

REFERENCE TITLE: **homeowners' associations; voting; elections**

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1364

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTIONS 33-1250 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 33-1250, Arizona Revised Statutes, is amended to
3 read:

4 33-1250. Voting; proxies; absentee ballots; meeting and
5 ballot requirements; community-wide
6 communications; challenges applicability; ballot
7 tampering; violation; classification; definitions

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

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

29 C. Notwithstanding any provision in the condominium documents,
30 after termination of the period of declarant control, votes allocated to a
31 unit may not be cast pursuant to a proxy OR DELEGATE. The association
32 shall provide for votes to be cast in person and by absentee ballot AT A
DULY NOTICED MEETING OF THE UNIT OWNERS PURSUANT TO SECTION 33-1248. and,
33 In addition, the association may provide for voting by some other form of
34 delivery, including the use of e-mail and fax delivery PURSUANT TO
35 SECTIONS 10-3704 AND 10-3708 FOR A BALLOT MEASURE WITHOUT A MEETING OR IN
36 PLACE OF ABSENTEE BALLOTS. ABSENTEE BALLOTS MAY BE TRANSMITTED AND
37 RETURNED IN PAPER FORM BY HAND OR BY UNITED STATES MAIL OR ELECTRONICALLY
38 BY FAX OR EMAIL.

39 D. Notwithstanding section 10-3708 or the ANY provisions of the
40 condominium documents, any action taken at an annual, regular or special
41 meeting of the members OR ON A BALLOT MEASURE WITHOUT A MEETING shall
42 comply with all of the following if absentee ballots or ballots provided
43 by some other form of delivery are used:

1 1. THE CONDOMINIUM DOCUMENTS MAY ESTABLISH THE ELIGIBILITY OF ANY
2 UNIT OWNER TO VOTE OR SIGN A PETITION BUT MAY NOT BE MORE RESTRICTIVE THAN
3 THE FOLLOWING:

4 (a) REQUIRING THE PERSON TO BE A UNIT OWNER OF RECORD OR THE
5 DESIGNATED AUTHORIZED VOTER FOR THE PROPERTY. THE ASSOCIATION SHALL
6 MAINTAIN A CURRENT LIST OF UNIT OWNERS OF RECORD AND THE AUTHORIZED VOTERS
7 FOR EACH PROPERTY IN THE CONDOMINIUM AS A RECORD OF THE ASSOCIATION.

8 (b) REQUIRING THE UNIT OWNER TO BE CURRENT IN THE PAYMENT OF ANY
9 COMMON EXPENSE ASSESSMENTS.

10 ~~1.~~ 2. The ballot shall set forth each proposed action.
11 ~~2.~~ 3. The ballot shall provide an opportunity to vote for or
12 against each proposed action, INCLUDING THE RECALL OF ANY INDIVIDUAL
13 MEMBER OF THE BOARD OF DIRECTORS.

14 4. THE BALLOT TO ELECT PERSONS TO POSITIONS ON THE BOARD OF
15 DIRECTORS SHALL IDENTIFY THE NUMBER AND TERM OF BOARD POSITIONS TO BE
16 FILLED, ALONG WITH THE NAMES OF ALL ELIGIBLE UNIT OWNERS WISHING TO BE
17 CONSIDERED FOR THOSE POSITIONS. THE CONDOMINIUM DOCUMENTS MAY ESTABLISH
18 ELIGIBILITY REQUIREMENTS FOR CANDIDATES FOR A POSITION ON THE BOARD OF
19 DIRECTORS THAT REQUIRE THE UNIT OWNER TO BE INDEPENDENT OF ANY DIRECT OR
20 INDIRECT INFLUENCE OR DECISION-MAKING OF THE CURRENT BOARD OF DIRECTORS,
21 INDIVIDUAL BOARD MEMBERS, THE CONDOMINIUM MANAGER OR ANY BOARD-APPOINTED
22 COMMITTEE CHAIRPERSON. THE CONDOMINIUM DOCUMENTS MAY RESTRICT THE
23 ELIGIBILITY OF A UNIT OWNER TO RUN FOR OFFICE BASED ON AN UNRESOLVED CITED
24 VIOLATION OF THE CONDOMINIUM DOCUMENTS IF THAT VIOLATION WAS ENFORCED
25 FAIRLY AND EQUALLY ON ALL UNIT OWNERS.

