

1                   **Amendments to the Uniform Common Interest Ownership Act**

2                                   **Amended Text**

3                                   **July 11, 2021**

4  
5                                   **[ARTICLE] 1**

6                                   **GENERAL PROVISIONS**

7                   \* \* \*

8                   **SECTION 1-117. MANDATORY AND DEFAULT RULES.**

9                   (a) Except as provided in subsection (b), a declaration or bylaws may not vary the  
10 provisions of this [act] that give a right to, or impose an obligation or liability on, a unit owner,  
11 declarant, association, or executive board.

12                   (b) The declaration or bylaws may vary the following provisions:

13                               (1) Section 1-105(a), concerning the classification of a cooperative unit as real  
14 estate or personal property;

15                               (2) Section 1-107(b) and (c), concerning the reallocation of allocated interests and  
16 the allocation of proceeds after a taking in eminent domain;

17                               (3) [Article] 1, [Part] 2, and [Article] 5, concerning elections with respect to  
18 applicability of this [act];

19                               (4) Section 2-102, concerning boundary lines between units and common  
20 elements;

21                               (5) Section 2-108(b), concerning the reallocation of limited common elements;

22                               (6) Section 2-109(e), concerning the horizontal boundaries of units;

23                               (7) Section 2-111, concerning alterations of units and common elements made by

unit owners;

(8) Section 2-112(a) and (b), concerning the relocation of boundaries of units;

(9) Section 2-113(a), concerning the subdivision of units;

(10) Section 2-115, concerning signs maintained by a declarant;

(11) Section 2-116(a) and (c), concerning easements through, and rights to use,  
common elements;

(12) Section 2-117(a), concerning the percentage of votes required to amend the  
declaration;

(13) Section 2-118, concerning the percentage of votes required to terminate a  
common interest community;

(14) Section 2-119, concerning lender approval of actions of unit owners and the  
association;

(15) Section 2-120(a), concerning an executive board's delegation of powers by  
the executive board to a master association;

(16) Section 2-122, concerning a declarant's addition of real estate to a planned  
community;

(17) Section 3-102(a)(14), concerning an association's assignment of future  
income;

(18) Section 3-103(a), concerning the extent to which the executive board acts on  
behalf of the association;

(19) Section 3-107(a), concerning responsibility for maintenance, repair, and  
replacement of units and common elements;

(20) Section 3-108(a)(2), concerning the percentage of unit owners who may

request a special meeting;

(21) Section 3-109, concerning quorum requirements for meetings and rules for conducting meetings;

(22) Section 3-110, concerning voting by proxies, voting by ballots, voting without a meeting, and voting by lessees;

(23) Section 3-112 (a), (b), and (g), concerning the percentage of votes required to convey or encumber common elements;

(24) Section 3-113(k), concerning a nonresidential common interest community's waiver or variance of insurance requirements;

(25) Section 3-114, concerning the payment of surplus funds of the association;

(26) Section 3-115, concerning changes in assessments of common expenses; and

(27) Section 3-116(a), concerning the treatment of fees, costs, charges, and other sums as assessments for lien purposes.

## **[PART] 2**

### **APPLICABILITY**

**SECTION 1-201. GENERAL APPLICABILITY TO COMMON INTEREST COMMUNITIES.** Except as otherwise provided in this [part] and in article [Article] 5, this [act] applies to all common interest communities. Amendments to this [act] apply to all common interest communities subject to this [act], regardless of when the amendment becomes effective.

## **[ARTICLE] 2**

### **CREATION, ALTERATION, AND**

### **TERMINATION OF COMMON INTEREST COMMUNITIES**

\* \* \*

1           **SECTION 2-108. LIMITED COMMON ELEMENTS.**

2           (a) Except for the limited common elements described in Section 2-102(2) and (4), the  
3       declaration must specify to which unit or units each limited common element is allocated. An  
4       allocation may not be altered without the consent of the unit owners whose units are affected.

5           (b) Except as the declaration otherwise provides, a limited common element may be  
6       reallocated by an amendment to the declaration executed by the unit owners between or among  
7       whose units the reallocation is made. The persons executing the amendment shall provide a copy  
8       thereof to the association.

