

REFERENCE TITLE: HOA voting; elections; ballot measures

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1438

Introduced by
Senators Kavanagh: Rogers

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)

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

Section 1. Section 33-1250, Arizona Revised Statutes, is amended to read:

33-1250. Voting; proxies; absentee ballots; applicability; definitions

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

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

C. Notwithstanding any provision in the condominium documents, after termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy OR DELEGATE. The association shall provide for votes to be cast in person and by absentee ballot ~~and,~~ AT A DULY NOTICED ANNUAL OR SPECIAL MEETING OF THE UNIT OWNERS PURSUANT TO SECTION 33-1248. In addition, the association may provide for voting by some other form of delivery, ~~including the use of e-mail and fax delivery~~ PURSUANT TO SECTION 10-3704 OR 10-3708, INCLUDING AN ELECTRONIC OR ONLINE VOTING SYSTEM FOR A BALLOT MEASURE WITHOUT A MEETING OR IN PLACE OF ABSENTEE BALLOTS, SUBJECT TO THIS SECTION. ABSENTEE BALLOTS MAY BE TRANSMITTED AND RETURNED IN A PAPER FORMAT BY HAND, UNITED STATES MAIL OR ELECTRONICALLY BY EMAIL, FAX OR THROUGH AN ENCRYPTED SECURE ELECTRONIC OR ONLINE VOTING SYSTEM. IF THE ASSOCIATION CHOOSES TO USE AN ELECTRONIC OR ONLINE VOTING SYSTEM, THE ASSOCIATION SHALL ALSO INFORM AND MAKE AVAILABLE TO ANY UNIT OWNER THE OPTION TO REQUEST AND USE A PAPER ABSENTEE BALLOT IF DESIRED.

D. Notwithstanding ~~section 10-3708 or the provisions of~~ TITLE 10 OR the condominium documents, any action taken at an annual, ~~regular~~ or special meeting of the ~~members~~ UNIT OWNERS OR ON A BALLOT MEASURE WITHOUT

1 A MEETING shall comply with all of the following ~~if absentee ballots or~~
2 ~~ballots provided by some other form of delivery are used:~~

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

6 (a) REQUIRING THE PERSON TO BE A UNIT OWNER OF RECORD OR IF A UNIT
7 IS OWNED BY AN ENTITY, THE DESIGNATED AUTHORIZED VOTER FOR THE UNIT. THE
8 ASSOCIATION SHALL MAINTAIN A CURRENT LIST OF OWNERS OF RECORD AND THE
9 AUTHORIZED VOTERS FOR EACH UNIT IN THE CONDOMINIUM AS A RECORD OF THE
10 ASSOCIATION.

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

13 (c) REQUIRING THAT ONLY ONE BALLOT OR PETITION SIGNATURE MAY BE
14 COUNTED FROM ANY INDIVIDUAL UNIT.

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.

18 4. THE BALLOT TO ELECT BOARD POSITIONS MUST IDENTIFY THE NUMBER AND
19 TERMS OF BOARD POSITIONS TO BE FILLED AND THE NAMES OF ALL ELIGIBLE
20 CANDIDATES WHO PROPERLY SUBMITTED NOMINATION REQUESTS FOR THE POSITIONS.
21 THE CONDOMINIUM DOCUMENTS MAY ESTABLISH ELIGIBILITY AND NOMINATION
22 REQUIREMENTS FOR A UNIT OWNER OR AUTHORIZED VOTER TO RUN FOR OFFICE THAT
23 ARE OBJECTIVE AND INDEPENDENT OF ANY DIRECT OR INDIRECT INFLUENCE OF THE
24 CURRENT BOARD OF DIRECTORS, INDIVIDUAL BOARD MEMBERS, COMMUNITY MANAGER OR
25 A BOARD APPOINTED COMMITTEE. THE ASSOCIATION SHALL PROVIDE EACH ELIGIBLE
26 VOTER WITH THE OPPORTUNITY TO VOTE FOR THE NUMBER OF INDIVIDUAL BOARD
27 CANDIDATES BASED ON THE NUMBER OF OPEN SEATS TO BE FILLED.

28 ~~3.~~ 5. The ballot is valid for only one specified election or
29 ~~meeting of the members~~ BALLOT MEASURE and expires automatically after the
30 completion of the election or ~~meeting~~ BALLOT MEASURE.

