

D R A F T

FOR APPROVAL

UNIFORM HOMEOWNER BILL OF RIGHTS ACT

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-SEVENTEENTH YEAR
BIG SKY, MONTANA
JULY 18 - JULY 25, 2008

UNIFORM HOMEOWNER BILL OF RIGHTS ACT

WITHOUT PREFATORY NOTE OR COMMENTS

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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1 **UNIFORM HOMEOWNER BILL OF RIGHTS ACT**

2
3 **DRAFTER’S NOTE**

4
5 Draft a legislative note on how to integrate this act with existing state law.
6
7

8 We may need to propose an amendment to the name so that it relates to common interest
9 communities.
10

11
12 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Homeowner Bill
13 of Rights Act.

14 **SECTION 2. DEFINITIONS.** In this [act]:

15 (1) “Assessment” means the sum attributable to each unit and due to the association
16 pursuant to the budget adopted under Section 18.

17 (2) “Association” means the unit owners association.

18 (3) “Bylaws” mean the instruments, however denominated, that contain the procedures
19 for conduct of the affairs of the association regardless of the form in which the association is
20 organized, including any amendments to the instruments.

21 (4) “Common expenses” means expenditures made by, or financial liabilities of, the
22 association, together with any allocations to reserves.

23 (5) “Common expense liability” means the liability for common expenses allocated to
24 each unit.

25 (6) “Common interest community” means real estate described in a declaration with
26 respect to which a person, by virtue of the person’s ownership of a unit, is obligated to pay for a
27 share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or
28 other expenses related to, common elements, other units, or other real estate described in that
29 declaration. For purposes of this paragraph, “ownership of a unit” does not include holding a

1 leasehold interest of less than [20] years in a unit, including renewal options.

2 (7) “Declarant” means any person or group of persons acting in concert who:

3 (A) as part of a common promotional plan, offers to dispose of the interest of the
4 person or group of persons in a unit not previously disposed of; or

5 (B) reserves or succeeds to any declarant right.

6 (8) “Declaration” means the instrument, however denominated, that creates a common
7 interest community, including any amendments to that instrument.

8 (9) “Executive board” means the body, regardless of name, designated in the declaration
9 or bylaws which has power to act on behalf of the association.

10 (10) “Limited common element” means a portion of the common elements allocated for
11 the exclusive use of one or more but fewer than all of the units.

12 (11) “Nonresidential purposes” means use for a purpose other than a residential purpose.

13 (12) “Person” means an individual, corporation, business trust, estate, trust, partnership,
14 limited liability company, association, joint venture, [public corporation, government or
15 governmental subdivision, agency, or instrumentality,] or any other legal or commercial entity.
16 [The term does not include a public corporation, government or governmental subdivision,
17 agency, or instrumentality.] [In the case of a land trust, “person” means the beneficiary of the
18 trust rather than the trust or the trustee.]

19 (13) “Record”, when used as a noun, means information that is inscribed on a tangible
20 medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

21 (14) “Residential purposes” means use for dwelling or recreational purposes, or both.

22 (15) “Rule” means any policy, guideline, restriction, procedure, or regulation of an
23 association, however, denominated, which is not set forth in the declaration or bylaws and which

governs the conduct of persons or the use or appearance of property.

(16) “Unit” means a physical portion of the common interest community designated for separate ownership or occupancy.

(17) “Unit owner” means a person who owns a unit.

SECTION 3. NO VARIATION BY AGREEMENT. Except as expressly provided in this [act], its provisions may not be varied by agreement, and rights conferred by this [act] may not be waived.

SECTION 4. OBLIGATION OF GOOD FAITH. Every contract or duty governed by this [act] imposes an obligation of good faith in its performance or enforcement.

SECTION 5. APPLICABILITY TO NEW COMMON INTEREST COMMUNITIES; EFFECT OF AMENDMENTS. Except as otherwise provided in this [act], this [act] applies to all condominiums in this state that may be used for residential purposes and to all other common interest communities that contain 12 or more units that may be used for residential purposes and are created within this state after the effective date of this [act]. Amendments to this [act] apply to all common interest communities that contain 12 or more units that may be used for residential purposes and are created after the effective date of this [act] or are subjected to this [act] by amendment of their declaration, regardless of when the amendment to this [act] is adopted in this state.

