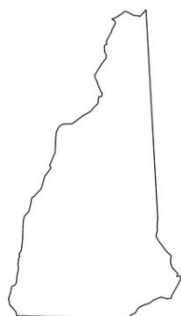




THE NEW HAMPSHIRE UNIT OWNERSHIP OF REAL PROPERTY ACT



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TITLE XLVIII
CONVEYANCES AND MORTGAGES OF REALTY

Chapter 479-A
UNIT OWNERSHIP OF REAL PROPERTY



Section 479-A:1

479-A:1 Definitions. –

As used in this chapter, unless the context otherwise requires:

I. "Unit" means a part of the property intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors (or part or parts thereof) in a building, and with a direct exit to a public street or highway or to a common area leading to such street or highway.

II. "Unit owner" means the person or persons owning a unit in fee simple absolute, or leasing a unit as provided in RSA 479-A:2, and an undivided interest in the fee simple, or leased estate, of the common areas and facilities in the percentage specified and established in the declaration.

III. "Unit number" means the number, letter, or combination thereof designating the apartment in the declaration.

IV. "Association of unit owners" means all of the unit owners acting as a group in accordance with the bylaws and declaration.

V. "Building" means a building or group of buildings having a total of 5 or more units and comprising a part of the property.

VI. "Common areas and facilities," unless otherwise provided in the declaration or lawful amendments thereto, means and includes: the land on which the building is located; the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building; the basements, yards, gardens, parking areas and storage spaces; the premises for the lodging of janitors or persons in charge of the property; installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating; the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use; such community and commercial facilities as may be provided for in the declaration; and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

VII. "Common expenses" means and includes: all sums lawfully assessed against the unit owners by the association of unit owners; expenses of administration, maintenance, repair or replacement of the common areas and facilities; expenses agreed upon as common expenses by the association of unit owners; expenses declared common expenses by provisions of this chapter or by the declaration or the bylaws.



VIII. "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

IX. "Declaration" means the instrument by which the property is submitted to the provisions of this chapter as provided in RSA 479-A:2 and such declaration as from time to time may be lawfully amended.

X. "Limited common areas and facilities" means and includes those common areas and facilities designated in the declaration as reserved for use of certain unit or units to the exclusion of the other units.

XI. "Majority" or "majority of unit owners" means the unit owners with 51 percent or more of the votes in accordance with the percentages assigned in the declaration to the units for voting purposes.

XII. "Person" means individual, corporation, partnership, association, trustee or other legal entity.

XIII. "Property" means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute or leased as provided in RSA 479-A:2, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith which have been or are intended to be submitted to the provisions of this chapter.

Source. 1965, 155:1. 1967, 264:1, 2, eff. Aug. 26, 1967.

Section 479-A:2

479-A:2 Application of Chapter. – This chapter shall be applicable only to property which the sole owner or all the owners thereof or, in the case where the property is leased of another for a period of not less than 30 years, the sole lessee or all the lessees thereof submit to the provisions hereof by duly executing and recording a declaration as provided in RSA 479-A:10 and 479-A:14.

Source. 1965, 155:1. 1967, 264:3, eff. Aug. 26, 1967.

Section 479-A:3

479-A:3 Status of the Units. – Each unit, together with its undivided interest in the common areas and facilities, shall for all purposes constitute real property.



Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:4

479-A:4 Ownership of Units. – Each unit owner shall be entitled to the exclusive ownership and possession of his unit.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:5

479-A:5 Common Areas and Facilities. – Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage shall be computed by taking as a basis the value of the unit in relation to the value of the property. The percentage of the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. The common areas and facilities shall remain undivided and no unit owner or any other person shall bring any action for partition or division of any part thereof unless the property has been removed from the provisions of this chapter as provided in RSA 479-A:15 or 479-A:25. Any covenant to the contrary shall be null and void. Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners. The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bylaws. The association of unit owners shall have the irrevocable right, to be exercised by the manager or board of directors, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:6

479-A:6 Compliance With Covenants, Bylaws and Administrative Provisions.
– Each unit owner shall comply strictly with the bylaws and with the administrative rules and



regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of unit owners or, in a proper case, by an aggrieved unit owner.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:7

479-A:7 Certain Work Prohibited. – No unit owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament without in every such case the unanimous consent of all the other unit owners being first obtained.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:8

479-A:8 Liens Against Units; Removal From Lien; Effect of Part Payment.

