Common Interest Communities in Delaware Under DUCIOA Title 25 Ch. 81

Section 124 Exemption

Continuing Care Facilities governed by Delaware Life Care Registration Act (Title 18 Ch 46) created before 9/30/09 are Not covered by DUCIOA.

Section 122 Exemption

Non-residential (Commercial) Not subject to DUCIOA unless the declaration otherwise provides all or only identified sections apply. For mixed use (residential & non-residential) Not subject to DUCIOA unless the residential would be a common interest community without the non-residential, or the declaration provides for DUCIOA to apply.

Residential

Condominium

Pre-existing

Existed before 9/30/09 or approved before 9/30/09 and before 9/30/09 have at least one signed written contract to sell a unit.

Unit Property Act and Section 119 and 21-sections of DUCIOA and topics Not expressly addressed in Condo Documents are covered by DUCIOA use Resale Certificate.

New

First existed on or after 9/30/09 or approved on or after 9/30/09

Sec. 117

Up to 20-units not expandable.

Unit Property Act (for condo not co-op)
Section 106, and 107, and record bylaws…
No Public Offering Statement
No Resale Certificate.

Unless Declaration provides for applicable DUCIOA section to apply…then use Public Offering Statement. Use Resale Certificate.

More than 20-units.

All of DUCIOA … Use Public Offering Statement. Use Resale Certificate.

Cooperative

Pre-existing

Created before 9/30/09

More than 20-units **and** over $692.11* per unit per year.

Section 119 and 21-sections of DUCIOA and record bylaws
Use Resale Certificate.

Section 120

Up to 20-units not expandable **or** over 20 units but annual fee per unit is $692.11* or less.

Sections105, 106,107, and record bylaws …No Public Offering Statement…No Resale Certificate…No other sections…unless Declaration is amended under Section 121 to have Section 119 and 21 Sections apply…
Then use Resale Certificate.

Planned Community

New

Created 9/30/09 or after.

Section 118

More than 20-units **and** over $692.11* per unit per year.

All of DUCIOA … Use Public Offering Statement. Use Resale Certificate.

* Increases 3% each July 1. Excludes optional user fees and insurance paid by association.
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©Andrew P. Taylor, Esquire
7/1/20…302-598-4412
andy@copelandtaylor.com
Copeland Taylor, LLC