

## Board Powers; Duties; Civil Penalties

### 33-1242. Powers of unit owners' association; notice to unit owner of violation

A. Subject to the provisions of the ~~declaration~~ CONDOMINIUM DOCUMENTS, AND THIS CHAPTER the association may:

1. Adopt and amend bylaws and rules
2. Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners.
3. Hire and discharge managing agents and other employees, agents and independent contractors.
4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium.
5. Make contracts and incur liabilities.
6. Regulate the use, maintenance, repair, replacement and modification of common elements.
7. Cause additional improvements to be made as a part of the common elements.
8. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common elements may be conveyed or subjected to a security interest only pursuant to section 33-1252.
9. Grant easements, leases, licenses and concessions through or over the common elements.
10. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements other than limited common elements described in section 33-1212, paragraphs 2 and 4 and for services provided to unit owners.
11. Impose charges for late payment of assessments after the association has provided notice that the assessment is overdue or provided notice that the assessment is considered overdue after a certain date and, after notice and an opportunity to be heard, impose reasonable monetary penalties on unit owners for violations of the declaration, bylaws and rules of the association.
12. Impose reasonable charges for the preparation and recordation of amendments to the declaration or statements of unpaid assessments.
13. Provide for the indemnification of its officers and executive board of directors and maintain directors' and officers' liability insurance.
14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly provides.
15. Be a member of a master association or other entity owning, maintaining or governing in any respect any portion of the common elements or other property benefitting or related to the condominium or the unit owners in any respect.
16. Exercise any other powers conferred by the declaration or bylaws.
17. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association.
18. Exercise any other powers necessary and proper for the governance and operation of the association.

B. A unit owner who receives a written notice that the condition of the property owned by the unit owner is in violation of a requirement of the condominium documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within twenty-one calendar days after the date of the notice. The response shall be sent to the address identified in the notice.

C. Within ten business days after receipt of the certified mail containing the response from the unit owner, the association shall respond to the unit owner with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the condominium documents that has allegedly been violated.
2. The date of the violation or the date the violation was observed.
3. The first and last name of the person or persons who observed the violation.
4. The process the unit owner must follow to contest the notice.

D. Unless the information required in subsection C, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the condominium documents, including the collection of attorney fees, before or during the time prescribed by subsection C of this section regarding the exchange of information between the association and the unit owner and shall give the unit owner written notice of the unit owner's option to petition for an administrative hearing on the matter in the state real estate department pursuant to section 32-2199.01. At any time before or after completion of the exchange of information pursuant to this section, the unit owner may petition for a hearing pursuant to section 32-2199.01 if the dispute is within the jurisdiction of the state real estate department as prescribed in section 32-2199.01.

### 33-1243. Board of directors and officers; DUTIES; conflict; powers; limitations; removal; annual audit; applicability; CIVIL PENALTIES

A. Except as provided in the declaration, the bylaws, subsection B of this section or other provisions of this chapter, RELATIVE TO ACTIONS RESERVED TO UNIT OWNERS, 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, EXCEPT TO BRING THOSE DOCUMENTS INTO COMPLIANCE WITH CURRENT LAW, 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. Except as provided in subsection H of this section, the board of directors may fill vacancies OF LESS THAN A MAJORITY OF in its membership for the unexpired portion of any term. IF A MAJORITY OF BOARD POSITIONS ARE VACANT FOR ANY REASON,

A SPECIAL ELECTION WILL BE CALLED AND HELD TO FILL THE UNEXPIRED TERMS OF THOSE RESPECTIVE VACANCIES.

**C. EXCEPT DURING THE PERIOD OF DECLARANT CONTROL**, If any contract, decision or other action for compensation taken by or on behalf of the board of directors would benefit any member of the board of directors or any person who is a parent, grandparent, spouse, child or sibling, **EMPLOYER OR EMPLOYEE**, of a member of the board of directors ~~or a parent or spouse of any of those persons~~, that member of the board of directors shall declare a conflict of interest for that issue. The **BOARD** member shall declare the conflict in an open meeting of the board **OR COMMITTEE OF THE BOARD** before ~~the board~~ **discussions** or **takes** action **IS TAKEN** on that issue and that **BOARD** member may **NOT PARTICIPATE IN THE DELIBERATIONS OR VOTE** ~~then vote~~ on that issue. Any contract **OR ACTION** entered into in violation of this subsection is void and unenforceable.

