

COMMITTEE ON GOVERNMENT  
SENATE AMENDMENTS TO H.B. 2607  
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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  
7 of this section or other provisions of this chapter, the board of directors  
8 may 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  
16 by or on behalf of the board of directors would benefit any member of the  
17 board of directors or any person who is a parent, grandparent, spouse,  
18 child or sibling of a member of the board of directors or a parent or

1 spouse of any of those persons, that member of the board of directors shall  
2 declare a conflict of interest for that issue. The member shall declare  
3 the conflict in an open meeting of the board before the board discusses or  
4 takes action on that issue and that member may then vote on that issue.  
5 Any contract entered into in violation of this subsection is void and  
6 unenforceable.

7 D. Except as provided in the declaration, within thirty days after  
8 adoption of any proposed budget for the condominium, the board of directors  
9 shall provide a summary of the budget to all the unit owners. Unless the  
10 board of directors is expressly authorized in the declaration to adopt and  
11 amend budgets from time to time, any budget or amendment shall be ratified  
12 by the unit owners in accordance with the procedures set forth in this  
13 subsection. If ratification is required, the board of directors shall set  
14 a date for a meeting of the unit owners to consider ratification of the  
15 budget not fewer than fourteen ~~not~~ OR more than thirty days after mailing  
16 of the summary. Unless at that meeting a majority of all the unit owners  
17 or any larger vote specified in the declaration rejects the budget, the  
18 budget is ratified, whether or not a quorum is present. If the proposed  
19 budget is rejected, the periodic budget last ratified by the unit owners  
20 shall be continued until such time as the unit owners ratify a subsequent  
21 budget proposed by the board of directors.

22 E. The declaration may provide for a period of declarant control of  
23 the association, during which period a declarant or persons designated by  
24 the declarant may appoint and remove the officers and members of the board

1 of directors. Regardless of the period provided in the declaration, a  
2 period of declarant control terminates ~~no~~ NOT later than the earlier of:

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

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

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

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

19 H. Notwithstanding any provision of the declaration or bylaws to the  
20 contrary, all of the following apply to a meeting at which a member of the  
21 board of directors, other than a member appointed by the declarant, is  
22 proposed to be removed from the board of directors:

23 1. The unit owners who are eligible to vote at the time of the  
24 meeting may remove any member of the board of directors, other than a

1 member appointed by the declarant, by a majority vote of those voting on  
2 the matter at a meeting of the unit owners.

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

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

7 4. For purposes of calling for removal of a member of the board of  
8 directors, other than a member appointed by the declarant, the following  
9 apply:

10 (a) In an association with one thousand or fewer members, on receipt  
11 of a petition that calls for removal of a member of the board of directors  
12 and that is signed by the number of persons who are eligible to vote in the  
13 association at the time the person signs the petition equal to at least  
14 twenty-five percent of the votes in the association or by the number of  
15 persons who are eligible to vote in the association at the time the person  
16 signs the petition equal to at least one hundred votes in the association,  
17 whichever is less, the board shall call and provide written notice of a  
18 special meeting of the association as prescribed by section 33-1248,  
19 subsection B.

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

1 the association or by the number of persons who are eligible to vote in the  
2 association at the time the person signs the petition equal to at least one  
3 thousand votes in the association, whichever is less, the board shall call  
4 and provide written notice of a special meeting of the association. The  
5 board shall provide written notice of a special meeting as prescribed by  
6 section 33-1248, subsection B.

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

9 (d) IF ALL OF THE REQUIREMENTS OF THIS SUBSECTION FOR CALLING A  
10 SPECIAL MEETING ARE MET AND THE BOARD OF DIRECTORS FAILS TO CALL, NOTICE  
11 AND HOLD A SPECIAL MEETING WITHIN THIRTY DAYS AFTER RECEIPT OF THE  
12 PETITION, THE MEMBERS OF THE BOARD OF DIRECTORS ARE DEEMED REMOVED FROM  
13 OFFICE EFFECTIVE AT MIDNIGHT OF THE THIRTY-FIRST DAY.

14 ~~(d)~~ (e) For purposes of a special meeting called pursuant to this  
15 subsection, a quorum is present if the number of owners who are eligible to  
16 vote in the association at the time the person attends the meeting equal to  
17 at least twenty percent of the votes of the association or the number of  
18 persons who are eligible to vote in the association at the time the person  
19 attends the meeting equal to at least one thousand votes, whichever is  
20 less, is present at the meeting in person or as otherwise ~~permitted~~ ALLOWED  
21 by law.

22 ~~(e)~~ (f) If a civil action is filed regarding the removal of a board  
23 member, the prevailing party in the civil action shall be awarded its  
24 reasonable attorney fees and costs.

1           ~~(f)~~ (g) The board of directors shall retain all documents and other  
2 records relating to the proposed removal of the member of the board of  
3 directors and any election or other action taken for that director's  
4 replacement for at least one year after the date of the special meeting and  
5 shall ~~permit~~ ALLOW members to inspect those documents and records pursuant  
6 to section 33-1258.

7           ~~(g)~~ (h) A petition that calls for the removal of the same member of  
8 the board of directors shall not be submitted more than once during each  
9 term of office for that member.

10           5. On removal of at least one but fewer than a majority of the  
11 members of the board of directors at a special meeting of the membership  
12 called pursuant to this subsection, the vacancies shall be filled as  
13 provided in the condominium documents.

