



**NEW MEXICO ASSOCIATION OF REALTORS® — 2026
INFORMATION SHEET — CONDOMINIUM ASSOCIATIONS
NEWLY FORMED DEVELOPMENTS**



This form is NOT a disclosure and does NOT provide property-specific information. The general information contained herein is not an exhaustive analysis of the subject matter. Brokers are not experts in the subject matter. If you have additional questions or concerns, you are encouraged to conduct further research and to contact a subject-matter expert.

CONDOMINIUMS GENERALLY

Condominiums are governed by the New Mexico Condominium Act (“Act”). The Act does not apply to a homeowners’ association governed by the Homeowner’s Act. However, in the event a condominium that falls under the Condominium Act is also part of a larger HOA, then both the Condominium Act and the HOA Act may apply.

The following provides a brief summary of some, **but not all**, of the provisions of the Act. A “condominium” is defined in the Act as real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium (“condo”) unless the undivided interests in the common elements are vested in the unit owners. To create a condo, the Act requires that a declaration creating the condo be recorded in each county in which any portion of the condo is located.

UNIT OWNERS’ ASSOCIATIONS

Once a condo community has been created, per the Act, a unit owners' association (“UOA”) must be organized no later than the date the first unit in the condo is conveyed. Only unit owners (“owners”) may be members of the UOA. The UOA may be unincorporated or organized as a profit or nonprofit corporation.

Generally, the UOA is responsible for the following: 1) adopting, amending and enforcing bylaws, rules and regulations; 2) maintaining, repairing, replacing and insuring common elements (each owner is responsible for maintenance/repair of his/her unit); 3) hiring and discharging managing agents, employees and contractors to carry out the UOA’s business/obligations; and 4) imposing and receiving payments, fees and charges. **The Act sets forth additional general powers of a UOA; however, the specific rights/obligations of any given UOA are set forth in its governing documents.**

The UOA’s governing documents may also include provisions for how the UOA conducts its business, which may include, but not be limited to the following: when meetings must be held and how notice must be provided; what constitutes a quorum; how voting is conducted; and what records must be maintained by the UOA and made available to owners. The UOA’s governing documents must comply with the Act.

DECLARANT CONTROL AND THE EXECUTIVE BOARD

No later than the termination of any period of declarant control, the owners must elect an Executive Board (“EB”) of at least three members. The declarant is the developer of the condo community. The EB elects the officers and acts on behalf of the UOA, with some exceptions and notwithstanding any provision of the declaration or bylaws to the contrary, the owners may remove any member of the EB with or without cause, other than a member appointed by the declarant.

The declaration may provide for a period of declarant control of the UOA, during which the declarant may appoint and remove officers and members of the EB. No later than 60 days after conveyance of 50% of the units to owners, the declarant may appoint at least one member and no less than 25% of the members of the EB from among the owners, none of which may be affiliates of the declarant. Regardless of the period of declarant control, such control terminates no later than the earlier of: 1) 180 days after conveyance of 90% of the units which may be created to owners other than a declarant; 2) two years after all declarants have ceased to offer units for sale in the ordinary course of business; or 3) five years after any

development right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint or remove officers and members of the EB before termination of that period, but in that event, may require, for the duration of the period of declarant control, that specified actions of the UOA or EB be approved by the declarant.

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**INITIALS SIGNIFY THAT THE BUYER(S) AND/OR SELLER(S) HAS RECEIVED AND REVIEWED THIS
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ASSESSMENTS FOR COMMON EXPENSES

Per the Act, assessments must be made at least annually and be based on a budget adopted by the UOA at least annually. Except for certain circumstances set forth in the Act, the UOA must assess all common expenses against all the units in accordance with the allocations set forth in the declaration, allocations must conform with the Act. The UOA may charge interest on any past-due assessment or installment, but such rate may not exceed 18% per year.

UOA LIENS

The UOA has a lien on a unit for any assessment levied against that unit or fines imposed against its owner from the time the assessment or fine becomes due and the lien may be foreclosed in the same manner as a mortgage. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charged by the UOA also are enforceable as assessments. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. Recording of the declaration constitutes record notice and perfection of the lien, which means that the UOA is not required to record another claim of lien when an assessment is not paid. The UOA must initiate proceedings to enforce the lien within three years after the full amount of the assessments becomes due, otherwise, the lien is automatically extinguished. To the extent provided in the declaration, a lien filed by the UOA is subordinate to other liens and encumbrances. In an action filed by the UOA to recover amounts due or to foreclose a lien, the prevailing party is entitled to reasonable attorney's fees and costs. Within 10 business days of a written request from a unit owner, the UOA must provide the unit owner with a statement setting forth the amount of unpaid assessments against his/her unit.

