

REFERENCE TITLE: HOAs; meeting technology; voting rights

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2483

Introduced by
Representatives Carroll: Biasiucci, Cobb

AN ACT

AMENDING SECTIONS 33-1248, 33-1250, 33-1804 AND 33-1812, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1248, Arizona Revised Statutes, is amended to
3 read:

4 33-1248. Open meetings; exceptions; applicability

5 A. Notwithstanding any provision in the declaration, bylaws or
6 other documents to the contrary, all meetings of the unit owners'
7 association and the board of directors, and any ~~regularly scheduled~~
8 committee meetings, are open to all members of the association or any
9 person designated by a member in writing as the member's representative
10 and all members or designated representatives so desiring shall be
11 ~~permitted~~ ALLOWED to attend and speak at an appropriate time during the
12 deliberations and proceedings. The board may place reasonable time
13 restrictions on those persons speaking during the meeting but shall ~~permit~~
14 ALLOW a member or a member's designated representative to speak once after
15 the board has discussed a specific agenda item but before the board takes
16 formal action on that item in addition to any other opportunities to
17 speak. The board shall provide for a reasonable number of persons to
18 speak on each side of an issue. Persons attending may audiotape or
19 videotape those portions of the meetings of the board of directors and
20 meetings of the members that are open. The board of directors of the
21 association shall not require advance notice of the audiotaping or
22 videotaping and may adopt reasonable rules governing the audiotaping or
23 videotaping of open portions of the meetings of the board and the
24 membership, but such rules shall not preclude such audiotaping or
25 videotaping by those attending, unless the board audiotapes or videotapes
26 the meeting and makes the unedited audiotapes or videotapes available to
27 members on request without restrictions on ~~its~~ THEIR use as evidence in
28 any dispute resolution process. Any portion of a meeting may be closed
29 only if that portion of the meeting is limited to consideration of one or
30 more of the following:

31 1. Legal advice from an attorney for the board or the association.
32 On final resolution of any matter for which the board received legal
33 advice or that concerned pending or contemplated litigation, the board may
34 disclose information about that matter in an open meeting except for
35 matters that are required to remain confidential by the terms of a
36 settlement agreement or judgment.

37 2. Pending or contemplated litigation.

38 3. Personal, health or financial information about an individual
39 ~~member of~~ UNIT OWNER IN the association, an individual employee of the
40 association or an individual employee of a contractor for the association,
41 including records of the association directly related to the personal,
42 health or financial information about an individual ~~member of~~ UNIT OWNER
43 IN the association, an individual employee of the association or an
44 individual employee of a contractor for the association.

1 4. Matters relating to the job performance of, compensation of,
2 health records of or specific complaints against an individual employee of
3 the association or an individual employee of a contractor of the
4 association who works under the direction of the association.

5 5. Discussion of a unit owner's appeal of any violation cited or
6 penalty imposed by the association except on request of the affected unit
7 owner that the meeting be held in an open session.

8 B. Notwithstanding any provision in the condominium documents, all
9 meetings of the unit owners' association and the board shall be held in
10 this state. A meeting of the unit owners' association shall be held at
11 least once each year ~~TO ELECT DIRECTORS AS NECESSARY AND TO CONDUCT ANY~~
12 ~~OTHER BUSINESS OF THE MEMBERS.~~ Special meetings of the unit owners'
13 association may be called by the president, by a majority of the board of
14 directors or by unit owners having at least twenty-five percent, or any
15 lower percentage specified in the bylaws, of the votes in the association.
16 Not fewer than ten ~~NOT~~ OR more than fifty days in advance of any meeting
17 of the unit owners, the secretary shall cause notice to be hand delivered
18 or sent prepaid by United States mail to the mailing address ~~of~~ ON RECORD
19 FOR each unit OWNER or to any other mailing address designated in writing
20 by the unit owner. The notice of any meeting of the unit owners shall
21 state the date, time and place of the meeting. The notice of any annual,
22 regular or special meeting of the unit owners shall also state the purpose
23 for which the meeting is called, including the NUMBER OF BOARD OF
24 DIRECTORS' POSITIONS TO BE FILLED, THE general nature of any proposed
25 amendment to the declaration or bylaws, any changes in assessments that
26 require approval of the unit owners and any proposal to remove a director
27 or officer. The failure of any unit owner to receive actual notice of a
28 meeting of the unit owners does not affect the validity of any action
29 taken at that meeting.