– Subsequent to recording the declaration as provided in this chapter and while the property remains subject to this chapter, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided that no labor performed or materials furnished with the consent or at the request of a unit owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien pursuant to the lien law against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the association of unit owners, the manager or board of directors in accordance with this chapter, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the units and shall be subject to the provisions of this section. In the event a lien against 2 or more units becomes effective, the unit owners of the separate units may remove their unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit from the lien by payment of the fractional or proportional amounts attributable to each of the units affected. Such individual



payment shall be computed by reference to the percentages appearing on the declaration. Subsequent to any such payment, discharge or other satisfaction, the unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:9

479-A:9 Common Profits and Expenses. – The common profits of the property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of the undivided interest in the common areas and facilities.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:10

479-A:10 Contents of Declaration. –

The declaration shall contain the following particulars:

- I. Description of the land on which the building and improvements are or are to be located.
- II. Description of the building, stating the number of stories and basements, the number of units and the principal materials of which it is or is to be constructed.
- III. The unit number of each unit and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification.
- IV. Description of the common areas and facilities.
- V. Description of the limited common areas and facilities, if any, stating to which units their use is reserved.
- VI. Value of the property and of each unit, and the percentage of undivided interest in the common areas and facilities appertaining to each unit and its owner for all purposes, including voting.



VII. Statement of the purposes for which the building and each of the units are intended and restricted as to use.

VIII. The name of a person to receive service of process in the cases provided in RSA 479-A:26, together with the residence or place of business of such person which shall be within the county in which the building is located.

IX. Provision as to the percentage of votes by the unit owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property.

X. Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with the provisions of this chapter.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:11

479-A:11 Contents of Deeds of Units. –

Deeds of units shall include the following particulars:

I. Description of the land as provided in RSA 479-A:10 or the post office address of the property, including in either case the volume, page and date of recording of the declaration.

II. The unit number of the unit in the declaration and any other data necessary for its proper identification.

III. Statement of the use for which the unit is intended and restrictions on its use.

IV. The percentage of undivided interest appertaining to the unit in the common areas and facilities.

V. Any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this chapter.

Source. 1965, 155:1, eff. Aug. 14, 1965.



Section 479-A:12

479-A:12 Copy of Floor Plans To Be Filed. – Simultaneously with the recording of the declaration, there shall be filed in the office of the recording officer a set of the floor plans of the building showing the layout, location, unit numbers, and dimensions of the units, stating the name of the building or that it has no name. Those portions of the plans prepared by a licensed land surveyor shall bear the verified statement of a licensed land surveyor and all other portions of the plans shall bear the verified statement of a licensed architect or a licensed professional engineer certifying that they are accurate copies of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings, if any. Said plans shall be drawn in full compliance with the requirements as to material, markings, size, and other specifications as set forth in RSA 478:1-a. If such plans do not include a verified statement by such land surveyor and architect or engineer that such plans fully and accurately depict the layout, location, unit designations, and dimensions of all of the units as built, there shall be recorded prior to each first conveyance of any particular unit with respect to which such a statement was not made an amendment to the declaration to which shall be attached a verified statement of a licensed land surveyor as to the portions of plans prepared by a licensed land surveyor and a verified statement of a licensed architect or a licensed professional engineer as to all other portions of plans certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, unit designations, and dimensions of such particular unit as built. Such plans shall be kept by the recording officer, indexed in the same manner as a conveyance entitled to record.

Source. 1965, 155:1. 1971, 413:1. 1975, 37:1. 2005, 31:2, eff. July 9, 2005.

Section 479-A:13

479-A:13 Blanket Mortgages and Other Blanket Liens Affecting a Unit at Time of First Conveyance. – At the time of the first conveyance of each unit, every mortgage and other lien affecting such unit, including the percentage of undivided interest of the unit in the common areas and facilities, shall be paid and satisfied of record, or the unit being conveyed and its percentage of undivided interest in the common areas and facilities shall be released therefrom by partial release duly recorded.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:14

479-A:14 Recording. – The declaration and amendment or amendments thereof, any instrument by which the provisions of this chapter may be waived, and every instrument



affecting the property of any unit shall be entitled to be recorded. Neither the declaration nor any amendment thereof shall be valid unless duly recorded.

Source. 1965, 155:1. 1971, 413:1, eff. Aug. 28, 1971.

