

VA Lenders Handbook (VA Pamphlet 26-7), Chapter 16, Topic 6 — Contains provisions for amendment (continued)

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1 verbatim provision(s). Each quote is a verified substring of the regulator-published source snapshot, not retyped.

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6. Contains provisions for amendment (continued) c. Contains the following provisions for meetings of the membership to approve a material amendment or extraordinary action: (i) at least 25 days advance notice to all members is required (at least 7 days notice is required in the case of a meeting for other purposes); (ii) the notice states the purpose of the meeting and contains a summary of any material amendments or extraordinary actions proposed; (iii) the notice contains a copy of the proxy that can be cast in lieu of attendance at the meeting; and (iv) if the association has, or is planned to have, 250 members or less - the quorum is at least 20 percent of the total number of votes; (v) if the association has, or is planned to have, more than 250 members but less than 1,000 members - the quorum is at least 10 percent; and (vi) if the association has, or is planned to have, more than 1,000 members,- the quorum is at least five percent. d. Provides that any material amendment which changes the rights of any specific class of members must also be approved by members entitled to cast at least 51 percent of the votes of all members of such class present, in person or by proxy, and voting at any meeting of the association held in accordance with subparagraph c. above, or at least 51 percent of the total authorized votes of all members of such class. e. Provides that the following material amendments and extraordinary actions must be approved by members entitled to cast at least 67 percent of the total authorized votes of all members of the association, including at least a majority of the total authorized votes entitled to be cast by members other than the declarant: (1) Termination of the declaration or other termination of the planned unit development; (2) Dissolution of the association except pursuant to a consolidation or merger; and (3) Conveyance of all common areas. f. Provides that during the declarant control period all material amendments and extraordinary actions must have the approval of VA, if VA has guaranteed any loans secured by units in the project. Continued on next page January 1, 2001 16-B-15 16-B-16 January 1, 2001 VA Pamphlet 26-7, Revised Section B: Use of Attorney's Opinion Exhibit A: Other VA Requirements, Continued (A) Declaration (continued) 6. Contains provisions for amendment, (continued) g. Provides that all other amendments (other than material amendments or extraordinary actions) must be approved by at least a majority of the votes entitled to be cast by all members present, in person or by proxy, and voting at any meeting of the association at which a quorum is present (see subparagraph (4)(b)2 below (Bylaws)), or in writing by members entitled to cast at least a majority of the total authorized votes of all members of the association. 7. Grants each owner a non-exclusive easement of use and enjoyment in the common areas which is appurtenant to and passes with title to each unit. Each owner also has a non-exclusive easement for egress and ingress over the common areas, to the extent necessary to provide access to the unit and for utilities serving that unit. The right of access for necessary ingress and egress to the unit and utility services cannot be suspended by the board of directors for violations of the covenants or nonpayment of assessments. The owner's easement rights may be

subject to certain limitations (other limitations must be separately described by the attorney) as follows: a. Right of the association, acting through the board of directors, to mortgage the common areas subject to such member, mortgagee and agency approvals as may be provided in the declaration. (A lender's rights, in the event of default upon any mortgage or deed of trust on the common areas, are limited to, after taking possession of such common areas, charging reasonable admission and other fees as a condition of continued enjoyment by members, and, if necessary, to a wider range of users. Upon satisfaction of the mortgage or deed of trust, such common areas are returned to the association with full restoration of members' rights); b. Right of the association, acting through the board of directors to convey or transfer all or any part of the common areas, subject to such member, mortgagee and agency approvals as may be provided in the declaration; c. Right of the association, acting through the board of directors, without member, mortgagee and agency approvals unless provided otherwise in the declaration, to grant easements across the common areas for any purpose not inconsistent with the use of those areas by members; Continued on next page January 1, 2001 16-B-16 January 1, 2001 16-B-17 VA Pamphlet 26-7, Revised Section B: Use of Attorney's Opinion Exhibit A: Other VA Requirements, Continued (A) Declaration (continued)

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