31 ~~4.~~ 6. The ballot ~~specifies~~ INITIATIVE OR MEETING NOTICE MUST
32 SPECIFY THE PHYSICAL LOCATION WITHIN THE CONDOMINIUM WHERE BALLOTS MAY BE
33 HAND DELIVERED, THE MAILING ADDRESS, THE EMAIL ADDRESS AND THE FAX NUMBER
34 WHERE BALLOTS MAY BE SENT OR A SECURE ELECTRONIC OR ONLINE VOTING PROGRAM
35 PURSUANT TO SECTION 10-3708 AND the time and date by which the ballot must
36 be ~~delivered to~~ RECEIVED BY the board of directors in order to be counted,
37 which shall be at least ~~seven~~ TEN CALENDAR days after the date that the
38 board delivers the unvoted ballot to the ~~member~~ UNIT OWNER. IF THE BALLOT
39 IS SENT BY THE UNITED STATES POSTAL SERVICE, THE BALLOT IS CONSIDERED
40 DELIVERED TWO CALENDAR DAYS AFTER THE POSTMARK DATE.

41 ~~5.~~ 7. The ~~ballot does~~ ASSOCIATION MAY not authorize another person
42 to cast votes on behalf of the ~~member~~ UNIT OWNER OR AUTHORIZED VOTER.

43 ~~6.~~ 8. The completed ABSENTEE ballot OR OTHER FORM OF DELIVERY
44 shall ~~contain~~ BE ACCOMPANIED BY EITHER A SEPARATE PAPER OR DIGITALLY
45 LINKED IDENTIFICATION FORM THAT LISTS THE DATE, the name, the ~~address~~ UNIT

1 NUMBER and either the actual or SECURE electronic signature of the person
2 voting, ~~except that if the condominium documents permit secret ballots,~~
3 ~~only~~ OR the envelope CONTAINING THE COMPLETED ABSENTEE BALLOT shall
4 ~~contain~~ LIST THE DATE, the name, the ~~address~~ UNIT NUMBER and ~~either~~ the
5 ~~actual or electronic~~ signature of the voter. THE ASSOCIATION, THE
6 MANAGING AGENT OR ANY INDIVIDUAL UNIT OWNER MAY NOT PROVIDE PRE-VOTED
7 BALLOTS FOR OTHER UNIT OWNERS TO SUBMIT. ONCE SUBMITTED, A BALLOT,
8 IRRESPECTIVE OF FORMAT, MAY NOT BE VOIDED, RESUBMITTED OR CHANGED.

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

13 ~~7.~~ 10. ALL COMPLETED ballots, VOTER IDENTIFICATION FORMS, WRITTEN
14 CONSENTS, SIGNED envelopes OR FOR ELECTRONIC OR ONLINE VOTING SYSTEMS THE
15 METADATA FOR THOSE BALLOTS IN REPORT AND MIGRATABLE DATA FORMAT and ANY
16 OTHER related materials, including sign-in sheets if used, shall be
17 retained in LEGIBLE AND UNEDITED electronic or paper format and made
18 available ON WRITTEN REQUEST for unit owner inspection WITHIN THREE
19 BUSINESS DAYS AFTER THE REQUEST for at least ~~one year~~ SIX MONTHS after
20 completion of the election. IF THE ASSOCIATION INVALIDATES ANY BALLOT
21 RECEIVED, THE ASSOCIATION SHALL MARK THAT BALLOT AND THE ASSOCIATED VOTER
22 IDENTIFICATION DOCUMENT AS INVALID AND RETAIN THOSE DOCUMENTS SEPARATE
23 FROM THE VALID BALLOTS.

24 11. WITHIN FORTY-EIGHT HOURS AFTER THE COMPLETION OF ANY BOARD
25 ELECTION OR BALLOT MEASURE, THE ASSOCIATION SHALL POST OR COMMUNICATE THE
26 RESULTS AND VOTE TALLIES TO ALL UNIT OWNERS. THE NAMES, TERM END YEAR AND
27 OFFICIAL CONTACT INFORMATION OF ALL BOARD MEMBERS MUST BE EITHER POSTED OR
28 MADE AVAILABLE TO ANY UNIT OWNER ON REQUEST.

