

lease. A unit owner's leasehold interest in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

(3) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(4) If the expiration or termination of a lease decreases the number of units in a common interest community, the allocated interests shall be reallocated in accordance with section 38-33.3-107 (1), as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.

Source: L. 91: Entire article added, p. 1718, § 1, effective July 1, 1992.

38-33.3-207. Allocation of allocated interests. (1) The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and, to the extent not allocated in the bylaws of the association, a portion of the votes in the association;

(b) In a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association, and, to the extent not allocated in the bylaws of the association, a portion of the votes in the association;

(c) In a planned community, a fraction or percentage of the common expenses of the association and, to the extent not allocated in the bylaws of the association, a portion of the votes in the association; except that, in a large planned community, the common expenses of the association may be paid from assessments and allocated as set forth in the declaration and the votes in the association may be allocated as set forth in the declaration.

(2) The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(3) If units may be added to or withdrawn from the common interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition or withdrawal.

(4) (a) The declaration may provide:

(I) That different allocations of votes shall be made to the units on particular matters specified in the declaration;

(II) For cumulative voting only for the purpose of electing members of the executive board;

(III) For class voting on specified issues affecting the class, including the election of the executive board; and

(IV) For assessments including, but not limited to, assessments on retail sales and services not to exceed six percent of the amount charged for the retail sale or service, and real estate transfers not to exceed three percent of the real estate sales price or its equivalent.