30 C. Before entering into any closed portion of a meeting of the
31 board of directors, or on notice of a meeting under subsection D of this
32 section that will be closed, the board shall identify the paragraph under
33 subsection A of this section that authorizes the board to close the
34 PORTION OF THE meeting FOR THAT SPECIFIC SUBJECT MATTER.

35 D. Notwithstanding any provision in the declaration, bylaws or
36 other condominium documents, for meetings of the board of directors that
37 are held after the termination of declarant control of the association,
38 notice to ALL unit owners of meetings of the board of directors AND THE
39 AGENDA FOR THE MEETING shall be given at least forty-eight hours in
40 advance of the meeting by newsletter, ~~AND BY~~ AND BY conspicuous posting or any
41 other reasonable means as determined by the board of directors. An
42 affidavit of notice by an officer of the association is prima facie
43 evidence that notice was given as prescribed by this section. Notice to
44 unit owners of meetings of the board of directors is not required if
45 emergency circumstances require action by the board before notice can be

1 given. Any notice of a board meeting shall state the date, time and place
2 of the meeting. The failure of any unit owner to receive actual notice of
3 a meeting of the board of directors does not affect the validity of any
4 action taken at that meeting. ANY ELECTRONIC OR OTHER COMMUNICATION
5 BETWEEN A QUORUM OF THE BOARD OF DIRECTORS FOR THE SOLE PURPOSE OF
6 ESTABLISHING AN AGENDA FOR THE MEETING DOES NOT CONSTITUTE A VIOLATION OF
7 THIS SECTION IF THERE IS NO DISCUSSION OR DELIBERATION ON THOSE AGENDA
8 ITEMS BEFORE THE MEETING.

9 E. Notwithstanding any provision in the declaration, bylaws or
10 other condominium documents, for meetings of the board of directors that
11 are held after the termination of declarant control of the association,
12 all of the following apply:

13 1. The agenda shall be available to all unit owners attending.

14 2. An emergency meeting of the board of directors may be called to
15 discuss business or take action that cannot be delayed for the forty-eight
16 hours required for notice. At any emergency meeting called by the board
17 of directors, the board of directors may act only on emergency
18 matters. The minutes of the emergency meeting shall state the reason
19 necessitating the emergency meeting. The minutes of the emergency meeting
20 shall be read and approved at the next regularly scheduled meeting of the
21 board of directors.

22 3. A quorum of the board of directors may meet by means of a
23 telephone conference OR OTHER ELECTRONIC OR DIGITAL MEANS if a
24 speakerphone OR OTHER ELECTRONIC OR DIGITAL DEVICE is available in the
25 meeting room that allows board members and unit owners to hear all parties
26 who are speaking during the meeting.

27 4. Any quorum of the board of directors that meets informally to
28 discuss association business, including workshops, shall comply with the
29 open meeting and notice provisions of this section without regard to
30 whether the board votes or takes any action on any matter at that informal
31 meeting.

32 F. THE DRAFT MINUTES OF ANY OPEN MEETING OR THE OPEN PORTION OF ANY
33 BOARD OF DIRECTORS' MEETING SHALL BE MADE AVAILABLE TO ANY UNIT OWNER ON
34 REQUEST NOT LATER THAN FIFTEEN BUSINESS DAYS AFTER THE MEETING OCCURS.

35 ~~F.~~ G. It is the policy of this state as reflected in this section
36 that all meetings of a condominium, whether meetings of the unit owners'
37 association or meetings of the board of directors of the association, be
38 conducted openly and that notices and agendas be provided for those
39 meetings that contain the information that is reasonably necessary to
40 inform the unit owners of the matters to be discussed or decided and to
41 ensure that unit owners have the ability to speak after discussion of
42 agenda items, but before a vote of the board of directors or members is
43 taken. Toward this end, any person or entity that is charged with the
44 interpretation of these provisions, including members of the board ~~or~~ OF
45 directors and any community manager, shall take into account this

1 declaration of policy and shall construe any provision of this section in
2 favor of open meetings.

3 ~~H.~~ H. This section does not apply to timeshare plans or
4 associations that are subject to chapter 20 of this title.

