferable easement over and on the common elements for the purpose of making improvements on the submitted land and any additional land pursuant to the provisions of those instruments and of this chapter, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 221, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1831.

1973 Ed., § 5-1231.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.23](#), and [§ 42-1903.09](#).

§ 42–1902.22. Sales offices, model units, etc.; authorization; when become common elements.

The declarant and the declarant’s authorized agents, representatives, and employees may maintain sales offices, management offices, and model units on the submitted land if and only if the condominium instruments provide for the same and specify the rights of the declarant with regard to the number, size, location, and relocation thereof. Any such sales office, management office, or model unit which is not designated a unit by the condominium instruments shall become a common element as soon as the declarant ceases to be a unit owner, and the declarant shall cease to have any rights with regard thereto unless such sales office, management office, or model unit is removed forthwith from the submitted land in accordance with a right reserved in the condominium instruments to make such removal.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 222, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1832.

1973 Ed., § 5-1232.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.23](#), [§ 42-1902.30](#), and [§ 42-1903.09](#).

§ 42–1902.23. Representations or commitments relating to additional or withdrawable land; declarant’s obligation to complete or begin improvements designated for such; liability for damages arising out of use of certain easements.

(a) No covenants, restrictions, limitations, or other representations or commitments in the condominium instruments with regard to anything that is or is not to be done on the additional land, the withdrawable land, or any portion of either, shall be binding as to any portion of either lawfully withdrawn from the condominium or never added thereto except to the extent that the condominium instruments so provide. In the case of any covenant, restriction, limitation, or other representation or commitment in the condominium instruments, or in any other agreement that requires the declarant to add any portion of the additional land or to withdraw any portion of the withdrawable land, or imposing any obligations with regard to anything that is or is not to be done with regard to the condominium or any portion of the condominium, this subsection shall not be construed to nullify, limit, or otherwise affect that obligation.

(b) The declarant shall complete all improvements labeled “not yet completed” on plats recorded pursuant to the requirements of this chapter unless the condominium instruments expressly exempt the declarant from such obligation, and shall, in the case of every improvement labeled “not yet begun” on such plats, state in the declaration either the extent of the obligation to complete the same or that there is no such obligation.

(c) To the extent that damage is inflicted on any part of the condominium by any person or persons utilizing the easements reserved by the condominium instruments or created by §§ [42-1902.21](#) and [42-1902.22](#), the declarant together with the person or persons causing the same shall be jointly and severally liable for the prompt repair thereof and for the restoration of the same to a condition compatible with the remainder of the condominium.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 223, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(p\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(f\), 39 DCR 683](#).)

Prior Codifications

1981 Ed., § 45-1833.

1973 Ed., § 5-1233.

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(f) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

§ 42–1902.24. Improvements or alterations within unit; exterior appearance not to be changed; merger of adjoining units.

(a) Except to the extent prohibited by the condominium instruments, and subject to any restrictions and limitations specified therein, any unit owner may make any improvements or alterations within his unit that do not impair the structural integrity of any structure or otherwise lessen the support of any portion of the condominium. But no unit owner shall do anything which would change the exterior appearance of his unit or of any other portion of the condominium except to such extent and subject to such conditions as the condominium instruments may specify.

(b) Except to the extent prohibited by the condominium instruments, and subject to any restrictions and limitations specified therein, if a unit owner acquires an adjoining unit, or an adjoining part of an adjoining unit, then such unit owner shall have the right to remove all or part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may in whole or in part be a common element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any common element other than that partition is damaged, destroyed, or endangered. Such creation of doorways or other apertures shall not be deemed an alteration of boundaries within the meaning of [§ 42-1902.25](#).

([Mar. 29, 1977, D.C. Law 1-89, title II, § 224, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1834.

1973 Ed., § 5-1234.

§ 42–1902.25. Relocation of boundaries between units; when permitted; written application; amendment of declaration and bylaws; reallocation of common elements; altered maps and plans; recordation and effect thereof; scope of provisions.

(a) Unless expressly prohibited in the condominium instruments, the boundaries between adjoining units may be relocated in accordance with:

- (1) The provisions of this section and other applicable law; and
- (2) Any lawful restrictions and limitations specified in the condominium instruments.