ALTERATIONS OF UNITS

Subject to the declaration and other provisions of law, an owner may make any improvements or alterations to his/her unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condo. An owner may not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condo, without permission of the UOA. In the event the owner acquires an adjoining unit or an adjoining part of an adjoining unit, the owner may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condo. Removal of partitions or creation of apertures is not considered an alteration of boundaries.

DISCLOSURE REQUIREMENTS TO CONDOMINIUM BUYERS - DISCLOSURE STATEMENTS

Disclosure Statement

Prior to the offering of any interest in a unit to the public, a declarant or a person to whom the declarant has transferred responsibility, must prepare a disclosure statement (“Statement”) conforming to the requirements of the Act as set forth below. The declarant or any other person is liable for any false or misleading Statement set forth in the statement or for any omission of material fact therefrom with respect to that portion of the Statement which he/she prepared.

A Statement must contain or fully and accurately disclose the following:

1. the name and principal address of the declarant and of the condo;
2. a description of the condo, including to the extent possible the types, number and declarant's schedule of commencement and completion of construction of buildings/amenities that the declarant anticipates including in the condo;
3. the number of units in the condo;
4. copies of the declaration, other than the plats and plans, and any other recorded covenants, conditions, restrictions and reservations affecting the condo; the bylaws and any rules or regulations of the UOA; copies of any contracts and leases to be signed by buyers at closing; and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the UOA under the Act.
5. any current balance sheet and a projected budget for the UOA, either within or as an exhibit to the disclosure statement, for one year after the date of the first conveyance to a buyer, and thereafter the current budget of the UOA, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget shall include without limitation:
 - a. a statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement;
 - b. a statement of any other reserves;



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- c. the projected common expense assessment by category of expenditures for the UOA; and
- d. the projected monthly common expense assessment for each type of unit;
- 6. any services not reflected in the budget that the declarant provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the UOA and the projected common expense assessment attributable to each of those services or expenses for the UOA and for each type of unit;
- 7. any initial or special fee due from the buyer at closing, together with a description of the purpose and method of calculating the fee;
- 8. a description of any liens, defects or encumbrances on or affecting the title to the condo;
- 9. a description of any financing offered or arranged by the declarant;
- 10. the terms and significant limitations of any warranties provided by the declarant and limitations on the enforcement thereof or on damages;
- 11. a statement that:
 - a. within seven days after receipt of a disclosure statement a buyer, before conveyance, may cancel any contract for purchase of a unit from a declarant;
 - b. if a declarant fails to provide a disclosure statement to a buyer before conveying a unit, that buyer may rescind the purchase within six months from the date of conveyance;
 - c. shall set forth the procedures for the buyer to cancel the contract;
 - d. if a buyer receives the disclosure statement more than seven days before signing a contract to purchase a unit, he cannot cancel the contract;
- 12. a statement of any unsatisfied judgments or pending suits against the UOA and the status of any pending suits material to the condo of which a declarant has actual knowledge;
- 13. a statement that any deposit made in connection with the purchase of a unit shall be held in an escrow account until closing and shall be returned to the buyer if the buyer cancels the contract pursuant to the Act, together with the name and address of the escrow agent;
- 14. any restraints on alienation of any portion of the condo;
- 15. a description of the insurance coverage provided for the benefit of owners;
- 16. any current or expected fees or charges to be paid by owners for the use of the common elements and other facilities related to the condo; and
- 17. the extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to the Act.

If a condo composed of not more than 25 units is not subject to any development rights and no power is reserved to a declarant to make the condo part of a larger condo, group of condos or other real estate, a Statement may, but does not have to, include the information otherwise required by Paragraphs (9), (10) and (15) through (17).

If the declaration provides that a condo is subject to any development rights and/or the condo contains conversion buildings, the Statement must disclose additional information as set forth in the Act. A "conversion building" means a building that at any time before creation of the condo was occupied wholly or partially by persons other than buyers or persons who occupy with the consent of buyers.

Buyer's Right to Cancel

A person required to deliver a Statement must provide a buyer of a unit with a copy of the disclosure statement and all amendments thereto before conveyance of that unit and not later than the date of any contract of sale. Unless a buyer is given the Statement more than seven days before execution of a contract for the purchase of a unit, the buyer, before conveyance, may cancel the contract within seven days after first receiving the Statement. If a buyer elects to cancel a contract, he/she may do so by hand-delivering notice thereof to the offerer or by mailing notice thereof by prepaid United States mail to the offerer or to his agent for service of process. Cancellation is without penalty, and all payments made by the buyer before cancellation must be refunded promptly. If a person required to deliver a Statement pursuant fails to provide to do so in accordance with the Act, a buyer to whom a unit is conveyed is entitled to rescind the purchase within six months from the date of conveyance upon delivery to the seller of a deed subject to no encumbrance attaching to the property suffered or caused by the buyer.

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