**D** IN ADDITION TO DUTIES IMPOSED BY OTHER SECTIONS OF THIS CHAPTER AND THE COMMUNITY DOCUMENTS, THE ASSOCIATION THRU ITS BOARD OF DIRECTORS HAS THE FOLLOWING DUTIES TO THE UNIT OWNERS OF THE CONDOMINIUM COMMUNITY:

1. TO USE ORDINARY CARE AND PRUDENCE IN MANAGING THE PROPERTY AND FINANCIAL AFFAIRS OF THE COMMUNITY THAT ARE SUBJECT TO ITS CONTROL.

2. TO TREAT UNIT OWNERS FAIRLY.

3. TO ACT REASONABLY IN THE EXERCISE OF ITS DISCRETIONARY POWERS INCLUDING RULEMAKING, ENFORCEMENT, AND DESIGN-CONTROL POWERS.

4. TO PROVIDE UNIT OWNERS REASONABLE ACCESS TO INFORMATION ABOUT THE ASSOCIATION, THE COMMON PROPERTY, AND THE FINANCIAL AFFAIRS OF THE ASSOCIATION.

**E**. THE DIRECTORS AND OFFICERS OF AN ASSOCIATION HAVE A DUTY TO ACT IN GOOD FAITH, TO ACT IN COMPLIANCE WITH THE LAW AND THE COMMUNITY DOCUMENTS, TO DEAL FAIRLY WITH THE ASSOCIATION AND ITS UNIT OWNERS, AND TO USE ORDINARY CARE AND PRUDENCE IN PERFORMING THEIR FUNCTIONS.

**F**. A DIRECTOR IS NOT LIABLE FOR ANY ACTION TAKEN AS A DIRECTOR OR ANY FAILURE TO TAKE ANY ACTION IF THE DIRECTOR'S DUTIES WERE PERFORMED IN COMPLIANCE WITH SUBSECTION D AND E. IN ANY PROCEEDING COMMENCED UNDER THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER, A DIRECTOR HAS ALL OF THE DEFENSES AND PRESUMPTIONS ORDINARILY AVAILABLE TO A DIRECTOR. A DIRECTOR IS PRESUMED IN ALL CASES TO HAVE ACTED, FAILED TO ACT OR OTHERWISE DISCHARGED SUCH DIRECTOR'S DUTIES IN ACCORDANCE WITH SUBSECTION D AND E. THE BURDEN IS ON THE PARTY CHALLENGING A DIRECTOR'S ACTION, FAILURE TO ACT OR OTHER DISCHARGE OF DUTIES TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE FACTS REBUTTING THE PRESUMPTION.

**G**. 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.

**H**. The declaration may provide for a period of declarant control of the association, during which period a declarant or persons designated by 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 percent of the units that may be created to unit owners other than a declarant.

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

**I**. 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 E of this section, but in that event 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.

**J**. Not later than the termination of any period of declarant control, **AND ANNUALLY THEREAFTER** the unit owners shall elect a board of directors of at least three members at least a majority of whom must be unit owners, **AS PRESCRIBED IN THE CONDOMINIUM DOCUMENTS. IF TWO BOARD MEMBERS ARE SUFFICIENT TO SATISFY A QUORUM OF THE BOARD OF DIRECTORS, ONLY ONE OCCUPANT OF A SINGLE UNIT MAY SERVE ON THE BOARD OF DIRECTORS. THE ELECTED BOARD MEMBERS WILL SERVE THE TERM PRESCRIBED IN THE BYLAWS UNLESS THEY RESIGN OR ARE REMOVED PURSUANT TO THIS SECTION. ON EXPIRATION OF THE TERM OF OFFICE OF A MEMBER OF THE BOARD, A BOARD MEMBER CEASES TO BE A MEMBER OF THE BOARD AND MAY NOT SERVE UNLESS REELECTED TO THE BOARD BY VOTE OF THE UNIT OWNERS.** The board of directors shall elect the officers. The board members and officers shall take office on election.

