

3-1-13.5 Conflicts of interest.

- (1) A director does not have a conflict of interest and is entitled to vote on any matter for which the action to be taken or decision to be made by the board relates to matters which have application to other members which are similarly situated to the director or to the member association which the director represents.
- (2) Except as provided in Subsection (1), each director on the board of an association has a duty to serve the association as a whole and not the individual members of the association. This duty applies even when the director's own personal interests as a member or representative of a member may be contrary to the interests of the association.
- (3)
 - (a) As used in this section, "interested director" means a director who has a direct financial interest in a transaction or contract being considered by the board or committee of an association, whether as a member of the association or as a representative of a member association.
 - (b) Interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee which authorizes, approves, or ratifies a contract or transaction.
 - (c) Interested directors shall be excluded from a board or committee meeting during the discussion and vote on a matter in which the director has a direct financial interest, unless a majority of the disinterested directors on the board vote that the interested director may remain at the meeting.
- (4) Except as provided in Subsections (1) and (3)(c), every contract or transaction between the association and one or more of its directors shall be void, or voidable by the association, if:
 - (a) the director is present at or participates in the discussion at the board or committee meeting which authorizes, approves, or ratifies the contract or transaction; or
 - (b) the vote of the interested director is counted in the vote of the board or the committee.
- (5) Notwithstanding Subsection (4), a transaction between the association and one or more of its directors is not void, or voidable by the association, if:
 - (a) the material facts as to the relationship or interest of the director and as to the contract or transaction are disclosed or are known to the board of directors or the committee, and the board or committee in good faith authorizes, approves, or ratifies the contract or transaction by the affirmative vote of a majority of the disinterested directors, even if the disinterested directors are less than a quorum;
 - (b) the material facts as to the relationship or interest of the director and as to the contract or transaction are disclosed or are known to the members of the association entitled to vote, and the contract or transaction is specifically authorized, approved, or ratified in good faith by a vote of the members; or
 - (c) the contract or transaction is fair to the association.

Enacted by Chapter 204, 1994 General Session