SECTION 6. APPLICABILITY TO PRE-EXISTING COMMON INTEREST COMMUNITIES.

(a) This [act] applies to all common interest communities that contain 12 or more units that may be used for residential purposes created in this state before the effective date of this [act]; but those sections apply only with respect to events and circumstances occurring after the

effective date of this [act] and do not invalidate existing provisions of the declaration, bylaws, or
plats or plans]of those common interest communities.

(b) The declaration, bylaws, or plats and plans of any common interest community
created before the effective date of this [act] may be amended to achieve any result permitted by
this [act], regardless of what applicable law provided before this [act] was adopted.

**SECTION 7. [from §§1-209 and 1-210] EXEMPT REAL ESTATE
ARRANGEMENTS.**

(a) An arrangement between the associations for two or more common interest
communities to share the costs of real estate taxes, insurance premiums, services, maintenance
or improvements of real estate, or other activities specified in their arrangement or declarations
does not create a separate common interest community. If the declarants of the common interest
communities are affiliates, the arrangement may not unreasonably allocate the costs among the
common interest communities.

(b) An arrangement between an association and the owner of real estate that is not part
of a common interest community to share the costs of real estate taxes, insurance premiums,
services, maintenance or improvements of real estate, or other activities specified in their
arrangement does not create a separate common interest community. However, assessments
against the units in the common interest community required by the arrangement must be
included in the periodic budget for the common interest community, and the arrangement must
be disclosed in all public offering statements and resale certificates required by this [act].

(c) A covenant that requires the owners of separately owned parcels of real estate to
share costs or other obligations associated with a party wall, driveway, well, or other similar use
does not create a common interest community unless the owners otherwise agree.

1 **SECTION 8 [from § 3-102]. POWERS AND DUTIES OF UNIT OWNERS’**

2 **ASSOCIATION.**

3 (a) Regardless of the powers and duties of the association described in the declaration
4 and bylaws, the association:

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

6 (2) shall adopt and may amend budgets;

7 (3) may require that disputes between the executive board and unit owners or
8 between two or more unit owners regarding the common interest community be submitted to
9 nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial
10 proceeding;

11 (4) shall promptly notify the unit owners of any litigation in which the
12 association is a party other than litigation involving enforcement of rules or to recover unpaid
13 common charges.

14 (5) shall establish a reasonable method for unit owners to communicate among
15 themselves and with the executive board regarding any matter concerning the association.

16 (6) may suspend any right or privileges of a unit owner who fails to pay an
17 assessment, but may not:

18 (A) deny an owner or other occupant access to the owner’s unit;

19 (B) suspend the unit owner’s right to vote;

20 (C) prevent a unit owner from seeking election as a director or officer of
21 the association; or

22 (D) withhold services provided to the unit or the unit owners by the
23 association if the effect of withholding the service would be to endanger the health, safety, or

1 property of any person;

2 (7) may exercise any other power granted under other law to persons organized
3 in the same manner as the association;

4 (8) may determine whether to exercise the association's powers to impose
5 sanctions and pursue legal action for violations of the declaration, bylaws, and rules, including
6 whether to compromise any claim for unpaid assessments or other claim made by or against it.

7 The executive board does not have a duty to take enforcement action if, acting in good faith and
8 without a conflict of interest, it determines that, under the facts and circumstances presented,

9 (A) the association's legal position does not justify taking any or further
10 enforcement action;

11 (B) the covenant, restriction, or rule being enforced is, or is likely to be
12 construed as, inconsistent with current law;

13 (C) although a violation may exist or may have occurred, it is not of such
14 a material nature as to be objectionable to a reasonable person or to justify expending the
15 association's resources; or

16 (D) it is not in the association's best interests to pursue an enforcement
17 action.

18 (b) The executive board's decision under subsection (a)(8) not to pursue enforcement
19 under one set of circumstances does not prevent the association from taking enforcement action
20 under another set of circumstances, except the executive board may not be arbitrary or capricious
21 in taking enforcement action. Whether the association's course of performance with respect to
22 enforcement of any provision of the declaration, bylaws, and rules is a waiver or modification of
23 that provision is determined by other law.

