

TITLE 2: NATURAL RESOURCES
DIVISION 6: UNIFORM CONDOMINIUM ACT

§ 6402. Public Offering Statement: General Provisions.

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

(1) The name and principal address of the declarant and of the condominium;

(2) A general description of the condominium, including without limitation the types, number, and declarant's schedule of commencement and completion of construction of all buildings, units, and amenities;

(3) The total number of additional units that may be included in the condominium and the proportion of units the declarant intends to rent or market in blocks of units to investors;

(4) A brief narrative description of any options reserved by a declarant to withdraw withdrawable real estate under 2 CMC § 6206(a) and the expected effects that withdrawal would have on the remaining portion of the condominium;

(5) Copies and a brief narrative description of the significant features of the declaration (other than the plats and plans), the bylaws, and rules and regulations, 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 2 CMC § 6305;

(6) 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:

(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;

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

(D) The projected monthly common expense assessment for each type of unit;

(7) Any services not reflected in the budget that the declarant provides, or expenses that the declarant pays, and that the declarant 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;

(8) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(9) A description of any liens, defects, or encumbrances on or affecting the title to the condominium;

(10) A description of any financing offered by the declarant;

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(11) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;

(12) A statement that:

(A) Within 15 days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant;

(B) If a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant one percent of the sales price of the unit; and

(C) If a purchaser receives the public offering statement more than 15 days before signing a contract, the purchaser cannot cancel the contract;

(13) A statement of any judgments against the association, the status of any pending suits to which the association is a party, and the status of any pending suits material to the condominium of which a declarant has actual knowledge;

(14) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing, purchaser's default, refund to purchaser, or utilization for construction, as more fully set forth in 2 CMC §§ 6406 and 6408;

(15) Any restraints on alienation of any portion of the condominium pursuant to N.M.I. Const. art. XII;

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

(17) 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 condominium;

(18) The extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to 2 CMC § 6417; and

(19) All unusual and material circumstances, features, and characteristics of the condominium and the units.

(b) If a condominium composed of not more than 12 units is not a flexible condominium and no power is reserved to a declarant to make the condominium part of a larger condominium, group of condominiums, or other real estate, a public offering statement may, but need not include the information otherwise required by subsections (3), (4), (10), (11), (16), (17), (18) and (19) of subsection (a) of this section, and the narrative descriptions of documents required by subsection (a)(5) of this section.

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

Source: PL 3-86, § 4-102.