

RCW 64.90.605 Public offering statement—Liability. (1) Except as otherwise provided in subsection (2) of this section, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of RCW 64.90.610, 64.90.615, and 64.90.620.

(2) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant or to a dealer who intends to offer units in the common interest community. In the event of any such transfer the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (1) of this section.

(3) (a) Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in RCW 64.90.635.

(b) Any agent, attorney, or other person assisting the declarant or dealer in preparing the public offering statement may rely upon information provided by the declarant or dealer without independent investigation. The agent, attorney, or other person is not liable for any material misrepresentation in or omissions of material facts from the public offering statement unless the person had actual knowledge of the misrepresentation or omission at the time the public offering statement was prepared.

(c) The declarant or dealer who prepared all or part of the public offering statement is liable for any misrepresentation contained in the public offering statement or for any omission of material fact from the public offering statement if the declarant or dealer had actual knowledge of the misrepresentation or omission or, in the exercise of reasonable care, should have known of the misrepresentation or omission.

(4) If a unit is part of a common interest community and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this state, a single public offering statement conforming to the requirements of RCW 64.90.610, 64.90.615, and 64.90.620 as those requirements relate to each regime in which the unit is located, and to any other requirements imposed under the laws of this state, may be prepared and delivered in lieu of providing two or more public offering statements.

(5) A declarant or dealer is not required to deliver a public offering statement in connection with the sale of any unit, or to obtain for or provide to the purchaser a report or statement required under RCW 64.90.610(1)(oo), 64.90.620(1), or 64.90.655, upon the later of:

(a) The termination or expiration of all special declarant rights;

(b) The expiration of all periods within which claims or actions for a breach of warranty arising from defects involving the common elements under RCW 64.90.680 must be filed or commenced, respectively, by the association against the declarant; or

(c) The time when the declarant or dealer ceases to meet the definition of a dealer under RCW 64.90.010.

(6) After the last to occur of any of the events described in subsection (5) of this section, a declarant or dealer must deliver to the purchaser of a unit a resale certificate under RCW 64.90.640(2) together with:

(a) The identification of any real property not in the common interest community that unit owners have a right to use and a description of the terms of such use;

(b) A brief description or a copy of any express construction warranties to be provided to the purchaser;

(c) A statement of any litigation brought by an owners association, unit owner, or governmental entity in which the declarant or dealer or any affiliate of the declarant or dealer has been a defendant arising out of the construction, sale, or administration of any common interest community within the state of Washington within the previous five years, together with the results of the litigation, if known;

(d) Whether timesharing is permitted or prohibited, and, if permitted, a statement that the purchaser of a timeshare unit is entitled to receive the disclosure document required under chapter 64.36 RCW; and

(e) Any other information and cross-references that the declarant or dealer believes will be helpful in describing the common interest community to the purchaser, all of which may be included or not included at the option of the declarant or dealer.

(7) A declarant or dealer is not liable to a purchaser for the failure or delay of the association to provide the resale certificate in a timely manner, but the purchase contract is voidable by the purchaser of a unit sold by the declarant or dealer until the resale certificate required under RCW 64.90.640(2) and the information required under subsection (6) of this section have been provided and for five days thereafter or until conveyance, whichever occurs first. [2024 c 321 s 326; 2023 c 337 s 7; 2018 c 277 s 402.]