1 **SECTION 9 [from § 3-103]. EXECUTIVE BOARD MEMBERS AND OFFICERS.**

2 (a) In the performance of their duties, officers and members of the executive board
3 appointed by the declarant shall exercise the degree of care and loyalty to the association
4 required of a trustee. Officers and members of the executive board not appointed by the
5 declarant shall exercise the degree of care and loyalty to the association required of an officer or
6 director of a corporation organized, and are subject to the conflict of interest rules governing
7 directors and officers, under [insert reference to state non-profit corporation law]. The standards
8 of care and loyalty described in this section apply regardless of the form in which the association
9 is organized.

10 (b) Each association shall have an executive board created in accordance with its
11 declaration or bylaws. Except as provided in the declaration, the bylaws, subsection (c) or other
12 provisions of this [act], the executive board acts on behalf of the association.

13 (c) The executive board may not act to:

- 14 (1) amend the declaration except as provided by other law;
15 (2) amend the bylaws;
16 (3) terminate the common interest community;
17 (4) elect members of the executive board; or
18 (5) determine the qualifications, powers, duties, or terms of office of executive
19 board members, although the executive board may fill vacancies in its membership for the
20 unexpired portion of any term.

21 **SECTION 10 [from § 3-106]. BYLAWS.**

22 (a) The bylaws of the association must provide:

- 23 (1) the number of members of the executive board and the titles of the officers of

1 the association;

2 (2) for election by the executive board or, if the declaration so requires, by the
3 unit owners, of a president, treasurer, secretary, and any other officers of the association the
4 bylaws specify;

5 (3) the qualifications, powers and duties, terms of office, and manner of electing
6 and removing executive board members and officers and filling vacancies;

7 (4) which powers the executive board or officers may delegate to other persons
8 or to a managing agent;

9 (5) which officers may prepare, execute, certify, and record amendments to the
10 declaration on behalf of the association;

11 (6) a method for amending the bylaws, by the unit owners;

12 (7) any provisions that may be necessary to satisfy requirements in this [act] or
13 the declaration concerning meetings, voting, quorums, and other matters concerning the
14 activities of the association; and

15 (8) any matter required by law of this state other than this [act] to appear in the
16 bylaws of organizations of the same type as the association.

17 (b) Subject to the declaration, the bylaws may provide for any other necessary or
18 appropriate matters, including matters that could be adopted as rules, unless the declaration or
19 this [act] requires that those provisions appear in the declaration.

20 **SECTION 11. UNIT OWNER MEETINGS.**

21 (a) An association shall hold a meeting of unit owners annually at a time and place stated
22 or fixed in accordance with the bylaws.

23 (b) An association shall hold a special meeting of unit owners to address any matter

1 affecting the common interest community or the association when its president, a majority of the
2 executive board, or Unit owners having at least 20 percent, or any lower percentage specified in
3 the bylaws, of the votes in the association request that the secretary call such a meeting. If the
4 association does not notify unit owners of a special meeting within 30 days after the requisite
5 number or percentage of unit owners requested the secretary to do so, the requesting members
6 may directly notify all the unit owners of that meeting. Only matters described in the meeting
7 notice required by paragraph (3) may be considered at a special meeting.

8 (c) An association shall notify unit owners of the time and place of each annual and
9 special unit owners meeting not less than 10 or more than 60 days before the meeting date.
10 Notice may be by hand delivery to the unit owners sent postage paid by United States mail to
11 any mailing address the unit owner designates in a record or by any other method reasonably
12 calculated to provide notice to the person. The notice of any meeting must state the time and
13 place of the meeting and the items on the agenda, including:

14 (1) a statement of the general nature of any proposed amendment to the
15 declaration or bylaws;

16 (2) any budget changes; and

17 (3) any proposal to remove an officer or member of the executive board.

18
19 (d) The minimum time to give notice required by paragraph (c) may be reduced or
20 waived for a meeting called to deal with an emergency.

21 (e) Unit owners must be given a reasonable opportunity at any meeting to comment
22 regarding any matter affecting the common interest community or the association.

23 **SECTION 12. MEETINGS OF EXECUTIVE BOARD AND COMMITTEES.**

24 (a) Meetings of the executive board and committees of the association authorized to act

1 for the association must be open to the unit owners except during executive sessions. The
2 executive board and those committees may hold an executive session only during a regular or
3 special meeting of the executive board or that committee and no vote or action may be taken
4 during an executive session. An executive session may be held only to:

5 (1) consult with the association's attorney concerning legal matters;

6 (2) discuss existing or potential litigation, mediation, arbitration, or administrative
7 proceedings;

8 (3) discuss labor or personnel matters;

9 (4) discuss matters relating to contract negotiations, including the review of bids
10 or proposals, if premature general knowledge of those matters would place the association at a
11 disadvantage; or

12 (5) prevent public knowledge of the matter to be discussed if the executive board
13 or committee determines that public knowledge would violate the privacy of any person.

