

MISSISSIPPI

SEC. 89-9-1. Citation of chapter.

This chapter shall be known and may be cited as the "Mississippi Condominium Law."

SEC. 89-9-3. Purpose of chapter.

The purpose of this chapter is to give statutory recognition to the condominium form of ownership of real property. It shall not be construed as repealing or amending any law now in effect except those in conflict herewith, and any such conflicting laws shall be affected only insofar as they apply to condominiums.

SEC. 89-9-5. Definitions.

For the purpose of this chapter, the following words and phrases as used herein, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Condominium" means that form of ownership of property under which units of improvements are subject to ownership by different owners and there is appurtenant to each unit as part thereof an undivided share in the common areas.
- (2) "Unit" means the elements of a condominium which are not owned in common with the owners of other condominiums in the project.
- (3) "Project" means the entire parcel of real property divided, or to be divided into condominiums, including all structures thereon.
- (4) "Common areas" means the entire project excepting all units therein granted or reserved.
- (5) "To divide" real property means to divide the ownership thereof by conveying one or more condominiums therein but less than the whole thereof.
- (6) "Real property" means and includes an estate in fee simple in the land or a leasehold therein or any other estate in land recognized by law together with the building or buildings, all improvements and structures thereon and all easements, rights, and appurtenances belonging thereto.

SEC. 89-9-7. Condominium constitutes real property.

A condominium is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include in addition a separate interest in other portions of such real property.

Such estate may, with respect to the duration of its enjoyment, be in fee simple, leasehold or any other estate in real property recognized by law.

SEC. 89-9-9. Recordation of plan; amendment or revocation.

The provisions of this chapter shall apply to property divided or to be divided into condominiums only if there shall be recorded in the office of the chancery clerk in the county in which such property lies a plan consisting of (a) a description or survey map of the surface of the land included within the project, (b) diagrammatic floor plans of the building or buildings built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions, and (c) a certificate consenting to the recordation of such plan pursuant to this chapter signed and acknowledged by the record owner of such real property and all record holders of security interests therein. Such plan may be amended or revoked by a subsequently acknowledged recorded instrument executed by the record owner of such real property and by all record holders of security interests

therein. Until such recordation of a revocation, the provisions of this chapter shall continue to apply to such real property. The term "record owner" as used in this section includes all of the record owners of such real property at the time of recordation, but does not include holders of security interests, mineral or royalty interests, easements or rights of way.

SEC. 89-9-11. Conveyance of unit or apartment, etc., which is part of unit presumed to convey entire condominium.

Unless otherwise expressly stated therein, any transfer or conveyance of a unit or an apartment, office or store which is a part of the unit, shall be presumed to transfer or convey the entire condominium.

SEC. 89-9-13. Incidents of condominium grant.

Unless otherwise expressly provided in the deeds, declaration of restrictions or plan, incidents of a condominium grant are as follows:

(1) The boundaries of the unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the unit includes both the portions of the building so described and the airspace so encompassed. The following are not part of the unit: bearing walls, columns, floors, roofs, foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting deeds and plans the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

(2) The common areas are owned by the owners of the units as tenants in common, in equal shares, one for each unit.

(3) A nonexclusive easement for ingress, egress and support through the common areas is appurtenant to each unit, and the common areas are subject to such easement.

(4) Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own unit.

SEC. 89-9-15. Partition of common areas or of tenancy in common in condominium.

Except as provided in section [89-9-35](#), the common areas shall remain undivided, and there shall be no judicial partition thereof. Nothing herein shall be deemed to prevent partition of a tenancy in common in a condominium.

SEC. 89-9-17. Recording, enforcement and provisions of declaration of restrictions.

The owner of a project shall, prior to the conveyance of any condominium therein, record a declaration of restrictions relating to such project, which restrictions shall be enforceable equitable servitudes where reasonable, and shall inure to and bind all owners of condominiums in the project. Such servitudes, unless otherwise provided, may be enforced by any owner of a condominium in the project, and may provide, among other things:

(1) For the management of the project by one or more of the following management bodies: the condominium owners, a board of governors elected by the owners or a management agent elected by the owners or the board or named in the declaration; for voting majorities; quorums, notices, meeting dates and other rules governing such body or bodies; and for recordation from time to time, as provided for in the declaration, of certificates of identity of the persons then composing such management body or bodies, which certificates shall be conclusive evidence thereof in favor of any person relying thereon in good faith.