26 5. THE QUORUM REQUIREMENT FOR THE ELECTION OF BOARD MEMBERS SHALL
27 BE TWENTY PERCENT OF THE TOTAL ALLOCATED VOTES OR ANY LOWER VALUE
28 SPECIFIED IN THE CONDOMINIUM DOCUMENTS. FOR ALL OTHER BALLOT MEASURES OR
29 MEETINGS, THE QUORUM REQUIREMENT SHALL BE AS ESTABLISHED IN THE
30 CONDOMINIUM DOCUMENTS OR AS OTHERWISE PRESCRIBED BY THIS CHAPTER.

31 ~~3.~~ 6. The ballot is valid for only one specified election or
32 ~~meeting of the members~~ BALLOT MEASURE and expires automatically after the
33 completion of the election ~~or meeting~~.

34 ~~4.~~ 7. The ballot ~~specifies~~ MEASURE OR MEETING NOTICE SHALL SPECIFY
35 THE PHYSICAL LOCATION WITHIN THE CONDOMINIUM, MAILING ADDRESS, FAX NUMBER,
36 EMAIL ADDRESS OR ANY OTHER PRESCRIBED MEANS THAT IS USED TO SUBMIT THE
37 COMPLETED BALLOT, ALONG WITH the time and date by which the ballot must be
38 delivered to the board of directors in order to be counted, which shall be
39 at least seven days after the date that the board delivers the unvoted
40 ballot to the member.

41 ~~5.~~ 8. The ~~ballot~~ ASSOCIATION does not authorize another person to
42 cast votes on behalf of the member OR AUTHORIZED VOTER. THE ASSOCIATION,
43 ITS AGENT OR ANY UNIT OWNER SHALL NOT PROVIDE PREVOTED BALLOTS FOR UNIT
44 OWNERS TO SUBMIT AND MAY NOT ALLOW IN-PERSON BALLOT SOLICITATION. THE
45 PRELIMINARY RESULTS OF ANY ELECTION OR BALLOT MEASURE SHALL NOT BE

1 REVEALED TO ANY UNIT OWNER, INCLUDING MEMBERS OF THE BOARD OF DIRECTORS,
2 BEFORE THE RESULTS ARE FINALIZED.

3 ~~6.~~ 9. The completed ABSENTEE ballot shall ~~contain~~ BE ACCCOMPANIED
4 BY EITHER A SEPARATE IDENTIFICATION FORM THAT LISTS the name, ~~the~~ DATE,
5 address and either the actual or electronic signature of the person
6 voting, ~~except that if the condominium documents permit secret ballots,~~
7 ~~only~~ OR the envelope CONTAINING THE COMPLETED ABSENTEE BALLOT shall
8 ~~contain~~ LIST the name, ~~the~~ DATE, address and either the actual or
9 electronic signature of the voter.

10 10. UNLESS THE CONDOMINIUM DOCUMENTS OR THIS CHAPTER REQUIRES THE
11 AFFIRMATIVE VOTE OF A LARGER MAJORITY OF ALL MEMBERS VOTING ON A BALLOT
12 MEASURE, A SIMPLE MAJORITY OF ALL VOTES CAST ON THE MEASURE SHALL DECIDE
13 THE BALLOT MEASURE.

14 ~~7.~~ 11. ALL COMPLETED ballots, VOTER IDENTIFICATION DOCUMENTS,
15 WRITTEN CONSENTS, SIGNED envelopes, FAX COVER SHEETS, FORWARDING EMAILS
16 OR, FOR ELECTRONICALLY DELIVERED BALLOTS, THE METADATA FOR THOSE BALLOTS
17 IN A REPORT OR SPREADSHEET FORMAT AS APPLICABLE AND REQUESTED, and ANY
18 OTHER related materials, including sign-in sheets if used, shall be
19 retained in LEGIBLE electronic or paper format and made available for unit
20 owner inspection for at least one year after completion of the election.
21 IF THE ASSOCIATION INVALIDATES ANY ABSENTEE BALLOT RECEIVED, THE
22 ASSOCIATION SHALL MARK THAT BALLOT AND ITS ASSOCIATED VOTER IDENTIFICATION
23 DOCUMENT AS INVALID AND RETAIN THOSE DOCUMENTS SEPARATELY FROM THE VALID
24 BALLOTS.

