

515B.3-110 VOTING; PROXIES.

(a) At any meeting of the association an owner or the holder of the owner's proxy shall be entitled to cast the vote which is allocated to the unit. If there is more than one owner of a unit, only one of the owners may cast the vote. If the owners of a unit fail to agree and notify the association as to who shall cast the vote, the vote shall not be cast. Any provision in the articles of incorporation, bylaws, declaration, or other document restricting a unit owner's right to vote, or affecting quorum requirements, by reason of nonpayment of assessments, or a purported violation of any provision of the documents governing the common interest community, shall be void.

(b) If permitted by the articles or bylaws, votes allocated to a unit may be cast pursuant to a proxy executed by the unit owner entitled to cast the vote for that unit. The board may specify the form of proxy and proxy rules, consistent with law.

(c) The entire vote on any single issue (except the election of directors), may be by mailed ballots, subject to (i) any prohibition or requirement contained in the articles of incorporation, bylaws, or declaration and (ii) any requirements of the statute under which the association is created. Such a vote shall have the force and effect of a vote taken at a meeting; provided, that the total votes cast are at least equal to the votes required for a quorum. The board shall set a voting period within which the ballots must be returned, which period shall be not less than ten nor more than 30 days after the date of mailing or hand delivery of the ballots to the owners. The board of directors shall provide written notice of the results of the vote to the members within 30 days after the expiration of the voting period. All requirements in this chapter, the declaration or the bylaws for a meeting of the members, or being present in person, shall be deemed satisfied by a vote taken by mail in compliance with the requirements of this section.

(d) The articles of incorporation or bylaws may authorize class voting by unit owners for directors or on specified issues affecting the class. Class voting may only be used to address operational, physical, or administrative differences within the common interest community. A declarant shall not use class voting to evade any limit imposed on declarants by this chapter and units shall not constitute a class because they are owned by a declarant.

(e) The declaration or bylaws may provide that votes on specified matters affecting the common interest community be cast by lessees or secured parties rather than unit owners; provided that (i) the provisions of subsections (a), (b), and (c) apply to those persons as if they were unit owners; (ii) unit owners who have so delegated their votes to other persons may not cast votes on those specified matters; (iii) lessees or secured parties are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners, and (iv) the lessee or secured party has filed satisfactory evidence of its interest with the secretary of the

association prior to the meeting. Unit owners must also be given notice, in the manner provided in section 515B.3-108(b), of meetings at which lessees or secured parties are entitled to vote.

(f) No votes allocated to a unit owned by the association may be cast nor counted toward a quorum.

History: *1993 c 222 art 3 s 10; 1999 c 11 art 2 s 20; 2005 c 121 s 26*