

Virginia Adopts Emergency Legislation Allowing Virtual Board Meetings

IMPORTANT UPDATE:

Virginia General Assembly Passes Legislation Authorizing 100% “Virtual” Board Meetings During Emergencies

Updated 4/27/20 – Virginia Governor has signed the legislation

As we all know, it has been a challenge for community association boards to hold meetings during the COVID pandemic. Under the existing requirements of Virginia’s Property Owners’ Association and Condominium Acts, at least two directors must be physically present at a board meeting in order for the rest of the board to attend remotely by audio or video conference. **However, physically assembling will no longer be required during the pandemic emergency.**

Emergency Legislation

On Wednesday, April 22, 2020, the Virginia General Assembly passed two House budget bills, which included provisions added by the Governor authorizing **Common Interest Community governing boards to meet 100% “virtually” (without the requirement of any director being physically present) during the period of a state emergency declared by the Governor, as long as certain requirements are met.** House Bill 29 becomes effective immediately, while House Bill 30 will go into effect on July 1, 2020.

What does this mean for association board meetings?

Both bills provide that when the Governor declares a state of emergency, an association’s board of directors may meet by electronic communication means **without any board member or homeowner physically present** at a stated meeting place, so long as the following criteria are met:

- (1) the nature of the emergency makes it impracticable or unsafe to assemble in a single location; and
- (2) the purpose of the board meeting is (a) to discuss or transact business that is statutorily required or (b) necessary to continue the operation of the association and the discharge of its lawful purposes, duties and responsibilities.

In order to lawfully conduct a 100% virtual board meeting under the above circumstances, an association’s board must also comply with the following:

- The board must **give notice** of the meeting to owners, contemporaneously with notice provided to directors, using the best available method given the nature of the emergency; and

- The board must make arrangements for **owners to have access to the meeting** through electronic means including, to the extent practicable, videoconferencing technology; and
- If the electronic means of communication allows, the board must provide owners with an **opportunity to comment**; and
- The board must **distribute meeting minutes** to owners in the same method used to provide the meeting notice, and the minutes must state the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means that was used.

Summary

As long as the pandemic emergency remains (as determined by the Governor), boards may have virtual meetings as noted above. When the emergency ends, the prior rules will return.

As we noted on our previous [CWMEB Journal postings](#), we believed that the pandemic-related lockdown orders already constituted valid reasons for postponing membership meetings or having “virtual” board meetings for community associations. Still, this new legislation confirms that association board meetings may be carried out virtually without threat of being seen as illegal or inappropriate under the law. We are glad to report that the legislation has been adopted and now only requires the Governor’s signature to become Virginia law.

Our firm remains available to assist you in planning for and complying with these new requirements, especially in the event your board intends to conduct a 100% virtual board meeting.

By [chadwick](#) | Published April 23, 2020 | Posted in [Uncategorized](#) | Comments Off on Virginia Adopts Emergency Legislation Allowing Virtual Board Meetings