

## IC 32-25-7

### Chapter 7. Declaration

#### IC 32-25-7-1

##### Recording declaration; contents

Sec. 1. (a) The owner of the land on which a condominium is declared shall record with the recorder of the county in which the land is situated a declaration. Except as provided in section 2 or 3 of this chapter, the declaration must include the following:

- (1) A description of the land on which the building and improvements are or are to be located.
- (2) A description of the building, stating:
  - (A) the number of stories and basements; and
  - (B) the number of condominium units.
- (3) A description of the common areas and facilities.
- (4) A description of the limited common areas and facilities, if any, stating to which condominium units their use is reserved.
- (5) The percentage of undivided interest in the common areas and facilities appertaining to each condominium unit and its owner for all purposes, including voting.
- (6) A statement of the percentage of votes by the condominium unit owners required to determine whether to:
  - (A) rebuild;
  - (B) repair;
  - (C) restore; or
  - (D) sell;the property if all or part of the property is damaged or destroyed.
- (7) Any covenants and restrictions in regard to the use of:
  - (A) the condominium units; and
  - (B) common areas and facilities.
- (8) Any further details in connection with the property that:
  - (A) the person executing the declaration considers desirable; and
  - (B) are consistent with this article.
- (9) The method by which the declaration may be amended in a manner consistent with this chapter.

(10) This subdivision applies only to a condominium located on the shore of a lake located in a township with a population of more than three thousand (3,000) but less than three thousand one hundred (3,100) located in a county having a population of more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500). A statement of the percentage of votes by the condominium unit owners required to convey or encumber part or all of the common areas and facilities. A statement under this subdivision may not allow less than ninety-five percent (95%) of the condominium unit owners, or less than ninety-five percent (95%) of the owners of

condominium units not owned by the declarant, to convey or encumber part or all of the common areas and facilities. If the declaration does not include a statement under this subdivision, IC 32-25-4-3.5 applies.

(b) A true copy of the bylaws shall be annexed to and made a part of the declaration.

(c) The record of the declaration shall contain a reference to the:

- (1) book;
- (2) page; and
- (3) date of record;

of the floor plans of the building affected by the declaration.

*As added by P.L.2-2002, SEC.10. Amended by P.L.181-2007, SEC.3; P.L.119-2012, SEC.162.*

### **IC 32-25-7-2**

#### **Expandable condominiums; contents of declaration**

Sec. 2. (a) If a condominium is an expandable condominium, the declaration shall contain, in addition to the matters specified in section 1 of this chapter:

- (1) a general plan of development showing:
  - (A) the property subject to the condominium;
  - (B) areas into which expansion may be made; and
  - (C) the maximum number of condominium units in additional phases that may be added;
- (2) a schedule or formula for determining the percentage of undivided interests in the common areas and facilities that will appertain to each condominium unit as each additional phase is added; and
- (3) a time limit, not exceeding ten (10) years, within which the phase or phases may be added to the condominium.

(b) If additional phases are not developed within five (5) years after the recordation of the declaration, the development of additional phases is not considered to be part of:

- (1) a common scheme; and
- (2) development of the entire condominium.

*As added by P.L.2-2002, SEC.10.*

### **IC 32-25-7-3**

#### **Contractable condominiums; contents of declaration**

Sec. 3. If a condominium is a contractable condominium, the declaration shall contain, in addition to matters specified in section 1 of this chapter:

- (1) an explicit reservation of an option to contract the condominium;
- (2) a statement of any limitations on the option to contract the condominium;
- (3) a date, not later than ten (10) years after the recording of the declaration, upon which the option to contract the condominium will expire;

- (4) a statement of any circumstances that will terminate the option to contract the condominium before the expiration date referred to in subdivision (3);
- (5) a legally sufficient description of all withdrawable land;
- (6) a statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times; and
- (7) a statement of any limitations:
  - (A) fixing the boundaries of portions of the withdrawable land; or
  - (B) regulating the order in which the portions may be withdrawn.

*As added by P.L.2-2002, SEC.10.*

#### **IC 32-25-7-4**

##### **Floor plans**

Sec. 4. (a) Simultaneously with the recording of the declaration, a set of floor plans of the condominium or building shall be filed in the office of the county recorder. The set of floor plans must include the following:

- (1) The relation of the condominium or building to lot lines.
- (2) The:
  - (A) layout;
  - (B) elevation;
  - (C) location;
  - (D) unit numbers; and
  - (E) dimensions;of the condominium units.
- (3) The name of the condominium or building, or that it has no name.
- (4) The verified statement of a registered architect or licensed professional engineer certifying that the set of floor plans is an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings.

(b) If the set of floor plans referred to in subsection (a) does not include a verified statement by an architect or engineer that the plans fully and accurately depict the layout, location, unit numbers, and dimensions of the condominium units as built, an amendment to the declaration must be recorded before the first conveyance of any condominium unit. The amendment to the declaration must have attached to it a verified statement of a registered architect or licensed professional engineer certifying that the filed set of floor plans or the set of floor plans being filed simultaneously with the amendment fully and accurately depicts the layout, location, unit numbers, and dimensions of the condominium units as built. The set of floor plans shall:

- (1) be kept by the recording officer in a separate file for each

building;

(2) be indexed in the same manner as a conveyance entitled to be recorded;

(3) be numbered serially in the order of receipt;

(4) be designated "condominium unit ownership", with the name of the building, if any; and

(5) contain a reference to the:

(A) book;

(B) page; and

(C) date of recording;

of the amendment to the declaration.

