WEST VIRGINIA CODE: §36b-2-110

§36B-2-110. Exercise of development rights.

(a) To exercise any development right reserved under section 2-105(a)(8), the declarant shall prepare, execute and record an amendment to the declaration (section 2-117) and in a condominium or planned community comply with section 2- 109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (b), reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by section 2-108 (Limited common elements).

(b) Development rights may be reserved within any real estate added to the common interest community if the amendment adding that real estate includes all matters required by section 2-105 or 2-106, as the case may be, and, in a condominium or planned community, the plats and plans include all matters required by section 2-109. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to section 2- 105(a)(8).

(c) Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements or both:

(1) If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (section 1-107); and

(2) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

(d) If the declaration provides, pursuant to section 2- 105(a)(8), that all or a portion of the real estate is subject to a right of withdrawal:

(1) If all the real estate is subject to withdrawal and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(2) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

WV Legislature