

LOUISIANA STATE LAW INSTITUTE

MEETING OF THE COUNCIL

October 3, 2025

Friday, October 3, 2025

Persons Present:

Adams, Lauren B.	Manning, C. Wendell
Baker, Pamela J.	McCallum, Jay B.
Baxter Payer, Julie	O'Connell, Caleb
Belanger, Kathryn (Katie)	Penzato, Allison H.
Breard, L. Kent	Philips, Harry "Skip", Jr.
Braun, Jessica G.	Procell, Christopher A.
Crochet, Anne J.	Procopio, Sarah M.
Cromwell, L. David	Ricca, Michelle P.
Darensburg, June Berry	Richard, Herschel E., Jr.
Davidson, James J., III	Riviere, Christopher H.
Davrados, Nikolaos A.	Roussel, Randy
Flemings-Devillier, Tracey	Ruffin, Aaron M.
Freel, Angelique D.	Rusovich, Sydney G.
Gregorie, Isaac M. "Mack"	Saloom, Douglas J.
Guice, Jon K.	Scalise, Ronald J., Jr.
Hamilton, Leo C.	Smith, Kenya J.H.
Hawthorne, George "Trippe"	Stuckey, James A.
Hayes, Thomas M., III	Talley, Susan G.
Hogan, Lila Tritico	Tate, George J.
Holdridge, Guy	Thibaut, Martha A.
Janke, Benjamin West	Thibaux, Robert P.
Johnson, Rachael D.	Title, Peter S.
Knighten, Arlene D.	Tucker, Zelda W.
Larsen, Michael R.	Ventulan, Josef
Lee, Amy Allums	Waller, Mallory C.
Lonegrass, Melissa T.	Weems, Charles S., III
Lovett, John A.	White, H. Aubrey, III

President L. David Cromwell called the October Council meeting to order at 10:00 a.m. on Friday, October 3, 2025 at the Louisiana Supreme Court in New Orleans. After asking Council members to briefly introduce themselves, the President called on Mr. Randy Roussel, Reporter of the Common Interest Ownership Regimes Committee, to begin his presentation of materials.

Common Interest Ownership Regimes Committee

Mr. Roussel began by reminding members of the work previously done by the Committee and the Council on the Planned Community Act and the desire to keep the revisions to the Condominium Act consistent with that legislation to the extent possible. In some instances, the very nature of the ownership dictates differences, which are highlighted in the materials. The Reporter then directed the Council to page 23 of the materials, R.S. 9:1122.102(B), and the list of things that may be included in the declaration.

Members began questioning whether the changes to the introduction paragraph exclude provisions that are not listed. Mr. Roussel noted that the list is illustrative but there are limitations elsewhere in the Act. However, he agreed to revert to the existing language for clarity. The following were approved:

R.S. 9:1122.105102. Contents of the condominium declaration

* * *

B. The condominium declaration may contain other provisions not inconsistent with this Section such as any of the following:

(1) ~~Those relating to the withdrawal of damaged or destroyed units from the condominium regime.~~

(2) ~~The reallocation of the percentage interest in the common elements of the units so withdrawn to the unit owners remaining within the condominium regime, and the basis of the reallocation, and the release of any unit or units so withdrawn from their respective obligations for payment of their percentage share of the common expenses of the condominium property.~~

(3) The purpose or purposes for which the condominium property and units are intended.~~(4) (2) Procedures whereby a unit owner may convey transfer his unit to the association and thereby release himself from any further obligation for the common expenses of the condominium expense liabilities.~~

(3) The method of amendment of the declaration, subject to the limitations provided in this Part.

(4) The method for making assessments and the procedure for collecting from the unit owners their respective assessments.

(5) ~~Designation of limited common elements.~~

(6) ~~Responsibility for the maintenance and repair of units.~~

(7) ~~Use restrictions, and~~

(8) ~~(5) Limitations upon conveyance, sale, leasing, ownership, use, and occupancy of units.~~

(6) Different allocations to units of voting interest on particular matters specified in the declaration and class voting on specified issues affecting the class if necessary to protect valid interests of the class.

(7) Cumulative voting only for electing directors, provided cumulative voting may not be utilized to avoid any limitation imposed on the declarant by this Part.