14 (b) For purposes of this section, a gathering of board members at which the board
15 members do not conduct association business is not a meeting of the executive board. The
16 executive board and its members may not use incidental or social gatherings of board members
17 or any other method to evade the open meeting requirements of this section.

18 (c) During the period of declarant control, the executive board shall meet at least four
19 times per year. At least one of those meetings must be held at the common interest community or
20 at a place convenient to the community. After termination of the period of declarant control, all
21 executive board meetings shall be at the common interest community or at a place convenient to the
22 community unless the unit owners amend the bylaws to vary the location of those meetings.

23 (d) At each executive board meeting, the executive board shall provide a reasonable

1 opportunity for unit owners to comment regarding any matter affecting the common interest
2 community and the association.

3 (e) Unless the meeting has been included in a schedule given to the unit owners or the
4 meeting has been called to deal with an emergency, the secretary or other officer specified in the
5 bylaws shall cause notice of each executive board meeting to be given to each board member and
6 to the unit owners. The notice must be given at least 10 days before the meeting and must state
7 the time, place, and agenda of the meeting.

8 (f) If any materials are distributed to the executive board before the meeting, the
9 executive board at the same time shall make copies of those materials reasonably available to
10 unit owners, except that the board need not make available copies of unapproved minutes or
11 materials that are to be considered in executive session.

12 (g) Unless the declaration or bylaws otherwise provide, the executive board may meet by
13 telephonic, video, or other conferencing process if:

14 (1) the meeting notice states the conferencing process to be used and provides
15 information explaining how unit owners may participate in the conference directly or by meeting
16 at a central location or conference connection; and

17 (2) the process provides all unit owners the opportunity to hear or perceive the
18 discussion and to comment as provided in paragraph (d).

19 (h) After termination of the period of declarant control, unit owners may amend the
20 bylaws to vary the procedures for meetings described paragraph 7(g).

21 (i) Instead of meeting, the executive board may act by unanimous consent as
22 documented in a record authenticated by all its members. The secretary promptly shall give
23 notice to all unit owners of any action taken by unanimous consent. After termination of the

1 period of declarant control, the executive board may act by unanimous consent only to undertake
2 ministerial actions or to implement actions previously taken at a meeting of the executive board.

3 (j) Notwithstanding noncompliance with this section, an action by the executive board is
4 valid unless set aside by a court. A challenge to the validity of an action of the executive board
5 for failure to comply with this section may not be brought more than [60] days after the minutes
6 of the executive board of the meeting at which the action was taken are approved or after the
7 record of that action is distributed to unit owners.

8 **SECTION 13 [from § 3-109]. QUORUM.**

9 (a) Unless the bylaws otherwise provide, a quorum is present throughout any meeting of
10 the unit owners if persons entitled to cast [20] percent of the votes in the association are:

11 (1) present in person;

12 (2) present by proxy at the beginning of the meeting;

13 (3) have cast absentee ballots solicited in accordance with the association's
14 procedures which have been delivered to the secretary in a timely manner; or

15 (4) by any combination of (1), (2) or (3).

16 (b) Unless the bylaws specify a larger number, a quorum of the executive board is
17 present for purposes of determining the validity of any action throughout any meeting of the
18 executive board only if individuals entitled to cast a majority of the votes on that board are
19 present at the time a vote regarding that action is taken. If a quorum is present when a vote is
20 taken, the affirmative vote of a majority of the board members present is the act of the executive
21 board unless a greater vote is required by the declaration or bylaws.

22 (c) Except as otherwise provided in the bylaws, meetings of the association must be
23 conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised.

1 **SECTION 14 [from § 3-110]. VOTING; PROXIES; BALLOT.**

2 (a) Unless prohibited or limited by the declaration or bylaws, unit owners may vote at a
3 meeting in person, by absentee ballot pursuant to subsection (b)(4), or by a proxy pursuant to
4 subsection (c), or without a meeting by electronic or paper ballot pursuant to subsection (d).