25 12. FOLLOWING THE COMPLETION OF ANY ELECTION OR BALLOT MEASURE, THE
26 ASSOCIATION SHALL POST OR DISTRIBUTE THE RESULTS OF THE BALLOT MEASURE OR
27 ELECTION TO ALL UNIT OWNERS. THE NAMES, TERM END DATES AND OFFICIAL
28 CONTACT INFORMATION OF ALL BOARD MEMBERS SHALL BE EITHER POSTED OR MADE
29 AVAILABLE TO ANY UNIT OWNER ON REQUEST.

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

33 F. EXCEPT FOR THE MEETING NOTICE REQUIREMENTS OF THIS CHAPTER, IF
34 THE BOARD OF DIRECTORS, AN INDIVIDUAL BOARD MEMBER OR A CONDOMINIUM
35 MANAGER USES THE ASSOCIATION'S RESOURCES OR THAT OF THE CONDOMINIUM'S
36 MANAGING AGENT, OR THE PRIVATE CONTACT INFORMATION OF THE UNIT OWNERS TO
37 PROVIDE A COMMUNITY-WIDE COMMUNICATION OR POSTING IN SUPPORT OF OR
38 OPPOSITION TO ANY PETITION OR BALLOT MEASURE, THE ASSOCIATION SHALL
39 PROVIDE TO NOT MORE THAN TWO GROUPS OF TEN OR MORE UNIT OWNERS IN DISSENT
40 OF THE POSITION OF THE BOARD AN EQUAL OPPORTUNITY TO COMMUNICATE THEIR
41 ARGUMENTS IN SUPPORT OR OPPOSITION TO THE ISSUE, IF REQUESTED, IN WRITING
42 WITHIN THREE DAYS AFTER THE ORIGINAL POSTING OR COMMUNICATION. THE
43 ASSOCIATION MAY INCLUDE A DISCLAIMER STATEMENT THAT THE CONTENT OF THE
44 REBUTTAL COMMUNICATION DOES NOT REFLECT THE OPINIONS OF THE BOARD OR
45 ASSOCIATION AND THAT THE ASSOCIATION ASSUMES NO LIABILITY FOR THE

1 CONTENT. THE ASSOCIATION MAY REFUSE TO PUBLISH A REBUTTAL THAT WOULD
2 VIOLATE FEDERAL LAW RELATING TO DISCRIMINATORY STATEMENTS OR A HOSTILE
3 HOUSING ENVIRONMENT. THE ASSOCIATION SHALL POST OR DISTRIBUTE THE
4 REBUTTAL WITHIN TWENTY-FOUR HOURS AFTER RECEIPT.

5 G. THE BOARD OF DIRECTORS HAS THE DUTY TO ENSURE THE INTEGRITY OF
6 THE BALLOT PROCESS AND THAT ANY ELECTION OR BALLOT MEASURE IS CONDUCTED AS
7 PRESCRIBED BY THIS SECTION. AS A PART OF THIS DUTY, THE BOARD OF
8 DIRECTORS SHALL ESTABLISH POLICIES AND REASONABLE OVERSIGHT OVER THE
9 DELIVERY, RECEIPT, HANDLING AND COUNTING OF BALLOTS AS DEEMED NECESSARY TO
10 ENSURE THE INTEGRITY OF THE BALLOT PROCESS. IF THE VALIDITY OF ANY
11 ELECTION OR BALLOT MEASURE IS CHALLENGED BY ANY UNIT OWNER WITHIN THIRTY
12 DAYS AFTER THAT ELECTION OR BALLOT MEASURE AND THE ASSOCIATION'S BOARD OF
13 DIRECTORS IS PRESENTED WITH CREDIBLE EVIDENCE OF A SUBSTANTIVE VIOLATION
14 OF THIS SECTION, THE ASSOCIATION'S BOARD OF DIRECTORS SHALL INVALIDATE THE
15 ELECTION OR BALLOT MEASURE AND REQUIRE THAT THE ELECTION OR BALLOT MEASURE
16 BE REPEATED IN COMPLIANCE WITH THIS SECTION. IF THE ASSOCIATION'S BOARD
17 OF DIRECTORS REFUSES TO INVALIDATE THE ELECTION OR BALLOT MEASURE OR IF
18 THE CHALLENGE PERIOD HAS EXPIRED, A UNIT OWNER MAY PURSUE IN A COURT OF
19 APPROPRIATE JURISDICTION ANY REMEDY IN LAW AND EQUITY AGAINST THE BOARD OF
20 DIRECTORS OR ASSOCIATION FOR A SUBSTANTIVE VIOLATION OF THIS SECTION AND A
21 BREACH OF DUTY, AS APPROPRIATE.