5 Sec. 2. Section 33-1250, Arizona Revised Statutes, is amended to
6 read:

7 33-1250. Voting; proxies; absentee ballots; applicability;
8 definition

9 A. If only one of the multiple owners of a unit is present at a
10 meeting of the association, the owner is entitled to cast all the votes
11 allocated to that unit. If more than one of the multiple owners are
12 present, the votes allocated to that unit may be cast only in accordance
13 with the agreement of a majority in interest of the multiple owners unless
14 the declaration expressly provides otherwise. There is majority agreement
15 if any one of the multiple owners casts the votes allocated to that unit
16 without protest being made promptly to the person presiding over the
17 meeting by any of the other owners of the unit.

18 B. During the period of declarant control, votes allocated to a
19 unit may be cast pursuant to a proxy duly executed by a unit owner. If a
20 unit is owned by more than one person, each owner of the unit may vote or
21 register protest to the casting of votes by the other owners of the unit
22 through a duly executed proxy. A unit owner may not revoke a proxy given
23 pursuant to this section except by actual notice of revocation to the
24 person presiding over a meeting of the association. A proxy is void if it
25 is not dated or purports to be revocable without notice. The proxy is
26 revoked on presentation of a later dated proxy executed by the same unit
27 owner. A proxy terminates one year after its date, unless it specifies a
28 shorter term or unless it states that it is coupled with an interest and
29 is irrevocable.

30 C. Notwithstanding any provision in the condominium documents,
31 after termination of the period of declarant control, votes allocated to a
32 unit may not be cast pursuant to a proxy. The association shall provide
33 for votes to be cast in person and by absentee ballot ~~and, in addition,~~
34 ~~the association may provide for voting by some other form of delivery,~~
35 ~~including the use of e-mail and fax delivery.~~ ABSENTEE BALLOTS MAY BE
36 DELIVERED AND RETURNED BY ELECTRONIC OR DIGITAL MEANS. Notwithstanding
37 section 10-3708 or the provisions of the condominium documents, any action
38 taken at an annual, regular or special meeting of the members shall comply
39 with all of the following ~~if absentee ballots or ballots provided by some~~
40 ~~other form of delivery are used:~~

- 41 1. The ballot shall set forth each proposed action.
- 42 2. The ballot shall provide an opportunity to vote for or against
43 each proposed action.

1 3. The ballot is valid for only one specified election or meeting
2 of the members and expires automatically after the completion of the
3 election or meeting.

4 4. The ABSENTEE ballot specifies the time and date by which the
5 ballot must be delivered to the board of directors in order to be counted,
6 which shall be at least seven days after the date that the board delivers
7 the unvoted ballot to the member.

8 5. The ballot does not authorize another person to cast votes on
9 behalf of the member. A BALLOT MAY NOT BE ACCEPTED AT THE MEETING FROM
10 ANYONE OTHER THAN THE VOTING UNIT OWNER.

11 6. The completed ABSENTEE ballot shall contain the name, the
12 address AND UNIT NUMBER, IF APPLICABLE and either the actual or electronic
13 signature of the person voting, except that if the condominium documents
14 ~~permit~~ ALLOW secret ballots, only the envelope shall contain the name, the
15 address and either the actual or electronic signature of the voter.

16 7. Ballots, envelopes and related materials, including sign-in
17 sheets if used, shall be retained in electronic or paper format and made
18 available for unit owner inspection for at least one year after completion
19 of the election.

20 8. FOR BALLOTS THAT INCLUDE THE ELECTION OF BOARD MEMBERS, THE
21 BALLOT MUST IDENTIFY THE NUMBER OF SEATS TO BE FILLED, THE NAMES OF ALL
22 QUALIFIED CANDIDATES FOR THOSE SEATS AND WHETHER CUMULATIVE VOTING WILL BE
23 USED, IF ALLOWED IN THE CONDOMINIUM DOCUMENTS.

24 9. IF AN ONLINE VOTING SYSTEM IS USED, IT MUST INCLUDE ALL OF THE
25 FOLLOWING:

- 26 (a) AUTHENTICATION OF THE UNIT OWNER'S IDENTITY.
- 27 (b) AUTHENTICATION OF THE VALIDITY OF EACH ELECTRONIC VOTE TO
28 ENSURE THAT THE VOTE IS NOT ALTERED IN TRANSIT.
- 29 (c) TRANSMITTAL OF A RECEIPT TO EACH UNIT OWNER WHO CASTS AN
30 ELECTRONIC VOTE.
- 31 (d) STORAGE OF ELECTRONIC VOTES FOR RECOUNT, INSPECTION AND REVIEW
32 PURPOSES.

