

33 §1601-103. DEFINITIONS

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In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Act: [1981, c. 699, (NEW).]

(1) "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant. A person "controls" a declarant if the person: (i) Is a general partner, officer, director or employer of the declarant; (ii) 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% of the voting interests of the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20% of the capital in the declarant. A person "is controlled by" a declarant if the declarant: (i) Is a general partner, officer, director or employer of the person; (ii) 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% of the voting interests in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than 20% of the capital of the person;

Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised. [1981, c. 699, (NEW).]

(2) "Allocated interests" means the undivided interests in the common elements, the common expense liability and votes in the association allocated to each unit; [1981, c. 699, (NEW).]

(3) "Association" or "unit owners' association" means the unit owners' association organized under section 1603-101; [1981, c. 699, (NEW).]

(4) "Common elements" means all portions of a condominium other than the units; [1981, c. 699, (NEW).]

(5) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves; [1981, c. 699, (NEW).]

(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 1602-107; [1981, c. 699, (NEW).]

(7) "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 under a declaration, or an amendment to a declaration, duly recorded pursuant to this Act. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration; [1983, c. 190, (AMD).]

(8) "Conversion building" means a building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers; [1981, c. 699, (NEW).]

(9) "Declarant" means any person or group of persons acting in concert who: (i) As part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of; or (ii) reserves or succeeds to any special declarant right; [1981, c. 699, (NEW).]

(10) "Declaration" means any instruments, however denominated, which create a condominium and any amendments to those instruments; [1981, c. 699, (NEW).]

(11) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to add real estate to a condominium; to create units, common elements or limited common elements within a condominium; to subdivide units or convert units into common elements; or to withdraw real estate from a condominium; [1981, c. 699, (NEW).]

(12) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest; [1981, c. 699, (NEW).]

(13) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association; [1981, c. 699, (NEW).]

(14) "Identifying number" means a symbol or address that identifies only one unit in a condominium; [1981, c. 699, (NEW).]

(15) "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; [1981, c. 699, (NEW).]

(16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section, 1602-102, paragraphs (2) or (4) for the exclusive use of one or more but fewer than all of the units; [1981, c. 699, (NEW).]

(17) "Master association" means an organization described in section 1602-120, whether or not it is also an association described in section 1603-101; [1981, c. 699, (NEW).]

(18) "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 State, 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; [1981, c. 699, (NEW).]

(19) "Person" means a natural person, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture or other legal or commercial entity; [1981, c. 699, (NEW).]

(20) "Purchaser" means any person, other than a declarant, or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than: (i) A leasehold interest, including renewal options, of less than 20 years; or (ii) as security for an obligation; [1981, c. 699, (NEW).]

(21) "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interest 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; [1981, c. 699, (NEW).]

(22) "Real estate trust" means an arrangement evidenced by a writing, the purposes of which include the ownership of real estate and the creation and management of a condominium, under which arrangement one or more trustees are empowered to hold legal title to real estate for the benefit of beneficiaries. Trustees may also be beneficiaries under a real estate trust; [1981, c. 699, (NEW).]

(23) "Recorded" means that the instrument, plan or plat shall be duly recorded in every registry of deeds in each county or registry district in which the condominium or any portion thereof is located. Each such instrument, plan or plat shall be indexed by the Register of Deeds, in the name of the condominium and the parties thereto; [1981, c. 699, (NEW).]

(24) "Residential" means use for dwelling or recreational purposes, or both; [1981, c. 699, (NEW).]

(25) "Special declarant rights" means rights reserved for the benefit of a declarant to complete improvements indicated on plats and plans filed with the declaration, section 1602-109; to exercise any development right, section 1602-110; to maintain sales offices, management offices, signs advertising the condominium and models, section 1602-115; to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to

the condominium, section 1602-116; to make the condominium part of a larger condominium or a planned community, section 1602-121; to make the condominium subject to a master association, section 1602-120; or to appoint or remove any officer of the association or any master association or any executive board member or to approve any acts of the association or the executive board, during any period of declarant control, section 1603-103, subsection (d); [1981, c. 699, (NEW).]

(26) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to section 1602-105, paragraph (5); and [1981, c. 699, (NEW).]

(27) "Unit owner" means a declarant or other person who owns a unit, 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. [1981, c. 699, (NEW).]

SECTION HISTORY

1981, c. 699, (NEW). 1983, c. 190, (AMD).

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