9           (c) A common element not previously allocated as a limited common element may be so  
10      allocated only by an amendment to the declaration. A unit owner may request the executive  
11      board to amend the declaration to allocate all or part of a common element as a limited common  
12      element for the exclusive use of the owner's unit. The board may prescribe in the amendment a  
13      condition or obligation, including an obligation to maintain the new limited common element or  
14      to pay a fee or charge to the association. If the board approves the proposed amendment, the  
15      board shall give notice to the all unit owners of its action and include a statement that unit  
16      owners may object in a record to the proposed amendment not later than 30 days after delivery of  
17      the notice. The amendment becomes effective if the board does not receive a timely objection. If  
18      a timely objection is received, the amendment becomes effective only if the unit owners vote  
19      under Section 3-110, whether or not a quorum is present, to approve the amendment by a vote of  
20      at least 67 percent of the votes cast, including at least 67 percent of the votes cast and allocated  
21      to units not owned by the declarant. If the amendment becomes effective, the association and the  
22      owner of the benefitted unit shall execute the amendment.

23          (d) The association shall record an amendment to the declaration made under this section

1 in the manner provided in Section 2-117. If an amendment changes any information shown in a  
2 plat or plan concerning a common element or limited common element other than a common  
3 wall between units, the association shall prepare and record a revised plat or plan.

4 **SECTION 2-112. RELOCATION OF UNIT BOUNDARIES.**

5 (a) **Subject to the provisions of the declaration and other provisions of law**, the  
6 boundaries between adjoining units may be relocated by an amendment to the declaration upon  
7 application to the association by the owners of those units. If the owners of the adjoining units  
8 have specified a reallocation between their units of their allocated interests, the application must  
9 state the proposed reallocations. Unless the executive board determines, within 30 days, that the  
10 reallocations are unreasonable, the association shall prepare an amendment that identifies the  
11 units involved and states the reallocations.

12 (b) The boundary of a unit may be relocated only by an amendment to the declaration. A  
13 unit owner may request the executive board to amend the declaration to include all or part of a  
14 common element within the owner's unit. The board may prescribe in the amendment a fee or  
15 charge payable by the unit owner to the association in connection with the relocation. The board  
16 may approve the amendment only if the unit owners vote under Section 3-110, whether or not a  
17 quorum is present, to approve the amendment by a vote of at least 67 percent of the votes cast,  
18 including at least 67 percent of the votes cast and allocated to units not owned by the declarant.

19 (c) The association and the owners of the units whose boundaries are relocated shall  
20 execute an amendment made under this section to the declaration. The amendment must contain  
21 words of conveyance between the parties. The association shall record an amendment made  
22 under this section in the manner provided in Section 2-117. The association (i) in a condominium  
23 or planned community shall prepare and record plats or plans necessary to show the altered

1 boundaries of affected units, and their dimensions and identifying numbers, and (ii) in a  
2 cooperative shall prepare and record amendments to the declaration, including any plans  
3 necessary to show or describe the altered boundaries of affected units, and their dimensions and  
4 identifying numbers.

#### 5 **SECTION 2-114. BUILDING ENCROACHMENT.**

##### 6 **Alternative A**

7 (a) Except as provided in subsection (b), if the construction, reconstruction, or alteration  
8 of a building or the vertical or lateral movement of a building results in an encroachment due to a  
9 divergence between the existing physical boundaries of a unit and the boundaries described in  
10 the declaration under Section 2-105(a)(5), an easement for the encroachment exists between  
11 adjacent units and between units and adjacent common areas.

##### 12 **Alternative B**

13 (a) Except as provided in subsection (b), if the construction, reconstruction, or alteration  
14 of a building or the vertical or lateral movement of a building results in an encroachment due to a  
15 divergence between the existing physical boundaries of a unit and the boundaries described in  
16 the declaration under Section 2-105(a)(5), the existing physical boundaries of the unit are its  
17 legal boundaries, rather than the boundaries described in the declaration.

