

38-33.3-310. Voting - proxies. (1) (a) If only one of the multiple owners of a unit is present at a meeting of the association, such owner is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit. (b) (I) (A) Votes for contested positions on the executive board shall be taken by secret ballot. This sub-subparagraph (A) shall not apply to an association whose governing documents provide for election of positions on the executive board by delegates on behalf of the unit owners. (B) At the discretion of the board or upon the request of twenty percent of the unit owners who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting the common interest community on which all unit owners are entitled to vote shall be by secret ballot. (C) Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be unit owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the board or another person presiding during that portion of the meeting. The volunteers shall not be board members and, in the case of a contested election for a board position, shall not be candidates. (D) The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of unit owners participating in such vote. (II) Notwithstanding section 38-33.3-117 (1.5)(j), this paragraph (b) shall not apply to an association that includes time-share units, as defined in section 38-33-110 (7). (2) (a) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. A proxy shall not be valid if obtained through fraud or misrepresentation. Unless otherwise provided in the declaration, bylaws, or rules of the association, appointment of proxies may be made substantially as provided in section 7-127-203, C.R.S. (b) If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise. (c) The association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the unit owner. (d) The association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation in good faith and in accordance with the standards of this section are not liable in damages for the consequences of the acceptance or rejection. Colorado Revised Statutes 2021 Page 65 of 80 Uncertified Printout (e) Any action of the association based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation under this section is valid unless a court of competent jurisdiction determines otherwise. (3) (a) 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: (I) The provisions of subsections (1) and (2) of this section apply to lessees as if they were unit owners; (II) Unit owners who have leased their units to other persons may not cast votes on those specified matters; and (III) Lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. (b) Unit owners must also be given notice, in the manner provided in section 38-33.3- 308, of all meetings at which lessees are entitled to vote. (4) No votes allocated to a

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unit owned by the association may be cast. Source: L. 91: Entire article added, p. 1745, § 1, effective July 1, 1992. L. 2005: (1) and (2) amended, p. 1385, § 15, effective January 1, 2006. L. 2006: (1)(b)(I) amended, p. 1223, § 11, effective May 26.