

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 81

# **SENATE BILL 1091**

AN ACT

AMENDING SECTIONS 33-1243 AND 33-1813, ARIZONA REVISED STATUTES; RELATING TO  
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. The board of directors may  
13 fill vacancies in its membership for the unexpired portion of any term.

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

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

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

43 1. Ninety days after conveyance of seventy-five ~~per cent~~ PERCENT of  
44 the units ~~which~~ 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 ~~upon~~ ON election.

15          H. Notwithstanding any provision of the declaration or bylaws to the  
16 contrary: —

17          1. The unit owners WHO ARE ELIGIBLE TO VOTE AT THE TIME OF THE MEETING  
18 MAY REMOVE ANY MEMBER OF THE BOARD OF DIRECTORS, OTHER THAN A MEMBER  
19 APPOINTED BY THE DECLARANT, by a majority vote of ~~members entitled to vote~~  
20 ~~and~~ THOSE voting on the matter at a meeting of the ~~members~~ UNIT OWNERS.

21          2. THE MEETING OF THE UNIT OWNERS SHALL BE called pursuant to this  
22 section ~~at which~~ AND ACTION MAY BE TAKEN ONLY IF a quorum is present. —

23          3. THE UNIT OWNERS may remove any member of the board of directors  
24 with or without cause, other than a member appointed by the declarant.

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

28          ~~1.~~ (a) In an association with one thousand or fewer members, on  
29 receipt of a petition that calls for removal of a member of the board of  
30 directors and that is signed by the number of persons who are ~~entitled to~~  
31 ~~cast~~ ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE PERSON SIGNS THE  
32 PETITION EQUAL TO at least twenty-five ~~per cent~~ PERCENT of the votes in the  
33 association or 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 one  
35 hundred votes in the association, whichever is less, the board shall call and  
36 provide written notice of a special meeting of the association as prescribed  
37 by section 33-1248, subsection B.

38          ~~2.~~ (b) Notwithstanding section 33-1248, subsection B, in an  
39 association with more than one thousand members, on receipt of a petition  
40 that calls for removal of a member of the board of directors and that is  
41 signed by the number of persons who are ~~entitled to cast~~ ELIGIBLE TO VOTE IN  
42 THE ASSOCIATION AT THE TIME THE PERSON SIGNS THE PETITION EQUAL TO at least  
43 ten ~~per cent~~ PERCENT of the votes in the association or BY THE NUMBER OF  
44 PERSONS WHO ARE ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE PERSON  
45 SIGNS THE PETITION EQUAL TO AT LEAST one thousand votes in the association,

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

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

6 ~~4.~~ (d) For purposes of a special meeting called pursuant to this  
7 subsection, a quorum is present if the number of owners WHO ARE ELIGIBLE TO  
8 VOTE IN THE ASSOCIATION AT THE TIME THE PERSON ATTENDS THE MEETING EQUAL TO  
9 ~~whom~~ at least twenty ~~per cent~~ PERCENT of the votes OF THE ASSOCIATION or THE  
10 NUMBER OF PERSONS WHO ARE ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE  
11 PERSON ATTENDS THE MEETING EQUAL TO AT LEAST one thousand votes, whichever is  
12 less, ~~are allocated~~ is present at the meeting in person or as otherwise  
13 permitted by law.

14 ~~5.~~ (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 ~~6.~~ (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 for at least one year after the date of the special meeting and  
20 shall permit members to inspect those documents and records pursuant to  
21 section 33-1258.

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

25 I. For an association in which board members are elected from  
26 separately designated voting districts, a member of the board of directors,  
27 other than a member appointed by the declarant, may be removed only by a vote  
28 of the members from that voting district, and only the members from that  
29 voting district are eligible to vote on the matter or be counted for purposes  
30 of determining a quorum.

31 J. Unless any provision in the condominium documents requires an  
32 annual audit by a certified public accountant, the board of directors shall  
33 provide for an annual financial audit, review or compilation of the  
34 association. The audit, review or compilation shall be completed no later  
35 than one hundred eighty days after the end of the association's fiscal year  
36 and shall be made available ~~upon~~ ON request to the unit owners within thirty  
37 days after its completion.

