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**COMMUNITY ASSOCIATION
GUIDE TO
THE 2010 CHANGES IN THE LAWS
AFFECTING COMMUNITY
ASSOCIATIONS**



TABLE OF CONTENTS

- I. INTRODUCTION**

- II. CHANGES IN THE LAW REGARDING “FOR SALE” SIGNS, “FOR LEASE” SIGNS, “OPEN HOUSE” SIGNS AND OPEN HOUSE RESTRICTIONS – HOUSE BILL 2345 – REVISED A.R.S. § 33-1808(F) (PLANNED COMMUNITIES) AND REVISED A.R.S. § 33-1261(C) (CONDOMINIUMS).**
 - A. For Sale Signs and Temporary Open House Signs;**
 - B. Open Houses in Community Associations;**
 - C. For Lease Signs.**

- III. CHANGES IN THE LAW REGARDING CERTAIN TRANSFER FEES – HOUSE BILL 2768 – NEW SECTION A.R.S. § 33-442**

- IV. APPENDIX**
 - A. House Bill 2345**
 - B. House Bill 2768**

I. INTRODUCTION

This Community Association Guide to the 2010 Changes in the Laws Affecting Community Associations is meant to provide a summary of the recent revisions to the Arizona Planned Community Act, the Arizona Condominium Act and other relevant Statutes that affect Arizona Community Associations. The Guide also contains tips to understand and abide by the new changes. This Guide is also available for download from our website www.shawlines.com. **Please note that the below changes will take effect on July 29, 2010.**

Also, Shaw & Lines will be hosting our 2010 Changes in the Law Lunch and Learn Lecture at Noon (check in at 11:30) on Wednesday, July 14, 2010 at The Hilton Phoenix Airport - 2435 South 47th St., Phoenix, AZ (State Route 143 & University). All Community Association Managers and Board Members may attend at no charge. If you would like to attend, please call 480-456-1500 or e-mail maria@shawlines.com.

II. CHANGES IN THE LAW REGARDING “FOR SALE” SIGNS, “FOR LEASE” SIGNS, “OPEN HOUSE” SIGNS AND OPEN HOUSE RESTRICTIONS – HOUSE BILL 2345 – REVISED A.R.S. § 33-1808(F) (PLANNED COMMUNITIES) AND REVISED A.R.S. § 33-1261(C) (CONDOMINIUMS).

A. For Sale Signs and Temporary Open House Signs

House Bill 2345 adds new provisions to A.R.S. §33-1808(F) (Planned Communities) and A.R.S. §33-1261(C) (Condominiums) regarding the placement of “for sale” and temporary “open house” signs on an owner’s property. The law, which takes effect on July 29, 2010, states that a community association may not prohibit an owner from displaying an industry standard sized¹ “for sale” or temporary “open house” sign on their property.

Most notably, the new law forbids the practice of requiring a uniform sign; meaning community associations may no longer require owners to display a pre-approved “for sale” or temporary “open house” sign. Any industry standard sized “for sale” or temporary “open house” sign may now be placed on an owner’s property without prior approval from the community association. Said signs, however, may not be placed on community association common area or common elements.

One question that arises from the new law is how long may a temporary “open house” sign be displayed? Unfortunately, the new law does define the term temporary. One could assume, however, that the “open house” sign may only be displayed during the period of the open house.

¹ The industry standard sized sign does not exceed eighteen inches by twenty-four inches.

B. Open Houses in Community Associations

House Bill 2345 adds a new provision to A.R.S. §33-1808(F) (Planned Communities) and A.R.S. §33-1261(C) (Condominiums) regarding the conducting of open houses in community associations. The new law, which takes effect on July 29, 2010 states that community associations must allow open houses to be conducted on an owner's property and may not "limit the hours for an open house." A community association, however, may "prohibit an open house (from) being held before 8:00am or after 6:00pm.

Please note that an open house for a lease property may be prohibited by a community association if the community association restricts or prohibits leasing. If the community association does not restrict or prohibit leasing, the above paragraph applies.

C. For Lease Signs

House Bill 2345 adds new provisions to A.R.S. §33-1808(F) (Planned Communities) and A.R.S. §33-1261(C) (Condominiums) regarding the placement of "for lease" signs on an owner's property. The law, which takes effect July 29, 2010, states that a community association may not prohibit an owner from displaying an industry standard sized "for lease" sign on their property.