22 H. ANY PERSON WHO INTENTIONALLY ADDS, ALTERS OR DELETES ONE OR MORE
23 BALLOTS OR SIGNATURES THAT WERE SUBMITTED BY THE DULY AUTHORIZED AND
24 ELIGIBLE VOTERS AND DOES SO IN AN ATTEMPT TO ALTER THE OUTCOME OF THE
25 ELECTION OR BALLOT MEASURE OR CONSPIRES TO EFFECT SUCH AN ACT IS GUILTY OF
26 A CLASS 6 FELONY AND MAY BE PROSECUTED BY ANY COUNTY OR STATE ATTORNEY IN
27 A COURT OF APPROPRIATE JURISDICTION.

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

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

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

36 2. Unit owners who have leased their units to other persons shall
37 not cast votes on those specified matters.

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

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

44 H. L. This section does not apply to timeshare plans or
45 associations that are subject to chapter 20 of this title.

1 T. M. For the purposes of this section: ~~,~~

2 1. "DELEGATE" MEANS ANY INDIVIDUAL PRESCRIBED IN THE CONDOMINIUM
3 DOCUMENTS TO CAST VOTES ON THE UNIT OWNER'S BEHALF WITHOUT THE SPECIFIC
4 AUTHORIZATION OF THE UNIT OWNER.

5 2. "DELIVERED" MEANS THE DATE THAT A MEETING NOTICE OR BALLOT IS
6 DELIVERED BY HAND OR BY ELECTRONIC MEANS OR, IF MAILED, TWO DAYS AFTER IT
7 IS POSTMARKED BY THE UNITED STATES POSTAL SERVICE.

8 3. "Period of declarant control" means the time during which the
9 declarant or persons designated by the declarant may elect or appoint the
10 members of the board of directors pursuant to the condominium documents or
11 by virtue of superior voting power.

12 4. "SUBSTANTIVE VIOLATION" MEANS ANY VIOLATION OF THIS SECTION THAT
13 DOES ANY OF THE FOLLOWING:

14 (a) IMPROPERLY DENIES ELIGIBILITY OR THE OPPORTUNITY TO VOTE TO A
15 NUMBER OF MEMBERS THAT IS GREATER THAN THE SMALLEST MARGIN OF VICTORY
16 BETWEEN ANY WINNING AND LOSING CANDIDATE OR BALLOT MEASURE.

17 (b) IMPROPERLY DENIES AN ELIGIBLE CANDIDATE FROM BEING LISTED ON
18 THE BALLOT PURSUANT TO THIS SECTION.

19 (c) RESULTS IN EVIDENCE THAT ONE OR MORE BALLOTS WERE ADDED,
20 ALTERED OR DELETED BY ANYONE OTHER THAN THE AUTHORIZED VOTER.

21 (d) IMPROPERLY FAILS TO COMPLY WITH THE REQUIREMENTS OF ANY OF THE
22 FOLLOWING:

23 (i) SUBSECTION C OF THIS SECTION.

24 (ii) SUBSECTION D, PARAGRAPHS 2, 3 OR 8 OF THIS SECTION.

25 (iii) PROVIDING ACCESS TO VOTING RECORDS PURSUANT TO SUBSECTION D
26 OF THIS SECTION.

