WEST VIRGINIA CODE: §36b-3-103

§36B-3-103. Executive board members and officers.

(a) Except as provided in the declaration, the bylaws, subsection (b), or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise (i) if appointed by the declarant, the care required of fiduciaries of the unit owners and (ii) if elected by the unit owners, ordinary and reasonable care.

(b) The executive board may not act on behalf of the association to amend the declaration (section 2-117), to terminate the common interest community (section 2-118) or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (section 3-103(f)), but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) Within thirty days after adoption of any proposed budget for the common interest community, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than thirty days after mailing of the summary. Unless at that meeting a majority of all unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(d) Subject to subsection (e), the declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by him may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of seventy-five percent of the units that may be created to unit owners other than a declarant; (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business; or (iii) two years after any right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(e) Not later than sixty days after conveyance of twenty-five percent of the units that may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the executive board must be elected by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units

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that may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the executive board must be elected by unit owners other than the declarant.

(f) Except as otherwise provided in section 2-120(e), not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

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