

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 72

HOUSE BILL 2379

AN ACT

AMENDING SECTION 33-1243, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1810; 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; powers; limitations;
5 removal

6 A. Except as provided in the declaration, the bylaws, subsection B or
7 other provisions of this chapter, the board of directors may act in all
8 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. The board of directors may
13 fill vacancies in its membership for the unexpired portion of any term.

14 C. Except as provided in the declaration, within thirty days after
15 adoption of any proposed budget for the condominium, the board of directors
16 shall provide a summary of the budget to all the unit owners. Unless the
17 board of directors is expressly authorized in the declaration to adopt and
18 amend budgets from time to time, any budget or amendment shall be ratified
19 by the unit owners in accordance with the procedures set forth in this
20 subsection. If ratification is required, the board of directors shall set
21 a date for a meeting of the unit owners to consider ratification of the
22 budget not fewer than fourteen nor more than thirty days after mailing of the
23 summary. Unless at that meeting a majority of all the unit owners or any
24 larger vote specified in the declaration rejects the budget, the budget is
25 ratified, whether or not a quorum is present. If the proposed budget is
26 rejected, the periodic budget last ratified by the unit owners shall be
27 continued until such time as the unit owners ratify a subsequent budget
28 proposed by the board of directors.

29 D. The declaration may provide for a period of declarant control of
30 the association, during which period a declarant or persons designated by him
31 THE DECLARANT may appoint and remove the officers and members of the board
32 of directors. Regardless of the period provided in the declaration, a period
33 of declarant control terminates no later than the earlier of:

34 1. Ninety days after conveyance of seventy-five per cent of the units
35 which may be created to unit owners other than a declarant.

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

38 E. A declarant may voluntarily surrender the right to appoint and
39 remove officers and members of the board of directors before termination of
40 the period prescribed in subsection D, but in that event he THE DECLARANT may
41 require, for the duration of the period of declarant control, that specified
42 actions of the association or board of directors, as described in a recorded
43 instrument executed by the declarant, be approved by the declarant before
44 they become effective.

1 F. Not later than the termination of any period of declarant control
2 the unit owners shall elect a board of directors of at least three members,
3 at least a majority of whom must be unit owners. The board of directors
4 shall elect the officers. The board members and officers shall take office
5 upon election.

6 G. Notwithstanding any provision of the declaration or bylaws to the
7 contrary, the unit owners, by a two-thirds vote of all persons present and
8 entitled to vote at any meeting of the unit owners at which a quorum is
9 present, may remove any member of the board of directors with or without
10 cause, other than a member appointed by the declarant.

11 H. UNLESS ANY PROVISION IN THE CONDOMINIUM DOCUMENTS REQUIRES AN
12 ANNUAL AUDIT BY A CERTIFIED PUBLIC ACCOUNTANT, THE BOARD OF DIRECTORS SHALL
13 PROVIDE FOR AN ANNUAL FINANCIAL AUDIT, REVIEW OR COMPILATION OF THE
14 ASSOCIATION. THE AUDIT, REVIEW OR COMPILATION SHALL BE COMPLETED NO LATER
15 THAN ONE HUNDRED EIGHTY DAYS AFTER THE END OF THE ASSOCIATION'S FISCAL YEAR
16 AND SHALL BE MADE AVAILABLE UPON REQUEST TO THE UNIT OWNERS WITHIN THIRTY
17 DAYS AFTER ITS COMPLETION.

18 Sec. 2. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
19 amended by adding section 33-1810, to read:

20 33-1810. Board of directors; annual audit

21 UNLESS ANY PROVISION IN THE PLANNED COMMUNITY DOCUMENTS REQUIRES AN
22 ANNUAL AUDIT BY A CERTIFIED PUBLIC ACCOUNTANT, THE BOARD OF DIRECTORS SHALL
23 PROVIDE FOR AN ANNUAL FINANCIAL AUDIT, REVIEW OR COMPILATION OF THE
24 ASSOCIATION. THE AUDIT, REVIEW OR COMPILATION SHALL BE COMPLETED NO LATER
25 THAN ONE HUNDRED EIGHTY DAYS AFTER THE END OF THE ASSOCIATION'S FISCAL YEAR
26 AND SHALL BE MADE AVAILABLE UPON REQUEST TO THE MEMBERS WITHIN THIRTY DAYS
27 AFTER ITS COMPLETION.

28 Sec. 3. Effective date

29 This act is effective from and after December 31, 2004.

APPROVED BY THE GOVERNOR APRIL 8, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2004.

Passed the House March 1, 2004,

Passed the Senate April 1, 2004,

by the following vote: 53 Ayes,
7 Nays, 0 Not Voting

by the following vote: 23 Ayes,
5 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Klu Plunett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Billings
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
5th day of April, 2004,

at 2:40 o'clock P. M.

Jennifer Upshara
Secretary to the Governor

Approved this 8 day of

April, 2004,

at 4:00 o'clock P. M.

J. Nagel
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 9 day of April, 2004,

at 10:45 o'clock A M.

Janice K. Brewer
Secretary of State

H.B. 2379