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

32 F. THE ASSOCIATION'S BOARD OF DIRECTORS SHALL ENSURE THE INTEGRITY
33 OF THE BALLOT PROCESS AND ENSURE THAT ANY ELECTION OR BALLOT MEASURE IS
34 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD OF DIRECTORS SHALL APPLY
35 REASONABLE OVERSIGHT OVER THE DELIVERY, RECEIPT, HANDLING AND COUNTING OF
36 BALLOTS DEEMED NECESSARY TO ENSURE THE INTEGRITY OF THE BALLOT PROCESS. A
37 UNIT OWNER'S CHALLENGE OF THE VALIDITY OF ANY ELECTION OR BALLOT MEASURE
38 MUST BE IN WRITING AND MUST BE SENT BY CERTIFIED MAIL WITHIN THIRTY DAYS
39 AFTER THE ELECTION OR BALLOT MEASURE. AFTER A UNIT OWNER'S CHALLENGE
40 PURSUANT TO THIS SUBSECTION, IF THE BOARD OF DIRECTORS IS PRESENTED WITH
41 CREDIBLE EVIDENCE OF A SUBSTANTIVE VIOLATION OF THIS SECTION, THE BOARD OF
42 DIRECTORS SHALL INVALIDATE THE ELECTION OR BALLOT MEASURE AND REQUIRE THAT
43 THE ELECTION OR BALLOT MEASURE BE REPEATED IN COMPLIANCE WITH THIS
44 SECTION. IF THE BOARD OF DIRECTORS REFUSES TO INVALIDATE THE ELECTION OR
45 BALLOT MEASURE OR IF THE CHALLENGE PERIOD HAS EXPIRED, A UNIT OWNER MAY

PURSUE IN A COURT OF COMPETENT JURISDICTION ANY REMEDY AT LAW OR IN EQUITY AGAINST THE BOARD OF DIRECTORS FOR A SUBSTANTIVE VIOLATION AND BREACH OF DUTY.

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

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

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

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

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

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

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

~~I.~~ K. For the purposes of this section: ~~;~~

1. "DELEGATE" MEANS AN INDIVIDUAL ESTABLISHED UNDER THE CONDOMINIUM DOCUMENTS TO CAST VOTES ON THE UNIT OWNER'S BEHALF WITHOUT THE SPECIFIC AUTHORIZATION OF THE UNIT OWNER.

2. "METADATA":

(a) INCLUDES THE DATE AND TIME THAT THE BALLOT IS ELECTRONICALLY SUBMITTED, THE UNIQUE IDENTIFIER USED BY THE ASSOCIATION TO VALIDATE THE AUTHENTICITY OF THE VOTER, THE ELECTRONIC SIGNATURE, THE UNIT NUMBER FOR THE BALLOT AND THE INTERNET PROTOCOL ADDRESS FROM WHICH THE BALLOT IS SUBMITTED AND ANY STANDARD REPORTING OPTIONS FOR THE SOFTWARE PROGRAM.

(b) DOES NOT INCLUDE THE ACTUAL VOTES CAST ON THE BALLOT.

3. "Period of declarant control" means the time during which the declarant or persons designated by the declarant may elect or appoint the members of the board of directors pursuant to the condominium documents or ~~by virtue of superior voting power~~ AS ESTABLISHED IN SECTION 33-1243.

4. "SECURE ELECTRONIC SIGNATURE" MEANS A SECURE ELECTRONIC SIGNATURE AS PRESCRIBED IN SECTION 44-7031.

5. "SUBSTANTIVE VIOLATION" MEANS ANY OF THE FOLLOWING:

(a) IMPROPERLY DENYING ELIGIBILITY OR OPPORTUNITY TO VOTE PURSUANT TO SUBSECTION D, PARAGRAPH 1 OF THIS SECTION TO A NUMBER OF UNIT OWNERS GREATER THAN THE SMALLEST MARGIN OF VICTORY BETWEEN ANY WINNING AND LOSING CANDIDATE OR BALLOT MEASURE.

(b) IMPROPERLY DENYING ANY ELIGIBLE CANDIDATE FROM BEING LISTED ON THE BALLOT PURSUANT TO SUBSECTION D, PARAGRAPH 4 OF THIS SECTION.

(c) IMPROPERLY ALLOWING ONE OR MORE BALLOTS TO BE SUBMITTED BY ANYONE OTHER THAN THE ELIGIBLE VOTER FOR THE UNIT OR TO BE ALTERED OR DELETED BY ANYONE AND NOT CORRECTING IT BEFORE TABULATION.