14           6. On removal of a majority of the members of the board of directors  
15 at a special meeting of the membership called pursuant to this subsection,  
16 or if the condominium documents do not provide a method for filling board  
17 vacancies, the association shall hold an election for the replacement of  
18 the removed directors at a separate meeting of the members of the  
19 association that is held not later than thirty days after the meeting at  
20 which the members of the board of directors were removed.

21           7. A member of the board of directors who is removed pursuant to  
22 this subsection is not eligible to serve on the board of directors again  
23 until after the expiration of the removed board member's term of office,

1 unless the condominium documents specifically provide for a longer period  
2 of ineligibility.

3 I. For an association in which board members are elected from  
4 separately designated voting districts, a member of the board of directors,  
5 other than a member appointed by the declarant, may be removed only by a  
6 vote of the members from that voting district, and only the members from  
7 that voting district are eligible to vote on the matter or be counted for  
8 purposes of determining a quorum.

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

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

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

21 33-1813. Removal of board member; special meeting

22 A. Notwithstanding any provision of the declaration or bylaws to the  
23 contrary, all of the following apply to a meeting at which a member of the

1 board of directors, other than a member appointed by the declarant, is  
2 proposed to be removed from the board of directors:

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

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

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

12 4. For purposes of calling for removal of a member of the board of  
13 directors, other than a member appointed by the declarant, the following  
14 apply:

15 (a) In an association with one thousand or fewer members, on receipt  
16 of a petition that calls for removal of a member of the board of directors  
17 and that is signed by the number of persons who are eligible to vote in the  
18 association at the time the person signs the petition equal to at least  
19 twenty-five percent of the votes in the association or by the number of  
20 persons who are eligible to vote in the association at the time the person  
21 signs the petition equal to at least one hundred votes in the association,  
22 whichever is less, the board shall call and provide written notice of a  
23 special meeting of the association as prescribed by section 33-1804,  
24 subsection B.



1           (b) Notwithstanding section 33-1804, subsection B, in an association  
2 with more than one thousand members, on receipt of a petition that calls  
3 for removal of a member of the board of directors and that is signed by the  
4 number of persons who are eligible to vote in the association at the time  
5 the person signs the petition equal to at least ten percent of the votes in  
6 the association or by the number of persons who are eligible to vote in the  
7 association at the time the person signs the petition equal to at least one  
8 thousand votes in the association, whichever is less, the board shall call  
9 and provide written notice of a special meeting of the association. The  
10 board shall provide written notice of a special meeting as prescribed by  
11 section 33-1804, subsection B.

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

14           (d) IF ALL OF THE REQUIREMENTS OF THIS SUBSECTION FOR CALLING A  
15 SPECIAL MEETING ARE MET AND THE BOARD OF DIRECTORS FAILS TO CALL, NOTICE  
16 AND HOLD A SPECIAL MEETING WITHIN THIRTY DAYS AFTER RECEIPT OF THE  
17 PETITION, THE MEMBERS OF THE BOARD OF DIRECTORS ARE DEEMED REMOVED FROM  
18 OFFICE EFFECTIVE AT MIDNIGHT OF THE THIRTY-FIRST DAY.

19           ~~(d)~~ (e) For purposes of a special meeting called pursuant to this  
20 subsection, a quorum is present if the number of owners who are eligible to  
21 vote in the association at the time the person attends the meeting equal to  
22 at least twenty percent of the votes of the association or the number of  
23 persons who are eligible to vote in the association at the time the person  
24 attends the meeting equal to at least one thousand votes, whichever is

1 less, is present at the meeting in person or as otherwise ~~permitted~~ ALLOWED  
2 by law.

3 ~~(e)~~ (f) If a civil action is filed regarding the removal of a board  
4 member, the prevailing party in the civil action shall be awarded its  
5 reasonable attorney fees and costs.

6 ~~(f)~~ (g) The board of directors shall retain all documents and other  
7 records relating to the proposed removal of the member of the board of  
8 directors and any election or other action taken for that director's  
9 replacement for at least one year after the date of the special meeting and  
10 shall ~~permit~~ ALLOW members to inspect those documents and records pursuant  
11 to section 33-1805.

12 ~~(g)~~ (h) A petition that calls for the removal of the same member of  
13 the board of directors shall not be submitted more than once during each  
14 term of office for that member.

15 5. On removal of at least one but fewer than a majority of the  
16 members of the board of directors at a special meeting of the membership  
17 called pursuant to this subsection, the vacancies shall be filled as  
18 provided in the community documents.

19 6. On removal of a majority of the members of the board of directors  
20 at a special meeting of the membership called pursuant to this subsection,  
21 or if the community documents do not provide a method for filling board  
22 vacancies, the association shall hold an election for the replacement of  
23 the removed directors at a separate meeting of the members of the

1 association that is held not later than thirty days after the meeting at  
2 which the members of the board of directors were removed.

3 7. A member of the board of directors who is removed pursuant to  
4 this subsection is not eligible to serve on the board of directors again  
5 until after the expiration of the removed board member's term of office,  
6 unless the community documents specifically provide for a longer period of  
7 ineligibility.

8 B. For an association in which board members are elected from  
9 separately designated voting districts, a member of the board of directors,  
10 other than a member appointed by the declarant, may be removed only by a  
11 vote of the members from that voting district, and only the members from  
12 that voting district are eligible to vote on the matter or be counted for  
13 purposes of determining a quorum."

14 Amend title to conform

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