(2) As to any such management body:

- (i) For the powers thereof, including power to enforce the provisions of the restrictions;
- (ii) For maintenance by it of fire, casualty, liability, workmen's compensation and other insurance insuring condominium owners, and for bonding of the members of any management body;
- (iii) For provision by it of payment by it for maintenance, utility, gardening and other services benefiting the common areas; for employment of personnel necessary for operation of the building, and for legal and accounting services;
- (iv) For purchase by it of materials, supplies and the like and for maintenance and repair of the common areas;
- (v) For payment by it of taxes and special assessments which would be lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levied against the entire project or common areas;
- (vi) For payment by it for reconstruction of any portion or portions of the project damaged or destroyed;
- (vii) For delegation by it of its powers;
- (viii) For entry by it or its agents into any unit when necessary in connection with maintenance or construction for which such body is responsible;
- (ix) For an irrevocable power of attorney to the management body to sell the entire project for the benefit of all of the owners thereof when partition of the project may be had under section [89-9-35](#) which said power shall:
 - (a) Be binding upon all the owners, whether they assume the obligations of the constructions or not;
 - (b) If so provided in the declaration, be exercisable by less than all, but not less than a majority of the management body;
 - (c) Be exercisable only after recording of a certificate by those who have power to exercise it, that said power is properly exercisable hereunder, which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith.
- (3) For amendments of such restrictions, which amendments, if reasonable and made upon vote or consent of not less than a majority in interest of the owners of the project given after reasonable notice, shall be binding upon every owner and every condominium subject thereto whether the burdens thereon are increased or decreased thereby, and whether the owner of each and every condominium consents thereto or not.
- (4) For independent audit of the accounts of any management body.
- (5)
 - (i) For reasonable assessments to meet authorized expenditures of any management body, and for a reasonable method for notice and levy thereof, each condominium to be assessed separately for its share of such expenses in proportion, unless otherwise provided, to its owner's fractional interest in any common area;
 - (ii) For the subordination of the liens securing such assessments to other liens either generally or specifically described.
- (6) For the restrictions upon the severability of the component interests in real property which comprise a condominium.
- (7) For such covenants and restrictions concerning the use, occupancy and transfer of the units as are permitted by law with reference to real property.

SEC. 89-9-19. Restrictions on sales and leases of units in project; first refusal of management not mandatory.

The restrictions and covenants authorized by section [89-9-17](#) may prescribe regulations concerning sales or leases of units, and any such restrictions and covenants shall be valid, but it shall not be mandatory that the management body be given the first right or refusal to purchase or lease any such unit which the owner thereof intends to sell or lease.

SEC. 89-9-21. Liability of owner for assessment upon condominium; lien on assessed condominium; recording, priority, enforcement, etc., of lien.

A reasonable assessment upon any condominium made in accordance with a recorded declaration of restrictions permitted by section [89-9-17](#) shall be a debt of the owner thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs, attorneys' fees, and penalties, as such may be provided for in the declaration of restrictions, shall be and become a lien upon the condominium assessed when the management body causes to be recorded in the office of the chancery clerk of the county in which such condominium is located a notice of assessment, which shall state the amount of such assessment and such other charges thereon as may be authorized by the declaration of restrictions, a description of the condominium against which the same has been assessed, and the name of the record owner thereof. Such notice shall be signed and verified by an authorized representative of the management body or as otherwise provided in the declaration of restrictions. Such lien shall be recorded in a condominium lien book alphabetically by name of the condominium unit owner, and such books need not be obtained until a condominium plat shall have been first recorded in said county. Upon payment of said assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the management body shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof.

Such lien shall be prior to all other liens recorded subsequent to the recordation of said notice of assessment except that the declaration of restrictions may provide for the subordination thereof to any other liens and encumbrances. Unless sooner satisfied and released, or the enforcement thereof initiated as hereafter provided, such lien shall expire and be of no further force or effect one year from the date of recordation of said notice of assessment; provided, however, that said one-year period may be extended by the management body for a time not to exceed one additional year by recording a written extension thereof.

Such lien against any unit may be enforced by sale of same by the management body, its attorney or other person authorized to make the sale, after failure of the owner to pay such an assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of section [89-1-55](#), applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. Unless otherwise provided in the declaration of restrictions, the management body shall have power to bid in the condominium at foreclosure sale and to hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

SEC. 89-9-23. Lien for labor performed or services or materials furnished.

