

Electronic Voting for California HOAs Starting January 1, 2025

Beginning January 1, 2025, California Homeowners' Associations (HOAs) have the option (but are not required) to implement electronic voting for most secret ballot elections, such as the election of directors, recall votes, and votes on governing documents. However, electronic voting is not permitted for votes on regular or special assessments. To adopt electronic voting, the association's first step is to amend its election rules to include provisions for electronic voting.

The sample rules provided below are designed to serve as a general framework that can be adapted for most associations with minimal changes. It is recommended that each association consult with legal counsel to ensure the rules meet the specific needs of the community.

Changes to election rules, including the adoption of electronic voting, can be approved by the board of directors following a 28-day notice and comment period for members. For more information on the process for amending rules, refer to Civil Code Section 4360.

Electronic Voting Regulations

These rules are established pursuant to AB 2159 (2024), which authorizes Homeowners' Associations (HOAs) to implement electronic voting at their discretion. All provisions herein shall be construed in a manner consistent with the requirements of AB 2159.

The Association is hereby authorized to conduct voting through electronic means.

Voting Method Election:

- 1. Alternative 1: All members shall be deemed to have elected to vote electronically unless they submit written notice to the Association opting for a paper ballot. This election shall remain in effect until the member provides written notice of a change in their voting preference.**
- 2. Alternative 2: All members shall be deemed to have elected to vote by paper ballot unless they submit written notice to the Association opting for electronic voting.**

(The Association must adopt either Alternative 1 or Alternative 2, but not both. Selection of Alternative 1 is recommended to maximize cost efficiencies associated with electronic voting.)

Electronic voting shall not be utilized for decisions regarding regular or special assessments, except where expressly permitted by law. Electronic voting is permissible for board member elections, amendments to governing documents, board recalls, or any other matters not legally prohibited.

Modification of Voting Preference:

Members may change their voting preference from paper to electronic, or from electronic to paper, by submitting written notification at least 90 days prior to the election to the designated representative of the Board (e.g., Secretary of the Board).

Ballot Content Requirements:

Both paper and electronic ballots shall present identical items for voting.

Ballot Distribution Protocols:

- Paper ballots shall be issued to members who have opted for them or to those who have not provided a valid email address. Members who fail to provide a valid email shall be considered to have opted for paper voting.
- Electronic ballots shall be distributed exclusively to members who have elected electronic voting and supplied a valid email address.

Member Obligations:

Members who select electronic voting are required to provide a valid email address. If an email address is not available at the time of ballot distribution, the Association shall issue a paper ballot.

Record-Keeping Procedures:

The Association shall maintain a record identifying the voting method selected by each member. Instructions for modifying voting preferences shall be included in the Annual Policy Statement.

Election Administration:

- Nominations from the floor during membership meetings are prohibited.
- The Association shall distribute electronic ballots, along with voting instructions, to members who have opted for electronic voting no less than 30 days before the election.
- At least 30 days before the deadline for changing voting preferences, the Association shall notify members of their current voting method, their email address (if applicable), procedures for changing voting preferences, and the deadline for doing so.

Electronic Ballot Procedures:

- Electronic ballots shall become effective upon submission to the address, location, or system designated by the Inspector of Elections, and may not be revoked thereafter.
- Members voting electronically shall be counted towards the meeting quorum. After establishing a quorum, votes may only be cast on matters appearing on the ballot.
- The internet-based voting system used must comply with Civil Code Section 5110(c). Votes submitted via text message or email shall not be accepted.
- No person shall open or review any electronic ballot before the time and place specified for counting and tabulation.

Notice Requirements:

The notice mandated by Civil Code Section 5115(b) shall include instructions on casting electronic ballots and the submission deadline.

Consent to Electronic Notices:

Members who opt for electronic ballots consent to receiving all election-related notices, such as the Call for Candidates and Pre-Ballot Notice, via email.