



## **2021 AMENDMENTS TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT**

### *- A Summary -*

The Uniform Common Interest Ownership Act (UCIOA) is a comprehensive statute that governs three types of “common interest communities” – condominiums, planned communities of single-family homes, and real estate cooperatives. UCIOA was initially drafted in 1982 to establish rules for the creation, management, alteration, and termination of common interest communities, and has been periodically amended in the years since its approval. In 2021, the Uniform Law Commission approved a new set of amendments to UCIOA, which are designed to further modernize the law on common interest communities and incorporate best practices established by the real property industry.

In Article 1 of UCIOA, Section 1-104 previously outlined 33 rules that a common interest community could change “by agreement.” Under the new amendments, Section 1-117 of UCIOA now includes 27 rules that can only be changed in the governing instrument (declaration or bylaws) of a common interest community. These provisions, which include rules for elections and voting, reallocation of boundaries between units and limited common elements, and other aspects of the day-to-day administration of a common interest community, are “default” rules that will apply to all common interest communities unless the declaration or bylaws provide otherwise.

Under the amended UCIOA, common interest communities maintain the flexibility to change their governing instruments to meet their needs, while unit owners will be able to rely on the predictability of certain default rules. UCIOA’s mandatory rules have not been amended: a common interest community remains unable to change any provision of the act that gives rights to or imposes obligations or liabilities upon unit owners, building developers, associations, or executive boards.

In Article 2, which governs the creation, alteration, and termination of common interest communities, Section 2-118 was amended to better protect residential unit owners from unilateral action by a property developer who wishes to dissolve the common interest community (sometimes referred to as deconversion). Previously, UCIOA stated that a common interest community could be terminated if 80% of the unit owners agreed. This threshold remains unchanged, and will have the same effect for common interest communities where each unit has been sold by the developer, and the period of developer control has ended.

However, for common interest communities that are still under developer control, not only do 80% of unit owners have to agree to terminate the common interest community, but 80% of the unit owners *other than the developer* must agree as well. This prevents the developer of a new community who was unable to sell as many units as anticipated, and who therefore still owns a substantial voting percentage, from terminating the common interest community without the consent of 80% of the independent unit owners. Similarly, the amendments expand the scope of

which common interest communities can be partially terminated, allowing the sale of only some common elements and units.

Additionally, Section 2-108 of UCIOA was amended to make it easier to convert a common element (a part of the property that all tenants are entitled to access) to a limited common element that can only be accessed by a subset of unit owners, because this is often a minor change that has minimal impact on other unit owners. Furthermore, under Section 2-120, a majority of unit owners can now override an executive board's decision to delegate duties to a master association.

The amendments to Article 2 also include the addition of Section 2-125, which was added to expressly prevent a unit owner from acquiring title to a common element through adverse possession or easement by prescription. This significant update is designed to protect the rights of all unit owners from bad actors.

UCIOA Article 3 provides management rules. Section 3-108 was amended to allow association meetings by videoconference, and Section 3-110 was amended to permit electronic voting. Section 3-115 has been restructured to clarify that a declaration can only disproportionately allocate assessment fees in accordance with each unit owner's benefit from common elements if the declaration specifically states that common expenses "must be assessed" differently.

Article 3 contains a new Section 3-125, which outlines an association's duties and powers in the event of an emergency. Under Section 3-125, an emergency constitutes both government-declared emergencies and imminent threats to the health of residents, habitability of the common interest community's units, or a risk of substantial loss to the association. In an emergency, the association is entitled to call meetings with limited notice and without a quorum under certain circumstances, and is empowered to take necessary actions, including the imposition of immediate special assessments, to protect the interests of unit owners and other interest holders.

Finally, Section 5 of UCIOA, which covered registration of common interest communities and was previously optional but had not been incorporated into any state's law, has been removed.

The 2021 amendments to UCIOA respond to the changing real estate landscape by clarifying existing law, incorporating best practices, and ensuring that UCIOA remains up to date with technological advances. Additionally, these amendments address the need for an association to remain nimble in the face of unpredictability while still protecting the assets and interests of all stakeholders.

For further information about UCIOA, please contact ULC Legislative Counsel Jane Sternecky at (312) 450-6622 or [jsternecky@uniformlaws.org](mailto:jsternecky@uniformlaws.org).