

RCW 64.90.425 Transfer of special declarant rights. (1) Except as provided in subsection (3) of this section, a special declarant right created or reserved under this chapter may be transferred only by an instrument effecting the transfer and executed by the transferor, to be recorded in every county in which any portion of the common interest community is located. The transferee must provide the association with a copy of the recorded instrument, but the failure to furnish the copy does not invalidate the transfer.

(2) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for such warranty obligations arising before the transfer imposed upon the transferor under this chapter. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(b) If a successor to any special declarant right is an affiliate of a declarant the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.

(c) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant under this chapter or by the declaration relating to the retained special declarant rights, whether arising before or after the transfer.

(d) A transferor is not liable for any act or omission or any breach of a contractual or warranty obligation by a successor declarant who is not an affiliate of the transferor.

(3) Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings of any unit owned by a declarant or real property in a common interest community that is subject to any special declarant rights, a person acquiring title to the real property being foreclosed or sold succeeds to all of the special declarant rights related to that real property held by that declarant and to any rights reserved in the declaration pursuant to RCW 64.90.275 and held by that declarant to maintain models, sales offices, and signs except to the extent the judgment or instrument effecting the transfer states otherwise.

(4) Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings of all interests in a common interest community owned by a declarant, any special declarant rights that are not transferred as stated in subsection (3) of this section terminate.

(5) The liabilities and obligations of a person who succeeds to special declarant rights are as follows:

(a) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor under this chapter or by the declaration.

(b) A successor to any special declarant right, other than a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed under this chapter or the declaration:

(i) On a declarant that relate to the successor's exercise of special declarant rights; and

(ii) On the declarant's transferor, other than:

(A) Misrepresentations by any previous declarant;

(B) Any warranty obligations pursuant to RCW 64.90.670 (1) through (3) on improvements made or contracted for, or units sold by, a previous declarant or that were made before the common interest community was created;

(C) Breach of any fiduciary obligation by any previous declarant or the previous declarant's appointees to the board; or

(D) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(c) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result of such reserved rights.

(6) This section does not subject any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration. [2018 c 277 § 306.]