

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 343
SENATE BILL 1496

AN ACT

AMENDING SECTIONS 33-1243 AND 33-1813, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1243, Arizona Revised Statutes, is amended to
3 read:

4 33-1243. Board of directors and officers; conflict; powers;
5 limitations; removal; annual audit; applicability

6 A. Except as provided in the declaration, the bylaws, subsection B of
7 this section or other provisions of this chapter, the board of directors may
8 act in all instances on behalf of the association.

9 B. The board of directors shall not act on behalf of the association
10 to amend the declaration, terminate the condominium, elect members of the
11 board of directors or determine the qualifications, powers and duties or
12 terms of office of board of directors members. **EXCEPT AS PROVIDED IN**
13 **SUBSECTION H OF THIS SECTION**, the board of directors may fill vacancies in
14 its membership for the unexpired portion of any term.

15 C. If any contract, decision or other action for compensation taken by
16 or on behalf of the board of directors would benefit any member of the board
17 of directors or any person who is a parent, grandparent, spouse, child or
18 sibling of a member of the board of directors or a parent or spouse of any of
19 those persons, that member of the board of directors shall declare a conflict
20 of interest for that issue. The member shall declare the conflict in an open
21 meeting of the board before the board discusses or takes action on that issue
22 and that member may then vote on that issue. Any contract entered into in
23 violation of this subsection is void and unenforceable.

24 D. Except as provided in the declaration, within thirty days after
25 adoption of any proposed budget for the condominium, the board of directors
26 shall provide a summary of the budget to all the unit owners. Unless the
27 board of directors is expressly authorized in the declaration to adopt and
28 amend budgets from time to time, any budget or amendment shall be ratified by
29 the unit owners in accordance with the procedures set forth in this
30 subsection. If ratification is required, the board of directors shall set a
31 date for a meeting of the unit owners to consider ratification of the budget
32 not fewer than fourteen nor more than thirty days after mailing of the
33 summary. Unless at that meeting a majority of all the unit owners or any
34 larger vote specified in the declaration rejects the budget, the budget is
35 ratified, whether or not a quorum is present. If the proposed budget is
36 rejected, the periodic budget last ratified by the unit owners shall be
37 continued until such time as the unit owners ratify a subsequent budget
38 proposed by the board of directors.

39 E. The declaration may provide for a period of declarant control of
40 the association, during which period a declarant or persons designated by the
41 declarant may appoint and remove the officers and members of the board of
42 directors. Regardless of the period provided in the declaration, a period of
43 declarant control terminates no later than the earlier of:

44 1. Ninety days after conveyance of seventy-five percent of the units
45 that may be created to unit owners other than a declarant.

1 2. Four years after all declarants have ceased to offer units for sale
2 in the ordinary course of business.

3 F. A declarant may voluntarily surrender the right to appoint and
4 remove officers and members of the board of directors before termination of
5 the period prescribed in subsection E of this section, but in that event the
6 declarant may require, for the duration of the period of declarant control,
7 that specified actions of the association or board of directors, as described
8 in a recorded instrument executed by the declarant, be approved by the
9 declarant before they become effective.

10 G. Not later than the termination of any period of declarant control
11 the unit owners shall elect a board of directors of at least three members,
12 at least a majority of whom must be unit owners. The board of directors
13 shall elect the officers. The board members and officers shall take office
14 on election.

15 H. Notwithstanding any provision of the declaration or bylaws to the
16 contrary, ALL OF THE FOLLOWING APPLY TO A MEETING AT WHICH A MEMBER OF THE
17 BOARD OF DIRECTORS, OTHER THAN A MEMBER APPOINTED BY THE DECLARANT, IS
18 PROPOSED TO BE REMOVED FROM THE BOARD OF DIRECTORS:

19 1. The unit owners who are eligible to vote at the time of the meeting
20 may remove any member of the board of directors, other than a member
21 appointed by the declarant, by a majority vote of those voting on the matter
22 at a meeting of the unit owners.

23 2. The meeting of the unit owners shall be called pursuant to this
24 section and action may be taken only if a quorum is present.

25 3. The unit owners may remove any member of the board of directors
26 with or without cause, other than a member appointed by the declarant.

27 4. For purposes of calling for removal of a member of the board of
28 directors, other than a member appointed by the declarant, the following
29 apply:

30 (a) In an association with one thousand or fewer members, on receipt
31 of a petition that calls for removal of a member of the board of directors
32 and that is signed by the number of persons who are eligible to vote in the
33 association at the time the person signs the petition equal to at least
34 twenty-five percent of the votes in the association or by the number of
35 persons who are eligible to vote in the association at the time the person
36 signs the petition equal to at least one hundred votes in the association,
37 whichever is less, the board shall call and provide written notice of a
38 special meeting of the association as prescribed by section 33-1248,
39 subsection B.