No labor performed or services or materials furnished with the consent of or at the request of a condominium owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien against the condominium of any other condominium owner, or against any part thereof, or against any other property of any other condominium owner, unless such other owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the common areas, if duly authorized by a management body provided for in a declaration of restrictions governing the property, shall be deemed to be performed or furnished with the express consent of each condominium owner. The owner of any condominium may remove his condominium from a lien against two (2) or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to his condominium.

SEC. 89-9-25. Acquisition, etc., of personal property by management body for benefit of condominium owners; transfer of beneficial interest.

Unless otherwise provided by a declaration of restrictions under section [89-9-17](#), the management body, if any, provided for therein, may acquire and hold, for the benefit of the condominium owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the condominium owners in the same proportion as their respective interests in the common areas, and shall not be transferrable except with a transfer of a condominium. A transfer of a condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

SEC. 89-9-27. Construction of deed, declaration, or plan for condominium project.

Any deed, declaration, or plan for a condominium project shall be liberally construed to facilitate the operation of the project, and its provisions shall be presumed to be independent and severable.

SEC. 89-9-29. Liabilities of unit owners.

A. The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this chapter and the declaration.

B. The owners of a unit shall have no personal liability for any damages caused by the governing body on or in connection with the use of common areas. A unit owner shall be liable for injuries or damages resulting from an accident in his own unit to the same extent and degree that the owner of a house, an office, or a store would be liable for an accident occurring therein.

SEC. 89-9-31. Taxes and special assessments; provisions of declaration enforceable after foreclosure of assessment, tax deed, etc.; exemption as homestead.

(1) Property taxes and special assessments assessed by municipalities, counties, the State of Mississippi, and other taxing authorities shall be assessed against and collected on the unit and the common areas and not upon the project as a whole. Each unit and common areas shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each unit and common areas shall constitute a lien only upon such unit and common areas so assessed and upon no other portion of the project.

(2) All provisions of a declaration relating to a unit or common areas sold for taxes or special assessments shall survive and be enforceable after the issuance of a tax deed or other deed upon foreclosure of an assessment, certificate, or lien, a tax deed, tax certificate, or tax lien to the same extent that they would be enforceable against a voluntary grantee, immediate, mediate, or remote, of the owner of the title immediately prior to the delivery of the tax deed or other deed.

(3) Any unit of a condominium project shall be eligible for exemption under the Homestead Exemption Act of 1946, sections [27-33-1](#) to [27-33-65](#), Mississippi Code of 1972, if all other criteria of said sections are met.

SEC. 89-9-33. Construction of local zoning ordinances.

Unless a contrary intent is clearly expressed, local zoning ordinances shall be construed to treat like structures, lots, or parcels in like manner regardless of whether the ownership thereof is divided by sale of condominiums or into community apartments rather than by lease of apartments, offices, or stores.

SEC. 89-9-35. Action for partition of condominium project by sale thereof.

Where several persons own condominiums, as defined in the Mississippi Condominium Law, in a condominium project, as defined in said law, an action may be brought by one or more of such persons for partition thereof by sale of the entire project, as though the owners of all of the condominiums in such project were tenants in common in the entire project in the same proportion as their interests in the common areas; provided, however, that a partition shall be made only upon the showing that: (1) three years after damage or destruction to the

project which renders a material part thereof unfit for its use prior thereto, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or (2) that three-fourths (3 /4) or more of the project has been destroyed or substantially damaged, and that condominium owners holding in aggregate more than a fifty percent (50%) interest in the common areas are opposed to repair or restoration of the project, or (3) that the project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that condominium owners holding in aggregate more than a fifty percent (50%) interest in the common areas are opposed to repair or restoration of the project, or (4) that conditions for such a partition by sale set forth in the declaration of restrictions entered into with respect to such project, pursuant to the provisions of the Mississippi Condominium Law, have been met.

SEC. 89-9-37. Action for partition of condominium project by sale; venue; powers of court; sale.

Such action for partition by sale shall be brought in the chancery court of that county in which the project or some part thereof is situated, subject to the provisions for partition of lands by sale, as far as applicable, and the court shall have power to make all such orders as may be necessary to protect the rights of parties, and any sale ordered in such cases shall be made and reported as in the case of the sale of land; and decrees making partition shall vest title according to their terms. In such cases the court or chancellor may make all orders, and cause to be issued all process necessary to secure the rights of parties.