

Senate Engrossed House Bill

~~meetings; homeowners' associations~~

(now: board members; condominiums; planned communities)

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HOUSE BILL 2607

AN ACT

AMENDING SECTIONS 33-1243 AND 33-1813, ARIZONA REVISED STATUTES; RELATING TO PROPERTY.

(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  
7 of this section or other provisions of this chapter, the board of  
8 directors may act in all instances on behalf of the association.

9 B. The board of directors shall not act on behalf of the  
10 association to amend the declaration, terminate the condominium, elect  
11 members of the board of directors or determine the qualifications, powers  
12 and duties or terms of office of board of directors members. Except as  
13 provided in subsection H of this section, the board of directors may fill  
14 vacancies in 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  
19 spouse of any of those persons, that member of the board of directors  
20 shall declare a conflict of interest for that issue. The member shall  
21 declare the conflict in an open meeting of the board before the board  
22 discusses or takes action on that issue and that member may then vote on  
23 that issue. Any contract entered into in violation of this subsection is  
24 void and unenforceable.

25 D. Except as provided in the declaration, within thirty days after  
26 adoption of any proposed budget for the condominium, the board of  
27 directors shall provide a summary of the budget to all the unit owners.  
28 Unless the board of directors is expressly authorized in the declaration  
29 to adopt and amend budgets from time to time, any budget or amendment  
30 shall be ratified by the unit owners in accordance with the procedures set  
31 forth in this subsection. If ratification is required, the board of  
32 directors shall set a date for a meeting of the unit owners to consider  
33 ratification of the budget not fewer than fourteen ~~not~~ OR more than thirty  
34 days after mailing of the summary. Unless at that meeting a majority of  
35 all the unit owners or any larger vote specified in the declaration  
36 rejects the budget, the budget is ratified, whether or not a quorum is  
37 present. If the proposed budget is rejected, the periodic budget last  
38 ratified by the unit owners shall be continued until such time as the unit  
39 owners ratify a subsequent budget proposed by the board of directors.

40 E. The declaration may provide for a period of declarant control of  
41 the association, during which period a declarant or persons designated by  
42 the declarant may appoint and remove the officers and members of the board  
43 of directors. Regardless of the period provided in the declaration, a  
44 period of declarant control terminates ~~not~~ NOT later than the earlier of:

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

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

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

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

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

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

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

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

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

32           (a) In an association with one thousand or fewer members, on  
33 receipt of a petition that calls for removal of a member of the board of  
34 directors and that is signed by the number of persons who are eligible to  
35 vote in the association at the time the person signs the petition equal to  
36 at least twenty-five percent of the votes in the association or by the  
37 number of persons who are eligible to vote in the association at the time  
38 the person signs the petition equal to at least one hundred votes in the  
39 association, whichever is less, the board shall call and provide written  
40 notice of a special meeting of the association as prescribed by section  
41 33-1248, subsection B.

42           (b) Notwithstanding section 33-1248, subsection B, in an  
43 association with more than one thousand members, on receipt of a petition  
44 that calls for removal of a member of the board of directors and that is  
45 signed 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  
2 ten percent of the votes in the association or by the number of persons  
3 who are eligible to vote in the association at the time the person signs  
4 the petition equal to at least one thousand votes in the association,  
5 whichever is less, the board shall call and provide written notice of a  
6 special meeting of the association. The board shall provide written  
7 notice of a special meeting as prescribed by section 33-1248,  
8 subsection B.

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

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

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

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

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

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

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

40 6. On removal of a majority of the members of the board of  
41 directors at a special meeting of the membership called pursuant to this  
42 subsection, or if the condominium documents do not provide a method for  
43 filling board vacancies, the association shall hold an election for the  
44 replacement of the removed directors at a separate meeting of the members

1 of the association that is held not later than thirty days after the  
2 meeting at 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 condominium documents specifically provide for a longer period  
7 of ineligibility.

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

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

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

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

26 33-1813. Removal of board member; special meeting

27 A. Notwithstanding any provision of the declaration or bylaws to  
28 the contrary, all of the following apply to a meeting at which a member of  
29 the board of directors, other than a member appointed by the declarant, is  
30 proposed to be removed from the board of directors:

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

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

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

40 4. For purposes of calling for removal of a member of the board of  
41 directors, other than a member appointed by the declarant, the following  
42 apply:

43 (a) In an association with one thousand or fewer members, on  
44 receipt of a petition that calls for removal of a member of the board of  
45 directors and that is signed by the number of persons who are eligible to

1 vote in the association at the time the person signs the petition equal to  
2 at least twenty-five percent of the votes in the association or by the  
3 number of persons who are eligible to vote in the association at the time  
4 the person signs the petition equal to at least one hundred votes in the  
5 association, whichever is less, the board shall call and provide written  
6 notice of a special meeting of the association as prescribed by section  
7 33-1804, subsection B.

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

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

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

27 ~~(d)~~ (e) For purposes of a special meeting called pursuant to this  
28 subsection, a quorum is present if the number of owners who are eligible  
29 to vote in the association at the time the person attends the meeting  
30 equal to at least twenty percent of the votes of the association or the  
31 number of persons who are eligible to vote in the association at the time  
32 the person attends the meeting equal to at least one thousand votes,  
33 whichever is less, is present at the meeting in person or as otherwise  
34 ~~permitted~~ ALLOWED by law.

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

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

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

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

8           6. On removal of a majority of the members of the board of  
9 directors at a special meeting of the membership called pursuant to this  
10 subsection, or if the community documents do not provide a method for  
11 filling board vacancies, the association shall hold an election for the  
12 replacement of the removed directors at a separate meeting of the members  
13 of the association that is held not later than thirty days after the  
14 meeting at which the members of the board of directors were removed.

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

20           B. For an association in which board members are elected from  
21 separately designated voting districts, a member of the board of  
22 directors, other than a member appointed by the declarant, may be removed  
23 only by a vote of the members from that voting district, and only the  
24 members from that voting district are eligible to vote on the matter or be  
25 counted for purposes of determining a quorum.