(d) FAILING TO COMPLY WITH THE REQUIREMENTS OF EITHER OF THE FOLLOWING:

(i) SUBSECTION C OF THIS SECTION.

(ii) SUBSECTION D PARAGRAPH 3, 6, 7, 8 OR 10 OF THIS SECTION.

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

33-1812. Proxies; voting; absentee ballots; definitions

A. Notwithstanding any provision in the community documents, after termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy OR DELEGATE. The association shall provide for votes to be cast in person and by absentee ballot ~~and~~, AT A DULY NOTICED ANNUAL OR SPECIAL MEETING OF THE MEMBERS PURSUANT TO SECTION 33-1804. In addition, the association may provide for voting by some other form of delivery, ~~including the use of e-mail and fax delivery~~ PURSUANT TO SECTION 10-3704 OR 10-3708, INCLUDING AN ELECTRONIC OR ONLINE VOTING SYSTEM FOR A BALLOT MEASURE WITHOUT A MEETING OR IN PLACE OF ABSENTEE BALLOTS, SUBJECT TO THIS SECTION. ABSENTEE BALLOTS MAY BE TRANSMITTED AND RETURNED IN A PAPER FORMAT BY HAND, UNITED STATES MAIL OR ELECTRONICALLY BY EMAIL, FAX OR THROUGH AN ENCRYPTED SECURE ELECTRONIC OR ONLINE VOTING SYSTEM. IF THE ASSOCIATION CHOOSES TO USE AN ELECTRONIC OR ONLINE VOTING SYSTEM, THE ASSOCIATION SHALL ALSO INFORM AND MAKE AVAILABLE TO ANY MEMBER THE OPTION TO REQUEST AND USE A PAPER ABSENTEE BALLOT IF DESIRED.

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

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

(a) REQUIRING THE PERSON TO BE A MEMBER OF RECORD OR IF A PROPERTY IS OWNED BY AN ENTITY, THE DESIGNATED AUTHORIZED VOTER FOR THE PROPERTY. THE ASSOCIATION SHALL MAINTAIN A CURRENT LIST OF OWNERS OF RECORD AND THE AUTHORIZED VOTERS FOR EACH PROPERTY IN THE COMMUNITY AS A RECORD OF THE ASSOCIATION.

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

(c) REQUIRING THAT ONLY ONE BALLOT OR PETITION SIGNATURE MAY BE COUNTED FROM ANY INDIVIDUAL PROPERTY.

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

~~2.~~ 3. The ballot shall provide an opportunity to vote for or against each proposed action.

4. THE BALLOT TO ELECT BOARD POSITIONS MUST IDENTIFY THE NUMBER AND TERMS OF BOARD POSITIONS TO BE FILLED AND THE NAMES OF ALL ELIGIBLE CANDIDATES WHO PROPERLY SUBMITTED NOMINATION REQUESTS FOR THE POSITIONS. THE COMMUNITY DOCUMENTS MAY ESTABLISH ELIGIBILITY AND NOMINATION REQUIREMENTS FOR A MEMBER OR AUTHORIZED VOTER TO RUN FOR OFFICE THAT ARE OBJECTIVE AND INDEPENDENT OF ANY DIRECT OR INDIRECT INFLUENCE OF THE CURRENT BOARD OF DIRECTORS, INDIVIDUAL BOARD MEMBERS, COMMUNITY MANAGER OR A BOARD APPOINTED COMMITTEE. THE ASSOCIATION SHALL PROVIDE EACH ELIGIBLE VOTER WITH THE OPPORTUNITY TO VOTE FOR THE NUMBER OF INDIVIDUAL BOARD CANDIDATES BASED ON THE NUMBER OF OPEN SEATS TO BE FILLED.

~~5.~~ 5. The ballot is valid for only one specified election or ~~meeting of the members~~ BALLOT MEASURE and expires automatically after the completion of the election or ~~meeting~~ BALLOT MEASURE.

