WEST VIRGINIA CODE: §36B-4-103

§36B-4-103. Public offering statement; general provisions.

(a) Except as provided in subsection (b), a public offering statement must contain or fully and accurately disclose:

(1) The name and principal address of the declarant and of the common interest community and a statement that the common interest community is either a condominium, cooperative or planned community;

(2) A general description of the common interest community, including to the extent possible, the types, number, and declarant's schedule of commencement and completion of construction of buildings and amenities that the declarant anticipates including in the common interest community;

(3) The number of units in the common interest community;

(4) Copies and a brief narrative description of the significant features of the declaration, other than any plats and plans and any other recorded covenants, conditions, restrictions and reservations affecting the common interest community; the bylaws and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under section 3-105;

(5) Any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser and thereafter the current budget of the association, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:

(i) A statement of the amount or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(ii) A statement of any other reserves;

(iii) The projected common expense assessment by category of expenditures for the association; and

(iv) 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 which he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

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(7) Any initial or special fee due from the purchaser 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 common interest community;

(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, including statutory warranties and limitations on the enforcement thereof or on damages;

(11) A statement that:

(i) Within fifteen days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant;

(ii) If a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant ten percent of the sales price of the unit plus ten percent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community: Provided, That purchaser is required to show that he or she has been actually damaged as a result of the failure to provide such offering statement and that his or her action to recover such damage and the penalty provided in this paragraph is instituted within three years from the date on which purchaser's right of action shall have accrued; and

(iii) If a purchaser receives the public offering statement more than fifteen days before signing a contract, he cannot cancel the contract;

(12) A statement of any unsatisfied judgments or pending suits against the association and the status of any pending suits material to the common interest community of which a declarant has actual knowledge;

(13) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to section 4-108, together with the name and address of the escrow agent;

(14) Any restraints on alienation of any portion of the common interest community and any restrictions: (i) On use, occupancy, and alienation of the units; and (ii) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation or casualty loss to the unit or to the common interest community or on termination of the common interest community;

(15) A description of the insurance coverage provided for the benefit of unit owners;

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(16) Any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the common interest community;

(17) The extent to which financial arrangements have been provided for completion of all improvements that the declarant is obligated to build pursuant to section 4-119 (Declarant's Obligation to Complete and Restore);

(18) A brief narrative description of any zoning and other land use requirements affecting the common interest community;

(19) All unusual and material circumstances, features and characteristics of the common interest community and the units; and

(20) In a cooperative, (i) whether the unit owners will be entitled, for federal, state and local income tax purposes, to a pass through of deductions for payments made by the association for real estate taxes and interest paid the holder of a security interest encumbering the cooperative; and (ii) a statement as to the effect on every unit owner if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative.

(b) If a common interest community composed of not more than twelve units is not subject to any development rights and no power is reserved to a declarant to make the common interest community part of a larger common interest community, group of common interest communities, or other real estate, a public offering statement may but need not include the information otherwise required by paragraphs (9), (10), (15), (16), (17), (18) and (19) of subsection (a) and the narrative descriptions of documents required by subsection (a)(4).

(c) A declarant promptly shall amend the public offering statement to report any material change in the information required by this section.

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