

D R A F T
FOR DISCUSSION ONLY

UNIFORM [HOMEOWNER BILL OF RIGHTS] ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For February 28 – March 2, 2008 Drafting Committee Meeting

Without Prefatory Notes or Comments

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By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM [HOMEOWNER BILL OF RIGHTS] ACT

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1 **UNIFORM [HOMEOWNER BILL OF RIGHTS] ACT**
2

3 We may need to propose an amendment to the name so that it relates to common interest
4 communities.

5
6 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform [Homeowner
7 Bill of Rights] Act.

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

9 **QUESTION – how do many of these provisions interact with contrary provisions of**
10 **either the State condominium or non-stock corporation statutes?**
11

12 (1) “Allocated interests” means the following interests allocated to each unit:

13 (A) in a condominium, the undivided interest in the common elements, the
14 common expense liability, and votes in the association;

15 (B) in a cooperative, the common expense liability, the ownership interest, and
16 votes in the association; and

17 (C) in a planned community, the common expense liability and votes in the
18 association.

19 (2) “Assessment” means the sums attributable to each unit and due to the association
20 pursuant to the budget adopted under Section 19.

21 (3) “Association” means the unit owners’ association.

22 (4) “Bylaws” mean the instruments, however denominated, that together contain the
23 procedures for conduct of the affairs of the association regardless of the form in which the
24 association is organized.

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

27 (6) “Common expense liability” means the liability for common expenses allocated to

1 each unit.

2 (7) "Common interest community" means real estate described in a declaration with
3 respect to which a person, by virtue of the person's ownership of a unit, is obligated to pay for a
4 share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or
5 other expenses related to, common elements, other units, or other real estate described in that
6 declaration. For purposes of this paragraph, "ownership of a unit" does not include holding a
7 leasehold interest of less than [20] years in a unit, including renewal options.

8 (8) "Declarant" means any person or group of persons acting in concert who:

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

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

12 (9) "Declaration" means the instruments, however denominated, that together create a
13 common interest community, including any amendments to those instruments.

14 (10) "Executive board" means the body, regardless of name, designated in the
15 declaration or bylaws to act on behalf of the association.

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

18 (12) "Person" means an individual, corporation, business trust, estate, trust, partnership,
19 association, joint venture, public corporation, government or governmental subdivision or
20 agency, or other legal or commercial entity.

21 (13) "Residential purposes" means use for dwelling or recreational purposes, or both.

22 (14) "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 either the conduct of persons or the use or appearance of property. The association's internal business operating procedures need not be adopted as rules.

(15) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy.

(16) "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 common interest communities that contain 12 or more units 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 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. Sections [enumerate] apply to all common interest communities 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.

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

4 **SECTION 7 [formerly § 3-101]. ORGANIZATION OF UNIT OWNERS'**

5 **ASSOCIATION.** A unit owners' association must be organized no later than the date the first
6 unit in the common interest community is conveyed. [The membership of the association at all
7 times consists exclusively of all unit owners.] [All unit owners are members of the association.]
8 [Only unit owners may be members of the association.] The association must have an executive
9 board.

10 **SECTION 8 [formerly § 3-102]. POWERS AND DUTIES OF UNIT OWNERS'**

11 **ASSOCIATION.**

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

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

15 (2) shall adopt and may amend budgets pursuant to this [act] modification of
16 common elements;

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

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

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

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

5 (A) deny an owner or other occupant access to the owner's unit;

6 (B) suspend the unit owner's right to vote;

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

9 (D) withhold services provided to the unit or the unit owners by the
10 association if the effect of withholding the service would be to endanger the health, safety, or
11 property of any person;

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

15 The executive board shall have no duty to take enforcement action if, acting in good faith and
16 without a conflict of interest, it determines that, under the facts and circumstances presented,

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

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

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

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

(b) The executive board's decision under subsection (a)(7) not to pursue enforcement under one set of circumstances does not prevent the association from taking enforcement action under another set of circumstances, except the executive board may not be arbitrary or capricious in taking enforcement action. Whether the association's [course of] performance with respect to enforcement of any provision of the declaration, bylaws, and rules constitutes a waiver or modification of that provision is not affected by this [act].