~~4.~~ 6. The ballot ~~specifies~~ INITIATIVE OR MEETING NOTICE MUST SPECIFY THE PHYSICAL LOCATION WITHIN THE PLANNED COMMUNITY WHERE BALLOTS MAY BE HAND DELIVERED, THE MAILING ADDRESS, THE EMAIL ADDRESS AND THE FAX NUMBER WHERE BALLOTS MAY BE SENT OR A SECURE ELECTRONIC OR ONLINE VOTING PROGRAM PURSUANT TO SECTION 10-3708, AND the time and date by which the ballot must be ~~delivered to~~ RECEIVED BY the board of directors in order to be counted, which shall be at least ~~seven~~ TEN CALENDAR days after the date that the board delivers the unvoted ballot to the member. IF THE BALLOT IS SENT BY THE UNITED STATES POSTAL SERVICE, THE BALLOT IS CONSIDERED DELIVERED TWO CALENDAR DAYS AFTER THE POSTMARK DATE.

~~5.~~ 7. The ~~ballot does~~ ASSOCIATION MAY not authorize another person to cast votes on behalf of the member OR AUTHORIZED VOTER.

~~6.~~ 8. The completed ABSENTEE ballot OR OTHER FORM OF DELIVERY shall ~~contain~~ BE ACCOMPANIED BY EITHER A SEPARATE PAPER OR DIGITALLY LINKED IDENTIFICATION FORM THAT LISTS the DATE, name, address and EITHER THE SECURE ELECTRONIC SIGNATURE OR ACTUAL signature of the person voting, ~~except that if the community documents permit secret ballots, only~~ OR the envelope CONTAINING THE COMPLETED ABSENTEE BALLOT shall ~~contain~~ LIST the DATE, name, address and signature of the voter. THE ASSOCIATION, THE MANAGING AGENT OR ANY INDIVIDUAL MEMBER MAY NOT PROVIDE PRE-VOTED BALLOTS FOR OTHER MEMBERS TO SUBMIT. ONCE SUBMITTED, A BALLOT, IRRESPECTIVE OF FORMAT, MAY NOT BE VOIDED, RESUBMITTED OR CHANGED.

9. UNLESS THE COMMUNITY DOCUMENTS OR THIS CHAPTER REQUIRE THE AFFIRMATIVE VOTE OF A LARGER MAJORITY OF ALL MEMBERS VOTING ON A BALLOT MEASURE, A SIMPLE MAJORITY OF ALL VOTES CAST SHALL DECIDE THE BALLOT MEASURE.

~~7.~~ 10. ALL COMPLETED ballots, VOTER IDENTIFICATION FORMS, WRITTEN CONSENTS, SIGNED envelopes OR FOR ELECTRONIC OR ONLINE VOTING SYSTEMS THE METADATA FOR THOSE BALLOTS IN REPORT AND MIGRATABLE DATA FORMAT and ANY OTHER related materials, including sign-in sheets if used, shall be retained in LEGIBLE AND UNEDITED electronic or paper format and made available ON WRITTEN REQUEST for member inspection WITHIN THREE BUSINESS

1 DAYS AFTER THE REQUEST for at least ~~one year~~ SIX MONTHS after completion
2 of the election. IF THE ASSOCIATION INVALIDATES ANY BALLOT RECEIVED, THE
3 ASSOCIATION SHALL MARK THAT BALLOT AND THE ASSOCIATED VOTER IDENTIFICATION
4 DOCUMENT AS INVALID AND RETAIN THOSE DOCUMENTS SEPARATE FROM THE VALID
5 BALLOTS.

6 11. WITHIN FORTY-EIGHT HOURS AFTER THE COMPLETION OF ANY BOARD
7 ELECTION OR BALLOT MEASURE, THE ASSOCIATION SHALL POST OR COMMUNICATE THE
8 RESULTS AND VOTE TALLIES TO ALL MEMBERS. THE NAMES, TERM END YEAR AND
9 OFFICIAL CONTACT INFORMATION OF ALL BOARD MEMBERS MUST BE EITHER POSTED OR
10 MADE AVAILABLE TO ANY MEMBER ON REQUEST.

11 ~~B. C. Votes cast by absentee ballot or other form of~~
12 ~~delivery, including the use of e-mail and fax delivery,~~ are valid for the
13 purpose of establishing a quorum.