The new law forbids the practice of requiring a uniform sign; meaning community associations may no longer require owners to display a pre-approved "for lease" sign. Any industry standard sized "for lease" sign may now be placed on the owner's property without prior approval from the community association. Said signs, however, may not be placed on community association common area or common elements.

There is one important caveat to the above. This new law does not apply to community associations that restrict or prohibit the leasing of property within the community association. Therefore, if the community association's CC&Rs contain a leasing prohibition or other restriction, the community association is not subject to this new law.

III. CHANGES IN THE LAW REGARDING CERTAIN TRANSFER FEES – HOUSE BILL 2768 – NEW SECTION A.R.S. § 33-442

House Bill 2768 creates a new section, A.R.S. §33-442 which prohibits certain transfer fees that involve the conveyance of property. The good news is that this new law does not affect the vast majority of transfer, membership and resale and disclosure fees charged by community associations in Arizona. So long as the transfer fee:

1. Is contained in a document (such as the CC&Rs or other association governing documents) that requires payment of a fee or charge to an association to be used exclusively for the purpose authorized in the document;

2. Touches and concerns the land; and
3. Is not passed through to a third party or declarant designated or identifiable by description in the document or in another document that is referenced in the document unless the third party is authorized in the document to manage real property within the association or was part of an approved development plan.

House Bill 2768 is a highly technical Bill. Therefore, it is prudent for community associations to have their transfer and other fees evaluated to ensure the fees are not subject to the new law.

Should you have any questions regarding the Guide, please feel free to attend our 2010 Changes in the Law Lunch and Learn Lecture or e-mail ashaw@shawlines.com or miles@shawlines.com.

This document is intended to provide general information. It does not and cannot provide specific legal advice. For additional information or answers to questions, you may contact our office at 480-456-1500.

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2345

AN ACT

AMENDING SECTIONS 33-1261 AND 33-1808, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND 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 33-1261, Arizona Revised Statutes, is amended to
3 read:

4 33-1261. Flag display; for sale signs; political petitions;
5 applicability

6 A. Notwithstanding any provision in the condominium documents, an
7 association shall not prohibit the outdoor display of any of the following:

8 1. The American flag or an official or replica of a flag of the United
9 States army, navy, air force, marine corps or coast guard by a unit owner on
10 that unit owner's property if the American flag or military flag is displayed
11 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;
12 4 United States Code sections 4 through 10).

13 2. The POW/MIA flag.

14 3. The Arizona state flag.

15 4. An Arizona Indian nations flag.

16 B. The association shall adopt reasonable rules and regulations
17 regarding the placement and manner of display of the American flag, the
18 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
19 nations flag. The association rules may regulate the location and size of
20 flagpoles but shall not prohibit the installation of a flagpole.

21 C. Notwithstanding any provision in the condominium documents, an
22 association shall not prohibit the indoor or outdoor display of a for sale
23 sign and a sign rider by a unit owner on that owner's property, including a
24 sign that indicates the unit owner is offering the property for sale by
25 owner. The size of a sign offering a property for sale shall be in
26 conformance with the industry standard size sign, which shall not exceed
27 eighteen by twenty-four inches, and the industry standard size sign rider,
28 which shall not exceed six by twenty-four inches. WITH RESPECT TO REAL
29 ESTATE FOR SALE OR LEASE IN THE CONDOMINIUM, AN ASSOCIATION SHALL NOT
30 PROHIBIT OR OTHERWISE REGULATE ANY OF THE FOLLOWING:

31 1. TEMPORARY OPEN HOUSE SIGNS OR A UNIT OWNER'S FOR SALE SIGN. THE
32 ASSOCIATION SHALL NOT REQUIRE THE USE OF PARTICULAR SIGNS INDICATING AN OPEN
33 HOUSE OR REAL PROPERTY FOR SALE AND MAY NOT FURTHER REGULATE THE USE OF
34 TEMPORARY OPEN HOUSE OR FOR SALE SIGNS THAT ARE INDUSTRY STANDARD SIZE AND
35 THAT ARE OWNED OR USED BY THE SELLER OR THE SELLER'S AGENT.

36 2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN
37 OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE CONDOMINIUM, EXCEPT THAT
38 THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 8:00 A.M. OR
39 AFTER 6:00 P.M AND MAY PROHIBIT OPEN HOUSE SIGNS ON THE COMMON ELEMENTS OF
40 THE CONDOMINIUM.