5 (b) At a meeting of unit owners:

6 (1) Unit owners may vote by proxy, or by voice vote, show of hands, standing, or
7 any other method for determining the votes of unit owners, as designated by the person presiding
8 at the meeting.

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

15 (3) Unless a greater number or fraction of the votes in the association is required
16 by this [act] or the declaration, a majority of the votes cast determines the outcome of any action
17 of the association.

18 (4) A unit owner may vote by absentee ballot without being present at the
19 meeting. The association promptly shall deliver an absentee ballot to an owner that requests it if
20 the request is made at least [three] days before the scheduled meeting. Votes cast by absentee
21 ballot must be included in the tally of a vote taken at that meeting.

22 (5) When a unit owner votes by absentee ballot, the association must be able to
23 verify that the ballot is cast by the unit owner having the right to do so.

1 (c) Except as otherwise provided in the declaration or bylaws the following rules apply:

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

4 (2) If a unit is owned by more than one person, each owner of the unit may vote
5 or register protest to the casting of votes by the other owners of the unit through a duly executed
6 proxy.

7 (3) A unit owner may revoke a proxy given pursuant to this section only by
8 actual notice of revocation to the person presiding over a meeting of the association.

9 (4) A proxy is void if it is not dated or purports to be revocable without notice.

10 (5) A proxy is valid only for the meeting at which it is cast and any recessed
11 session of that meeting.

12 (6) No person may cast undirected proxies representing more than [] percent of
13 the votes in the association.

14 (d) Unless prohibited or limited by the declaration or bylaws, an association may
15 conduct a vote without a meeting. In that event:

16 (1) The association shall notify the unit owners that the vote will be taken by
17 ballot.

18 (2) The association shall deliver a paper or electronic ballot to every unit owner
19 entitled to vote on the matter.

20 (3) The ballot must set forth each proposed action and provide an opportunity to
21 vote for or against the action.

22 (4) When the association delivers the ballots, it shall also:

23 (A) indicate the number of responses needed to meet the quorum

1 requirements;

2 (B) state the percent of votes necessary to approve each matter other than
3 election of directors;

4 (C) specify the time by which a ballot must be delivered to the association
5 to be counted, which time may not be fewer than [three] days after the date the association
6 delivers the ballot; and

7 (D) describe the time and manner by which unit owners wishing to
8 deliver information to all unit owners regarding the subject of the vote may do so.

9 (5) Except as otherwise provided in the declaration or bylaws, a ballot is not
10 revoked after delivery to the association by death or disability or attempted revocation by the
11 person that cast that vote.

12 (6) Approval by ballot pursuant to this subsection is valid only if the number of
13 votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing
14 the action.

15 (e) If the declaration requires that votes on specified matters affecting the common
16 interest community be cast by lessees rather than unit owners of leased units:

17 (1) this section applies to lessees as if they were unit owners;

18 (2) unit owners that have leased their units to other persons may not cast votes on
19 those specified matters; and

20 (3) lessees are entitled to notice of meetings, access to records, and other rights
21 respecting those matters as if they were unit owners.

22 (f) Unit owners must also be given notice of all meetings at which lessees are entitled to
23 vote.

(g) Votes allocated to a unit owned by the association must be cast in any vote of the unit owners in the same proportion as the votes cast on the matter by unit owners other than the association.

SECTION 15 [from § 3-116]. LIMITATIONS ON FORECLOSURE.

(a) Regardless of provisions in the declaration, an association may not commence an action to foreclose a lien on a unit under this section unless:

(1) the unit owner, at the time the action is commenced, owes a sum equal to at least (3) months of common expense assessments based on the periodic budget last adopted by the association pursuant to Section 20 and the unit owner has failed to accept or comply with a payment plan offered by the association; and

(2) the executive board expressly votes to commence a foreclosure action against the unit.

(b) Unless the parties otherwise agree, the association shall apply any sums paid by unit owners who are delinquent in paying assessments in the following order:

(1) unpaid assessments;

(2) late charges;

(3) attorneys fees and costs and other reasonable collection charges; and

(4) all other unpaid fees, charges, penalties, interest and late charges.

(c) If the only sums due with respect to a unit consist of fines and related sums imposed against the unit, a foreclosure action may not be commenced against the unit unless the association has a judgment against the unit owner with respect to the fines and related sums and has perfected a judgment lien against the unit under [insert reference to state statute on perfection of judgments]

(d) Any sale or other disposition conducted in connection with a foreclosure action under this section shall be commercially reasonable.