**K**. Notwithstanding any provision of the declaration or bylaws to the contrary, all of the following apply to a meeting at which a member of the board of directors, other than a member **WHO IS** appointed by the declarant **DURING THE PERIOD OF DECLARANT CONTROL**, is proposed to be removed from the board of directors:

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

2. The meeting of the unit owners shall be called pursuant to this section and action may be taken only if a quorum is present **IN ANY COMBINATION OF IN-PERSON ATTENDANCE AND ABSENTEE BALLOT**.

3. The unit owners may remove any member of the board of directors with or without cause, other than a member **WHO IS** appointed by the declarant, **DURING THE PERIOD OF DECLARANT CONTROL**.

4. For purposes of calling for removal of a member of the board of directors, other than a member **WHO IS** appointed by the declarant **DURING THE PERIOD OF DECLARANT CONTROL**, the following apply:

(a) In an association with one thousand or fewer members, on receipt of a petition that calls for removal of a member of the board of directors and that is signed by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least twenty-five percent of the votes in the association **OR ANY LOWER PERCENTAGE PRESCRIBED IN THE CONDOMINIUM DOCUMENTS** or by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least one hundred votes in the association, whichever is less, the board shall call and provide written notice of a special meeting of the association as prescribed by section 33-1248, subsection B .

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

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

(d) For purposes of a special meeting called pursuant to this subsection, a quorum is present if the number of owners who are eligible to vote in the association at the time the person attends the meeting equal to at least twenty percent of the votes of the association **OR ANY LOWER AMOUNT PRESCRIBED IN THE CONDOMINIUM DOCUMENTS**, or the number of persons who are eligible to vote in the association at the time the person attends the meeting equal to at least one thousand votes, whichever is less, is present at the meeting in person or as otherwise permitted by law.

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

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

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

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

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

7. A member of the board of directors who is removed pursuant to this subsection is not eligible to serve on the board of directors again until after the expiration of the removed board member's term of office, unless the condominium documents specifically provide for a longer period of ineligibility, **MAY NOT BE APPOINTED TO THE BOARD OF DIRECTORS TO FILL A VACANCY AND MAY ONLY BE REINSTATED TO A POSITION ON THE BOARD OF DIRECTORS BY A VOTE OF THE UNIT OWNERS**.

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

**M**. 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 on request to the unit owners within thirty days after its completion.

**N**. **UNLESS OTHERWISE SPECIFIED WITHIN ANY SECTION OF THIS CHAPTER ANY VIOLATION OF ANY PROVISION OF THIS CHAPTER BY THE ASSOCIATION, IT'S BOARD OF DIRECTORS OR AGENTS OF THE ASSOCIATION MAY SUBJECT THE ASSOCIATION TO CIVIL PENALTIES NOT TO EXCEED \$500 PER OCCURANCE, AT THE DISCRETION OF THE AJUDICATING TRIBUNAL.**

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

**33-1811. General standards POWERS, AND DUTIES for directors, boards; Conflicts of interest; CIVIL PENALTIES**

A. EXCEPT AS PROVIDED IN THE DECLARATION, THE BYLAWS, SUBSECTION B OF THIS SECTION OR OTHER PROVISIONS OF THIS CHAPTER RELATIVE TO ACTIONS RESERVED FOR THE MEMBERS, 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, EXCEPT TO BRING THOSE DOCUMENTS INTO COMPLIANCE WITH CURRENT LAW, TERMINATE THE PLANNED COMMUNITY, 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 OF LESS THAN A MAJORITY OF ITS MEMBERSHIP FOR THE UNEXPIRED PORTION OF ANY TERM. IF A MAJORITY OF BOARD POSITIONS ARE VACANT FOR ANY REASON, A SPECIAL ELECTION WILL BE CALLED AND HELD TO FILL THE UNEXPIRED TERMS OF THOSE RESPECTIVE VACANCIES.