C. Whenever additional immovable property is subjected to the condominium regime, an amendment to the condominium declaration shall be executed in accordance with Subsections A and B of this Section and filed for registry in the conveyance records in the parish in which the condominium is located.

D. The condominium documents shall not:

(1) Reduce the voting interest required in R.S. 9:1122.113.

(2) Vary any requirement, procedure, or other provision of this Part pertaining to the mandatory requirements of the declaration in accordance with this Section or the provisions of Subpart D of this Part.

The Reporter then introduced R.S. 9:1122.103 regarding condominiums on leased land and the disclosures that are required because the lease may terminate. This does not lay out a procedure, but it does require explanations for potential buyers. One Council member asked what happens if disclosures are not made, and the Reporter responded that this would be a breach of warranty. Another Council member expressed concern about a gap in the law when leased land and a building are subjected to a condominium regime. There was further inquiry regarding usufructs on subjected land and ground leases with predial servitudes. The Reporter agreed to add a sentence to acknowledge such situations and return with conforming changes to R.S. 9:1122.101 as needed.

Mr. Roussel then moved to R.S. 9:1122.104 and explained allocation of common expense liabilities and what the declaration is required to provide. The Council agreed to change Subsection C to clarify when the amendment takes effect and suggested that the Reporter add a definition of the term "common surpluses." Mr. Roussel then asked that Paragraph (E)(1) be deleted as duplicative of R.S. 9:1122.102(B), and the following language was approved:

R.S. 9:1122.108104. Allocation of common element interest, votes, and common expense liabilities, common surpluses, and voting interest in the association

A. ~~The declaration may provide that different allocations of votes shall be made to the units on particular matters specified in the declaration shall allocate to each unit a fraction or percentage of the common expense liabilities, common surpluses, and voting interest in the association and shall state the formulas or methods used to establish the allocations.~~

B. ~~Except as provided in Section 1122.107, Section 1122.112, Section 1122.114, or Section 1122.115 or in the event a portion of the condominium property is removed from the provisions of this Part following a casualty loss or expropriation, the percentage of undivided interest of such unit owner in the common elements of the condominium as expressed in the condominium declaration shall be an inseparable component of the ownership of the unit and shall not be altered without the consent of all the unit owners expressed in an amended condominium declaration duly filed for registry. Except for minor variations due to rounding, the sum of the common expense liabilities, common surpluses, or voting interest in the association allocated at any time to all of the units shall equal one if stated as a fraction or one hundred percent if stated as a percentage.~~

C. ~~The common elements shall remain undivided and shall not be subject to partition, except with respect to that part or all of the condominium property that has been withdrawn from the provisions of this Part. An amendment to the allocation of the respective percentage interest of an individual unit in the common elements, common surplus and common expense liabilities, and the proportionate voting rights in the association takes effect when the declarant, in compliance with law, dedicates additional units, common elements, or both, to the condominium regime, the amendment to the condominium regime is executed in accordance with this Part, and the amendment is filed for registry in each parish in which condominium property is situated as required by R.S. 9:1122.101(D).~~

D. ~~If units may be added to or withdrawn from the condominium regime, or if boundaries between adjoining units may be relocated, the declaration shall state the formulas or methods to be used to reallocate the common expense liabilities, common surpluses, and voting interest in the association among all units included in the condominium regime after the addition, withdrawal, or relocation.~~

E. ~~A declarant may not utilize cumulative or class voting to avoid any limitation imposed on declarants by this Part, nor may units constitute a class because they are owned by a declarant.~~

F. The alienation, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in a unit includes membership in the association and any other rights in the association appurtenant to that unit.

G. Nothing in this Section shall require a condominium regime in existence prior to the effective date of this Act to amend its method of calculating or allocating assessments.

Next, the Reporter explained that R.S. 9:1122.105 provides for limited common elements as a subset of common elements that may only be used by certain owners. The declaration must specify the allocation, and limited common elements may be reallocated with the consent of the owners affected. One Council member asked about filing the initial declaration prior to allocating the elements, and the Reporter responded that the initial declaration may arbitrarily assign and then be amended. The process depends on whether the period of declarant control has ended and what the terms of the declaration provide. The Council also discussed the role of the board, and the following was approved:

R.S. 9:1122.105. Limited common elements

A. The declaration shall specify to which unit each limited common element is allocated. An allocation may not be altered without the consent of all of the unit owners whose units are directly affected.