27 (iv) PROVIDING THE REBUTTAL COMMUNICATION OPPORTUNITY PRESCRIBED BY
28 SUBSECTION F OF THIS SECTION.

29 Sec. 2. Section 33-1812, Arizona Revised Statutes, is amended to
30 read:

31 33-1812. Proxies: absentee ballots: meeting and ballot
32 requirements: community-wide communications:
33 challenges: ballot tampering: violation:
34 classification: definitions:

35 A. Notwithstanding any provision in the community documents, after
36 termination of the period of declarant control, votes allocated to a ~~unit~~
37 PROPERTY may not be cast pursuant to a proxy OR A DELEGATE. The
38 association shall provide for votes to be cast in person and by absentee
39 ballot AT A DULY NOTICED MEETING OF THE MEMBERS PURSUANT TO SECTION
40 33-1804. ~~and~~. In addition, the association may provide for voting by some
41 other form of delivery, ~~including the use of e-mail and fax delivery~~
42 PURSUANT TO SECTIONS 10-3704 OR 10-3708 FOR ANY BALLOT MEASURE WITHOUT A
43 MEETING OR IN PLACE OF ABSENTEE BALLOTS. ABSENTEE BALLOTS MAY BE
44 TRANSMITTED AND RETURNED IN PAPER FORM BY HAND, OR BY UNITED STATES MAIL
45 OR ELECTRONICALLY BY FAX OR EMAIL.

1 B. Notwithstanding ~~section 10-3708 or the~~ ANY provisions of the
2 community documents, any action taken at an annual, ~~regular~~ or special
3 meeting of the members ~~OR ON A BALLOT MEASURE WITHOUT A MEETING~~ shall
4 comply with all of the following ~~if absentee ballots or ballots provided~~
5 ~~by some other form of delivery are used~~:

6 1. THE COMMUNITY DOCUMENTS MAY ESTABLISH THE ELIGIBILITY OF ANY
7 MEMBER TO VOTE OR SIGN A PETITION BUT MAY NOT BE MORE RESTRICTIVE THAN THE
8 FOLLOWING:

9 (a) REQUIRING THE PERSON TO BE A MEMBER OF RECORD OR THE DESIGNATED
10 AUTHORIZED VOTER FOR THE PROPERTY. THE ASSOCIATION SHALL MAINTAIN A
11 CURRENT LIST OF MEMBERS OF RECORD AND THE AUTHORIZED VOTERS FOR EACH
12 PROPERTY IN THE PLANNED COMMUNITY AS A RECORD OF THE ASSOCIATION.

13 (b) REQUIRING THE MEMBER TO BE CURRENT IN THE PAYMENT OF ANY COMMON
14 EXPENSE ASSESSMENTS.

15 ~~1.~~ 2. The ballot shall set forth each proposed action.

16 ~~2.~~ 3. The ballot shall provide an opportunity to vote for or
17 against each proposed action, ~~INCLUDING THE RECALL OF ANY INDIVIDUAL~~
18 ~~MEMBER OF THE BOARD OF DIRECTORS.~~

19 4. THE BALLOT TO ELECT PERSONS TO POSITIONS ON THE BOARD OF
20 DIRECTORS SHALL IDENTIFY THE NUMBER AND TERM OF BOARD POSITIONS TO BE
21 FILLED, ALONG WITH THE NAMES OF ALL ELIGIBLE MEMBERS WISHING TO BE
22 CONSIDERED FOR THOSE POSITIONS. THE COMMUNITY DOCUMENTS MAY ESTABLISH
23 ELIGIBILITY REQUIREMENTS FOR CANDIDATES FOR A POSITION ON THE BOARD OF
24 DIRECTORS THAT REQUIRE THE MEMBER TO BE INDEPENDENT OF ANY DIRECT OR
25 INDIRECT INFLUENCE OR DECISION-MAKING OF THE CURRENT BOARD OF DIRECTORS,
26 INDIVIDUAL BOARD MEMBERS, THE COMMUNITY MANAGER OR ANY BOARD-APPOINTED
27 COMMITTEE CHAIRPERSON. THE COMMUNITY DOCUMENTS MAY RESTRICT THE
28 ELIGIBILITY OF A MEMBER TO RUN FOR OFFICE BASED ON AN UNRESOLVED CITED
29 VIOLATION OF THE COMMUNITY DOCUMENTS IF THAT VIOLATION WAS ENFORCED FAIRLY
30 AND EQUALLY ON ALL MEMBERS.

