

### 33 §1603-112. ALIENATION OF COMMON ELEMENTS

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(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 80% of the votes in the association, including 80% of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; provided that all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. [1981, c. 699, (NEW).]

(b) An agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated and is effective only upon recordation. [1981, c. 699, (NEW).]

(c) The association, on behalf of the unit owners, may contract to sell real estate in the condominium or subject real estate to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instrument. [1981, c. 699, (NEW).]

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of common elements, unless made in accordance with this section or in accordance with section 1603-117, subsection (b), is void. [1981, c. 699, (NEW).]

(e) Any vote to sell, transfer or encumber common elements under this section may include a release of that real estate from any or all restrictions imposed on that real estate by the declaration or this Act, but may not deprive any unit of its rights of access and support. [1981, c. 699, (NEW).]

#### SECTION HISTORY

1981, c. 699, (NEW).

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