(b) If the unit owners of adjoining units whose mutual boundaries may be relocated, desire to relocate such boundaries, then the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall, upon written application of such unit owners, forthwith prepare and execute the appropriate instruments pursuant to subsections (c), (d) and (e) of this section.

(c) An amendment to the declaration shall identify the units involved and shall state that the boundaries between those units are being relocated by agreement of the unit owners thereof, which amendment shall contain words of conveyance between those unit owners. If the unit owners of the units involved have specified in their written application, a reasonable reallocation as between the units involved of the aggregate undivided interest in the common elements appertaining to those units, the amendment to the declaration shall reflect that reallocation.

(d) If the unit owners of the units involved have specified in their written application reasonable allocations as between the units involved of the aggregate number of votes in the unit owners' association, rights to future surplus funds, or liabilities for future common expenses not specially assessed, then an amendment to the bylaws shall reflect any such reallocations.

(e) Such plats and plans as may be necessary to show the altered boundaries between the units involved together with their other boundaries shall be prepared, and the units depicted thereon shall bear their identifying numbers. Such plats and plans shall indicate the new dimensions of the units involved, and any change in the horizontal boundaries of either as a result of the relocation of their boundaries shall be identified with reference to established datum. Such plats and plans shall be certified as to their accuracy and compliance with the provisions of this subsection:

(1) By a registered land surveyor in the case of any plat; and

(2) By a registered architect or registered engineer in the case of any plan.

(f) If appropriate instruments in accordance with the preceding subsections have been prepared, executed, and acknowledged, the instruments shall be executed and acknowledged by the unit owners of the units concerned and, upon payment by the unit owners of reasonable costs for the preparation and acknowledgment of the instruments, the instruments shall be recorded by the unit owners' association. The instruments shall become effective upon recordation and the recordation shall be conclusive evidence that the relocation of boundaries effectuated is not a violation of any restriction or limitation specified by the condominium instruments and that any reallocation made pursuant to subsections (c) and (d) of this section are reasonable.

(g) Any relocation of boundaries between adjoining units shall be governed by this section and not by [§ 42-1902.26](#). Section 42-1902.26 shall apply only to such subdivisions of units as are intended to result in the creation of 2 or more units in place of the subdivided unit.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 225, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(q\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(d\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1835.

1973 Ed., § 5-1235.

Section References

This section is referenced in [§ 42-1902.24](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote (a).

§ 42–1902.26. Subdivision of units; when permitted; written application; amendment of declaration and bylaws; reallocation of common elements; altered maps and plans; recordation and effect thereof; scope of provisions.

(a) Unless expressly prohibited by the condominium instruments, a unit may be subdivided in accordance with:

(1) The provisions of this section and other applicable law; and

(2) Any lawful restrictions and limitations specified in the condominium instruments.

(b) If the unit owner of any unit which may be subdivided desires to subdivide such unit, then the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall, upon written application of the subdivider, as such unit owner shall henceforth be referred to in this section, forthwith prepare and execute appropriate instruments pursuant to subsections (c), (d) and (e) of this section.

(c) An amendment to the declaration shall assign new identifying numbers to the new units created by the subdivision of a unit and shall allocate to those units, on a reasonable basis acceptable to the subdivider, all of the undivided interest in the common elements appertaining to the subdivided unit. The new units shall jointly share all rights, and shall be equally liable jointly and severally for all obligations, with regard to any limited common elements assigned to the subdivided unit except to the extent that the subdivider may have specified in his written application that all or any portions of any limited common elements assigned to the subdivided unit exclusively should be assigned to 1 or more, but less than all of the new units, in which case the amendment to the declaration shall reflect the desires of the subdivider as expressed in such written application.

(d) An amendment to the bylaws shall allocate to the new units, on a reasonable basis acceptable to the subdivider, the votes in the unit owners' association allocated to the subdivided unit, and shall reflect a proportionate allocation to the new units of the liability for common expenses and rights to common profits formerly appertaining to the subdivided unit.

(e) Such plats and plans as may be necessary to show the boundaries separating the new units together with their other boundaries shall be prepared, and the new units depicted thereon shall bear their new identifying numbers. Such plats and plans shall indicate the dimensions of the new units, and the horizontal boundaries thereof, if any, shall be identified thereon with reference to established datum. Such plats and plans shall be certified as to their accuracy and compliance with the provisions of this subsection:

(1) By a registered land surveyor in the case of any plat; and

(2) By a registered architect or registered engineer in the case of any plan.