41 3. AN OWNER'S OR AN OWNER'S AGENT'S FOR LEASE SIGN UNLESS AN
42 ASSOCIATION'S DOCUMENTS PROHIBIT OR RESTRICT LEASING OF A UNIT OR UNITS. AN
43 ASSOCIATION SHALL NOT FURTHER REGULATE A FOR LEASE SIGN OR REQUIRE THE USE OF
44 A PARTICULAR FOR LEASE SIGN OTHER THAN THE FOR LEASE SIGN SHALL NOT BE ANY

1 LARGER THAN THE INDUSTRY STANDARD SIZE SIGN OF EIGHTEEN BY TWENTY FOUR INCHES
2 AND ON OR IN THE UNIT OWNER'S PROPERTY. IF LEASING OF A UNIT IS ALLOWED, THE
3 ASSOCIATION MAY PROHIBIT OPEN HOUSE LEASING BEING HELD BEFORE 8:00 A.M. OR
4 AFTER 6:00 P.M.

5 D. Notwithstanding any provision in the condominium documents, an
6 association shall not prohibit but may reasonably regulate the circulation of
7 political petitions, including candidate nomination petitions or petitions in
8 support of or opposition to an initiative, referendum or recall or other
9 political issue on property dedicated to the public within the association.
10 A condominium is not required to comply with this ~~section~~ SUBSECTION if the
11 condominium restricts vehicular or pedestrian access to the condominium.
12 Nothing in this ~~section~~ SUBSECTION requires a condominium to make its common
13 elements available for the circulation of political petitions to anyone who
14 is not an owner or resident of the community.

15 E. This section does not apply to timeshare plans or associations that
16 are subject to chapter 20 of this title.

17 Sec. 2. Section 33-1808, Arizona Revised Statutes, is amended to read:
18 33-1808. Flag display; political signs; caution signs; for sale
19 signs; political petitions

20 A. Notwithstanding any provision in the community documents, an
21 association shall not prohibit the outdoor display of any of the following:

22 1. The American flag or an official or replica of a flag of the United
23 States army, navy, air force, marine corps or coast guard by an association
24 member on that member's property if the American flag or military flag is
25 displayed in a manner consistent with the federal flag code (P.L. 94-344; 90
26 Stat. 810; 4 United States Code sections 4 through 10).

27 2. The POW/MIA flag.

28 3. The Arizona state flag.

29 4. An Arizona Indian nations flag.

30 B. The association shall adopt reasonable rules and regulations
31 regarding the placement and manner of display of the American flag, the
32 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
33 nations flag. The association rules may regulate the location and size of
34 flagpoles but shall not prohibit the installation of a flagpole.

35 C. Notwithstanding any provision in the community documents, an
36 association shall not prohibit the indoor or outdoor display of a political
37 sign by an association member on that member's property, except that an
38 association may prohibit the display of political signs earlier than
39 forty-five days before the day of an election and later than seven days after
40 an election day. An association may regulate the size and number of
41 political signs that may be placed on a member's property if the
42 association's regulation is no more restrictive than any applicable city,
43 town or county ordinance that regulates the size and number of political
44 signs on residential property. If the city, town or county in which the

1 property is located does not regulate the size and number of political signs
2 on residential property, the association shall permit at least one political
3 sign with the maximum dimensions of twenty-four inches by twenty-four inches
4 on a member's property. For the purposes of this subsection, "political
5 sign" means a sign that attempts to influence the outcome of an election,
6 including supporting or opposing the recall of a public officer or supporting
7 or opposing the circulation of a petition for a ballot measure, question or
8 proposition or the recall of a public officer.

9 D. Notwithstanding any provision in the community documents, an
10 association shall not prohibit the use of cautionary signs regarding children
11 if the signs are used and displayed as follows:

- 12 1. The signs are displayed in residential areas only.
- 13 2. The signs are removed within one hour of children ceasing to play.
- 14 3. The signs are displayed only when children are actually present
15 within fifty feet of the sign.
- 16 4. The temporary signs are no taller than three feet in height.
- 17 5. The signs are professionally manufactured or produced.

18 E. Notwithstanding any provision in the community documents, an
19 association shall not prohibit children who reside in the planned community
20 from engaging in recreational activity on residential roadways that are under
21 the jurisdiction of the association and on which the posted speed limit is
22 twenty-five miles per hour or less.