SECTION 16 [from § 3-118]. ASSOCIATION RECORDS.

(a) The association must maintain the following::

(1) detailed records of receipts and expenditures affecting the operation and administration of the association and other appropriate accounting records;

(2) minutes of all meetings of its unit owners and executive board, a record of all actions taken by the unit owners or executive board without a meeting, and a record of all actions taken by a committee in place of the executive board on behalf of the association;

(3) the names of unit owners in a form that permits preparation of a list of the names of all unit owners and the addresses at which the association communicates with them, in alphabetical order showing the number of votes each owner is entitled to cast;

(4) its original or restated organizational documents, if required by law other than this [act], bylaws and all amendments to them, and all rules currently in effect;

(5) all financial statements and tax returns of the association for the past three years;

(6) a list of the names and addresses of its current executive board members and officers;

(7) its most recent annual report delivered to the [Secretary of State], if any;

(8) financial and other records sufficiently detailed to enable the association to comply with other requirements of law;

(9) current contracts to which it is a party and which are in a record;

(10) records of executive board or committee actions to approve or deny any

1 requests for design or architectural approval from unit owners; and

2 (11) ballots, proxies, and other records related to voting by unit owners for one
3 year after the election, action, or vote to which they relate.

4 (b) Subject to subsections (c) and (d), all records maintained by the association,
5 including aggregate salary information of employees of the association, must be available for
6 examination and copying by a unit owner or the owner's authorized agent:

7 (1) during reasonable business hours or at a mutually convenient time and
8 location; and

9 (2) upon [5] days' notice in a record reasonably identifying the specific records of
10 the association requested.

11 (c) Records maintained by an association may be withheld from inspection and copying
12 to the extent that they concern:

13 (1) personnel, salary, and medical records relating to specific individuals;

14 (2) contracts, leases, and other commercial transactions to purchase or provide
15 goods or services, currently in or under negotiation;

16 (3) pending or potential litigation;

17 (4) matters involving federal, state or local administrative or other formal
18 proceedings before a governmental tribunal for enforcement of the declaration, bylaws, or rules;

19 (5) communications with legal counsel which are otherwise protected by the
20 attorney-client privilege or the attorney work product doctrine;

21 (6) disclosure of information in violation of law;

22 (7) records of an executive session of the executive board; or

23 (8) individual unit files other than those of the requesting owner.

(d) The association may charge a reasonable fee for providing copies of any records under this section and for supervising the unit owner's inspection.

(e) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner.

(f) An association is not obligated to compile or synthesize information.

(g) Information provided pursuant to this section may not be used for commercial purposes.

SECTION 17 [from § 3-120]. RULES.

(a) Before adopting, amending, or repealing any rule, the executive board must give all unit owners notice of:

(1) its intention to adopt, amend, or repeal a rule and provide the text of the proposed change; and

(2) a date on which the executive board will act on the proposed rule or amendment after considering comments on those changes from unit owners.

(b) Following adoption, amendment, or repeal of a rule, the association shall notify the unit owners of its action and provide a copy of any new or revised rule.

(c) An association may adopt rules to establish and enforce construction and design criteria and aesthetic standards if the declaration so provides. If the declaration does so provide, the association shall adopt procedures for enforcement of those standards and for approval of construction applications, including a reasonable time within which the association must act after an application is submitted and the consequences of its failure to act.

(d) A rule regulating display of the flag of the United States must be consistent with

1 federal law. In addition, the association may not prohibit display on a unit or on a limited
2 common element adjoining a unit of the flag of this state, or signs regarding candidates for
3 public or association office or ballot questions, but the association may adopt rules governing the
4 time, place, size, number and manner of those displays.

5 (e) Unit owners may peacefully assemble on the common elements to consider matters
6 related to the common interest community but the association may adopt rules governing the
7 time, place and manner of those assemblies.

8 (f) An association may adopt rules that affect the use of or behavior in units that may be
9 used for residential purposes, only to:

10 (1) implement a provision of the declaration;

11 (2) regulate any behavior in or occupancy of a unit which violates the declaration
12 or adversely affects the use and enjoyment of other units or the common elements by other unit
13 owners; or

14 (3) restrict the leasing of residential units to the extent those rules are reasonably
15 designed to meet underwriting requirements of institutional lenders who regularly lend money
16 secured by first mortgages on units in common interest communities or regularly purchase those
17 mortgages.

