

HF3459/SF3622: BAR ASSOCIATION CH. 515B UPDATE

This bill modifies Ch. 515B, the Minnesota Common Interest Ownership Act (MCIOA). The changes, which are mainly technical in nature, originated with the MCIOA committee of the Bar Association's Real Property Section. The committee includes attorneys who represent all stakeholders in common interest communities: developers, associations, and unit owners.

The vast majority of the changes in the bill simply correct inaccurate or incomplete statutory cross-references. In addition, the bill makes a handful clarifying and technical changes to Ch. 515B:

- Chapter 515B exempts common interest communities that are “created primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.” It is unclear if the exemption applies if a declaration also includes provisions regarding property insurance and repair/replacement processes. ***This bill clarifies that for non-residential projects the exemption still applies.***
- Ch. 515B and declarations require that certain actions (1) require various levels of unit owner/association member consent or approval, or (2) that such consent or approval is deemed given if notice is given and no objection is made. Section 515B.1-116(d) allows an affidavit signed by an officer of the association to be recorded as evidence that these requirements have been met, but current language does not clearly cover all intended circumstances. ***This bill provides more certainty regarding when a recorded affidavit is sufficient evidence.***
- ***This bill incorporates in Ch. 515B the Torrens requirements from the Rules of Court.*** This will assist condominium document drafters who may be unaware of or overlook special requirements for common interest communities to be created on Torrens property.
- The bill clarifies that for an amendment to a declaration or a supplemental declaration to be effective, it is necessary to record ***both*** (a) the amendment or supplement, ***and (b) evidence of any required unit owner or mortgagee consents or approvals.***
- ***The bill clarifies that an amended CIC plat is not required solely because declaration amendment covers a common element to a limited common element if Ch. 515B does not require the newly created limited common elements be depicted on the CIC plat.***
- The MN Non-Profit Corporation Act (Ch. 317A) requires non-profit boards to have three or more members. ***The bill allows common interest communities that have fewer than three units to have a number of directors that is equal to the number of units.***
- Ch. 515B requires associations to maintain primary liability insurance on limited common elements allocated to specific units (e.g., patios, balconies, parking spaces, storage lockers). ***This bill allows a CIC's governing documents to obligate the applicable unit owner to maintain primary liability insurance if the limited common element is allocated to a non-residential unit (e.g. a unit used as a restaurant with a limited common element outdoor seating area).*** This prevents claims related to the commercial use from affecting the association's insurance rates.
- Ch. 515B requires declarants to provide the association's maintenance plan, maintenance schedule, and maintenance budget available to all initial purchasers and requires associations to make documents available to all unit owners. ***This bill adds a requirement that sellers provide these same materials to subsequent re-sale purchasers.***