SECTION 9 [formerly § 3-103]. EXECUTIVE BOARD MEMBERS AND OFFICERS.

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

(b) The executive board may not act on behalf of the association to:

- (1) amend the declaration except as otherwise provided in this [act];
- (2) amend the bylaws;
- (3) terminate the common interest community;
- (4) elect members of the executive board; or

(5) determine the qualifications, powers, duties, or terms of office of executive board members, although the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) The executive board shall adopt budgets as provided in Section 19.

SECTION 10 [formerly § 3-106]. BYLAWS.

(a) The bylaws of the association must provide:

(1) the number of members of the executive board and the titles of the officers of the association;

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

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

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

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

(6) a method for amending the bylaws, but only a designated number or percentage of the unit owners may amend the bylaws;

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

(8) any matter required by law of this state other than this [act] to appear in the

1 bylaws of organizations of the same type as the association.

2 (b) Subject to [the provisions of] the declaration, the bylaws may provide for any other
3 matters the unit owners consider necessary or appropriate, including matters that could be
4 adopted as rules, unless the declaration or this [act] requires that those provisions appear in the
5 declaration.

6 **SECTION 11 [formerly § 3-108]. MEETINGS.**

7 (a) The following rules apply to unit owner meetings:

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

10 (2) An association shall hold a special meeting of unit owners to address any
11 matter affecting the common interest community or the association on the call of its president, a
12 majority of the executive board, or unit owners having at least 20 percent, or any lower
13 percentage specified in the bylaws, of the votes in the association. If the association does not
14 notify unit owners of a special meeting within thirty days after receipt of such a request from the
15 requisite number or percentage of unit owners, the requesting members may directly notify all
16 the unit owners of that meeting. Only matters described in the meeting notice required by
17 subsection (c) may be considered at a special meeting.

18 (3) An association shall notify unit owners of the date, time, and place of each
19 annual and special unit owners' meeting not less than 10 or more than 60 days before the
20 meeting date. Notice may be by hand delivery to the unit owners, by any means described in
21 Section 17 or sent pre-paid postage paid by United States mail to any mailing address the unit
22 owner designates in writing. The notice of any meeting must state the time and place of the
23 meeting and the items on the agenda, including:

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

3 (B) any budget changes, and

4 (C) any proposal to remove an officer or member of the executive board.

5 (4) The minimum time to give notice required by subsection (c) may be reduced
6 or waived in the case of a meeting called to deal with an emergency.

7 (5) Unit owners must be given a reasonable opportunity at any meeting to offer
8 comments regarding any matter affecting the common interest community or the association.

9 (b) The following rules apply to the executive board:

10 (1) All meetings of the executive board and of committees comprised only of
11 board members must be open to the unit owners except during executive sessions. The executive
12 board may hold an executive session only during a regular or special meeting of the executive
13 board. No vote or action may be taken during an executive session. An executive session may be
14 held only to:

15 (A) consult with the association's attorney to obtain legal advice;

16 (B) discuss existing or potential litigation, mediation, arbitration, or
17 administrative proceedings;

18 (C) discuss labor or personnel matters;

19 (D) discuss matters relating to contract negotiations, including the review
20 of bids or proposals, if premature general knowledge of those matters would place the
21 association at a disadvantage; or

22 (E) prevent public knowledge of the matter to be discussed if the
23 executive board determines that public knowledge would violate the privacy of any person.

1 (2) For purposes of this section, a gathering of board members at which the board
2 members do not conduct association business is not a meeting of the executive board. The
3 executive board and its members may not use incidental or social gatherings of board members
4 or any other devices to evade the open meeting requirements of this section.

5 (3) The executive board shall meet at least four times per year, and during the
6 period of declarant control, at least one of those meetings must be held at or convenient to the
7 common interest community. After termination of the period of declarant control, all executive
8 board meetings shall be at or convenient to the common interest community unless the unit
9 owners amend the bylaws to vary the minimum number or location of those meetings.