B. A limited common element may be reallocated upon request to the board of directors by all of the unit owners whose units are directly affected. When a request is made and approved in accordance with the declaration, an amendment to the declaration containing the name of the requesting unit owners shall be executed by an authorized officer or agent of the association and shall be filed for registry in accordance with R.S. 9:1122.101. Any expenses incurred by the association in accordance with this Section shall be borne by the requesting unit owners.

Mr. Roussel then introduced R.S. 9:1122.106 on reapportionment based on a change of circumstances. As additional units and buildings are added or converted, the declarant must reallocate based on the method provided in the declaration. One Council member suggested making the actions of the board ministerial, but the Reporter explained that if the structural integrity of the building is implicated, the law needs to provide that the declaration controls. The Council then discussed the exclusion of the limited common elements, and the Reporter explained this provision as being applicable when a new building is constructed and not when a boat slip is added. Due to confusion over the limited common elements not being owned in the overall percentage interest and whether they are inseparable, the Council recommitted that concept and suggested that it be added to R.S. 9:1122.104(F). Thereafter, the following provisions were approved:

R.S. 9:1122.106. Reapportionment among unit owners of the percentage ownership interest in the common elements; percentages of sharing common expenses and common surplus; voting power in the association of unit owners

~~If on the date a condominium regime is created, it is the intention of the declarant to add additional units, common elements, or both, to the condominium regime, the declarant shall have the power to change, with respect to individual units in the condominium property, their respective percentage interest in the common elements, their percentage sharing of the common surplus and common expenses and their respective voting rights in the association of unit owners and to reallocate part of said interest to units actually dedicated at a future date upon providing the following particulars in the condominium declaration:~~

(1) A statement that the respective percentage interest of an individual unit in the common elements, common surplus and common expenses, and the proportionate voting rights of an individual unit in the association, may be changed in the event the declarant actually dedicates additional units, common elements, or both, to the condominium regime.

(2) A formula indicating the method or manner of determining a particular unit's percentage interest in the common elements, percentage sharing of surplus and common expenses and proportion of voting power in the association, dependent upon the total number of units comprising the entire condominium regime.

(3) The maximum time period, not to exceed a period of seven years subsequent to the date of filing the condominium declaration, during which additional units or common elements or both may be dedicated to the condominium regime.

(4) A description of each parcel of additional immovable property that may be later included in the condominium regime.

(5) If parcels of immovable property may be added to the condominium regime at different times, a statement to that effect, together with (i) either a statement fixing the boundaries of the parcels and regulating the order in which they may be added to the condominium regime or a statement that no assurances are made in those regards, and (ii) a statement as to whether, if any portion of additional immovable property is added to the condominium regime, all or any particular portion of that or any other immovable property must be so added.

(6) A statement of:

(a) The maximum number of condominium units that may be created within any parcel of additional immovable property to be added to the condominium regime, the boundaries of which are fixed pursuant to Paragraph (5).

(b) An indication of those units restricted to residential use.

(c) The maximum number of units per acre that may be created within any such parcels, the boundaries of which are not fixed pursuant to Paragraph (5).

(7) A statement of the extent to which any improvements that may be erected upon each parcel of the additional immovable property which may be added to the condominium regime will be compatible with the existing improvements in the condominium in terms of architectural style, quality of construction, principal materials employed in construction, and size, or a statement that no assurances are made in those regards.

(8) A statement that all covenants in the condominium declaration affecting use, occupancy, and alienation of units will apply to units created within additional parcels of immovable property which may be later added to the condominium regime, or a statement of any differentiations which may be made as to these units.

(9) Any additional common elements that may be included within the condominium in the event additional units are included within the condominium at a later date and specifically indicating what common elements will be added if less than the maximum number of units are later included within the condominium regime, and

(10) A statement of any limitations as to the locations of improvements that may be made within parcels of immovable property to be added to the condominium regime, or a statement that no assurances are made in that regard.