C. IN ADDITION TO DUTIES IMPOSED BY OTHER SECTIONS OF THIS CHAPTER AND THE COMMUNITY DOCUMENTS, THE ASSOCIATION THRU ITS BOARD OF DIRECTORS HAS THE FOLLOWING DUTIES TO THE MEMBERS OF THE PLANNED COMMUNITY:

1. TO USE ORDINARY CARE AND PRUDENCE IN MANAGING THE PROPERTY AND FINANCIAL AFFAIRS OF THE COMMUNITY THAT ARE SUBJECT TO ITS CONTROL.

2. TO TREAT MEMBERS FAIRLY.

3. TO ACT REASONABLY IN THE EXERCISE OF ITS DISCRETIONARY POWERS INCLUDING RULEMAKING, ENFORCEMENT, AND DESIGN-CONTROL POWERS.

4. TO PROVIDE MEMBERS REASONABLE ACCESS TO INFORMATION ABOUT THE ASSOCIATION, THE COMMON PROPERTY, AND THE FINANCIAL AFFAIRS OF THE ASSOCIATION.

D. THE DIRECTORS AND OFFICERS OF AN ASSOCIATION HAVE A DUTY TO ACT IN GOOD FAITH, TO ACT IN COMPLIANCE WITH THE LAW AND THE COMMUNITY DOCUMENTS, TO DEAL FAIRLY WITH THE ASSOCIATION AND ITS MEMBERS, AND TO USE ORDINARY CARE AND PRUDENCE IN PERFORMING THEIR FUNCTIONS.

E. A DIRECTOR IS NOT LIABLE FOR ANY ACTION TAKEN AS A DIRECTOR OR ANY FAILURE TO TAKE ANY ACTION IF THE DIRECTOR'S DUTIES WERE PERFORMED IN COMPLIANCE WITH SUBSECTION C AND D. IN ANY PROCEEDING COMMENCED UNDER THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER, A DIRECTOR HAS ALL OF THE DEFENSES AND PRESUMPTIONS ORDINARILY AVAILABLE TO A DIRECTOR. A DIRECTOR IS PRESUMED IN ALL CASES TO HAVE ACTED, FAILED TO ACT OR OTHERWISE DISCHARGED SUCH DIRECTOR'S DUTIES IN ACCORDANCE WITH SUBSECTION C AND D. THE BURDEN IS ON THE PARTY CHALLENGING A DIRECTOR'S ACTION, FAILURE TO ACT OR OTHER DISCHARGE OF DUTIES TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE FACTS REBUTTING THE PRESUMPTION.

F. EXCEPT DURING THE PERIOD OF DECLARANT CONTROL, If any contract, decision or other action for compensation taken by or on behalf of the board of directors would benefit any member of the board of directors, or any person who is a parent, grandparent, spouse, child or sibling, EMPLOYER OR EMPLOYEE, of a member of the board of directors ~~or a parent or spouse of any of those persons~~, that member of the board of directors shall declare a conflict of interest for that issue. The BOARD member shall declare the conflict in an open meeting of the board OR COMMITTEE OF THE BOARD before ~~the board~~ discussion or ~~takes~~ action IS TAKEN on that issue and that BOARD member ~~may then vote~~ SHALL NOT PARTICIPATE IN THE DELIBERATIONS OR VOTE on that issue. Any contract OR ACTION entered into in violation of this SUB-section is void and unenforceable.

G. UNLESS OTHERWISE SPECIFIED WITHIN ANY SECTION OF THIS CHAPTER ANY VIOLATION OF ANY PROVISION OF THIS CHAPTER BY THE ASSOCIATION, IT'S BOARD OF DIRECTORS OR AGENTS OF THE ASSOCIATION MAY SUBJECT THE ASSOCIATION TO CIVIL PENALTIES NOT TO EXCEED \$500 PER OCCURANCE, AT THE DISCRETION OF THE ADJUDICATING TRIBUNAL.

**33-1813. BOARD OF DIRECTORS AND OFFICERS; Removal of board member; special meeting**

A. THE DECLARATION MAY PROVIDE FOR A PERIOD OF DECLARANT CONTROL OF THE ASSOCIATION, DURING WHICH PERIOD A DECLARANT OR PERSONS DESIGNATED BY 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 PERCENT OF THE UNITS THAT MAY BE CREATED TO UNIT OWNERS OTHER THAN A DECLARANT.