10 (4) At each executive board meeting, the executive board shall provide a
11 reasonable opportunity for unit owners to offer comments regarding any matter affecting the
12 common interest community and the association.

13 (5) Unless the meeting has been included in a schedule given to the unit owners
14 or the meeting has been called to deal with an emergency, the secretary or other officer specified
15 in the bylaws shall cause notice of each executive board meeting to be given to each board
16 member and to the unit owners. The notice to unit owners may be by any means reasonably
17 calculated to inform owners of the meeting, including those means described in Section 17 or in
18 the declaration or bylaws of the association. The notice must be given not fewer than 10 days in
19 advance of the meeting and must state the time, place, and agenda of the meeting

20 (6) If any materials are distributed to the executive board before the meeting, the
21 executive board at the same time shall make copies of those materials reasonably available to
22 unit owners, except that the board need not distribute copies of unapproved minutes or materials
23 that are to be considered in executive session.

1 (7) Unless the declaration or bylaws otherwise provide, the executive board may
2 meet in by a telephonic, video, or other conferencing process provided that:

3 (A) the meeting notice must indicate that the meeting is to be a
4 telephonic[,][or] video [,or other] conference and provide information as to how unit owners may
5 participate in the conference directly or by meeting at a central location or conference
6 connection; and

7 (B) the process must provides all unit owners the opportunity to hear or
8 perceive the discussion and offer comments as provided in subsection (4).

9 (8) After termination of the period of declarant control, unit owners may amend
10 the bylaws to vary the procedures for conference calls described in subsection 7(ii).

11 (9) In lieu of a meeting, the executive board may act by unanimous consent as
12 documented in a record signed by all its members. The secretary shall promptly give notice to
13 all unit owners of any action taken by unanimous consent. After termination of the period of
14 declarant control, the executive board may act by unanimous consent only to undertake
15 ministerial actions; or implement actions previously agreed to by the executive board.

16 (10) Notwithstanding noncompliance with this section, an action by the executive
17 board is valid unless the action is subject to subsection (11) and is set aside by a court in an
18 action brought pursuant to Section 20. A challenge to the validity of an action of the executive
19 board for failure to comply with this section may not be brought more than [60] days after the
20 minutes of the executive board where the action was taken are approved; or after the record of
21 that action is distributed to unit owners, whichever first occurs.

22 (11) The association is bound by a contract with a third party that has
23 detrimentally relied on an action of the executive board and that had no knowledge that the

1 action was contrary to this section.

2 **SECTION 12 [formerly § 3-109]. QUORUMS.**

3 (a) Unless the [declaration or] bylaws provide otherwise, a quorum is present throughout
4 any meeting of the unit owners if:

5 (1) persons entitled to cast [20] percent of the votes in the association are present
6 in person, by proxy, or by ballot at the beginning of the meeting; or

7 (2) ballots cast pursuant to Section 13(e) are delivered to the secretary in a timely
8 manner by persons that, together with those present in person or by proxy at the beginning of the
9 meeting, would comprise a quorum for that meeting.

10 (b) Unless the bylaws otherwise provide, a quorum of the executive board is present at
11 the time a vote is taken only if individuals entitled to cast a majority of the votes on that board
12 are present at that time. If a quorum is present when a vote is taken, the affirmative vote of a
13 majority of directors present is the act of the executive board unless a greater vote is required by
14 the declaration or bylaws.

15 (c) Votes allocated to a unit owned by the association shall not be calculated in a quorum
16 [but shall be cast in any vote of the unit owners in the same proportion as the votes cast on the
17 matter by unit owners other than the association.]

18 **SECTION 13 [formerly § 3-110]. VOTING; PROXIES.**

19 (a) Unless prohibited or limited by the declaration or bylaws, unit owners may vote
20 **[needed?]** in any election or regarding any action that the association may take] [either at a
21 meeting] in person, by absentee ballot, by a proxy pursuant to subsection (d) of this section, or
22 [without a meeting] by electronic or paper ballot.

23 [(b) Votes allocated to a unit owned by the association shall be cast in any vote of the

1 unit owners in the same proportion as the votes cast on the matter by unit owners other than the
2 association.]