A. Except as provided in this Part, the percentage of undivided interest of the unit owner in the common elements, other than the limited common elements, of the condominium regime as expressed in the declaration shall not be altered without the consent of all the unit owners required by R.S. 9:1122.113 as evidenced by an amendment to the declaration duly filed for registry.

B. If development rights and special declarant rights are properly reserved in the declaration, the declarant shall have the power to change, with respect to individual units in the condominium property, the respective percentage interest in the common elements, other than the limited common elements. Where those rights are reserved, the declarant shall also have the power to change, with respect to the individual units, the percentage sharing of the common surplus and common expenses, and the respective voting rights in the association and to reallocate part of the interest to units dedicated at a future date in accordance with Subsection A of this Section.

Moving to page 30 of the materials and R.S. 9:1122.107, the Reporter explained what happens when a unit is expropriated or condemned. If common elements are expropriated, the proceeds are paid to the association, but if limited common elements are expropriated, the award is to the unit owners affected. Members of the Council questioned the association's authority to determine compensation as provided in Subsection D and although the Reporter explained that it is the reallocation that is determined by the association, with the court determining the dollar amount, Mr. Roussel agreed to take this provision back to the Committee for further clarification that the association acts on behalf of the regime. The following Subsections were approved:

R.S. 9:1122.1071122.107. Expropriation or condemnation

A. If a unit is acquired by eminent domain expropriation or condemnation, unless the order of taking expropriation or condemnation otherwise provides, that unit's entire common element interest, votes in the association voting interest, and proportionate liability for common expense assessments liabilities are deemed to be reallocated on the date of the judgment of expropriation or an order of condemnation to the remaining units in proportion to the respective common element interests, voting power, and common expense liabilities of those units prior to the taking expropriation or condemnation, and the association shall promptly prepare, execute, and record file for registry an amendment to the declaration reflecting the reallocation in accordance with R.S. 9:1122.113.

B. If a portion, but less than all of a unit is acquired by expropriation, and the remaining portion of the unit may be practically or lawfully used for those purposes permitted under in the declaration, such the unit's ownership in the common elements, votes in the association, and proportionate liability for common expenses expense liabilities shall be reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and the portion of the ownership interest in the common elements, voting power, and liability for common expense assessments liabilities divested from the partially acquired unit shall be deemed to be reallocated to that unit and the remaining units in proportion to the respective common element ownership interest, voting power, and liability for common expenses expense liabilities of those units prior to the taking expropriation or condemnation, with the partially acquired unit participating in the reallocation on the basis of its reduced size.

C. If a portion of the common elements, not a limited common element, is acquired by expropriation, the award shall be paid to the association. The Except as otherwise provided in the declaration, the association shall divide any portion of the award not used for restoration, or repair, or rebuilding of the remaining common elements among the unit owners in proportion to their respective ownership interest in the common elements before the taking; any expropriation. Any portion of the award attributable to the acquisition of a limited common element shall be equally divided among paid to the owners of the unit owner to which that limited common element appertains, or in such other manner as the declaration may provide if multiple units are expropriated, equitably among the unit owners, in either case, subject to the rights of secured parties that provided notice of their rights to the association.

Mr. Roussel next introduced R.S. 9:1122.108 and remarked that present law assumes that all casualties are covered by insurance, so this proposal is new. It creates obligations depending upon the cost to restore, repair, or rebuild the common elements after a loss. Members of the Council discussed the calling of a meeting and what happens if the board is not active, as well as the relationship between this proposal and R.S. 9:1123.117 regarding insurance requirements. The Reporter agreed to add language to the Comment to clarify that this Section only applies to uninsured casualties – such as not having flood insurance and suffering a flood event – and is not intended to apply when a regime is underinsured. The following language was approved:

R.S. 9:1122.108. Casualty

A.(1) When a casualty is not governed by the provisions of R.S. 9:1123.117, this Section shall apply. Except as provided in Subsection B of this Section, when the cost to restore, repair, or rebuild the loss or damage to the common elements equals or is less than one-third of the value of the common elements, the association shall restore, repair, or rebuild the damage caused by the casualty.

