

§ 55A-8-08. Removal of directors elected by members or directors.

(a) The members may remove one or more directors elected by them with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(b) If a director is elected by a class, chapter or other organizational unit, or by region or other geographic grouping, the director may be removed only by that class, chapter, unit, or grouping.

(c) Except as provided in subsection (i) of this section, a director may be removed under subsection (a) or (b) of this section, only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

(d) If cumulative voting is authorized, a director shall not be removed:

(1) If the number of votes; or

(2) If the director was elected by a class, chapter, unit, or grouping of members, the number of votes of that class, chapter, unit, or grouping;

sufficient to elect the director under cumulative voting, if an election were then being held, is voted against the director's removal.

(e) A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director and the meeting notice shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(f) In computing whether a director is protected from removal under subsections (b) through (d) of this section, it should be assumed that the votes against removal are cast in an election for the number of directors of the class to which the director to be removed belonged on the date of that director's election.

(g) An entire board of directors may be removed under subsections (a) through (e) of this section.

(h) A majority of the directors then in office or such greater number as is set forth in the articles of incorporation or bylaws may, subject to any limitation in the articles of incorporation or bylaws, remove any director elected by the board of directors; provided, however, that a director elected by the board to fill the vacancy of a director elected by the members may be removed by the members, but not the board.

(i) Notwithstanding any other provision of this section, if, at the beginning of a director's term on the board of directors, the articles of incorporation or bylaws provide that the director may be removed by the board for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office vote for the removal.

(j) Notwithstanding any other provision of this section, the articles of incorporation or bylaws may provide that directors elected after the effective date of such provision shall be removed automatically for missing a specified number of board meetings.

(k) The articles of incorporation may:

(1) Limit the application of this section in the case of a charitable or religious corporation; and

(2) Set forth the vote and procedures by which the board of directors or any person may remove with or without cause a director elected by the members or the board. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)