3 (c) At a meeting of unit owners,

4 (1) A vote in person may be by voice vote, show of hands, by standing or by
5 ballot.

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

12 (3) Unless a greater percentage or fraction of the votes in the association is
13 required by this [act] or the declaration, a majority of the votes cast determines the outcome of
14 any action of the association so long as the number of votes cast in favor comprise at least a
15 majority of the number of votes required for a quorum for the meeting.

16 (4) A unit owner may vote by absentee ballot without being present at the
17 meeting. The association must promptly deliver an absentee ballot to an owner who requests it if
18 the request is made at least [3] days before the scheduled meeting. **[needed?** Votes cast by
19 absentee ballot shall be included in the tally of a vote taken at that meeting]

20 (5) When unit owners vote by absentee ballot in an election [of the executive
21 board],

22 (A) The association must be able to verify that the ballot is cast by a unit
23 owner having the right to do so, and

1 (B) The ballot must either be cast anonymously or, when that is not
2 reasonably practicable, the identity of the unit owner and the selections indicated on the ballot
3 shall be known only to the persons appointed to count ballots who shall be obliged not to
4 disclose the identities of the voters.

5 (d) Except as otherwise provided in the declaration or bylaws:

6 (1) votes allocated to a unit may be cast pursuant to a [directed or undirected]
7 proxy duly executed by a unit owner [only if the proxy instructs the holder how the proxy is to
8 be voted regarding each matter to be voted on at the meeting].

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

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

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

15 (5) A proxy is valid only for the meeting at which it is used and any recessed
16 session of that meeting.

17 [(6) No person may cast general proxies representing units owned by more than [
18] unit owners.]

19 (e) Unless prohibited or limited by the declaration or bylaws, an association may
20 conduct a vote without a meeting in accordance with the following rules:

21 (1) The association must notify the unit owners that the vote will be taken by
22 ballot.

23 (2) The association must deliver a paper or electronic ballot to every unit owner

entitled to vote on the matter.

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

(4) When the association delivers the ballots, it must also

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

(B) state the percentage of approvals necessary to approve each matter other than election of directors;

(C) specify the time by which a ballot must be delivered to the association in order to be counted, which time shall not be fewer than [three] days after the date that the association delivers the ballot; and

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

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

(6) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds both the quorum required to be present at a meeting authorizing the action; and the number of ballots approving the action equals or exceeds the number that would be required to approve the matter at that meeting.

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

(1) the provisions of this section apply to lessees as if they were unit owners;

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

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

(g) Unit owners must also be given notice, in the manner provided in Section [3-108], of all meetings at which lessees are entitled to vote.

SECTION 14 [formerly § 3-116]. LIMITATIONS ON FORECLOSURE.

(a) Regardless of provisions in the declaration [or other law?], an association may not commence an action to foreclose a lien on a unit 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 19 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 a specific 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 other reasonable collection charges and costs; 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 levied

1 against the unit, a foreclosure action may not be commenced against the unit unless the
2 association has a judgment against the unit owner with respect to the fines and has perfected a
3 judgment lien against the unit under [insert reference to state statute on perfection of judgments]

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

6 **SECTION 15 [formerly § 3-118]. ASSOCIATION RECORDS.**

7 (a) The association must [(create and maintain) (keep)] the following records:

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

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

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

16 (4) its original or restated organizational documents, if any, bylaws and all
17 amendments to them, and all rules currently in effect;

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

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

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

23 (8) financial and other records sufficiently detailed to enable the association to

1 comply with other requirements of law;

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

3 (10) records of executive board or committee actions to approve or deny any
4 requests for design or architectural approval from unit owners; and

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

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

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

12 (2) upon [5] days' written notice reasonably identifying the specific records of
13 the association requested.

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

16 (1) personnel and salary matters relating to specific persons or a person's medical
17 records;

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

20 (3) pending or potential litigation;

21 (4) matters involving state or local administrative or other formal proceedings
22 before a government tribunal for enforcement of the declaration, bylaws, or rules;

23 (5) communications with legal counsel which are otherwise protected by the

1 attorney-client privilege or the attorney work product doctrine;

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

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

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

5 (d) The association may charge a fee for providing copies of any records under this
6 section and for supervising the unit owner's inspection but those fees may not exceed the actual
7 cost of any materials and labor incurred by the association.

