

ISSUE #1

MARKUP #1 ->

Section 1: [Amended and Restated Bylaws Article IV, Section 4.9] Removal of Elected Directors Only for Cause by Two-Thirds Vote of Board

Any member of the Board of Directors may be removed from office prior to the expiration of his term only for cause or for three (3) consecutive unexcused absences from regular Board meetings by the affirmative vote of two-thirds (2/3) of the remaining members of the Board of Directors.



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Amended and Restated Bylaws Article IV, Section 4.9 (p. 1): Allowing the Board of Directors to Remove Member-Elected Directors Violates SC Nonprofit Corporation Act

Statutory / Legal Reference: S.C. Code Ann. § 33-31-808(a) & § 33-31-809 (SC Nonprofit Corporation Act)

Statutory Comparison: Under the South Carolina Nonprofit Corporation Act, S.C. Code Ann. § 33-31-808(a), directors elected by members may be removed with or without cause ONLY by the members who elected them (unless the articles or bylaws specifically authorize the board to remove a director strictly for missing a specified number of meetings under § 33-31-808(i)). Empowering the Board to remove a member-elected director 'for cause' without a membership vote or judicial proceeding under § 33-31-810 violates § 33-31-808.

CURRENT WORDING IN DOCUMENT:

[Amended and Restated Bylaws Article IV, Section 4.9] Removal of Elected Directors Only for Cause by Two-Thirds Vote of Board - Any member of the Board of Directors may be removed from office prior to the expiration of his term only for cause or for three (3) consecutive unexcused absences from regular Board meetings by the affirmative vote of two-thirds (2/3) of the remaining members of the Board of Directors.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Amended and Restated Bylaws Article IV, Section 4.9 ([Amended and Restated Bylaws Article IV, Section 4.9] Removal of Elected Directors Only for Cause by Two-Thirds Vote of Board - Any member of the Board of Directors may be removed from office prior to the expiration of his term only for cause or for three (3) consecutive unexcused absences from regular Board meetings by the affirmative vote of two-thirds (2/3) of the remaining members of the Board of Directors.) to conform with S.C. Code Ann. § 33-31-808(a) & § 33-31-809 (SC Nonprofit Corporation Act) and the manual attorney audit recommendations for Fripp Island Property Owners Association, Inc..