31 5. THE QUORUM REQUIREMENT FOR THE ELECTION OF BOARD MEMBERS SHALL
32 BE TWENTY PERCENT OF THE TOTAL ALLOCATED VOTES OR ANY LOWER VALUE
33 SPECIFIED IN THE COMMUNITY DOCUMENTS. FOR ALL OTHER BALLOT MEASURES OR
34 MEETINGS, THE QUORUM REQUIREMENT SHALL BE AS ESTABLISHED IN THE COMMUNITY
35 DOCUMENTS OR AS OTHERWISE PRESCRIBED BY THIS CHAPTER.

36 ~~3.~~ 6. The ballot is valid for only one specified election or
37 ~~meeting of the members~~ BALLOT MEASURE and expires automatically after the
38 completion of the election ~~or meeting~~.

39 ~~4.~~ 7. The ballot ~~specifies~~ MEASURE OR MEETING NOTICE SHALL SPECIFY
40 THE PHYSICAL LOCATION WITHIN THE PLANNED COMMUNITY, MAILING ADDRESS, FAX
41 NUMBER, EMAIL ADDRESS OR ANY OTHER PRESCRIBED MEANS THAT IS USED TO SUBMIT
42 THE COMPLETED BALLOT, ALONG WITH the time and date by which the ballot
43 must be delivered to the board of directors in order to be counted, which
44 shall be at least seven days after the date that the board delivers the
45 unvoted ballot to the member.

1 5. 8. The ~~ballot~~ ASSOCIATION does not authorize another person to
2 cast votes on behalf of the member OR AUTHORIZED VOTER. THE ASSOCIATION,
3 ITS AGENT OR ANY MEMBER SHALL NOT PROVIDE PREVOTED BALLOTS FOR MEMBERS TO
4 SUBMIT AND MAY NOT ALLOW IN-PERSON BALLOT SOLICITATION. THE PRELIMINARY
5 RESULTS OF ANY ELECTION OR BALLOT MEASURE SHALL NOT BE REVEALED TO ANY
6 MEMBER, INCLUDING MEMBERS OF THE BOARD OF DIRECTORS, BEFORE THE RESULTS
7 ARE FINALIZED.

8 6. 9. The completed ABSENTEE ballot shall ~~contain~~ BE ACCCOMPANIED
9 BY EITHER A SEPARATE IDENTIFICATION FORM THAT LISTS the name, DATE,
10 address and EITHER THE ELECTRONIC OR ACTUAL signature of the person
11 voting, ~~except that if the community documents permit secret ballots, only~~
12 OR the envelope CONTAINING THE COMPLETED ABSENTEE BALLOT shall ~~contain~~
13 LIST the name, DATE, address and signature of the voter.

14 10. UNLESS THE COMMUNITY DOCUMENTS OR THIS CHAPTER REQUIRES THE
15 AFFIRMATIVE VOTE OF A LARGER MAJORITY OF ALL MEMBERS VOTING ON A BALLOT
16 MEASURE, A SIMPLE MAJORITY OF ALL VOTES CAST ON THE MEASURE SHALL DECIDE
17 THE BALLOT MEASURE.

18 7. 11. ALL COMPLETED ballots, VOTER IDENTIFICATION DOCUMENTS,
19 WRITTEN CONSENTS, SIGNED envelopes, FAX COVER SHEETS, FORWARDING EMAILS
20 OR, FOR ELECTRONICALLY DELIVERED BALLOTS, THE METADATA FOR THOSE BALLOTS
21 IN A REPORT OR SPREADSHEET FORMAT AS APPLICABLE AND REQUESTED, and ANY
22 OTHER related materials, including sign-in sheets if used, shall be
23 retained in LEGIBLE electronic or paper format and made available for
24 member inspection for at least one year after completion of the election.
25 IF THE ASSOCIATION INVALIDATES ANY ABSENTEE BALLOT RECEIVED, THE
26 ASSOCIATION SHALL MARK THAT BALLOT AND ITS ASSOCIATED VOTER IDENTIFICATION
27 DOCUMENT AS INVALID AND RETAIN THOSE DOCUMENTS SEPARATELY FROM THE VALID
28 BALLOTS.

