

Summary of the Use of Proxies in HOAs

Proxies cannot be used when taking action via written ballot (whether secret or not) as each and every member is provided with the above information and has an opportunity to vote on the ballot provided.

Proxies:

Proxies may be used at both virtual and physical meetings but, as stated above, are not used when voting via written ballot. A proxy is defined as a written document provided by a member of an association to another individual providing such individual with the ability and power to vote on behalf of such member. Proxies are beneficial when meetings are held, and members are unable to attend. Executing a proxy allows the member who is physically (or virtually) unable to attend the meeting to be represented by another person. This has the effect of allowing the absent member to count for quorum and have a voice at the meeting, to be exercised by the proxy holder.

Confusion between Mail Ballots and Proxies:

Oftentimes there is confusion about the difference between proxies and written ballots. Proxies are utilized when a physical or virtual meeting is being held and a member is unable to attend. That member may, but is not required to, designate another individual as their proxy. A member's proxy will count towards quorum, and the proxy holder will have the authority to vote or act on behalf of the proxy giver. A proxy is not a ballot and the proxy holder must be provided with a physical ballot in exchange for the proxy at the meeting.

Conversely, an action by written ballot, secret or otherwise, cannot include a proxy because each owner has the ability to "participate" in the decision by casting his/her/their ballot during the allotted voting period.

Proxy Duration

HB 22-059 has limited the effective duration of a proxy to no more than 11 months after which it becomes invalid