(f) If appropriate instruments in accordance with the preceding subsections of this section have been prepared, executed, and acknowledged, the instruments shall be executed by the subdivider and, upon payment by the subdivider of reasonable costs for the preparation and acknowledgment of the instrument, shall be recorded by the unit owners' association. The instruments shall become effective upon recordation and the recordation shall be conclusive evidence that the subdivision effectuated is not a violation of any restriction or limitation specified by the condominium instruments and that any reallocations made pursuant to subsections (c) and (d) of this section are reasonable.

(g) Notwithstanding the provisions of §§ [42-1901.03](#) and [42-1902.18\(d\)](#), this section shall have no application to convertible spaces, and no such space shall be deemed a unit for the purposes of this section. However, this section shall apply to any units formed by the conversion of all or any portion of any such space, and any such unit shall be deemed a unit for the purposes of this section.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 226, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(r\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(e\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1836.

1973 Ed., § 5-1236.

Section References

This section is referenced in [§ 42-1902.18](#) and [§ 42-1902.25](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote (a).

§ 42–1902.27. Amendment of instruments.

(a) If there is no unit owner other than the declarant, the declarant may unilaterally amend the condominium instruments, and the amendment shall become effective upon recordation if the amendment has been executed by the declarant. This section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right conferred by this section.

(b) If any of the units in the condominium are restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium instruments shall be amended only by agreement of unit owners of units to which 2/3 of the votes in the unit owners' association pertain, or any larger majority that the condominium instruments may specify, except in cases for which this chapter provides different methods of amendment. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in the preceding sentence.

(c) An action to challenge the validity of an amendment adopted by the unit owners' association pursuant to this section may not be brought more than 1 year after the amendment is recorded.

(d) Any amendment to the condominium instruments required by this chapter to be recorded by the unit owners' association shall be prepared, executed, recorded, and certified on behalf of the unit owners' association by any officer designated for that purpose or, in the absence of designation, by the presiding officer of the executive board.

(e) Except to the extent expressly permitted or required by other provisions of this chapter, an amendment to the condominium instruments may not:

(1) Create or increase special declarant rights;

(2) Increase the number of units;

(3) Change the boundaries of any unit;

(4) Change the undivided interest in the common elements, the liability for common expenses, the right to surplus funds, or the number of votes in the unit owners' association that pertains to any unit; or

(5) Change the uses to which any unit is restricted, in the absence of the unanimous consent of the unit owners.

(f)(1) Notwithstanding any other provision of this section, within 5 years after the recordation of a condominium instrument that contains or creates a mistake, inconsistency, error, or ambiguity, the declarant may unilaterally execute and record a corrective amendment or supplement to the condominium instruments to:

(A) Correct a mathematical mistake, an inconsistency, or a scrivener's error; or

(B) Clarify an ambiguity in the condominium instruments with respect to an objectively verifiable fact, including without limitation recalculating the undivided interest in the common elements, the liability for common expenses or right to surplus funds, or the number of votes in the unit owners' association that pertain to a unit.

(2) An amendment or supplement may not materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred. The principal officer of the unit owners' association may unilaterally execute and record a corrective amendment or supplement upon a vote of 2/3 of the members of the executive board. Any corrective amendment or supplement shall be validated to the extent that the corrective amendment or supplement would have been permitted by this subsection.

(g)(1) Unless otherwise specified in the condominium instruments, if the condominium instruments contain a provision requiring action on the part of the holder of a mortgage or deed of trust on a unit to amend the condominium instruments, that provision shall be deemed satisfied if the procedures under this subsection are satisfied.

(2) If the condominium instruments contain a provision requiring action on the part of the holder of a mortgage or deed of trust on a residential unit to amend the condominium instruments, the unit owners' association shall cause a copy of a proposed amendment to the condominium instruments to be delivered to the last known address of each holder of a mortgage or deed of trust entitled to notice. Absent notice of written instructions to the contrary, the association may reasonably rely upon the address of each holder as contained in the recorded mortgage or deed of trust.