40 (b) Notwithstanding section 33-1248, subsection B, in an association
41 with more than one thousand members, on receipt of a petition that calls for
42 removal of a member of the board of directors and that is signed by the
43 number of persons who are eligible to vote in the association at the time the
44 person signs the petition equal to at least ten percent of the votes in the
45 association or by the number of persons who are eligible to vote in the
46 association at the time the person signs the petition equal to at least one

1 thousand votes in the association, whichever is less, the board shall call
2 and provide written notice of a special meeting of the association. The
3 board shall provide written notice of a special meeting as prescribed by
4 section 33-1248, subsection B.

5 (c) The special meeting shall be called, noticed and held within
6 thirty days after receipt of the petition.

7 (d) For purposes of a special meeting called pursuant to this
8 subsection, a quorum is present if the number of owners who are eligible to
9 vote in the association at the time the person attends the meeting equal to
10 at least twenty percent of the votes of the association or the number of
11 persons who are eligible to vote in the association at the time the person
12 attends the meeting equal to at least one thousand votes, whichever is less,
13 is present at the meeting in person or as otherwise permitted by law.

14 (e) If a civil action is filed regarding the removal of a board
15 member, the prevailing party in the civil action shall be awarded its
16 reasonable attorney fees and costs.

17 (f) The board of directors shall retain all documents and other
18 records relating to the proposed removal of the member of the board of
19 directors **AND ANY ELECTION OR OTHER ACTION TAKEN FOR THAT DIRECTOR'S**
20 **REPLACEMENT** for at least one year after the date of the special meeting and
21 shall permit members to inspect those documents and records pursuant to
22 section 33-1258.

23 (g) A petition that calls for the removal of the same member of the
24 board of directors shall not be submitted more than once during each term of
25 office for that member.

26 **5. ON REMOVAL OF AT LEAST ONE BUT FEWER THAN A MAJORITY OF THE MEMBERS**
27 **OF THE BOARD OF DIRECTORS AT A SPECIAL MEETING OF THE MEMBERSHIP CALLED**
28 **PURSUANT TO THIS SUBSECTION, THE VACANCIES SHALL BE FILLED AS PROVIDED IN THE**
29 **CONDOMINIUM DOCUMENTS.**

30 **6. ON REMOVAL OF A MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS**
31 **AT A SPECIAL MEETING OF THE MEMBERSHIP CALLED PURSUANT TO THIS SUBSECTION, OR**
32 **IF THE CONDOMINIUM DOCUMENTS DO NOT PROVIDE A METHOD FOR FILLING BOARD**
33 **VACANCIES, THE ASSOCIATION SHALL HOLD AN ELECTION FOR THE REPLACEMENT OF THE**
34 **REMOVED DIRECTORS AT A SEPARATE MEETING OF THE MEMBERS OF THE ASSOCIATION**
35 **THAT IS HELD NOT LATER THAN THIRTY DAYS AFTER THE MEETING AT WHICH THE**
36 **MEMBERS OF THE BOARD OF DIRECTORS WERE REMOVED.**

37 **7. A MEMBER OF THE BOARD OF DIRECTORS WHO IS REMOVED PURSUANT TO THIS**
38 **SUBSECTION IS NOT ELIGIBLE TO SERVE ON THE BOARD OF DIRECTORS AGAIN UNTIL**
39 **AFTER THE EXPIRATION OF THE REMOVED BOARD MEMBER'S TERM OF OFFICE, UNLESS THE**
40 **CONDOMINIUM DOCUMENTS SPECIFICALLY PROVIDE FOR A LONGER PERIOD OF**
41 **INELIGIBILITY.**

42 I. For an association in which board members are elected from
43 separately designated voting districts, a member of the board of directors,
44 other than a member appointed by the declarant, may be removed only by a vote
45 of the members from that voting district, and only the members from that

1 voting district are eligible to vote on the matter or be counted for purposes
2 of determining a quorum.

3 J. Unless any provision in the condominium documents requires an
4 annual audit by a certified public accountant, the board of directors shall
5 provide for an annual financial audit, review or compilation of the
6 association. The audit, review or compilation shall be completed no later
7 than one hundred eighty days after the end of the association's fiscal year
8 and shall be made available on request to the unit owners within thirty days
9 after its completion.

10 K. This section does not apply to timeshare plans or associations, or
11 the period of declarant control under timeshare instruments, that are subject
12 to chapter 20 of this title.

13 Sec. 2. Section 33-1813, Arizona Revised Statutes, is amended to read:

14 33-1813. Removal of board member; special meeting

15 A. Notwithstanding any provision of the declaration or bylaws to the
16 contrary, ALL OF THE FOLLOWING APPLY TO A MEETING AT WHICH A MEMBER OF THE
17 BOARD OF DIRECTORS, OTHER THAN A MEMBER APPOINTED BY THE DECLARANT, IS
18 PROPOSED TO BE REMOVED FROM THE BOARD OF DIRECTORS:

19 1. The members of the association who are eligible to vote at the time
20 of the meeting may remove any member of the board of directors, other than a
21 member appointed by the declarant, by a majority vote of those voting on the
22 matter at a meeting of the members.