Section 479-A:15

479-A:15 Removal From Provisions of This Chapter. – All of the unit owners may remove a property from the provisions of this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property as provided in this section. Upon removal of the property from the provisions of this chapter, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:16

479-A:16 Removal No Bar to Subsequent Resubmission. – The removal provided for in RSA 479-A:15 shall in no way bar the subsequent resubmission of the property to the provisions of this chapter.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:17

479-A:17 Bylaws. – The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:18

479-A:18 Contents of Bylaws. –

The bylaws may provide for the following:



- I. The election from among the unit owners of a board of directors, the number of persons constituting the same, and that the terms of at least 1/3 of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent.
- II. The method of calling meetings of the unit owners and what percentage, if other than a majority of the unit owners, shall constitute a quorum.
- III. The election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of unit owners.
- IV. The election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- V. The election of a treasurer who shall keep the financial records and books of account.
- VI. The maintenance, repair and replacement of the common areas and facilities and payments therefor, including the method of approving payment vouchers.
- VII. The manner of collecting from the unit owners their share of the common expenses.
- VIII. The designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.
- IX. The method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities.
- X. Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas and facilities, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several unit owners.
- XI. The percentage of votes required to amend the bylaws.
- XII. Other provisions as may be deemed necessary for the administration of the property consistent with this chapter.

Source. 1965, 155:1, eff. Aug. 14, 1965.



Section 479-A:19

479-A:19 Books of Receipts and Expenditures; Availability for Examination. – The manager or board of directors, as the case may be, shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the unit owners at convenient hours of weekdays.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:20

479-A:20 Waiver of Use of Common Areas and Facilities; Abandonment of Unit. – No unit owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:21

479-A:21 Separate Taxation. –

I. Each unit and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including, but not limited to, special ad valorem levies and special assessments. Neither the building, the property, nor any of the common areas and facilities shall be deemed to be a parcel.

II. In the event the land or the building, including common areas and facilities, is separately owned and leased to the unit owner for a period of not less than 30 years and such lease, duly recorded, provides that the lessee shall pay all such taxes, such unit and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be separately assessed and taxed as aforesaid.

Source. 1965, 155:1. 1967, 264:4, eff. Aug. 26, 1967.

Section 479-A:22



479-A:22 Priority of Lien. — All sums assessed by the association of unit owners but unpaid for the share of the common expenses chargeable to any unit shall constitute a lien on such unit prior to all other liens except only (1) tax liens on the unit in favor of any assessing unit and special district and (2) all sums unpaid on a first mortgage of record. Such lien may be foreclosed by the manager or board of directors, acting on behalf of the unit owners, in like manner as a mortgage of real property. In any such foreclosure, the unit owner shall be required to pay a reasonable rental for the unit if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the unit owners shall have power, unless prohibited by the declaration, to bid in the unit at a foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns shall not be liable for the share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such acquirer, his successors and assigns.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:23

479-A:23 Joint and Several Liability of Grantor and Grantee for Unpaid Common Expenses. — In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or board of directors, as the case may be, setting forth the amount of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:24

479-A:24 Insurance. — The manager or the board of directors if required by the declaration, bylaws or by a majority of the unit owners, or at the request of a mortgagee having a first mortgage of record covering a unit, shall have the authority to, and shall, obtain



insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the association of unit owners as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. Provision for such insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit.

Source. 1965, 155:1, eff. Aug. 14, 1965.



Section 479-A:25

479-A:25 Disposition of Property; Destruction or Damage. – If within 60 days of the date of the damage or destruction to all or part of the property it is not determined by the association of unit owners to repair, reconstruct or rebuild, then and in that event: the property shall be deemed to be owned in common by the unit owners; the undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities; any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided in this section; and the property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners to the extent sufficient for the purpose all liens on the undivided interest in the property owned by each unit owner.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:26

479-A:26 Actions. – Without limiting the rights of any unit owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of 2 or more of the unit owners, as their respective interests may appear, with respect to any cause of action relating to the common areas and facilities or more than one unit. Service of process on 2 or more unit owners in any action relating to the common areas and facilities or more than one unit may be made on the person designated in the declaration to receive service of process.

Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:27

479-A:27 Personal Application. – All unit owners, tenants of such owners, employees of owners and tenants, or any other persons who may in any manner use property or any part thereof submitted to the provisions of this chapter shall be subject to this chapter and to the declaration and bylaws of the association of unit owners adopted pursuant to the provisions of this chapter. All agreements, decisions and determinations lawfully made by the association of unit owners in accordance with the voting percentages established in the chapter, declaration or bylaws shall be deemed to be binding on all unit owners.



Source. 1965, 155:1, eff. Aug. 14, 1965.

Section 479-A:28

479-A:28 Severability. – If any provision of this chapter or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of the chapter and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Source. 1965, 155:1, eff. Aug. 14, 1965.