(2) When the cost to restore, repair, or rebuild the loss or damage to the common elements exceeds one-third of the value of the common elements, a meeting of the association shall be called in accordance with R.S. 9:1123.117(l). If the unit owners elect not to restore, repair, or rebuild the common elements, and except as otherwise provided in the declaration, the remaining common elements shall be allocated among the unit owners in proportion to their respective ownership interest in the common elements before the casualty. The condominium documents shall be amended to allocate any limited common elements not restored, repaired, or rebuilt and to reflect the adjusted interest in the common elements.

B. In the event the lost or damaged common elements do not include a residential use, are not necessary for structural support, or necessary for compliance with governmental regulations, the association may decide not to restore, repair, or rebuild the common elements by a majority vote at a meeting called in accordance with R.S. 9:1123.117(l) regardless of the extent of the damage.

C. The determination of the ratio of the costs to restore, repair, or rebuild the common elements compared to the value of the common elements shall be determined by the board of directors on a building-by-building basis.

D. Notwithstanding any other Subsection of this Section, the association shall not be required to restore, repair, or rebuild the damaged or destroyed common elements if it would be illegal under any federal, state, or local health or safety law or ordinance.

Now focusing on R.S. 9:1122.109, the Reporter mentioned two concepts regarding collateral assignment and the transfer upon foreclosure. In Subsection G, the Council discussed the treatment of a collateral assignment as a partial transfer until something else happens. Members of the Council questioned if the intent is the single action of seizure or if seizure and sale are required. The Reporter noted that if a lender seizes, he is responsible for the obligations of the declarant. After further questions regarding responsibility and the timing of the transfer of ownership, the Reporter pointed to real-life Perkins Rowe development issues and the need for the policy decision of keeping the developer in control during the foreclosure process so that someone is accountable. The Council also discussed an example involving the dismissal of a foreclosure and how rights are transferred back and the relation to the status as the developer and not as an owner. Members of the Council expressed concern with the idea that a seizure effects a transfer. One Council member then suggested using the term "impose responsibility" until seized instead of "transfer." The Reporter reiterated the idea that the closing creditor does not have to seize the rights, but they do have to identify the property and the responsibilities that are being taken over or whether they are merely taking the property without any responsibilities. Mr. Roussel then agreed that the Committee will rework Subsection G to clarify the temporary nature of the collateral assignment and those rights and obligations that exist until the final transfer. The remainder of the Section was approved as follows:

R.S. 9:1122.109. Exercise of development rights

A. To exercise any development right reserved in the declaration, the declarant shall prepare, execute, and file for registry an amendment to the declaration in accordance with R.S. 9:1122.101. The amendment to the declaration shall assign an identifying number to each new unit created, and, except in the case of modification of units described in Subsection D of this Section, reallocate the common expense liabilities, common surpluses, and voting interest in the association among all units in accordance with R.S. 9:1122.102 and 1122.104. The amendment shall describe any common elements and any limited common elements created and, in the case of limited common elements, designate the units by letter, name, or number, or a combination thereof to which each is appurtenant. The amendment shall contain a complete property description of any immovable property added to the condominium regime.

B. Development rights may be reserved on any condominium property added to the condominium regime if the amendment adding that condominium property includes or incorporates by reference all matters required by R.S. 9:1122.102.

C. Development rights, including special declarant rights, to add additional condominium property may be exercised only within the time period provided for in the declaration, not to exceed seven years after the date of the filing of the initial declaration. The submission of an application for a building permit or site plan approval to add additional units shall suspend the running of the seven-year period, except that the suspension is considered never to have occurred if the application is denied and any appeal period has expired, or if the declarant voluntarily withdraws, abandons, or fails to diligently pursue the application prior to approval. If an application is approved, the seven-year period shall be interrupted and shall commence to run anew on the date on which the application is approved provided, however, an amendment to the declaration shall be recorded within sixty days of approval to be effective.

D. When a declarant exercises a development right to alter or convert a unit previously created into additional units, common elements, limited common elements, or any combination thereof, the following apply:

(1) If the declarant converts a unit entirely to a common element or limited common element, the amendment to the declaration shall reallocate all of the common expense liabilities, common surpluses, and voting interest in the association of that unit among the other units by the same method provided in R.S. 9:1122.104, or as otherwise provided in the condominium documents.