23 2. The meeting of the members shall be called pursuant to this section
24 and action may be taken only if a quorum is present.

25 3. The members of the association may remove any member of the board
26 of directors with or without cause, other than a member appointed by the
27 declarant.

28 4. For purposes of calling for removal of a member of the board of
29 directors, other than a member appointed by the declarant, the following
30 apply:

31 (a) In an association with one thousand or fewer members, on receipt
32 of a petition that calls for removal of a member of the board of directors
33 and that is signed by the number of persons who are eligible to vote in the
34 association at the time the person signs the petition equal to at least
35 twenty-five percent of the votes in the association or by the number of
36 persons who are eligible to vote in the association at the time the person
37 signs the petition equal to at least one hundred votes in the association,
38 whichever is less, the board shall call and provide written notice of a
39 special meeting of the association as prescribed by section 33-1804,
40 subsection B.

41 (b) Notwithstanding section 33-1804, subsection B, in an association
42 with more than one thousand members, on receipt of a petition that calls for
43 removal of a member of the board of directors and that is signed by the
44 number of persons who are eligible to vote in the association at the time the
45 person signs the petition equal to at least ten percent of the votes in the
46 association or by the number of persons who are eligible to vote in the

1 association at the time the person signs the petition equal to at least one
2 thousand votes in the association, whichever is less, the board shall call
3 and provide written notice of a special meeting of the association. The
4 board shall provide written notice of a special meeting as prescribed by
5 section 33-1804, subsection B.

6 (c) The special meeting shall be called, noticed and held within
7 thirty days after receipt of the petition.

8 (d) For purposes of a special meeting called pursuant to this
9 subsection, a quorum is present if the number of owners who are eligible to
10 vote in the association at the time the person attends the meeting equal to
11 at least twenty percent of the votes of the association or the number of
12 persons who are eligible to vote in the association at the time the person
13 attends the meeting equal to at least one thousand votes, whichever is less,
14 is present at the meeting in person or as otherwise permitted by law.

15 (e) If a civil action is filed regarding the removal of a board
16 member, the prevailing party in the civil action shall be awarded its
17 reasonable attorney fees and costs.

18 (f) The board of directors shall retain all documents and other
19 records relating to the proposed removal of the member of the board of
20 directors AND ANY ELECTION OR OTHER ACTION TAKEN FOR THAT DIRECTOR'S
21 REPLACEMENT for at least one year after the date of the special meeting and
22 shall permit members to inspect those documents and records pursuant to
23 section 33-1805.

24 (g) A petition that calls for the removal of the same member of the
25 board of directors shall not be submitted more than once during each term of
26 office for that member.

27 5. ON REMOVAL OF AT LEAST ONE BUT FEWER THAN A MAJORITY OF THE MEMBERS
28 OF THE BOARD OF DIRECTORS AT A SPECIAL MEETING OF THE MEMBERSHIP CALLED
29 PURSUANT TO THIS SUBSECTION, THE VACANCIES SHALL BE FILLED AS PROVIDED IN THE
30 COMMUNITY DOCUMENTS.

31 6. ON REMOVAL OF A MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS
32 AT A SPECIAL MEETING OF THE MEMBERSHIP CALLED PURSUANT TO THIS SUBSECTION, OR
33 IF THE COMMUNITY DOCUMENTS DO NOT PROVIDE A METHOD FOR FILLING BOARD
34 VACANCIES, THE ASSOCIATION SHALL HOLD AN ELECTION FOR THE REPLACEMENT OF THE
35 REMOVED DIRECTORS AT A SEPARATE MEETING OF THE MEMBERS OF THE ASSOCIATION
36 THAT IS HELD NOT LATER THAN THIRTY DAYS AFTER THE MEETING AT WHICH THE
37 MEMBERS OF THE BOARD OF DIRECTORS WERE REMOVED.

38 7. A MEMBER OF THE BOARD OF DIRECTORS WHO IS REMOVED PURSUANT TO THIS
39 SUBSECTION IS NOT ELIGIBLE TO SERVE ON THE BOARD OF DIRECTORS AGAIN UNTIL
40 AFTER THE EXPIRATION OF THE REMOVED BOARD MEMBER'S TERM OF OFFICE, UNLESS THE
41 COMMUNITY DOCUMENTS SPECIFICALLY PROVIDE FOR A LONGER PERIOD OF
42 INELIGIBILITY.

43 B. For an association in which board members are elected from
44 separately designated voting districts, a member of the board of directors,
45 other than a member appointed by the declarant, may be removed only by a vote
46 of the members from that voting district, and only the members from that

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1 voting district are eligible to vote on the matter or be counted for purposes
2 of determining a quorum.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.