33 10. THE ASSOCIATION SHALL ENSURE THE INTEGRITY OF THE VOTING
34 PROCESS, INCLUDING PREVENTING BALLOT TAMPERING, ENSURING AN ACCURATE
35 BALLOT COUNT AND ENSURING THAT PRELIMINARY VOTING RESULTS ARE NOT
36 DISCLOSED DIRECTLY OR INDIRECTLY TO ANY UNIT OWNER, INCLUDING BOARD
37 MEMBERS WHO HAVE NOT YET VOTED.

38 D. Votes cast by absentee ballot ~~or other form of delivery,~~
39 ~~including the use of e-mail and fax delivery,~~ are valid for the purpose of
40 establishing a quorum.

41 E. Notwithstanding subsection C of this section, an association for
42 a timeshare plan as defined in section 32-2197 may ~~permit~~ ALLOW votes by a
43 proxy that is duly executed by a unit owner.

1 F. If the declaration requires that votes on specified matters
2 affecting the condominium be cast by lessees rather than unit owners of
3 leased units all of the following apply:

4 1. ~~The provisions of~~ Subsections A and B of this section apply to
5 lessees as if they were unit owners.

6 2. Unit owners ~~who~~ THAT have leased their units to other persons
7 shall not cast votes on those specified matters.

8 3. Lessees are entitled to notice of meetings, access to records
9 and other rights respecting those matters as if they were unit owners.
10 Unit owners shall also be given notice, in the manner prescribed in
11 section 33-1248, of all meetings at which lessees may be entitled to vote.

12 G. Unless the declaration provides otherwise, votes allocated to a
13 unit owned by the association shall not be cast.

14 H. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, AN
15 ASSOCIATION OR BOARD OF DIRECTORS MAY SUSPEND A UNIT OWNER'S VOTING RIGHTS
16 OR ELIGIBILITY FOR MEMBERSHIP ON THE BOARD OF DIRECTORS ONLY FOR REASON
17 THAT THE UNIT OWNER HAS FAILED TO PAY ONE OR MORE ASSESSMENTS. THE RIGHT
18 TO RUN FOR OFFICE AND TO BE PLACED ON THE BALLOT IS NOT SUBJECT TO
19 ADDITIONAL ASSOCIATION SCREENING, APPROVAL OR CRITERIA OTHER THAN THE
20 QUALIFICATIONS REQUIRED IN THE DECLARATION AND BYLAWS AND ASSESSMENT
21 PAYMENT STATUS.

22 ~~I.~~ I. This section does not apply to timeshare plans or
23 associations that are subject to chapter 20 of this title.

24 J. IF THE ASSOCIATION IS FOUND TO HAVE VIOLATED THIS CHAPTER IN
25 CONDUCTING ELECTIONS OR BALLOT MEASURES, THE COURT MAY INVALIDATE THE
26 ELECTION OR BALLOT MEASURE AS DEEMED APPROPRIATE BY THE COURT.

27 ~~I.~~ K. For the purposes of this section, "period of declarant
28 control" means the time during which the declarant or persons designated
29 by the declarant may elect or appoint the members of the board of
30 directors pursuant to the condominium documents or by virtue of superior
31 voting power.

32 Sec. 3. Section 33-1804, Arizona Revised Statutes, is amended to
33 read:

34 33-1804. Open meetings; exceptions

35 A. Notwithstanding any provision in the declaration, bylaws or
36 other documents to the contrary, all meetings of the members' association
37 and the board of directors, and any ~~regularly scheduled~~ committee
38 meetings, are open to all members of the association or any person
39 designated by a member in writing as the member's representative and all
40 members or designated representatives so desiring shall be ~~permitted~~
41 ALLOWED to attend and speak at an appropriate time during the
42 deliberations and proceedings. The board may place reasonable time
43 restrictions on those persons speaking during the meeting but shall ~~permit~~
44 ALLOW a member or member's designated representative to speak once after
45 the board has discussed a specific agenda item but before the board takes

