§ 47C-2-117. Amendment of declaration.

(a) Except in cases of amendments that may be executed by a declarant under G.S. 47C-2-109(d) or 47C-2-110, the association under G.S. 47C-1-107, 47C-2-106(d), 47C-2-112(a), or 47C-2-113, or certain unit owners under G.S. 47C-2-108(b), 47C-2-112(a), 47C-2-113(b), or 47C-2-118(b), and except as limited by subsection (d) of this section, the declaration may be amended only by affirmative vote of, or a written agreement signed by, unit owners of units to which at least sixty-seven percent (67%) of the votes in the association are allocated or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

(b) As long as the approval requirements for any amendment adopted pursuant to this section or G.S. 47C-2-105(a)(8) have been met, no action to challenge the validity of an amendment adopted by the association pursuant to this section or pursuant to G.S. 47C-2-105(a)(8) shall be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the condominium is located and is effective only upon recordation. An amendment shall be indexed in the Grantee's index in the name of the condominium and the association and in the Grantor's index in the name of the parties executing the amendment.

(d) Except to the extent expressly permitted or required by other provisions of this Chapter, no amendment shall create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interest of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

(e) Amendments to the declaration required by this Chapter to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

(f) This Article and the condominium instruments recorded pursuant to it shall be liberally construed in favor of the valid establishment of a condominium with respect to the submitted property. Except as otherwise provided in the declaration or explicitly prohibited by this Chapter, if any amendment to the declaration is necessary in the judgment of the executive board, then the executive board may, at its discretion, propose an amendment to the declaration for any of the following purposes:

(1) To cure any ambiguity, to establish marketable title to units, or to correct or supplement any provision of the declaration, including plats or plans, that is defective, missing, or inconsistent with any other provision of the declaration or with this Chapter.

(2) To conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages or deeds of trust on units in condominium projects, such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(3) To comply with any statute, regulation, code, or ordinance applicable to the condominium or association.

(4) To make a reasonable accommodation or permit a reasonable modification in favor of persons with disabilities, as may be defined by federal or State laws or regulations applicable to the association or its employees, unit owners, residents, or tenants.

The authority granted to the executive board under this subsection does not limit the authority of the executive board to propose any amendment for any other purpose permitted in the declaration or by this Chapter. Upon approval by the executive board of an amendment pursuant to this subsection, the executive board shall set a date for a meeting of the unit owners to consider ratification of the amendment not less than 10 nor more than 60 days after mailing of notice of the

meeting. The notice shall include a copy or summary of the proposed amendment. There is no requirement that a quorum be present at the meeting. The amendment is ratified by the unit owners unless at that meeting unit owners holding a majority of the votes in the association reject the amendment. Any amendment recorded pursuant to this subsection in the office of the register of deeds in the county or counties where the condominium is located operates as a correction of the declaration being corrected that relates back to, and is effective as of, the date the declaration being corrected was originally recorded in the office of the register of deeds, with the same effect as if the declaration were correct when the declaration was first recorded. (1985 (Reg. Sess., 1986), c. 877, s. 1; 2020-52, s. 3(a); 2022-62, s. 55.)