

PROPOSED
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

JAKE HOFFMAN

2607HOFFMAN.docx
03/24/2023
02:58 PM
C: MR