2. TWO YEARS AFTER ALL DECLARANTS HAVE CEASED TO OFFER UNITS FOR SALE IN THE ORDINARY COURSE OF BUSINESS.

B. 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 E OF THIS SECTION, BUT IN THAT EVENT 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.

C. NOT LATER THAN THE TERMINATION OF ANY PERIOD OF DECLARANT CONTROL, AND ANNUALLY THEREAFTER, THE MEMBERS SHALL ELECT A BOARD OF DIRECTORS OF AT LEAST THREE MEMBERS OR AS

**PRESCRIBED IN THE COMMUNITY DOCUMENTS. IF TWO BOARD MEMBERS ARE SUFFICIENT TO SATISFY A QUORUM OF THE BOARD OF DIRECTORS, ONLY ONE OCCUPANT OF A SINGLE LOT MAY SERVE ON THE BOARD OF DIRECTORS. THE ELECTED BOARD MEMBERS WILL SERVE THE TERM PRESCRIBED IN THE BYLAWS UNLESS THEY RESIGN OR ARE REMOVED PURSUANT TO THIS SECTION. ON EXPIRATION OF THE TERM OF OFFICE OF A MEMBER OF THE BOARD, A BOARD MEMBER CEASES TO BE A MEMBER OF THE BOARD AND MAY NOT SERVE UNLESS REELECTED TO THE BOARD BY VOTE OF THE MEMBERS. THE BOARD OF DIRECTORS SHALL ELECT THE OFFICERS. THE BOARD MEMBERS AND OFFICERS SHALL TAKE OFFICE ON ELECTION.**

**DA.** Notwithstanding any provision of the declaration or bylaws to the contrary, all of the following apply to a meeting at which a member of the board of directors, other than a member **WHO IS** appointed by the declarant **DURING THE PERIOD OF DECLARANT CONTROL**, is proposed to be removed from the board of directors:

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

2. The meeting of the members shall be called pursuant to this section and action may be taken only if a quorum is present **IN ANY COMBINATION IF IN-PERSON ATTENDANCE AND ABSENTEE BALLOT.**

3. The members of the association may remove any member of the board of directors with or without cause, other than a member **WHO IS** appointed by the declarant **DURING THE PERIOD OF DECLARANT CONTROL.**

4. For purposes of calling for removal of a member of the board of directors, other than a member **WHO IS** appointed by the declarant **DURING THE PERIOD OF DECLARANT CONTROL**, the following apply:

(a) In an association with one thousand or fewer members, on receipt of a petition that calls for removal of a member of the board of directors and that is signed by the number of persons who are eligible to vote in the association at the time the person signs the petition **THAT IS** equal to at least twenty-five percent of the votes in the association **OR ANY LOWER PERCENTAGE PRESCRIBED IN THE COMMUNITY DOCUMENTS** or by the number of persons who are eligible to vote in the association at the time the person signs the petition **THAT IS** equal to at least one hundred votes in the association, whichever is less, the board shall call and provide written notice of a special meeting of the association as prescribed by section 33-1804, subsection B.

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

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

(d) For purposes of a special meeting called pursuant to this subsection, a quorum is present if the number of owners who are eligible to vote in the association at the time the person attends the meeting equal to at least twenty percent of the votes of the association **OR ANY LOWER PERCENTAGE PRESCRIBED IN THE COMMUNITY DOCUMENTS** or the number of persons who are eligible to vote in the association at the time the person attends the meeting equal to at least one thousand votes, whichever is less, is present at the meeting in person or as otherwise permitted by law.

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

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

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

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

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

7. A member of the board of directors who is removed pursuant to this subsection is not eligible to serve on the board of directors again until after the expiration of the removed board member's term of office, unless the community documents specifically provide for a longer period of ineligibility, **MAY NOT BE APPOINTED TO THE BOARD OF DIRECTORS TO FILL A VACANCY AND MAY ONLY BE REINSTATED TO A POSITION ON THE BOARD OF DIRECTORS BY A VOTE OF THE MEMBERS.**

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