

Sample Bylaws Provisions Re:

Action by Written Ballot Without a Meeting.

(a) **Definition of Written Ballot.** A “written ballot” is a ballot that is mailed or otherwise distributed to every Member entitled to vote on the matter and that complies with the requirements of this Section and _____ [insert any applicable state code section]. The term “written ballot” does not include a ballot distributed to Members at a meeting for purposes of conducting a vote of the Members at such meeting.

(b) **Written Ballots, Generally.** Any matter or issue requiring the vote of the Members may be submitted for vote by written ballot without the necessity of calling a meeting of the Members, as long as the requirements for action by written ballot set forth in this Section are met. The determination to seek Member approval for Association actions in this fashion shall be made by a majority vote of the Board of Directors. The matters and actions identified in Section _____ requiring Member approval must be conducted by use of a secret ballot.

(c) **Content of Written Ballots.** Any written ballot distributed to the Members to vote on any issue other than the election of directors shall set forth the proposed action and provide an opportunity to specify approval or disapproval of the proposal. Written ballots distributed for the election of directors shall list all candidates for election to the Board as of the date when the written ballots are mailed or delivered to the Members, and the written ballots shall comply with the secret ballot voting requirements of _____ [insert applicable state code sections] and Section _____ by being prepared in a form that requires that the ballot itself not be signed by the voter or otherwise identify the voter by name, Residence or Lot number, or address.

The mailed ballots shall be accompanied by two pre-addressed envelopes with instructions on how to return the ballots by a stated deadline to be counted. Those instructions shall state, at a minimum, that the ballot itself is not to be signed by the voter but rather inserted into an envelope that is then sealed. That sealed envelope shall be inserted into a second envelope that is also sealed. In the upper left hand corner of the second envelope, the voter shall be instructed to print and sign his or her name, address, and Residence or Lot number that entitles him or her to vote in the election. This second (outside) envelope shall be addressed to the inspector(s) of election and may be mailed or delivered by hand to a location specified by the inspector(s) of election.

(d) **Balloting Time Requirements.** Once the determination is made to seek Member approval by written ballot, the Board shall establish a record date (see Section _____) and distribute a written ballot to every Member entitled to vote on the matter, delivered either by first-class mail or by the Association to every Member not less than 30 days before the deadline for voting. Written ballots shall be distributed to all eligible Members in Good Standing at least 30 days before the final date the secret written ballots must be received by the Association in order to be counted. All written ballots shall provide a reasonable deadline for the return of the ballots to the Association in order to be counted.

The deadline for the return of secret written ballots distributed to conduct an election of directors shall be established to coincide with the date of the annual Board or membership meeting at which the Members' ballots are to be tabulated (although the actual final deadline for the return of election ballots can be stated as being the close of business on the last business day preceding the date of that meeting in order to facilitate the tabulation of ballots).

Except in the case of written ballots distributed in the election of directors in accordance with this Section and _____ [insert applicable state and code section], the time fixed for the return of written ballots may only be extended if the Board so notifies the Members on the face of the ballot or in the balloting solicitation materials accompanying the ballot and then for no more than two successive periods of 30 days each. If the right to extend the balloting period has been properly reserved, the Board's decision to extend the deadline for the return of ballots shall be agendized and acted on at a meeting of the Board that is open to attendance by the Members (see Section _____).

(e) **Requirements for Valid Member Action by Written Ballot.** Membership approval by written ballot shall only be valid if (i) the number of votes cast by ballot within the time established by the Board for the return of ballots equals or exceeds the quorum (as specified in Section _____) that would have been required to be present at a membership meeting if such a meeting had been convened to vote on the proposal; and (ii) the number of affirmative votes equals or exceeds the number of affirmative votes that would have been required to approve the action at a formal membership meeting. In the case of the election of directors, those candidates who receive the highest number of votes, up to the total number of positions on the Board to be filled, shall be the successful, elected candidates.

(f) **Solicitation Rules.** Written ballots shall be solicited in a manner consistent with the requirements of Section _____ on issuance of notice of Members' meetings. All solicitations of written ballots shall indicate (i) the number of responses needed to meet the quorum requirement for valid action; (ii) the time by which the written ballots must be received by the Association in order to be counted; and (iii) the percentage of affirmative votes necessary to approve the measure. Written ballots distributed in connection with director elections and other membership votes subject to the secret ballot voting procedures set forth in _____ [insert applicable state code sections] (see Section _____) must also conform with those secret ballot voting requirements.

(g) **Additional Balloting Procedures.** If deemed necessary by the Board of Directors, the written balloting shall be conducted in accordance with such additional procedures not inconsistent with the provisions of this Section or with applicable _____ [insert state] law, as may be prescribed by a firm of public accountants or by the Association's legal counsel, who may also be retained to supervise the secrecy and conduct of the balloting process.

(h) **Notification of Results of Balloting Process.** On tabulation of the written ballots, the Board shall notify the Members of the outcome of the vote within 30 days following the close of the balloting process and tabulation of the ballots. If the number of written ballots

cast with respect to any matter before conclusion of the stated balloting period is insufficient to satisfy the minimum quorum requirements for valid Member action, the Board shall so notify the Members. Written ballots solicited with respect to any matter identified in Section _____ shall be tabulated at a duly noticed meeting of the Board or Members that is open to attendance by all Members.

(i) **Prohibition of Revocation of Written Ballots.** Once cast, a written ballot may not be revoked.

(j) **Conduct of Informational Meetings.** Use of the written ballot procedures set forth in this Section shall not preclude the Association from also conducting informational meetings of the Members to provide information or a forum during the prescribed voting period or from scheduling a Board or membership meeting to coincide with the culmination of the prescribed balloting period.

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