(3) If the holder of a mortgage or deed of trust of a residential unit that receives the proposed amendment fails to object, in writing, to the proposed amendment within 60 days from the date the proposed amendment is mailed or delivered to the holder, the holder shall be deemed to have consented to the adoption of the amendment.

(4) The inadvertent failure to deliver a copy of any proposed amendment to the condominium instruments to each holder of a mortgage or deed of trust entitled to notice, despite good faith efforts by the unit owners' association, shall not invalidate any action taken pursuant to this section.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 227, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(s\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(g\), 39 DCR 683](#); [June 21, 2014, D.C. Law 20-109, § 2\(f\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1837.

1973 Ed., § 5-1237.

Section References

This section is referenced in [§ 42-1902.10](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) added (g).

Emergency Legislation

For temporary amendment of section, see § 2(g) of the Condominium Act of 1976 Technical and Clarifying Emergency Amendment Act of 1991 (D.C. Act 9-47, June 24, 1991, 38 DCR 4082).

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(g) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

§ 42–1902.28. Termination of condominium.

(a) If there is no unit owner other than the declarant, the declarant may unilaterally terminate the condominium. A termination shall become effective upon recordation if the termination has been executed by the declarant and recorded in the Office of the Surveyor. This section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right conferred.

(b) If any of the units in the condominium are restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium may be terminated by the agreement of unit owners of units to which 4/5 of the votes in the unit owners' association pertain, or any larger majority as the condominium instruments may specify. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in the preceding sentence.

45

(c) An agreement to terminate a condominium shall be evidenced by the execution of a termination agreement or ratification in the same manner as a deed by the requisite number of unit owners. Unless the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units to which a majority of the votes in the unit owners' association pertain. The termination agreement shall specify a date after which the termination agreement shall be void if the termination agreement is not recorded. A termination agreement and any ratification of the termination agreement shall be effective only upon recordation in the Office of the Surveyor.

(d) In the case of a condominium that contains only units having horizontal boundaries described in the condominium instruments, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium shall be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

(e) In the case of a condominium that contains any units not having horizontal boundaries described in the condominium instruments, a termination agreement may provide for sale of the common elements. The termination agreement may not require that the units be sold following termination, unless the condominium instruments as originally recorded provide otherwise or all the unit owners consent to the sale.

(f) On behalf of the unit owners, the unit owners' association may contract for the disposition of real estate in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to subsections (b) and (c) of this section. If any real estate in the condominium shall be sold following termination, title to the real estate, upon termination, shall vest in the unit owners' association as trustee for the holders of all interests in the units. Thereafter, the unit owners' association shall have powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds have been distributed, the unit owners' association shall continue in existence with all the powers the unit owners' association had before termination. Proceeds of the sale shall be distributed to unit owners and lienholders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (i) of this section. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds title to the real estate, each unit owner or his or her successor in interest shall have an exclusive right to occupancy of the portion of the real estate that formerly constituted his or her unit. During the period of occupancy by the unit owner or his or her successor in interest, each unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed on the unit owner by this chapter or the condominium instruments.

(g) If the real estate that constitutes the condominium shall not be sold following termination, title to the common elements and, in the case of a condominium containing only units that have horizontal boundaries described in the condominium instruments, title to all the real estate in the condominium shall vest in the unit owners upon termination as tenants in common in proportion to the unit owners' respective interests as provided in subsection (i) of this section. Any liens on the units shall shift accordingly. While the tenancy in common exists, each unit owner or his or her successors in interest shall have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit owner's unit.

(h) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lienholders on the units as their interests may appear. Following termination, any creditor of the unit owners' association who holds a lien on the unit that was recorded before termination may enforce the lien in the same manner as any lienholder. Any other creditor of the unit owners' association shall be treated as if he or she had perfected a lien on the units immediately before termination.

(i) The respective interests of unit owners referred to in subsections (f), (g), and (h) of this section shall be as follows:

(1) Except as provided in paragraph (2) of this subsection, the respective interests of a unit owner shall be the fair market values of the unit owner's limited common elements, and common element interests immediately before the termination, as determined by an independent appraiser selected by the unit owners' association. The decision of the independent appraiser shall be distributed to the unit owners and become final unless disapproved within 30 days after distribution by unit owners of units to which 1/4 of the votes in the unit owners' association. The proportion of any unit owner's interest to the interest of all unit owners is determined by dividing the fair market value of the unit owner's unit and common element interest by the total fair market values of all the units and common elements.