##### 18 **End of Alternatives**

19 (b) Subsection (a) does not apply if the encroachment:

20 (1) extends beyond five feet as measured from any point on the common  
21 boundary along a line perpendicular to the boundary; or

22 (2) results from **willful misconduct** of the unit owner that claims a benefit under  
23 subsection (a).

(c) This section does not relieve a declarant or another person of liability for failure to adhere to plats or plans or a representation in the public offering statement.

**SECTION 2-118. TERMINATION OF COMMON INTEREST COMMUNITY.**

(a) Except for a taking of all the units by eminent domain, foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in Section 2-124, a common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, including at least 80 percent of the votes allocated to units not owned by the declarant, and with any other approvals required by the declaration. The declaration may require a larger percentage of total votes in the association for approval, but termination requires approval by at least 80 percent of the votes allocated to units not owned by the declarant. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

\* \* \*

(j) The respective interests of unit owners referred to in subsections (e), (f), (g), (h), (i), and (m) are as follows:

(1) Except as otherwise provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by appraisal made by one or more independent appraisers selected by the association. The appraisal made by the independent appraisers must be distributed to the unit owners and becomes final unless:

(A) disapproved not later than 30 days after distribution by unit owners of units to which at least 25 percent of the votes in the association are allocated or

1 (B) a unit owner objects in a record to the determination of value of the  
2 owner's unit not later than 30 days after distribution.

3 A unit owner that objects may select an appraiser to represent the owner and make an appraisal  
4 of the owner's unit. If the association's appraisal and the unit owner's appraisal differ as to the  
5 fair market value of the owner's interest, a panel consisting of an appraiser selected by the  
6 association, the unit owner's appraiser, and a third appraiser mutually selected by the first two  
7 appraisers shall determine, by majority vote, the value of the unit owner's interest. The  
8 determination of value by the panel is final. The proportion of any unit owner's interest to that of  
9 all unit owners is determined by dividing the fair market value of that unit owner's unit and its  
10 allocated interests by the total fair market values of all the units and their allocated interests.

11 \* \* \*

12 **SECTION 2-120. MASTER ASSOCIATIONS.**

13 \* \* \*

14 (c) A unit owners association may delegate a power described in Section 3-102(a) to a  
15 master association without amending the declaration. The executive board of the unit owners  
16 association shall give notice to the unit owners of a proposed delegation and include a statement  
17 that unit owners may object in a record to the delegation not later than 30 days after delivery of  
18 the notice. The delegation becomes effective if the board does not receive timely objections from  
19 unit owners of units to which at least 10 percent of the votes in the association are allocated. If  
20 the board receives timely objections by at least 10 percent of the votes, the delegation becomes  
21 effective only if the unit owners vote under Section 3-110 to approve the delegation by a  
22 majority vote. The delegation is not effective until the board of the master association accepts the  
23 delegation.



\* \* \*

**[ARTICLE] 3**

## MANAGEMENT OF THE COMMON INTEREST COMMUNITY

\* \* \*

**SECTION 3-102. POWERS AND DUTIES OF UNIT OWNERS ASSOCIATION.**

(a) Except as otherwise provided in subsection (b) and other provisions of this [act], the association:

(1) shall adopt and may amend bylaws and may adopt and amend rules;

(2) shall adopt and may amend budgets under Section 3-123, may collect assessments for common expenses from unit owners, and may invest funds of the association;

(3) may hire and discharge managing agents and other employees, agents, and independent contractors;

(4) may institute, defend, or intervene in litigation or in arbitration, mediation, or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community, subject to Section 3-124;

(5) may make contracts and incur liabilities;

(6) may regulate the use, maintenance, repair, replacement, and modification of common elements;

(7) may cause additional improvements to be made as a part of the common elements;

(8) may acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but:

(A) common elements in a condominium or planned community may be

1 conveyed or subjected to a security interest only pursuant to Section 3-112; and

2 (B) part of a cooperative may be conveyed, or all or part of a cooperative  
3 may be subjected to a security interest, only pursuant to Section 3-112;

4 (9) may grant easements, leases, and licenses through or over the common  
5 elements, but a grant to a unit owner that benefits the owner's unit is allowed only by  
6 reallocation under Section 2-108(c) of the common element to a limited common element  
7 pursuant to Section 2-108;

8 \* \* \*

9 **SECTION 3-104. SPECIAL DECLARANT RIGHTS.**

10 \* \* \*

11 (b) A special declarant right is an interest in real estate, which is appurtenant to all units  
12 owned by the declarant and to real estate subject to a development right to create additional  
13 units.

