



OLR RESEARCH REPORT

November 28, 2011

2011-R-0417

PROXY VOTING IN CONDOMINIUM ASSOCIATIONS

By: James Orlando, Associate Analyst

You asked about proxy voting in condominium associations, including a summary of Connecticut law and whether other states allow or prohibit proxy voting.

SUMMARY

Connecticut allows condominium unit owners to vote by proxy, unless the association's declaration or bylaws prohibit it. The law sets certain standards concerning proxy voting which we describe below.

We searched other states' condominium statutes and found most states allow proxy voting in condominium associations. Some states set conditions on proxy voting (e.g., specifying that it is only permitted if the association documents provide for it or setting the length of time for a proxy's effectiveness). Two states prohibit proxy voting in certain circumstances. Arizona prohibits proxy voting in condominium association elections after the developer's control of the association has ended. Florida generally prohibits the use of proxy voting for electing board members.

PROXY VOTING IN CONDOMINIUM ASSOCIATIONS

Connecticut

The Common Interest Ownership Act (CIOA) authorizes unit owners, unless prohibited or limited by the declaration or bylaws, to vote at a meeting in person; by proxy; or, when a vote is conducted without a meeting, by electronic or paper ballot. Unless a greater number or fraction of the votes in the association is required by CIOA, other law, or the declaration, a majority of the votes cast is the decision of the unit owners.

CIOA establishes the following rights and limitations concerning proxy voting, unless the declaration or bylaws provide otherwise:

1. votes allocated to a unit can be cast by a proxy duly executed by a unit owner (the proxy can direct how a vote is cast or it can be “undirected” and allow the person who is given the proxy to decide how to vote);
2. if a unit is owned by more than one person, each unit owner may vote or register a protest to the votes by the other owners of the unit through a duly executed proxy;
3. a unit owner may revoke a proxy only by actual notice of revocation to the person presiding over an association meeting;
4. a proxy is void if it is not dated or purports to be revocable without notice;
5. a proxy terminates one year after its date, unless it specifies a shorter term; and
6. someone may not cast votes representing more than 15% of the votes in the association pursuant to undirected proxies (CGS § 47-252).

CIOA specifies that proxy voting is among the acceptable voting methods at meetings concerning the removal of officers or directors, notwithstanding any contrary provision in the declaration or bylaws (CGS § [47-261d](#)).

Under CIOA, unless an association's bylaws provide otherwise, a quorum is present throughout any meeting of the unit owners if persons entitled to cast 20% of the votes in the association are present in person or by proxy at the beginning of the meeting (CGS § [47-251](#)).

Like several states, Connecticut's condominium law is modeled in part on the Uniform Common Interest Ownership Act. Connecticut's proxy voting law generally follows that of the most recent revisions to the uniform act (the uniform act has different provisions regarding how long a proxy is valid).

Other States

We found provisions in over 30 states' condominium statutes allowing proxy voting in condominium associations. Some other states do not address proxy voting in their condominium statutes, but allow proxy voting in other statutes addressing voting by nonprofit corporations or certain other associations, which could include condominium associations.

Some states, like Connecticut, specify that proxy voting is allowed unless the condominium documents prohibit it. Examples include Illinois, Kansas, and Oregon (see below for more details on Illinois' law). Minnesota law provides that proxy voting is only allowed if the condominium documents provide for it (Minn. Stat. Ann. § 515B.3-110).

Below we briefly describe laws in three states that place restrictions or limitations on proxy voting.

Arizona. Arizona prohibits proxy voting in condominium associations after the end of the period of declarant (developer) control (i.e., the time during which the declarant or persons designated by the declarant may elect or appoint the board members pursuant to the condominium documents or by virtue of superior voting power). This prohibition on proxy voting applies notwithstanding any provision in the condominium documents. The prohibition does not apply to timeshares. During the period of declarant control, votes may be cast by proxy, subject to certain conditions (e.g., a proxy is void if it is undated or purports to be revocable without notice) (Ariz. Rev. Stat. Ann. § 33-1250).

Florida. Florida prohibits the use of proxy voting in the election of board members, except for associations of 10 or fewer units. Such associations, by affirmative vote of a majority of the total voting interests, may provide in their bylaws for proxy voting for electing board members. Florida generally allows proxy voting in other contexts, subject to certain conditions and limitations (Fl. Stat. Ann. § 718.112).

Illinois. Under Illinois law, proxy voting is generally allowed unless the articles of incorporation or bylaws provide otherwise. For board elections, proxy voting is prohibited if (1) the board, at least 120 days before an election, adopts a rule providing for balloting as set forth by law or (2) the declaration or bylaws provide for balloting as set forth by law (765 Ill. Comp. Stat. Ann. 605/18).

JO:ro