1 formal action on that item in addition to any other opportunities to
2 speak. The board shall provide for a reasonable number of persons to
3 speak on each side of an issue. Persons attending may audiotape or
4 videotape those portions of the meetings of the board of directors and
5 meetings of the members that are open. The board of directors of the
6 association shall not require advance notice of the audiotaping or
7 videotaping and may adopt reasonable rules governing the audiotaping and
8 videotaping of open portions of the meetings of the board and the
9 membership, but such rules shall not preclude such audiotaping or
10 videotaping by those attending, unless the board audiotapes or videotapes
11 the meeting and makes the unedited audiotapes or videotapes available to
12 members on request without restrictions on ~~its~~ THEIR use as evidence in
13 any dispute resolution process. Any portion of a meeting may be closed
14 only if that closed portion of the meeting is limited to consideration of
15 one or more of the following:

16 1. Legal advice from an attorney for the board or the association.
17 On final resolution of any matter for which the board received legal
18 advice or that concerned pending or contemplated litigation, the board may
19 disclose information about that matter in an open meeting except for
20 matters that are required to remain confidential by the terms of a
21 settlement agreement or judgment.

22 2. Pending or contemplated litigation.

23 3. Personal, health or financial information about an individual
24 member of the association, an individual employee of the association or an
25 individual employee of a contractor for the association, including records
26 of the association directly related to the personal, health or financial
27 information about an individual member of the association, an individual
28 employee of the association or an individual employee of a contractor for
29 the association.

30 4. Matters relating to the job performance of, compensation of,
31 health records of or specific complaints against an individual employee of
32 the association or an individual employee of a contractor of the
33 association who works under the direction of the association.

34 5. Discussion of a member's appeal of any violation cited or
35 penalty imposed by the association except on request of the affected
36 member that the meeting be held in an open session.

37 B. Notwithstanding any provision in the community documents, all
38 meetings of the members' association and the board shall be held in this
39 state. A meeting of the members' association shall be held at least once
40 each year TO ELECT DIRECTORS AS NECESSARY AND TO CONDUCT ANY OTHER
41 BUSINESS OF THE MEMBERS. Special meetings of the members' association may
42 be called by the president, by a majority of the board of directors or by
43 members having at least twenty-five percent, or any lower percentage
44 specified in the bylaws, of the votes in the association. Not fewer than
45 ten ~~not~~ OR more than fifty days in advance of any meeting of the members

1 the secretary shall cause notice to be ~~hand-delivered~~ HAND DELIVERED or
 2 sent prepaid by United States mail to the mailing address ON RECORD for
 3 each lot, parcel or ~~unit-owner~~ MEMBER or to any other mailing address
 4 designated in writing by a member. The notice shall state the date, time
 5 and place of the meeting. A notice of any annual, regular or special
 6 meeting of the members shall also state the purpose for which the meeting
 7 is called, including the NUMBER OF BOARD OF DIRECTORS' POSITIONS TO BE
 8 FILLED, THE general nature of any proposed amendment to the declaration or
 9 bylaws, changes in assessments that require approval of the members and
 10 any proposal to remove a director or an officer. The failure of any
 11 member to receive actual notice of a meeting of the members does not
 12 affect the validity of any action taken at that meeting.

13 C. Before entering into any closed portion of a meeting of the
 14 board of directors, or on notice of a meeting under subsection D of this
 15 section that will be closed, the board shall identify the paragraph under
 16 subsection A of this section that authorizes the board to close the
 17 PORTION OF THE meeting FOR THAT SPECIFIC SUBJECT MATTER.

18 D. Notwithstanding any provision in the declaration, bylaws or
 19 other community documents, for meetings of the board of directors that are
 20 held after the termination of declarant control of the association, notice
 21 to ALL members of meetings of the board of directors AND THE AGENDA FOR
 22 THE MEETING shall be given at least forty-eight hours in advance of the
 23 meeting by newsletter, ~~AND BY~~ AND BY conspicuous posting or any other reasonable
 24 means as determined by the board of directors. An affidavit of notice by
 25 an officer of the corporation is prima facie evidence that notice was
 26 given as prescribed by this section. Notice to members of meetings of the
 27 board of directors is not required if emergency circumstances require
 28 action by the board before notice can be given. Any notice of a board
 29 meeting shall state the date, time and place of the meeting. The failure
 30 of any member to receive actual notice of a meeting of the board of
 31 directors does not affect the validity of any action taken at that
 32 meeting. ANY ELECTRONIC OR OTHER COMMUNICATION AMONG A QUORUM OF THE
 33 BOARD OF DIRECTORS FOR THE SOLE PURPOSE OF ESTABLISHING AN AGENDA FOR THE
 34 MEETING DOES NOT CONSTITUTE A VIOLATION OF THIS SECTION IF THERE IS NO
 35 DISCUSSION OR DELIBERATION ON THOSE AGENDA ITEMS BEFORE THE MEETING.