14 (c) A declarant that no longer owns a unit or a development right to create additional  
15 units ceases to have any special declarant rights.

16 (d) A declarant may voluntarily transfer part or all of a special declarant right only by an  
17 instrument that describes the special declarant right being transferred. The transfer becomes  
18 effective when recorded in every [county] in which any portion of the common interest  
19 community is located.

20 \* \* \*

21 **SECTION 3-108. MEETINGS.**

22 (a) The following requirements apply to unit owner meetings:

23 (1) An association shall hold a meeting of unit owners annually at a time, date,

1 and place stated in or fixed in accordance with the bylaws.

2 \* \* \*

3 (5) A meeting of unit owners is not required to be held at a physical location if  
4 the meeting:

5 (A) is conducted by a means of communication that enables owners in  
6 different locations to communicate in real time to the same extent as if they were physically  
7 present in the same location; and

8 (B) is not expressly prohibited by the declaration or bylaws.

9 (6) In the notice for a meeting held at a physical location, the executive board may  
10 notify all unit owners that they may participate remotely in the meeting by a means of  
11 communication consistent with paragraph (5).

12 \* \* \*

13 **SECTION 3-110. VOTING; PROXIES; BALLOTS.**

14 \* \* \*

15 (c) Except as otherwise provided in the declaration or bylaws, unit owners may vote by  
16 proxy subject to the following requirements:

17 (1) Votes allocated to a unit may be cast pursuant to a directed or undirected  
18 proxy executed by a unit owner.

19 (2) When a unit owner votes by proxy, the association must be able to verify the  
20 identity of the unit owner and the proxy holder.

21 \* \* \*

22 (d) Unless prohibited or limited by the declaration or bylaws, an association may conduct  
23 a vote without a meeting. In that event, the following requirements apply:

1 (1) The association shall notify the unit owners that the vote will be taken by  
2 ballot without a meeting.

3 (2) With the notice the association shall deliver instructions for casting a ballot  
4 and:

5 (A) a paper ballot to every unit owner except a unit owner that has  
6 consented in a record to electronic voting; and

7 (B) if the association allows electronic voting, instructions for electronic  
8 voting. A unit owner's casting an electronic ballot is consent to the owner's use of electronic  
9 voting.

10 \* \* \*

11 (i) When a unit is owned by more than one person:

12 (1) if only one of those owners casts a vote, that vote shall be counted as casting all  
13 votes allocated to that unit by the declaration.

14 (2) unless the declaration requires that all votes cast by multiple owners of a unit  
15 shall be counted in the manner described in the declaration, if more than one of the owners of a  
16 unit casts a vote for that unit, no votes from any owner of that unit shall be counted.

17 **SECTION 3-115. ASSESSMENTS.**

18 \* \* \*

19 (c) The declaration may provide that:

20 (1) a common expense associated with the maintenance, repair, or replacement of  
21 a limited common element must be assessed against the units to which that limited common  
22 element is assigned, equally, or in any other proportion the declaration provides;

23 (2) a common expense identified in the declaration benefitting fewer than all of

1 the units or their owners must be assessed exclusively against the units or unit owners benefitted,  
2 but if the common expense is for the maintenance, repair, or replacement of a common element  
3 other than a **limited common elements element**, the expense may be assessed exclusively against  
4 them only if the declaration reasonably identifies the common expense by specific listing or  
5 category; and

6 (3) the costs of insurance must be assessed in proportion to risk, and the costs of  
7 utilities must be assessed in proportion to usage whether metered or reasonably estimated.