(2) If the declarant converts the unit into two or more units or if the declarant combines two or more units into a single unit, regardless of whether any part of the unit is converted into a common element or a limited common element, the amendment to the declaration shall reallocate all of the common expense liabilities, common surpluses, and voting interest in the association of the unit among the units created by the conversion in the manner prescribed in the declaration and contain the information required by R.S. 9:1122.102(A)(5).

E. If, pursuant to R.S. 9:1122.102, the declaration provides that all or any portion of the condominium property within the condominium regime is subject to withdrawal by the declarant, none of the condominium property may be withdrawn after a unit has been transferred to an unrelated purchaser except upon a supermajority vote of the association. A declarant may not withdraw all or any portion of immovable property that has been transferred to the association.

F. Special declarant rights may be transferred only by an instrument evidencing the transfer filed for registry in accordance with R.S. 9:1122.101 in each parish in which any portion of the condominium regime is situated. Upon transfer of special declarant rights, the transferor is not relieved of any obligation or liability arising before the transfer. A transferor has no liability for any act or omission of, or any breach of a contractual obligation arising from the exercise of a special declarant right, by a successor declarant.

* * *

H. A person who succeeds to special declarant rights is subject to the obligations and liabilities imposed by this Part or the condominium documents with respect to the rights transferred, except for any of the following:

- (1) Misrepresentations by a previous declarant.
- (2) Breach of any fiduciary obligation owed to the board of directors by a previous declarant or his appointees.
- (3) Any liability or obligation imposed on the transferor as a result of his acts or omissions after the transfer.

I. Nothing in this Section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations in accordance with this Part or the condominium documents.

Moving to R.S. 9:1122.110 on page 36 of the materials, the Reporter quickly noted that he will ensure that the proposal consistently addresses the use of the term "immovable property subject to lease" throughout and that Subsection C should be deleted as redundant. Without discussion, the following language was approved:

R.S. 9:1122.110. Plats and plans

- A. Each plat and each plan, as applicable, shall be clear and legible and shall show all of the following:

(1) The name, general location, and vertical and horizontal dimensions of the immovable condominium property.

(2) The location and vertical and horizontal dimensions of all existing improvements.

(3) The location and dimensions of any immovable property which the declarant has the option to later include within reserved the right to add to the condominium regime.

(4) The location and dimensions of the horizontal and vertical boundaries of each unit, with reference to established datum, and that unit's identifying number.

(4) (5) The intended location and dimensions of any contemplated improvements to be constructed within the immovable property which may later be added to the condominium regime.

(5) (6) The location and dimensions A depiction of all servitudes serving benefitting or burdening any portion of the immovable condominium property, to the extent plottable.

(6) (7) The location, and dimensions, and complete property description of any immovable condominium property in which the unit owners will own only an interest as lessee, labeled as "immovable property subject to lease."

(7) (8) The distance between noncontiguous parcels of immovable property comprising the condominiums, and condominium regime.

(8) (9) The extent of any encroachments by or upon any portion of the condominium regime.

(10) All other matters customarily shown on land surveys required by R.S. 33:5051, if applicable.

B. Plans of every building improvement that contain or comprise all or part of any unit and is located within any portion of the immovable property of the condominium regime other than within the boundaries of any additional immovable property which the declarant has reserved the right to add to the condominium regime at a later date, shall show:

(1) The location and dimensions of the horizontal and vertical boundaries of each unit, with reference to established datum, and that unit's identifying number; and.

(2) Any units that may be converted by the declarant to create additional units or common elements, identified appropriately.

C. B. If additional immovable properties are property is later included within a condominium regime, the declarant shall record file for registry new plats for such the immovable property conforming to the requirements of Subsection A of this Section and new plans for any buildings or other improvements on that immovable property conforming to the requirements of Subsection B A of this Section.

D. If the declarant converts any unit into two or more units, common elements, or both, new plans shall be recorded as an amendment to the declaration showing the location of any new units and common elements thus created, as well as the location and dimensions of any portions of that space not being converted.