36 E. Notwithstanding any provision in the declaration, bylaws or
 37 other community documents, for meetings of the board of directors that are
 38 held after the termination of declarant control of the association, all of
 39 the following apply:

- 40 1. The agenda shall be available to all members attending.
- 41 2. An emergency meeting of the board of directors may be called to
 42 discuss business or take action that cannot be delayed for the forty-eight
 43 hours required for notice. At any emergency meeting called by the board
 44 of directors, the board of directors may act only on emergency matters.
 45 The minutes of the emergency meeting shall state the reason necessitating

1 the emergency meeting. The minutes of the emergency meeting shall be read
2 and approved at the next regularly scheduled meeting of the board of
3 directors.

4 3. A quorum of the board of directors may meet by means of a
5 telephone conference OR OTHER ELECTRONIC OR DIGITAL MEANS if a
6 speakerphone OR OTHER ELECTRONIC OR DIGITAL DEVICE is available in the
7 meeting room that allows board members and association members to hear all
8 parties who are speaking during the meeting.

9 4. Any quorum of the board of directors that meets informally to
10 discuss association business, including workshops, shall comply with the
11 open meeting and notice provisions of this section without regard to
12 whether the board votes or takes any action on any matter at that informal
13 meeting.

14 F. THE DRAFT MINUTES OF ANY OPEN MEETING OR THE OPEN PORTION OF ANY
15 BOARD OF DIRECTORS' MEETING SHALL BE MADE AVAILABLE TO ANY ASSOCIATION
16 MEMBER ON REQUEST NOT LATER THAN FIFTEEN BUSINESS DAYS AFTER THE MEETING
17 OCCURS.

18 ~~F.~~ G. It is the policy of this state as reflected in this section
19 that all meetings of a planned community, whether meetings of the members'
20 association or meetings of the board of directors of the association, be
21 conducted openly and that notices and agendas be provided for those
22 meetings that contain the information that is reasonably necessary to
23 inform the members of the matters to be discussed or decided and to ensure
24 that members have the ability to speak after discussion of agenda items,
25 but before a vote of the board of directors or members is taken. Toward
26 this end, any person or entity that is charged with the interpretation of
27 these provisions, including members of the board of directors and any
28 community manager, shall take into account this declaration of policy and
29 shall construe any provision of this section in favor of open meetings.

30 Sec. 4. Section 33-1812, Arizona Revised Statutes, is amended to
31 read:

32 33-1812. Voting; proxies; absentee ballots; definition

33 A. Notwithstanding any provision in the community documents, after
34 termination of the period of declarant control, votes allocated to a unit
35 LOT may not be cast pursuant to a proxy. The association shall provide
36 for votes to be cast in person and by absentee ballot ~~and, in addition,~~
37 ~~the association may provide for voting by some other form of delivery,~~
38 ~~including the use of e-mail and fax delivery.~~ ABSENTEE BALLOTS MAY BE
39 DELIVERED AND RETURNED BY ELECTRONIC OR DIGITAL MEANS. Notwithstanding
40 section 10-3708 or the provisions of the community documents, any action
41 taken at an annual, regular or special meeting of the members shall comply
42 with all of the following ~~if absentee ballots or ballots provided by some~~
43 ~~other form of delivery are used:~~