8 \* \* \*

9 **SECTION 3-123. ADOPTION OF BUDGETS; SPECIAL ASSESSMENTS.**

10 (a) The executive board, at least annually, shall adopt a proposed budget for the common  
11 interest community for consideration by the unit owners. Not later than [30] days after adoption  
12 of a proposed budget, the executive board shall provide to all the unit owners a summary of the  
13 budget, including any reserves, and a statement of the basis on which any reserves are calculated  
14 and funded. Simultaneously, the board shall set a date not less than 10 days or more than 60 days  
15 after providing the summary for a meeting of the unit owners to consider ratification of the  
16 budget. Unless at that meeting a majority of all unit owners or any larger number specified in the  
17 declaration reject the budget, the budget is ratified, whether or not a quorum is present. If a  
18 proposed budget is rejected, the budget last ratified by the unit owners continues until unit  
19 owners ratify a subsequent budget.

20 (b) The executive board, at any time, may propose a special assessment. **Except as**  
21 **otherwise provided in subsection (c), the** The assessment is effective only if the executive board  
22 follows the procedures for ratification of a budget described in subsection (a) and the unit owners  
23 do not reject the proposed assessment.

1           ~~(c) If the executive board determines by a two-thirds vote that a special assessment is~~  
2   ~~necessary to respond to an emergency:~~

3                   ~~(1) the special assessment becomes effective immediately in accordance with the~~  
4   ~~terms of the vote;~~

5                   ~~(2) notice of the emergency assessment must be provided promptly to all unit~~  
6   ~~owners; and~~

7                   ~~(3) the executive board may spend the funds paid on account of the emergency~~  
8   ~~assessment only for the purposes described in the vote.~~

9           **SECTION 3-125. EMERGENCY POWERS.**

10          (a) In this section, “emergency” means:

11                   (1) a state of emergency declared by a government for an area that includes the  
12   common interest community; or

13                   (2) an event or condition that constitutes an imminent:

14                           (A) threat to **public health or safety; or to the health or safety** of residents  
15   of the common interest community;

16                           (B) threat to the habitability of units; **or**

17                           (C) risk of substantial economic loss to the association.

18          (b) Notwithstanding any other provision of this [act], this section governs an emergency.

19          (c) The executive board may call a unit owners meeting to respond to an emergency by  
20   **giving notice only to the unit owners whom it is practicable to reach. The notice shall be given in**  
21   **any practicable manner as is practicable and appropriate under the circumstances.**

22          (d) The executive board may call a board meeting to respond to an emergency by **giving**  
23   **notice only to the unit owners and board members whom it is practicable to reach. The notice**

1 ~~shall be given in any practicable manner~~ as is practicable and appropriate under the  
2 ~~circumstances~~. No quorum is required for a meeting under this subsection. Instead of meeting,  
3 after giving notice under this subsection, the board may take action by vote without a meeting.

4 (e) In an emergency, the executive board may take action it considers necessary to protect  
5 the interests of the unit owners and other persons holding interests in the common interest  
6 community, acting in a manner reasonable under the circumstances and without consideration of  
7 limitations contained in the declaration, bylaws, or rules. If the board determines by a two-thirds  
8 vote that a special assessment is necessary:

9 (1) the special assessment becomes effective immediately in accordance with the  
10 terms of the vote; and

11 (2) the board may spend funds paid on account of the emergency assessment only  
12 for the purposes described in the vote.

13 (f) The executive board may use funds of the association, including reserves, to pay the  
14 reasonable costs of an action under subsection (e).

15 (g) After taking an action under this section, the executive board promptly shall notify the  
16 unit owners of the action in any practicable manner.