14 D. THE ASSOCIATION'S BOARD OF DIRECTORS SHALL ENSURE THE INTEGRITY
15 OF THE BALLOT PROCESS AND ENSURE THAT ANY ELECTION OR BALLOT MEASURE IS
16 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD OF DIRECTORS SHALL APPLY
17 REASONABLE OVERSIGHT OVER THE DELIVERY, RECEIPT, HANDLING AND COUNTING OF
18 BALLOTS DEEMED NECESSARY TO ENSURE THE INTEGRITY OF THE BALLOT PROCESS. A
19 MEMBER'S CHALLENGE OF THE VALIDITY OF ANY ELECTION OR BALLOT MEASURE MUST
20 BE IN WRITING AND MUST BE SENT BY CERTIFIED MAIL WITHIN THIRTY DAYS AFTER
21 THE ELECTION OR BALLOT MEASURE. AFTER A MEMBER'S CHALLENGE PURSUANT TO
22 THIS SUBSECTION, IF THE BOARD OF DIRECTORS IS PRESENTED WITH CREDIBLE
23 EVIDENCE OF A SUBSTANTIVE VIOLATION OF THIS SECTION, THE BOARD OF
24 DIRECTORS SHALL INVALIDATE THE ELECTION OR BALLOT MEASURE AND REQUIRE THAT
25 THE ELECTION OR BALLOT MEASURE BE REPEATED IN COMPLIANCE WITH THIS
26 SECTION. IF THE BOARD OF DIRECTORS REFUSES TO INVALIDATE THE ELECTION OR
27 BALLOT MEASURE OR IF THE CHALLENGE PERIOD HAS EXPIRED, A MEMBER MAY PURSUE
28 IN A COURT OF COMPETENT JURISDICTION ANY REMEDY AT LAW OR IN EQUITY
29 AGAINST THE BOARD OF DIRECTORS FOR A SUBSTANTIVE VIOLATION AND BREACH OF
30 DUTY.

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

34 ~~F.~~ F. For the purposes of this section: ~~;~~

35 1. "DELEGATE" MEANS AN INDIVIDUAL ESTABLISHED UNDER THE COMMUNITY
36 DOCUMENTS TO CAST VOTES ON THE MEMBER'S BEHALF WITHOUT THE SPECIFIC
37 AUTHORIZATION OF THE MEMBER.

38 2. "METADATA":

39 (a) INCLUDES THE DATE AND TIME THAT THE BALLOT IS ELECTRONICALLY
40 SUBMITTED, THE UNIQUE IDENTIFIER USED BY THE ASSOCIATION TO VALIDATE THE
41 AUTHENTICITY OF THE VOTER, THE ELECTRONIC SIGNATURE, THE LOT NUMBER OR
42 ADDRESS FOR THE BALLOT AND THE INTERNET PROTOCOL ADDRESS FROM WHICH THE
43 BALLOT IS SUBMITTED AND ANY STANDARD REPORTING OPTIONS FOR THE SOFTWARE
44 PROGRAM.

45 (b) DOES NOT INCLUDE THE ACTUAL VOTES CAST ON THE BALLOT.

1 3. "Period of declarant control" means the time during which the
2 declarant or persons designated by the declarant may elect or appoint the
3 members of the board of directors pursuant to the community documents or
4 ~~by virtue of superior voting power~~ AS ESTABLISHED BY SECTION 33-1820.

5 4. "SECURE ELECTRONIC SIGNATURE" MEANS A SECURE ELECTRONIC
6 SIGNATURE AS PRESCRIBED IN SECTION 44-7031.

7 5. "SUBSTANTIVE VIOLATION" MEANS ANY OF THE FOLLOWING:

8 (a) IMPROPERLY DENYING ELIGIBILITY OR OPPORTUNITY TO VOTE PURSUANT
9 TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION TO A NUMBER OF MEMBERS
10 GREATER THAN THE SMALLEST MARGIN OF VICTORY BETWEEN ANY WINNING AND LOSING
11 CANDIDATE OR BALLOT MEASURE.

12 (b) IMPROPERLY DENYING ANY ELIGIBLE CANDIDATE FROM BEING LISTED ON
13 THE BALLOT PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION.

14 (c) IMPROPERLY ALLOWING ONE OR MORE BALLOTS TO BE SUBMITTED BY
15 ANYONE OTHER THAN THE ELIGIBLE VOTER FOR THE PROPERTY OR TO BE ALTERED OR
16 DELETED BY ANYONE AND NOT CORRECTING IT BEFORE TABULATION.

17 (d) FAILING TO COMPLY WITH THE REQUIREMENTS OF EITHER OF THE
18 FOLLOWING:

19 (i) SUBSECTION C OF THIS SECTION.

20 (ii) SUBSECTION B PARAGRAPH 3, 6, 7, 8 OR 10 OF THIS SECTION.