

Westlaw.

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West's Colorado Revised Statutes Annotated Currentness

Title 38. Property--Real and Personal

Real Property

Interests in Land

☞ Article 33.3. Colorado Common Interest Ownership Act (Refs & Annos)

☞ Part 1. General Provisions

→§ 38-33.3-118. Procedure to elect treatment under the "Colorado Common Interest Ownership Act"

(1) Any organization created prior to July 1, 1992, may elect to have the common interest community be treated as if it were created after June 30, 1992, and thereby subject the common interest community to all of the provisions contained in this article, in the following manner:

(a) If there are members or stockholders entitled to vote thereon, the board of directors may adopt a resolution recommending that such association accept this article and directing that the question of acceptance be submitted to a vote at a meeting of the members or stockholders entitled to vote thereon, which may be either an annual or special meeting. The question shall also be submitted whenever one-twentieth, or, in the case of an association with over one thousand members, one-fortieth, of the members or stockholders entitled to vote thereon so request. Written notice stating that the purpose, or one of the purposes, of the meeting is to consider electing to be treated as a common interest community organized after June 30, 1992, and thereby accepting the provisions of this article, together with a copy of this article, shall be given to each person entitled to vote at the meeting within the time and in the manner provided in the articles of incorporation, declaration, bylaws, or other governing documents for such association for the giving of notice of meetings to members. Such election to accept the provisions of this article shall require for adoption at least sixty-seven percent of the votes that the persons present at such meeting in person or by proxy are entitled to cast.

(b) If there are no persons entitled to vote thereon, the election to be treated as a common interest community under this article may be made at a meeting of the board of directors pursuant to a majority vote of the directors in office.

(2) A statement of election to accept the provisions of this article shall be executed and acknowledged by the president or vice-president and by the secretary or an assistant secretary of such association and shall set forth:

(a) The name of the common interest community and association;

(b) That the association has elected to accept the provisions of this article;

(c) That there were persons entitled to vote thereon, the date of the meeting of such persons at which the election was made to be treated as a common interest community under this article, that a quorum was present at the meeting, and that such acceptance was authorized by at least sixty-seven percent of the votes that the members or stockholders present at such meeting in person or by proxy were entitled to cast;

(d) That there were no members or stockholders entitled to vote thereon, the date of the meeting of the board of directors at which election to accept this article was made, that a quorum was present at the meeting, and that such acceptance was authorized by a majority vote of the directors present at such meeting;

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(e) Deleted by Laws 1993, H.B.93-1070, § 7, eff. April 30, 1993.

(f) The names and respective addresses of its officers and directors; and

(g) If there were no persons entitled to vote thereon but a common interest community has been created by virtue of compliance with section 38-33.3- 103(8), that the declarant desires for the common interest community to be subject to all the terms and provisions of this article.

(3) The original statement of election to be treated as a common interest community subject to the terms and conditions of this article shall be duly recorded in the office of the clerk and recorder for the county in which the common interest community is located.

(4) Upon the recording of the original statement of election to be treated as a common interest community subject to the provisions of this article, said common interest community shall be subject to all provisions of this article. Upon recording of the statement of election, such common interest community shall have the same powers and privileges and be subject to the same duties, restrictions, penalties, and liabilities as though it had been created after June 30, 1992.

(5) Notwithstanding any other provision of this section, and with respect to a common interest community making the election permitted by this section, this article shall apply only with respect to events and circumstances occurring on or after July 1, 1992, and does not invalidate provisions of any declaration, bylaws, or plats or maps in existence on June 30, 1992.

CREDIT(S)

Added by Laws 1991, H.B.91-1292, § 1, eff. July 1, 1992. Amended by Laws 1991, S.B.91-243, § 65, eff. July 1, 1992; Laws 1993, H.B.93-1070, § 7, eff. April 30, 1993.

HISTORICAL AND STATUTORY NOTES

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Law 1991, S.B.91-243 substituted at the end of subsec. (5) "June 30, 1992" for "June 30, 1991".

The 1993 amendment, in subsec. (1), in the introductory portion substituted "organization created" for "association organized in the same manner as an association under sections 38-33.3-103(3) and 38-33.3-301 and organized"; in pars. (1)(a) and (2)(c) substituted "sixty-seven percent" for "two thirds"; and deleted par. (2)(e), which read:

"(e) That the association has complied with the requirements of its articles of incorporation, declaration, bylaws, and other governing documents so far as applicable in affecting such acceptance;"

LIBRARY REFERENCES

2000 Main Volume

Condominium ↪2.
 Landlord and Tenant ↪351.
 Westlaw Topic Nos. 89A, 233.
 C.J.S. Estates §§ 196 to 199, 203, 244.
 C.J.S. Landlord and Tenant § 792.21.

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