

TITLE 2: NATURAL RESOURCES
DIVISION 6: UNIFORM CONDOMINIUM ACT

§ 6103. Definitions.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this division:

(a) “Additional real estate” means real estate that may be added to a flexible condominium.

(b) “Affiliate of a declarant” means any person who controls, is controlled by, or is under common control with a declarant.

(1) A person “controls” a declarant if the person:

(A) Is a general partner, officer, director, or employee of the declarant;

(B) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests of the declarant;

(C) Controls in any manner the election of a majority of the directors of the declarant, or

(D) Has contributed more than 20 percent of the capital of the declarant.

(2) A person “is controlled by” a declarant if the declarant:

(A) Is a general partner, officer, director, or employee of the person;

(B) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests of the person;

(C) Controls in any manner the election of a majority of the directors of the person; or

(D) Has contributed more than 20 percent of the capital of the person.

(c) “Association” or “unit owners’ association” means the unit owners’ association organized under 2 CMC § 6301.

(d) “Common elements” means all portions of a condominium other than the units.

(e) “Common expenses” means expenditures made or liabilities incurred by or on behalf of the association, together with any allocations to reserves.

(f) “Common expense liability” means the liability for common expenses allocated to each unit pursuant to 2 CMC § 6208.

(g) “Condominium” means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(h) “Conversion condominium” means a condominium containing any building that at any time before recording of the declaration was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(i) “Convertible real estate” means a portion of a flexible condominium not within a building containing a unit, within which additional units or limited common elements, or both, may be created.

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(j) “Declarant” means:

(1) If the condominium has been created:

(A) Any person who has executed a declaration, or an amendment to a declaration to add additional real estate, other than persons holding interests in the real estate solely as security for an obligation, persons whose interests in the real estate will not be conveyed to unit owners, or, in the case of a leasehold condominium, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or in the case of an Article XII condominium and unless expressly declared otherwise in the declaration, the owner(s) of the restricted descent estate; or

(B) Any person who succeeds under 2 CMC § 6304 to any special declarant rights; or

(2) If the condominium has not yet been created, any person who offers to dispose of or disposes of his or her interest in a unit not previously disposed of; or

(3) If a declaration is executed by a trustee of a land trust, “declarant” means the beneficiary of the trust.

(k) “Dispose” or “disposition” means a voluntary transfer of any legal or equitable interest in a unit, other than as security for an obligation.

(l) “Executive board” means the body, regardless of name, designated in the declaration to act on behalf of the association.

(m) “Flexible condominium” means a condominium containing withdrawal or convertible real estate, a condominium to which additional real estate may be added, or a combination thereof.

(n) “Identifying number” means a symbol that identifies only one unit in a condominium.

(o) “Leasehold condominium” means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size.

(p) “Limited common element” means a portion of the common elements allocated by the declaration or by operation of 2 CMC § 6202(b) or (d) for the exclusive use of one or more but fewer than all of the units.

(q) “Offering” means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this Commonwealth is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located.

(r) “Person” means a natural person, corporation, partnership, association, trust, other entity, or any combination thereof.

(s) “Purchaser” means any person, other than a declarant who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than:

(1) A leasehold interest (including renewal options) of less than five years;

or

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(2) As security for an obligation.

Purchasers not of Northern Marianas descent may only acquire a short-term interest in a unit as defined in 2 CMC § 6601 and as required by N.M.I. Const. art. XII.

(t) “Real estate” means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. “Real estate” includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(u) “Special declarant rights” means rights reserved for the benefit of a declarant:

(1) To complete improvements indicated on plats and plans filed with the declaration (2 CMC § 6210);

(2) To convert convertible real estate in a flexible condominium (2 CMC § 6211);

(3) To add additional real estate to a flexible condominium (2 CMC § 6211);

(4) To withdraw withdrawal real estate from a flexible condominium (2 CMC § 6212);

(5) To convert a unit into two or more units, common elements, or into two or more units and common elements (2 CMC § 6215);

(6) To maintain sales offices, management offices, signs advertising the condominium, and models (2 CMC § 6217);

(7) To use easements through the common elements for the purpose of making improvements within the condominium or within any convertible or additional real estate (2 CMC § 6218); or

(8) To appoint or remove any officer of the association or any executive board member during any period of declarant control (2 CMC § 6303(c)).

(v) “Unit” means a portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to 2 CMC § 6205(d).

(w) “Unit owner” means a declarant who owns a unit, a person to whom ownership of a unit has been conveyed, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation. If title to a unit is held in a land trust, “unit owner” means the beneficiary of the trust.

(x) “Withdrawable real estate” means real estate that may be withdrawn from a flexible condominium.

Source: PL 3-86, § 1-103; (j)(1)(A) amended by PL 15-49, § 2.

Commission Comment: Public Law 15-49, which created “Article XII Condominiums” (codified at 2 CMC § 6701 et seq.), was enacted on March 14, 2007. For more information regarding PL 15-49, see comment to 2 CMC § 4921.