

**RCW 64.90.290 Termination.** (1) Except for a taking of all the units by condemnation, foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in RCW 64.90.325, a common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, including at least 80 percent of the votes allocated to units not owned by the declarant, and with any other approvals required by the declaration. The declaration may require a larger percentage of total votes in the association for approval, but termination requires approval by at least 80 percent of the votes allocated to units not owned by the declarant. The declaration may specify smaller percentages only if all of the units are restricted exclusively to nonresidential uses.

(2) An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications of the agreement, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement is void unless it is recorded before that date. A termination agreement and all ratifications of the agreement must be recorded in every county in which a portion of the common interest community is situated and is effective only upon recordation. An agreement to terminate may only be amended by complying with the requirements of this subsection and subsection (1) of this section.

(3) A termination agreement may provide for the sale of some or all of the common elements and units of the common interest community following termination. If, pursuant to the agreement, any real estate in the common interest community is to be sold following termination, the termination agreement must set forth the minimum purchase price, manner of payment, and outside closing date, and may include any other terms of the sale.

(4) (a) The association, on behalf of the unit owners, may contract for the sale of real estate in a common interest community, but the contract is not binding on the unit owners until approved pursuant to subsections (1) and (2) of this section. If any real estate is to be sold following termination, title to that real estate not already owned by the association vests on termination in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the association continues in existence with all powers it had before termination.

(b) Proceeds of the sale must be distributed to unit owners and lienholders as their interests may appear, in accordance with subsections (7), (8), (9), and (13) of this section. Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners under this chapter or the declaration.

(5) Termination does not change title to a unit or common element not to be sold following termination unless the termination agreement otherwise provides.

(6) Following termination of the common interest community, the proceeds of a sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear.

(7) (a) Following termination of a condominium, plat community, or miscellaneous community, creditors of the association holding liens on the units that were recorded or perfected under RCW 4.64.020 before termination may enforce those liens in the same manner as any lienholder.

(b) All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(8) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative that were recorded or perfected under RCW 4.64.020 before termination may enforce their liens in the same manner as any lienholder, and any other creditor of the association is to be treated as if the creditor had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(a) The lien of each creditor of the association that was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(b) Any other creditor of the association must be treated, upon termination, as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(c) The amount of the lien of an association's creditor described in (a) and (b) of this subsection against each of the unit owners' interest must be proportionate to the ratio that each unit's common expense liability bears to the common expense liability of all of the units;

(d) The lien of each creditor of each unit owner that was perfected before termination continues as a lien against that unit owner's unit as of the date the lien was perfected;

(e) The assets of the association must be distributed to all unit owners and all lienholders as their interests may appear in the order described in this subsection; and

(f) Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

(9) The respective interests of unit owners referred to in subsections (4), (5), (6), (7), (8), and (13) of this section are as follows:

(a) Except as otherwise provided in (d) of this subsection, the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by appraisal made by one or more independent appraisers selected by the association. The appraisal must be distributed to the unit owners and becomes final unless:

(i) Disapproved not later than 30 days after distribution by unit owners of units to which at least 25 percent of the votes in the association are allocated; or

(ii) A unit owner objects in a record not later than 30 days after distribution to the determination of value of the unit owner's unit.

(b) A unit owner that objects under (a)(ii) of this subsection may select an appraiser to represent the owner and make an appraisal of the unit owner's unit. If the association's appraisal and the unit owner's appraisal of the fair market value of the unit owner's interest differ, a panel consisting of an appraiser selected by the association, the unit owner's appraiser, and a third appraiser mutually selected by the first two appraisers shall determine, by majority vote, the value of the unit owner's interest. The determination of value by the panel is final.

(c) The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and its allocated interests by the total fair market values of all the units and their allocated interests.

(d) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value of the unit or limited common element before destruction cannot be made, the interests of all unit owners are:

(i) In a condominium, their respective common element interests immediately before the termination;

(ii) In a cooperative, their respective ownership interests immediately before the termination; and

(iii) In a plat community or miscellaneous community, their respective common expense liabilities immediately before the termination.

(10) In a condominium, plat community, or miscellaneous community, except as otherwise provided in subsection (11) of this section, foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community, other than withdrawable real estate, does not withdraw that portion from the common interest community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate, or against common elements that have been subjected to a security interest by the association under RCW 64.90.465, does not withdraw that real estate from the common interest community, but the person taking title to the real estate may require from the association, upon request, an amendment excluding the real estate from the common interest community.

(11) In a condominium, plat community, or miscellaneous community, if a lien or encumbrance against a portion of the real estate comprising the common interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common interest community.

(12) The right of partition under chapter 7.52 RCW is suspended if an agreement to sell property is provided for in the termination agreement pursuant to subsection (3) of this section. The suspension of the right to partition continues unless a binding obligation to sell does not exist three months after the recording of the termination agreement, the binding sale agreement is terminated, or

one year after the termination agreement is recorded, whichever occurs first.

(13) A termination agreement complying with this section may provide for termination of fewer than all of the units in a common interest community, subject to the following:

(a) In addition to the approval required by subsection (1) of this section, the termination agreement must be approved by at least 80 percent of the votes allocated to the units being terminated;

(b) The termination agreement must reallocate under RCW 64.90.235 the allocated interests for the units that remain in the common interest community after termination;

(c) The aggregate values of the units and common elements being terminated must be determined under subsection (9) of this section. The termination agreement must specify the allocation of the proceeds of sale for the units and common elements being terminated and sold;

(d) Security interests and liens on remaining units and remaining common elements continue, and security interests and liens on units being terminated no longer extend to any remaining common elements;

(e) The unit owners association continues as the association for the remaining units; and

(f) The association shall record with the termination agreement under subsection (2) of this section an amendment to the declaration or an amended and restated declaration, and, if necessary, an amendment to the map or an amended and restated map. [2024 c 321 s 310; 2018 c 277 s 219.]