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

(j) Except as provided in subsection (k) of this section, foreclosure or enforcement of a lien or encumbrance against the entire condominium shall not alone terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw the portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable land shall have the right to require from the unit owners' association, upon request, an amendment that excludes the land from the condominium.

(k) If a lien or encumbrance against a portion of the real estate that comprises the condominium has priority over the condominium instruments, and the lien or encumbrance has not been partially released, upon foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes the real estate subject to the lien or encumbrance from the condominium.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 228, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(t\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(h\), 39 DCR 683](#).)

Prior Codifications

1981 Ed., § 45-1838.

1973 Ed., § 5-1238.

Section References

This section is referenced in [§ 42-1903.10](#).

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(h) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

§ 42–1902.29. Condominium lease; recordation; terms; leasehold payments; increases; sale or assignation; offer to unit owners’ association; renewal.

(a) The declarant of a leasehold condominium shall record with the condominium instruments any lease pursuant to which the condominium is a leasehold condominium (“condominium lease”); provided, however, it shall be sufficient for the declarant to record a statement of the book, page and date of recordation of such lease if such lease has previously been recorded among the land records of the District of Columbia. Condominium instruments establishing a leasehold condominium containing more than 3 residential units shall not be effective unless the condominium lease(s) comply with the requirements of subsections (b), (c) and (d) of this section.

(b)(1) If a condominium is a leasehold condominium subject to the provisions of this section, any condominium lease shall be for a term of not less than 99 years with a right of renewal for consecutive additional terms of not less than 99 years. The lease shall provide for level, periodic payments which may not be increased during the first 10 years of the leasehold term. If provided in the lease, the lessor may petition the Mayor for an increase in leasehold payments to be effective beginning with the 11th year of the leasehold term, and the Mayor shall approve such increase if he finds that:

(A) Costs borne by the lessor in connection with the lease have increased; or

(B) Costs of living, as measured by a standard statistical index computed and published by the United States government and available for the period of the leasehold term, have increased; and

(C) The increase in the lease payments is in reasonable proportion to such increased costs.

(2) An increase in lease payments shall be effective for a minimum period of 10 years, after which the lessor may again petition for an increase subject to the provisions of this subsection. The lessor shall not require or accept lease payments which do not meet the requirements of this subsection.

(c) A lessor of a condominium lease may sell or assign the lease only after offering the unit owners' association of the condominium the right to purchase the leasehold estate at a price and on terms offered to any other prospective purchaser. The lessor shall give the unit owners' association a period of at least 60 days within which to accept or reject the offer.

(d) The lessor of a condominium lease shall give the lessee of such lease a statement not less than 5 years prior to the expiration of such lease of whether the lease is to be renewed and on what terms the lease is to be renewed. If the lessor offers to renew the lease, the lessor shall give the lessee a period of at least 180 days within which to accept or reject the offer.

[\(Mar. 29, 1977, D.C. Law 1-89, title II, § 229, 23 DCR 9532b.\)](#)

Prior Codifications

1981 Ed., § 45-1839.

1973 Ed., § 5-1239.

§ 42–1902.30. Transfer of special declarant rights.

(a) A special declarant right created or reserved under this chapter may not be transferred except by an instrument that evidences the transfer recorded in the same manner as the condominium instruments. The instrument shall not be effective unless executed by the transferee.

(b) Upon transfer of any special declarant right, the liability of a transferor declarant shall be as follows:

(1) A transferor shall not be relieved of any obligation or liability that arises before the transfer and shall remain liable for any warranty obligation imposed upon him or her by this chapter. Lack of privity shall not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to a special declarant right is an affiliate of a declarant, the transferor shall be jointly and severally liable with the successor for any obligation or liability of the successor that relates to the condominium.

(3) If a transferor retains a special declarant right, and transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor shall be liable for any obligation or liability imposed on a declarant by this chapter or by the condominium instruments that relates to the retained special declarant rights and that arises after the transfer.