29 12. FOLLOWING THE COMPLETION OF ANY ELECTION OR BALLOT MEASURE, THE
30 ASSOCIATION SHALL POST OR DISTRIBUTE THE RESULTS OF THE BALLOT MEASURE OR
31 ELECTION TO ALL MEMBERS. THE NAMES, TERM END DATES AND OFFICIAL CONTACT
32 INFORMATION OF ALL BOARD MEMBERS SHALL BE EITHER POSTED OR MADE AVAILABLE
33 TO ANY MEMBER ON REQUEST.

34 8. C. Votes cast by absentee ballot or other form of
35 delivery, ~~including the use of e-mail and fax delivery~~, are valid for the
36 purpose of establishing a quorum.

37 D. EXCEPT FOR THE MEETING NOTICE REQUIREMENTS OF THIS CHAPTER, IF
38 THE BOARD OF DIRECTORS, AN INDIVIDUAL BOARD MEMBER OR A COMMUNITY MANAGER
39 USES THE ASSOCIATION'S RESOURCES OR THAT OF THE COMMUNITY'S MANAGING
40 AGENT, OR THE PRIVATE CONTACT INFORMATION OF THE MEMBERS TO PROVIDE A
41 COMMUNITY-WIDE COMMUNICATION OR POSTING IN SUPPORT OR OPPOSITION TO ANY
42 PETITION OR BALLOT MEASURE, THE ASSOCIATION SHALL PROVIDE TO NOT MORE THAN
43 TWO GROUPS OF TEN OR MORE MEMBERS IN DISSENT OF THE POSITION OF THE BOARD
44 AN EQUAL OPPORTUNITY TO COMMUNICATE THEIR ARGUMENTS IN SUPPORT OF OR
45 OPPOSITION TO THE ISSUE, IF REQUESTED, IN WRITING WITHIN THREE DAYS AFTER

1 THE ORIGINAL POSTING OR COMMUNICATION. THE ASSOCIATION MAY INCLUDE A
2 DISCLAIMER STATEMENT THAT THE CONTENT OF THE REBUTTAL COMMUNICATION DOES
3 NOT REFLECT THE OPINIONS OF THE BOARD OR ASSOCIATION AND THAT THE
4 ASSOCIATION ASSUMES NO LIABILITY FOR THE CONTENT. THE ASSOCIATION MAY
5 REFUSE TO PUBLISH A REBUTTAL THAT WOULD VIOLATE FEDERAL LAW RELATING TO
6 DISCRIMINATORY STATEMENTS OR A HOSTILE HOUSING ENVIRONMENT. THE
7 ASSOCIATION SHALL POST OR DISTRIBUTE THE REBUTTAL WITHIN TWENTY-FOUR HOURS
8 AFTER RECEIPT.

9 E. THE BOARD OF DIRECTORS HAS THE DUTY TO ENSURE THE INTEGRITY OF
10 THE BALLOT PROCESS AND THAT ANY ELECTION OR BALLOT MEASURE IS CONDUCTED AS
11 PRESCRIBED BY THIS SECTION. AS A PART OF THIS DUTY, THE BOARD OF
12 DIRECTORS SHALL ESTABLISH POLICIES AND REASONABLE OVERSIGHT OVER THE
13 DELIVERY, RECEIPT, HANDLING AND COUNTING OF BALLOTS AS DEEMED NECESSARY TO
14 ENSURE THE INTEGRITY OF THE BALLOT PROCESS. IF THE VALIDITY OF ANY
15 ELECTION OR BALLOT MEASURE IS CHALLENGED BY ANY MEMBER WITHIN THIRTY DAYS
16 AFTER THAT ELECTION OR BALLOT MEASURE AND THE ASSOCIATION'S BOARD OF
17 DIRECTORS IS PRESENTED WITH CREDIBLE EVIDENCE OF A SUBSTANTIVE VIOLATION
18 OF THIS SECTION, THE ASSOCIATION'S BOARD OF DIRECTORS SHALL INVALIDATE THE
19 ELECTION OR BALLOT MEASURE AND REQUIRE THAT THE ELECTION OR BALLOT MEASURE
20 BE REPEATED IN COMPLIANCE WITH THIS SECTION. IF THE ASSOCIATION'S BOARD
21 OF DIRECTORS REFUSES TO INVALIDATE THE ELECTION OR BALLOT MEASURE OR IF
22 THE CHALLENGE PERIOD HAS EXPIRED, A MEMBER MAY PURSUE IN A COURT OF
23 APPROPRIATE JURISDICTION ANY REMEDY IN LAW AND EQUITY AGAINST THE BOARD OF
24 DIRECTORS OR ASSOCIATION FOR A SUBSTANTIVE VIOLATION OF THIS SECTION AND A
25 BREACH OF DUTY, AS APPROPRIATE.

