

FROM: Jim Smith, Reporter
TO: Drafting Committee, ABA Advisor, Observers
DATE: Feb. 17, 2021
RE: Emergency powers

Below is a draft for a possible new Emergency Powers section for discussion at our Drafting Committee meeting on Friday, Feb. 19, which I have prepared, incorporating input provided by Bill Breetz and David Ramsey.

SECTION 3-125. EMERGENCY POWERS.

(a) *[Emergency defined.]* In this section, “emergency” means:

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

(2) an event or condition that constitutes an imminent threat to public health or safety, health or safety of residents of the common interest community, the habitability of units, or substantial economic loss to the association.

(b) *[Emergency meetings of unit owners.]* The executive board may reduce the minimum time for notice to unit owners of a unit owners meeting called to deal with an emergency *[note - present UCIOA content is in Section 3-108(a)(3)]*.

(c) *[Emergency meetings of executive board.]* The executive board may call a board meeting to deal with an emergency without notifying the unit owners of the meeting. Notice of the board meeting need be given only to those board members whom it is practicable to reach and may be given in any practicable manner. Those members who participate in the board meeting shall constitute a quorum. *[note - present UCIOA content is in Section 3-108(b)(5)]*.

(d) *[Emergency actions taken by executive board.]* In the event of an emergency, the executive board may take such actions as it deems necessary to protect the interests of the unit owners and other persons holding interests in the common interest community, acting in all cases in a manner reasonable and practical under the circumstances and without consideration of any limitations contained in the declaration, bylaws, or rules. The board may act in the manner described in this subsection either without prior notice to any unit owners or with prior notice only to those unit owners whom it is practicable to reach and only in a form of notice practicable at the time.

(e) *[Expenses and assessments - Choice 1.]* After taking any action under subsection (d), the executive board shall notify the unit owners of its actions. The board may use funds of the association including reserves to pay the reasonable costs of those actions and may propose to the unit owners any special assessment or increase in common expenses necessary to pay the costs or to restore reserves.

(e) *[Expenses and assessments - Choice 2 - this is verbatim what now appears in existing UCIOA 3-123(c).]* If the executive board determines by a two-thirds vote that a special assessment is necessary to respond to an emergency: (1) the special assessment becomes effective immediately in accordance with the terms of the vote; (2) notice of the emergency assessment must be provided promptly to all unit owners [to the extent practicable]; and (3) the executive board may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.