~~E. C. Any certification of a Each plat or plan required by this Section shall be made by a professional land surveyor, certified architect, or professional engineer licensed as such in the state of Louisiana.~~

Mr. Roussel next discussed R.S. 9:1122.111 regarding the use for sales purposes and explained that this provision was heavily debated by the Committee before it settled on the third anniversary of the first sale as a condition for the termination of declarant control. Members of the Council questioned whether the intent is the overall project, the last building, or each phase and pointed out differing termination dates for each unit in all of Subsection B. As a result, Subsection B was recommitted, but Subsection A was approved as follows:

R.S. 9:1122.111. Use for sales purposes

A. Subject to other provisions of law and local ordinances, a declarant may maintain sales offices, management offices, and model units that the declarant owns and may erect signs advertising the condominium regime on the common elements.

Moving to R.S. 9:1122.112, the Reporter explained the need to enter units for maintenance and other responsibilities due to shared walls, roofs, and the very nature of condominium buildings. The Council noted an issue with the drafting of Subsection E because the first and second sentences seem inconsistent without a standard to test what constitutes an emergency regarding a limited common element. Members of the Council further wondered about liability issues for damages if an emergency does not pertain to the common elements but a common element is used to access another part of a unit. The Council agreed that there should be a higher burden to access a unit, and notice should be required to access a limited common element. Common elements are always accessible by their very nature. The Council also agreed that the association's right to access and repair should be broader than another unit owner's right. Mr. Roussel agreed that the Committee will redraft this provision in accordance with the Council's instructions.

The next provision, R.S. 9:1122.113, addresses amendments to the declaration. The Reporter noted that it takes a supermajority vote to create special declarant rights. After correcting a typo, the following language was approved without discussion:

R.S. 9:1122.113. Amendment of to declaration

~~Except in cases of amendments that may be executed by declarant under R.S. 9:1122.110(C) or (D), or by the Association under R.S. 9:1121.107, 1122.107(B), 1122.114(A), or 1122.115, the declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least sixty seven percent of the votes of the association are allocated or any other percent of votes which the condominium declaration specifies.~~

A. Except as otherwise provided in this Section, R.S. 9:1122.107, 1122.109, or 1122.118, the declaration may be amended only by the vote requirement provided in the declaration. If a vote requirement is not provided in the declaration, and other provisions of law do not apply, the declaration may be amended by a majority vote.

B. Unless otherwise provided in the condominium documents, approval by a supermajority vote is required to amend the declaration to create or increase special declarant rights; increase the number of units not otherwise reserved or permitted by the condominium documents; change the allocation of common expense liabilities, common surpluses, or voting interest in the association for a unit; extend the time limitations specified in R.S. 9:1122.102(A)(7) or 1122.109(C); or create additional development rights.

C.(1) The declaration may be amended only by a supermajority vote, or any greater vote required by the condominium documents, to do any of the following:

(a) Prohibit or materially restrict the uses of a unit or the number or other qualifications of persons who may occupy a unit.

(b) Impose more burdensome restrictions.

(2) An existing occupancy or use of a unit shall not be prohibited by an amendment to the condominium documents if that occupancy or use has commenced prior to the filing of the amendment for registry, except as provided in Paragraph (3) of this Subsection.

(3) If an existing occupancy or use has ceased for twelve consecutive months after the date that the amendment is filed for registry, and the period is not extended as provided in Paragraph (4) of this Subsection, the unit shall become subject to the prohibition on the existing occupancy or use contained in the amended declaration.

(4) A unit owner may submit a request to the board of directors to extend the time period in Paragraph (3) of this Subsection when an existing occupancy or use is discontinued due to a fortuitous event. The board of directors shall grant or deny the request using reasonable discretion.

(5) A use restriction establishing or increasing the minimum term for the lease of a unit or prohibiting the rental of less than the entirety of the unit shall be considered a more burdensome restriction.

D. A provision in the declaration modifying special declarant rights that have not expired may not be amended without the consent of the declarant.

E. If any provision of the declaration requires the consent of a holder of a security right in a unit as a condition to the effectiveness of an amendment to the declaration, and the declaration does not otherwise provide the method for obtaining consent, consent is deemed granted if a record refusing consent is not received by the association within sixty days after the association delivers notice of the proposed amendment to the holder of the security right at an address for notice provided by the holder. If the holder of the security right has not provided to the association an address for notice, the association shall provide notice to the address of the holder stated in the recorded security right.