26 F. ANY PERSON WHO INTENTIONALLY ADDS, ALTERS OR DELETES ONE OR MORE
27 BALLOTS OR SIGNATURES THAT WERE SUBMITTED BY THE DULY AUTHORIZED AND
28 ELIGIBLE VOTERS AND DOES SO IN AN ATTEMPT TO ALTER THE OUTCOME OF THE
29 ELECTION OR BALLOT MEASURE OR CONSPIRES TO EFFECT SUCH AN ACT IS GUILTY OF
30 A CLASS 6 FELONY AND MAY BE PROSECUTED BY ANY COUNTY OR STATE ATTORNEY IN
31 A COURT OF APPROPRIATE JURISDICTION.

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

35 ~~D.~~ H. For the purposes of this section: ~~,~~

36 1. "DELEGATE" MEANS ANY INDIVIDUAL PRESCRIBED IN THE COMMUNITY
37 DOCUMENTS TO CAST VOTES ON THE MEMBER'S BEHALF WITHOUT THE SPECIFIC
38 AUTHORIZATION OF THE MEMBER.

39 2. "DELIVERED" MEANS THE DATE THAT A MEETING NOTICE OR BALLOT IS
40 DELIVERED BY HAND OR BY ELECTRONIC MEANS OR, IF MAILED, TWO DAYS AFTER IT
41 IS POSTMARKED BY THE UNITED STATES POSTAL SERVICE.

42 3. "Period of declarant control" means the time during which the
43 declarant or persons designated by the declarant may elect or appoint the
44 members of the board of directors pursuant to the community documents or
45 by virtue of superior voting power.

1 4. "SUBSTANTIVE VIOLATION" MEANS ANY VIOLATION OF THIS SECTION THAT
2 DOES ANY OF THE FOLLOWING:

3 (a) IMPROPERLY DENIES ELIGIBILITY OR THE OPPORTUNITY TO VOTE TO A
4 NUMBER OF MEMBERS THAT IS GREATER THAN THE SMALLEST MARGIN OF VICTORY
5 BETWEEN ANY WINNING AND LOSING CANDIDATE OR BALLOT MEASURE.

6 (b) IMPROPERLY DENIES AN ELIGIBLE CANDIDATE FROM BEING LISTED ON
7 THE BALLOT PURSUANT TO SUBSECTION B OF THIS SECTION.

8 (c) RESULTS IN EVIDENCE THAT ONE OR MORE BALLOTS WERE ADDED,
9 ALTERED OR DELETED BY ANYONE OTHER THAN THE AUTHORIZED VOTER.

10 (d) IMPROPERLY FAILS TO COMPLY WITH THE REQUIREMENTS OF ANY OF THE
11 FOLLOWING:

12 (i) SUBSECTION A OF THIS SECTION.

13 (ii) SUBSECTION B, PARAGRAPHS 2, 3 OR 8 OF THIS SECTION.

14 (iii) PROVIDING ACCESS TO VOTING RECORDS PURSUANT TO SUBSECTION B
15 OF THIS SECTION.

16 (iv) PROVIDING THE REBUTTAL COMMUNICATION OPPORTUNITY PRESCRIBED BY
17 SUBSECTION D OF THIS SECTION.