18 (g) An association's internal business operating procedures need not be adopted as rules.

19 (h) Every rule must be reasonable.

20 **SECTION 18 [from § 3-121]. NOTICE TO UNIT OWNERS.**

21 (a) An association shall deliver any notice required to be given by the association under
22 this [act] to any mailing or electronic mail address a unit owner designates. Otherwise, the
23 association may deliver notices by:

1 (1) hand delivery to each person;

2 (2) hand delivery or postage paid by United States mail or by express or delivery
3 service to the mailing address of each unit;

4 (3) electronic means if the unit owner has given the association an electronic
5 address; or

6 (4) any other method reasonably calculated to provide notice to the person.

7 (b) The ineffectiveness of a good faith effort to deliver notice by any authorized means
8 does not invalidate action taken at a meeting or in lieu of a meeting.

9 **SECTION 19 [from § 3-122]. REMOVAL OF OFFICERS AND DIRECTORS.**

10 (a) Notwithstanding any provision of the declaration or bylaws to the contrary, unit
11 owners, by a majority vote of all persons present, in person, by proxy, or by absentee ballot, at
12 any meeting of the unit owners at which a quorum is present, may remove any member of the
13 executive board and any officer elected by the unit owners with or without cause, except that:

14 (1) a member appointed by the declarant may not be removed by a unit owner
15 vote during the period of declarant control;

16 (2) a member appointed by persons other than the declarant may be removed
17 only by the person that appointed that member; and

18 (3) the unit owners may not consider whether to remove a member of the
19 executive board at any meeting of the unit owners unless that subject was listed in the notice of
20 the meeting.

21 (b) At any meeting at which a vote to remove a member of the executive board is to be
22 taken, the member being considered for removal must have a reasonable opportunity to speak
23 before the vote.

1 **SECTION 20 [from § 3-123]. ADOPTION OF BUDGETS.**

2 (a) The executive board, at least annually, shall prepare a proposed budget for the
3 common interest community for consideration by the unit owners. Not later than [30] days after
4 adoption of a proposed budget, the executive board shall provide to all the unit owners a
5 summary of the budget, including any reserves, and a statement of the basis on which any
6 reserves are calculated and funded. Simultaneously, the board shall set a date for a meeting of
7 the unit owners to consider ratification of the budget not less than 10 or more than 60 days after
8 mailing of the summary. Unless at that meeting a majority of all unit owners or any larger
9 percent specified in the declaration reject the budget, the budget is ratified, whether or not a
10 quorum is present. If a proposed budget is rejected, the budget last ratified by the unit owners
11 continues until such time as the unit owners ratify a subsequent budget.

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

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

18 (1) the special assessment shall become effective immediately in accordance with
19 the terms of the vote;

20 (2) notice of the emergency assessment must be promptly provided to all unit
21 owners; and

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

1 **SECTION 21 [from § 4-117]. EFFECT OF VIOLATIONS ON RIGHTS OF**
2 **ACTION; ATTORNEY’S FEES.**

3 (a) A declarant, association, or any other person subject to this [act] may bring an action
4 to enforce a right granted or obligation imposed by this [act], the declaration, or the bylaws.
5 Punitive damages may be awarded for a willful failure to comply with this [act]. The court may
6 award reasonable attorney’s fees and costs.

7 (b) Parties to a dispute arising under this [act], the declaration, or the bylaws may agree
8 to resolve the dispute by any form of binding or nonbinding alternative dispute resolution, but:

9 (1) a declarant may agree with the association to do so only after the period of
10 declarant control has expired; and

11 (2) an agreement to submit to any form of binding alternative dispute resolution
12 must be in a record authenticated by the parties.

13 (c) The remedies provided by this [act] shall be liberally administered to the end that the
14 aggrieved party is put in as good a position as if the other party had fully performed. However,
15 consequential or special damages may not be awarded except as specifically provided in this
16 [act] or by other rule of law.

17 **SECTION 22. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW;**
18 **CONFLICTS.** The principles of law and equity supplement the provisions of this [act] except
19 to the extent inconsistent with this [act]. If there is a conflict between this [act] and other law of
20 this state, this [act] prevails.