8 (e) The right to copy records under this section includes the right to receive copies by
9 photocopying or other means, including copies through an electronic transmission if available
10 and so requested by the unit owner.

11 (f) The association is not obligated to compile or synthesize information. Information
12 provided pursuant to this section may not be used for commercial purposes.

13 **SECTION 16 [formerly § 3-120]. RULES.**

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

16 (1) its intention to adopt, amend, or repeal a rule and provide the text of the
17 proposed [change] [adoption, amendment or repeal]; and

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

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

22 (c) The association may adopt rules to establish and enforce construction and design
23 criteria and aesthetic standards if the declaration so provides,. If the declaration does so provide,

1 the association must adopt procedures for enforcement of those standards and for approval of
2 applications, including a reasonable time within which the association must act after an
3 application is submitted and the consequences of its failure to act.

4 (d) A rule regulating display of the flag of the United States must be consistent with
5 federal law. [In addition, the] The association may not prohibit display on a unit or on a limited
6 common element adjoining a unit of the flag of this state, or signs regarding candidates for
7 public or association office or ballot questions, but the association may adopt rules governing the
8 time, place, size, number and manner of those displays.

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

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

14 (1) implement a provision of the declaration;

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

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

22 (g) Every rule must be reasonable.

1 **SECTION 17 [formerly § 3-121]. NOTICE.**

2 (a) Any notice required to be given by the association under this [act] may be:

3 (1) personally hand-delivered to each person;

4 (2) hand-delivered or sent postage paid by United States mail or by express or
5 delivery service to the mailing address of each unit, unless the owner has designated in writing a
6 different mailing address in which case, it shall be sent to the designated address;

7 (3) sent by electronic means if the unit owner has given the association prior
8 written authorization to provide notice by that means, together with an electronic address.; or

9 (4) unless directed otherwise by a unit owner, delivered by any other method
10 reasonably calculated to provide notice to that person.

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

13 **WRB NOTE - I THINK THIS TEXT IS MISSING SOME STANDARD**
14 **PROVISIONS ON ELECTRONIC NOTICE.**

15
16 **SECTION 18 [formerly § 3-122]. REMOVAL OF OFFICERS AND DIRECTORS.**

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

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

23 (2) a member appointed under Section [3-103(f)] may be removed only by the
24 person that appointed that member; and

25 (3) the unit owners may not consider whether to remove a member of the

1 executive board at any meeting (D. Biklen – is listing it on the agenda sufficient even if not in
2 the notice of the meeting?) of the unit owners unless that subject was listed in the notice of the
3 meeting.

4 (b) At any meeting at which a vote to remove a member of the executive board is to be
5 taken, the member being considered for removal shall have a reasonable opportunity to speak
6 before the vote.

7 **SECTION 19 [formerly § 3-123]. ADOPTION OF BUDGETS.**

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

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

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

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

3 (2) notice of the emergency assessment shall be promptly provided to all unit
4 owners; and

5 (3) the executive board shall spend the funds paid on account of the emergency
6 assessment solely for the purposes described in the vote.

7 **SECTION 20 [formerly § 4-117]. EFFECT OF VIOLATIONS ON RIGHTS OF**
8 **ACTION; ATTORNEY'S FEES.**

9 (a) Any right granted or obligation imposed by this [act] is enforceable by judicial
10 proceeding. If a declarant, the association, or any other person subject to this [act] fails to
11 comply with any of its provisions or any provision of the declaration or bylaws [or rules], any
12 person or class of persons adversely affected by the failure to comply has a claim for appropriate
13 relief. Punitive damages may be awarded for a willful failure to comply with this [act]. The
14 court, in an appropriate case, may award court costs and reasonable attorney's fees.

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

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

19 (2) an agreement to submit to any form of binding alternative dispute resolution
20 must be in a writing signed by the parties.