F. Amendments to the declaration adopted pursuant to this Section shall be prepared, executed, and filed for registry on behalf of the association by an authorized officer or agent of the association in accordance with R.S. 9:1122.101. Any amendment shall contain a certification that the minimum voting requirements have been met.

G. An action to challenge the validity of an amendment adopted in accordance with this Section shall be brought within a peremptive period of one year from the date that the amendment is filed for registry.

The Reporter next directed the Council's attention to R.S. 9:1122.114 regarding alterations and the ability to modify units. The provision was adopted without discussion as follows:

R.S. 9:1122.114. Alterations of units

Subject to the provisions of the condominium declaration and other provisions of law, a unit owner:

(1) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium property.

(2) May not change the appearance of the common elements, or the exterior appearance of a unit or any portion of the condominium property, without permission of the association, and,

(3) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, provided those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.

The next proposal, R.S. 9:1122.115, contemplates the combination of two units with an interior alteration all subject to the provisions in the declaration. Members of the Council suggested a few changes for clarity, which were accepted by the Reporter, and then discussed adding common surplus to the list of things that need reallocation after a combination. In light of that addition, it was also noted that the Committee needs to define "common surplus." The following was then approved:

R.S. 9:1122.114115. Relocation of boundaries between adjoining units

A. Subject to the provisions of the condominium declaration and other provisions of law, the boundaries between adjoining units may be reallocated by an amendment to the condominium declaration upon written request to the association by the owners of the adjoining units. The relocation of boundaries of a unit may convert a unit into two or more units or combine two or more units into fewer units. With the request, the requesting unit owners shall provide an architectural or engineering report stating that the alteration will not adversely affect the structural integrity, mechanical systems, or structural support of the condominium property.

B. The association, upon the request and at the expense of the reallocating unit owners, shall prepare and record plats or plans showing the altered boundaries, their dimensions, and identifying numbers. If the request is approved by the association, the declaration shall be amended at the expense of the requesting unit owners. Such an The amendment shall specify the method of reallocation between the adjoining units of their respective percentage interest in the common elements, common surplus, voting power in the association, and percentage obligations for common expense assessments liabilities. The amendment shall include all revised plats or plans showing the altered boundaries, the dimensions, and the revised unit designation. The revised plats and plans shall be in compliance with all laws. Such an The amendment shall identify the units involved, shall and be executed by the reallocating unit owners, and shall contain words of conveyance between them as provided in R.S. 1122.113.

C. The reallocating unit owners shall execute and file for registry any act translative of ownership that may be required.

D. If a unit owner owns adjoining units, he shall comply with this Section prior to removing or altering any intervening partition or creating apertures therein.

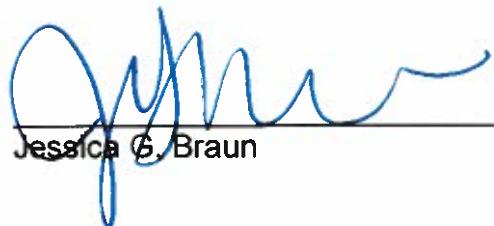
The final proposal considered by the Council was R.S. 9:1122.116, which follows the procedure in R.S. 9:1122.115 but with respect to common elements and units. Without discussion, the following language was approved:

R.S. 9:1122.115116. Subdivision or conversion Conversion of units affecting common elements

A. If the condominium declaration expressly so permits, a unit may be subdivided or converted into two or more units, common elements, or combination of one or more units and common elements. Subject to the provisions of the condominium declaration and other provisions of law, upon written request of a unit owner to subdivide a unit, the condominium association shall prepare, execute and record an amendment to the condominium declaration, including the plats and plans, subdividing that unit. Unless expressly prohibited by the declaration, the adjustment of the boundaries of a unit may be amended to incorporate common elements into a unit, and conversely, to convert a portion of a unit into a common element. Any boundary adjustment authorized by this Section shall be in accordance with R.S. 9:1122.110 and 1122.115.

B. An amendment to the condominium declaration must assign an identifying number to each unit created, and reallocate the common elements interests, votes in the association, and common expense assessment liabilities formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

At this time, Mr. Roussel concluded his presentation, and the October 2025 Council meeting was adjourned.



Jessica G. Braun