- 1 1. The ballot shall set forth each proposed action.
- 2 2. The ballot shall provide an opportunity to vote for or against
- 3 each proposed action.
- 4 3. The ballot is valid for only one specified election or meeting
- 5 of the members and expires automatically after the completion of the
- 6 election or meeting.
- 7 4. The **ABSENTEE** ballot specifies the time and date by which the
- 8 ballot must be delivered to the board of directors in order to be counted,
- 9 which shall be at least seven days after the date that the board delivers
- 10 the unvoted ballot to the member.
- 11 5. The ballot does not authorize another person to cast votes on
- 12 behalf of the member. **A BALLOT MAY NOT BE ACCEPTED AT THE MEETING FROM**
- 13 **ANYONE OTHER THAN THE VOTING MEMBER.**
- 14 6. The completed **ABSENTEE** ballot shall contain the name, address
- 15 **AND UNIT OR LOT NUMBER, IF APPLICABLE,** and signature of the person voting,
- 16 except that if the community documents **permit ALLOW** secret ballots, only
- 17 the envelope shall contain the name, address and signature of the voter.
- 18 7. Ballots, envelopes and related materials, including sign-in
- 19 sheets if used, shall be retained in electronic or paper format and made
- 20 available for member inspection for at least one year after completion of
- 21 the election.
- 22 8. **FOR BALLOTS THAT INCLUDE THE ELECTION OF BOARD MEMBERS, THE**
- 23 **BALLOT MUST IDENTIFY THE NUMBER OF SEATS TO BE FILLED, THE NAMES OF ALL**
- 24 **QUALIFIED CANDIDATES FOR THOSE SEATS AND WHETHER CUMULATIVE VOTING WILL BE**
- 25 **USED, IF ALLOWED IN THE COMMUNITY DOCUMENTS.**
- 26 9. **IF AN ONLINE VOTING SYSTEM IS USED, IT MUST INCLUDE ALL OF THE**
- 27 **FOLLOWING:**
- 28 (a) **AUTHENTICATION OF THE MEMBER'S IDENTITY.**
- 29 (b) **AUTHENTICATION OF THE VALIDITY OF EACH ELECTRONIC VOTE TO**
- 30 **ENSURE THAT THE VOTE IS NOT ALTERED IN TRANSIT.**
- 31 (c) **TRANSMITTAL OF A RECEIPT TO EACH MEMBER WHO CASTS AN ELECTRONIC**
- 32 **VOTE.**
- 33 (d) **STORAGE OF ELECTRONIC VOTES FOR RECOUNT, INSPECTION AND REVIEW**
- 34 **PURPOSES.**
- 35 10. **THE ASSOCIATION SHALL ENSURE THE INTEGRITY OF THE VOTING**
- 36 **PROCESS, INCLUDING PREVENTING BALLOT TAMPERING, ENSURING AN ACCURATE**
- 37 **BALLOT COUNT AND ENSURING THAT PRELIMINARY VOTING RESULTS ARE NOT**
- 38 **DISCLOSED DIRECTLY OR INDIRECTLY TO ANY MEMBER, INCLUDING BOARD MEMBERS**
- 39 **WHO HAVE NOT YET VOTED.**
- 40 B. ~~Votes cast by absentee ballot or other form of delivery,~~
- 41 ~~including the use of e-mail and fax delivery,~~ are valid for the purpose of
- 42 establishing a quorum.
- 43 C. **NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AN**
- 44 **ASSOCIATION OR BOARD OF DIRECTORS MAY SUSPEND A MEMBER'S VOTING RIGHTS OR**
- 45 **ELIGIBILITY FOR MEMBERSHIP ON THE BOARD OF DIRECTORS ONLY FOR REASON THAT**

1 THE MEMBER HAS FAILED TO PAY ONE OR MORE ASSESSMENTS. THE RIGHT TO RUN
2 FOR OFFICE AND TO BE PLACED ON THE BALLOT IS NOT SUBJECT TO ADDITIONAL
3 ASSOCIATION SCREENING, APPROVAL OR CRITERIA OTHER THAN THE QUALIFICATIONS
4 REQUIRED IN THE DECLARATION AND BYLAWS, AND ASSESSMENT PAYMENT STATUS.

5 ~~C.~~ D. Notwithstanding subsection A of this section, an association
6 for a timeshare plan as defined in section 32-2197 may permit votes by a
7 proxy that is duly executed by a unit owner.

8 E. IF THE ASSOCIATION IS FOUND TO HAVE VIOLATED THIS CHAPTER IN
9 CONDUCTING ELECTIONS OR BALLOT MEASURES, THE COURT MAY INVALIDATE THE
10 ELECTION OR BALLOT MEASURE AS DEEMED APPROPRIATE BY THE COURT.

11 ~~D.~~ F. For the purposes of this section, "period of declarant
12 control" means the time during which the declarant or persons designated
13 by the declarant may elect or appoint the members of the board of
14 directors pursuant to the community documents or by virtue of superior
15 voting power.