House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

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)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-1243, Arizona Revised Statutes, is amended to read:

33-1243. Board of directors and officers; powers; limitations; removal

A. Except as provided in the declaration, the bylaws, subsection B or other provisions of this chapter, the board of directors may act in all instances on behalf of the association.

B. The board of directors shall not act on behalf of the association to amend the declaration, terminate the condominium, elect members of the board of directors or determine the qualifications, powers and duties or terms of office of board of directors members. The board of directors may fill vacancies in its membership for the unexpired portion of any term.

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

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

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

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

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

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

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

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

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

33-1810. Board of directors; annual audit

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

Sec. 3. Effective date

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 APRIIL 9, 2004.