(c) The record of the amendment to the declaration referred to in subsection (b) shall contain a reference to the file number of the set of floor plans of the building affected by the amendment to the declaration.

*As added by P.L.2-2002, SEC.10.*

### **IC 32-25-7-5**

#### **Designation; conveyance**

Sec. 5. (a) Each condominium unit in a building shall be designated, on the set of floor plans referred to in section 4 of this chapter, by letter, number, or other appropriate designation.

(b) Any instrument recognized by the state for the conveyance or transfer of interests in title, which describes the apartment by using the designation referred to in subsection (a) followed by the words "in (name) Condominium as recorded in Book \_\_\_\_\_, p. \_\_, under the date of \_\_\_\_\_, \_\_\_\_\_, of the records of \_\_\_\_\_ County, Indiana", is considered to contain a good and sufficient description for all purposes.

(c) Any conveyance or transfer of interest in title of a condominium unit is considered also to convey the undivided interests of the owner in the common areas and facilities, both general and limited, appertaining to the condominium unit without specifically or particularly referring to the undivided interests. The:

(1) contents;

(2) form;

(3) method of preparation;

(4) recording of an instrument of conveyance; and

(5) interpretation of an instrument of conveyance;

are governed by the law of Indiana relating to real property.

(d) Each instrument or deed of conveyance also shall include the following:

(1) A statement of the use for which the condominium unit is intended.

(2) A statement of the restrictions on the use of the condominium unit.

(3) The percentage of undivided interest appertaining to the condominium unit in the common areas and facilities.

(4) The amount of any unpaid current or delinquent assessments

of common expenses.

(5) Any other details and restrictions that:

- (A) the grantor and grantee consider desirable; and
- (B) are consistent with the declaration.

(e) Failure to make a statement in the deed as required by subsection (d)(4) does not:

- (1) invalidate the title conveyed by the deed; or
- (2) absolve a grantee under the deed from liability for any unpaid current or delinquent assessments of common expenses against a condominium unit on the date of its conveyance.

(f) Upon the request of a:

- (1) condominium unit owner;
- (2) prospective grantee;
- (3) title insurance company; or
- (4) mortgagee;

the secretary or other authorized officer of the association of co-owners shall provide, within five (5) days of the request, a statement of the amount of current and delinquent assessments of common expenses against a particular condominium unit.

*As added by P.L.2-2002, SEC.10.*

#### **IC 32-25-7-6**

#### **Presumption of consent to changes; reallocation of interests in common area; liens**

Sec. 6. (a) Except as provided in subsection (b), if the declaration for a condominium is in conformity with section 2 of this chapter, it is presumed that any owner of a condominium unit in that condominium has consented to the changes in the percentage of undivided interest in the common areas and facilities appertaining to the owner's unit.

(b) An owner of a condominium unit who entered an agreement to purchase that unit before the recordation of the declaration may not be presumed to have consented to the changes referred to in subsection (a) unless the owner:

- (1) was provided a copy of:
  - (A) the expansion provisions; or
  - (B) the declaration; and
- (2) made a written acknowledgment of the receipt of the provisions before entering the purchase agreement.

(c) The reallocation of percentage of undivided interests in the common areas and facilities vests when the amendment to the declaration incorporating the reallocated percentages is recorded.

(d) When the amendment to the declaration incorporating:

- (1) the addition of condominium units;
- (2) the expansion of common areas and facilities; or
- (3) both addition and expansion as described in subdivisions (1) and (2);

is recorded, all liens, including mortgage liens, are released as to the percentage of undivided interests in the common areas and facilities

described in the declaration (before amendment of the declaration) and shall attach to the reallocated percentage of undivided interests in the common areas and facilities described in the amendment to the declaration as though the liens had attached to those percentage interests on the date of the recordation of the mortgage or other document that evidences the creation of the lien. The percentage interest in the common areas and facilities appertaining to additional condominium units being added by the amendment to the declaration are subject to mortgage liens and other liens upon the recordation of the amendment to the declaration.

*As added by P.L.2-2002, SEC.10.*

### **IC 32-25-7-7**

#### **Amending declaration; consents required**

Sec. 7. The declaration must contain a provision allowing the co-owners to amend the declaration at any time, from time to time, subject to the following:

- (1) The declarant's consent to an amendment may be required if:
  - (A) the declarant owns one (1) or more units within the condominium; and
  - (B) not more than seven (7) years have passed since the original governing documents were first recorded.
- (2) The consent of the co-owners to the amendment has been obtained as evidenced by either of the following:
  - (A) The vote of the co-owners at a meeting called for the purpose of considering the amendment.
  - (B) A written instrument signed by the co-owners.

The declaration may not require that the consent of more than seventy-five percent (75%) of the co-owners is required for consent under this subdivision.

(3) The consent of the eligible mortgage holders, as defined in the governing documents. The consent of an eligible mortgage holder must be indicated in a written instrument signed by the mortgage holder. However, a mortgage holder is considered to have consented to a proposed amendment if the mortgage holder does not respond to a written request for consent within thirty (30) days after the mortgage holder receives the request. The governing documents may not require that the consent of more than seventy-five percent (75%) of the eligible mortgage holders is required for consent under this subdivision.

(4) Notwithstanding subdivisions (1) through (3), the declaration may require the approval of at least ninety-five percent (95%) of the co-owners to convey common areas or to dissolve the condominium.

*As added by P.L.141-2015, SEC.2.*