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

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

42 33-1813. Removal of board member; special meeting

43 A. Notwithstanding any provision of the declaration or bylaws to the  
44 contrary: —

- 1           1. The members OF THE ASSOCIATION WHO ARE ELIGIBLE TO VOTE AT THE TIME  
2 OF THE MEETING MAY REMOVE ANY MEMBER OF THE BOARD OF DIRECTORS, OTHER THAN A  
3 MEMBER APPOINTED BY THE DECLARANT, by a majority vote of ~~members entitled to~~  
4 ~~vote and~~ THOSE voting on the matter at a meeting of the members.
- 5           2. THE MEETING OF THE MEMBERS SHALL BE called pursuant to this section  
6 ~~at which~~ AND ACTION MAY BE TAKEN ONLY IF a quorum is present. —
- 7           3. THE MEMBERS OF THE ASSOCIATION may remove any member of the board  
8 of directors with or without cause, other than a member appointed by the  
9 declarant.
- 10          4. For purposes of calling for removal of a member of the board of  
11 directors, other than a member appointed by the declarant, the following  
12 apply:
  - 13           ~~1.~~ (a) In an association with one thousand or fewer members, on  
14 receipt of a petition that calls for removal of a member of the board of  
15 directors and that is signed by the number of persons who are ~~entitled to~~  
16 ~~cast~~ ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE PERSON SIGNS THE  
17 PETITION EQUAL TO at least twenty-five ~~per cent~~ PERCENT of the votes in the  
18 association or BY THE NUMBER OF PERSONS WHO ARE ELIGIBLE TO VOTE IN THE  
19 ASSOCIATION AT THE TIME THE PERSON SIGNS THE PETITION EQUAL TO AT LEAST one  
20 hundred votes in the association, whichever is less, the board shall call and  
21 provide written notice of a special meeting of the association as prescribed  
22 by section 33-1804, subsection B.
  - 23           ~~2.~~ (b) Notwithstanding section 33-1804, subsection B, in an  
24 association with more than one thousand members, on receipt of a petition  
25 that calls for removal of a member of the board of directors and that is  
26 signed by the number of persons who are ~~entitled to cast~~ ELIGIBLE TO VOTE IN  
27 THE ASSOCIATION AT THE TIME THE PERSON SIGNS THE PETITION EQUAL TO at least  
28 ten ~~per cent~~ PERCENT of the votes in the association or BY THE NUMBER OF  
29 PERSONS WHO ARE ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE PERSON  
30 SIGNS THE PETITION EQUAL TO AT LEAST one thousand votes in the association,  
31 whichever is less, the board shall call and provide written notice of a  
32 special meeting of the association. The board shall provide written notice  
33 of a special meeting as prescribed by section 33-1804, subsection B.
  - 34           ~~3.~~ (c) The special meeting shall be called, noticed and held within  
35 thirty days after receipt of the petition.
  - 36           ~~4.~~ (d) For purposes of a special meeting called pursuant to this  
37 subsection, a quorum is present if the number of owners WHO ARE ELIGIBLE TO  
38 VOTE IN THE ASSOCIATION AT THE TIME THE PERSON ATTENDS THE MEETING EQUAL to  
39 ~~whom~~ at least twenty ~~per cent~~ PERCENT of the votes OF THE ASSOCIATION or THE  
40 NUMBER OF PERSONS WHO ARE ELIGIBLE TO VOTE IN THE ASSOCIATION AT THE TIME THE  
41 PERSON ATTENDS THE MEETING EQUAL TO AT LEAST one thousand votes, whichever is  
42 less, ~~are allocated~~ is present at the meeting in person or as otherwise  
43 permitted by law.

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

4           6. (f) The board of directors shall retain all documents and other  
5 records relating to the proposed removal of the member of the board of  
6 directors for at least one year after the date of the special meeting and  
7 shall permit members to inspect those documents and records pursuant to  
8 section 33-1805.

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

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

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.

Passed the House March 18, 2015,

Passed the Senate February 19, 2015,

by the following vote: 53 Ayes,

by the following vote: 29 Ayes,

4 Nays, 3 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

S.B. 1091

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 24, 20 15

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

24<sup>th</sup> day of March, 20 15

at 4:27 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 30<sup>th</sup> day of

March

at 1:02 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 31<sup>st</sup> day of March, 20 15

at 10:00 o'clock A M.

[Signature]  
Secretary of State

S.B. 1091