## 17 [ARTICLE] 4

### 18 PROTECTION OF PURCHASERS

19 \* \* \*

#### 20 SECTION 4-109. RESALES OF UNITS.

21 (a) Except in the case of a sale in which delivery of a public offering statement is  
22 required, or unless exempt under Section 4-101(b), a unit owner shall furnish to a purchaser  
23 before the earlier of conveyance or transfer of the right to possession of a unit, a copy of the

1 bylaws, the rules of the association, and the declaration other than plats and plans. The unit  
2 owner ~~shall also~~ also shall furnish a certificate containing:

3 (1) a statement disclosing the effect on the proposed disposition of any right of  
4 first refusal or other restraint on the free alienability of the unit held by the association;

5 (2) a statement setting forth the amount of the periodic common expense  
6 assessment and any unpaid common expense or special assessment currently due and payable  
7 from the selling unit owner;

8 (3) a statement of any other fees payable by the owner of the unit being sold;

9 (4) a statement of any capital expenditures approved by the association for the  
10 current and succeeding fiscal years;

11 (5) a statement of the amount of any reserves for capital expenditures and of any  
12 portions of those reserves designated by the association for any specified projects;

13 (6) the most recent regularly prepared balance sheet and income and expense  
14 statement, if any, of the association;

15 (7) the current operating budget of the association;

16 (8) a statement of any unsatisfied judgments against the association and the status  
17 of any pending suits in which the association is a defendant;

18 (9) a statement describing any insurance coverage provided for the benefit of unit  
19 owners;

20 (10) a statement as to whether the executive board has given or received notice in  
21 a record that any existing uses, occupancies, alterations, or improvements in or to the unit or to  
22 the limited common elements assigned thereto violate any provision of the declaration;

23 (11) a statement as to whether the executive board has received notice in a record



1 from a governmental agency of any violation of environmental, health, or building codes with  
2 respect to the unit, the limited common elements assigned thereto, or any other portion of the  
3 common interest community which has not been cured;

4 (12) a statement of the remaining term of any leasehold estate affecting the  
5 common interest community and the provisions governing any extension or renewal thereof;

6 (13) a statement of any restrictions in the declaration affecting the amount that  
7 may be received by a unit owner upon sale, condemnation, casualty loss to the unit or the  
8 common interest community, or termination of the common interest community;

9 (14) in a cooperative, an accountant's statement, if any was prepared, as to the  
10 deductibility for federal income tax purposes by the unit owner of real estate taxes and interest  
11 paid by the association;

12 (15) a statement describing any pending sale or encumbrance of common  
13 elements; and

14 (16) a statement disclosing the effect on the unit to be conveyed of any restriction  
15 on the right to use or occupy the unit, including a restriction on a lease or other rental of the unit.

16 \* \* \*

## 17 [ARTICLE] 5

### 18 TRANSITION

#### 19 SECTION 5-101. EFFECTIVE DATE.

20 (a) This [act] takes effect ~~...~~ on [the effective date of this [act]].

21 (b) Before [all-inclusive date], this [act] applies ~~to only~~ only to:

22 (1) a common interest community created on or after [the effective date of this  
23 [act]]; and

(2) a common interest community created before [the effective date of this [act]] that amends its declaration to elect to be subject to this [act].

(c) [Except as provided in subsection (d),] On and after [all-inclusive date] this [act] applies to all common interest communities.

[(d) This [act] does not apply to a common interest community created before [the effective date of this [act]] which elects not to be subject to this [act] by amending its declaration by vote or agreement of unit owners of units to which more than 50 percent of the votes in the association are allocated and recording the amendment before [all-inclusive date]. This subsection supersedes the requirements of Section 2-117(a), any inconsistent provisions of other laws of this State, and any inconsistent provisions in the declaration or bylaws of the common interest community.]

#### **SECTION 5-103. RETROACTIVE APPLICATION.**

(a) Except as provided in subsection (b), if a common interest community created before [the effective date of this [act]] becomes subject to this [act] on [all-inclusive date] or earlier, a provision of its declaration or bylaws that is inconsistent with this [act] is invalid unless:

(1) the provision is expressly permitted under Section 1-117; or

(2) the common interest community is a cooperative described in Section 1-202, a planned community described in Section 1-203, or a nonresidential or mixed-use common interest community described in Section 1-207.

(b) This [act] does not require a common interest community validly created before [the effective date of this [act]]:

(1) to comply with the requirements of this [act] for the creation of a common interest community; or

(2) to prepare or amend surveys, plats, **and or** plans.

- 1 (c) This [act] does not invalidate an action validly taken, or transaction validly entered
- 2 into, before a common interest community becomes subject to this [act].