(4) A transferor shall have no liability for any act or omission or any breach of a contractual or warranty obligation that arises from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Unless otherwise provided in a mortgage instrument or deed of trust, in case of foreclosure, mortgage, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under bankruptcy or receivership proceedings of any unit owned by a declarant or real estate in a condominium subject to development rights, a person who acquires title to all the real estate being foreclosed or sold, upon his or her request, shall succeed to all special declarant rights related to the real estate held by the declarant, or to any rights reserved in the condominium instruments pursuant to [§ 42-1902.22](#) and held by the declarant to maintain models, sales offices, and signs. The judgment or instrument that conveys title shall provide for transfer of only the special declarant rights requested. For purposes of this subsection, the term “development rights” means any right or combination of rights to expand an expandable condominium, contract a contractable condominium, convert convertible land, or convert convertible space.

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

(1) The declarant shall cease to have any special declarant rights; and

(2) The period of declarant control shall terminate unless the judgment or instrument that conveys title provides for transfer of all special declarant rights held by the declarant to a successor declarant.

(e) The liability or obligation of a person who succeeds to special declarant rights shall be as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant shall be subject to any obligation or liability imposed on the transferor by this chapter or the condominium instruments.

(2) A successor to any special declarant right, other than a successor described in paragraph (3) or (4) of this subsection, who is not an affiliate of a declarant, shall be subject to any obligation or liability imposed by this chapter or the condominium instruments:

(A) On a declarant that relates to his or her exercise or nonexercise of special declarant rights; or

(B) On his or her transferor, other than:

(i) A misrepresentation by a previous declarant;

(ii) A warranty obligation on improvements made by a previous declarant or made before the condominium was created;

(iii) A breach of a fiduciary obligation by a previous declarant or his or her appointee to the executive board; or

(iv) Any liability or obligation imposed on the transferor's acts or omissions after the transfer.

(3) A successor who is not an affiliate of a declarant and whose sole right is a reservation in the condominium instruments to maintain models, sales offices, and signs may not exercise any other special declarant right and shall not be subject to any liability or obligation as a declarant, except a liability or obligation that arises under [subchapter IV of this chapter](#) that relates to disposition by the successor.

(4) If the transferor is not an affiliate of the successor to special declarant rights and the successor succeeded to all the special declarant rights pursuant to a deed in lieu of foreclosure or a judgment or instrument that conveys title to units under subsection (c) of this section, the successor may declare his or her intention in a recorded instrument to hold the rights solely for transfer to another person. Until the successor transfers all special declarant rights to any person who acquires title to any unit owned by the successor, or until the successor records an instrument that permits exercise of all special declarant rights, the successor may not exercise the special declarant rights other than a right held by his or her transferor to control the executive board in accordance with the provisions of [§ 42-1903.02](#) for the duration of any period of declarant control. Any attempted exercise of special declarant rights other than a right held by the successor's transferor to control the executive board shall be void. For the period that a successor declarant may not exercise special declarant rights under this subsection, he or she shall not be subject to any liability or obligation as a declarant other than liability or obligation as a declarant for his or her acts or omissions under [§ 42-1903.02](#).

(f) Nothing in this section shall subject any successor to a special declarant right to any claim against or other obligation of a transferor declarant, other than a claim or obligation that arises under this chapter or the condominium instruments.

([Mar. 29, 1977, D.C. Law 1-89, title II, § 230](#); as added [Mar. 8, 1991, D.C. Law 8-233, § 2\(u\)](#), [38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(i\)](#), [39 DCR 683](#).)

Prior Codifications

1981 Ed., § 45-1839.1.

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(i) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

PUBLICATION INFORMATION

Current through

Mar. 10, 2023

Last codified Emergency Law:

[Act 25-9 effective Feb. 1, 2023](#)

Last codified D.C. Law:

[Law 24-314 effective Mar. 10, 2023](#)

Last codified Federal Law:

[Public Law 115-334 approved Dec. 20, 2018](#)

The codes and laws on this website are in the public domain.

Please do not scrape. Instead, bulk download the [HTML \[https://github.com/dccouncil/law-html\]](https://github.com/dccouncil/law-html) or [XML \[https://github.com/dccouncil/law-xml\]](https://github.com/dccouncil/law-xml).

Powered by the non-profit [Open Law Library \[http://www.openlawlib.org/\]](http://www.openlawlib.org/).