23 F. Notwithstanding any provision in the community documents, an
24 association shall not prohibit the indoor or outdoor display of a for sale
25 sign and a sign rider by an association member on that member's property,
26 including a sign that indicates the member is offering the property for sale
27 by owner. The size of a sign offering a property for sale shall be in
28 conformance with the industry standard size sign, which shall not exceed
29 eighteen by twenty-four inches, and the industry standard size sign rider,
30 which shall not exceed six by twenty-four inches. WITH RESPECT TO REAL
31 ESTATE FOR SALE OR LEASE IN THE PLANNED COMMUNITY, AN ASSOCIATION SHALL NOT
32 PROHIBIT OR OTHERWISE REGULATE ANY OF THE FOLLOWING:

33 1. TEMPORARY OPEN HOUSE SIGNS OR A UNIT OWNER'S FOR SALE SIGN. THE
34 ASSOCIATION SHALL NOT REQUIRE THE USE OF PARTICULAR SIGNS INDICATING AN OPEN
35 HOUSE OR REAL PROPERTY FOR SALE AND MAY NOT FURTHER REGULATE THE USE OF
36 TEMPORARY OPEN HOUSE OR FOR SALE SIGNS THAT ARE INDUSTRY STANDARD SIZE AND
37 THAT ARE OWNED OR USED BY THE SELLER OR THE SELLER'S AGENT.

38 2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN
39 OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE PLANNED COMMUNITY, EXCEPT
40 THAT THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 8:00 A.M.
41 OR AFTER 6:00 P.M AND MAY PROHIBIT OPEN HOUSE SIGNS ON THE COMMON AREAS OF
42 THE PLANNED COMMUNITY.

1 3. AN OWNER'S OR AN OWNER'S AGENT'S FOR LEASE SIGN UNLESS AN
2 ASSOCIATION'S DOCUMENTS PROHIBIT OR RESTRICT LEASING OF A MEMBER'S PROPERTY.
3 AN ASSOCIATION SHALL NOT FURTHER REGULATE A FOR LEASE SIGN OR REQUIRE THE USE
4 OF A PARTICULAR FOR LEASE SIGN OTHER THAN THE FOR LEASE SIGN SHALL NOT BE ANY
5 LARGER THAN THE INDUSTRY STANDARD SIZE SIGN OF EIGHTEEN BY TWENTY FOUR INCHES
6 ON OR IN THE MEMBER'S PROPERTY. IF LEASING OF A MEMBER'S PROPERTY IS NOT
7 PROHIBITED OR RESTRICTED, THE ASSOCIATION MAY PROHIBIT OPEN HOUSE LEASING
8 BEING HELD BEFORE 8:00 A.M. OR AFTER 6:00 P.M.

9 G. Notwithstanding any provision in the community documents, an
10 association shall not prohibit but may reasonably regulate the circulation of
11 political petitions, including candidate nomination petitions or petitions in
12 support of or opposition to an initiative, referendum or recall or other
13 political issue on property dedicated to the public within the association.
14 A planned community is not required to comply with this ~~section~~ SUBSECTION if
15 the planned community restricts vehicular or pedestrian access to the planned
16 community. Nothing in this ~~section~~ SUBSECTION requires a planned community
17 to make its common elements available for the circulation of political
18 petitions to anyone who is not an owner or resident of the community.

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2768

AN ACT

AMENDING TITLE 33, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-442; RELATING TO CONVEYANCES OF REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 33, chapter 4, article 3, Arizona Revised Statutes,
3 is amended by adding section 33-442, to read:

4 33-442. Prohibition on transfer fees; exceptions; definitions

5 A. A PROVISION IN A DECLARATION, COVENANT OR ANY OTHER DOCUMENT
6 RELATING TO REAL PROPERTY IN THIS STATE IS NOT BINDING OR ENFORCEABLE AGAINST
7 THE REAL PROPERTY OR AGAINST ANY SUBSEQUENT OWNER, PURCHASER, LIENHOLDER OR
8 OTHER CLAIMANT ON THE PROPERTY IF IT PURPORTS TO DO BOTH OF THE FOLLOWING:

9 1. BIND SUCCESSORS IN TITLE TO THE SPECIFIED REAL PROPERTY.

10 2. OBLIGATE THE TRANSFEREE OR TRANSFEROR OF ALL OR PART OF THE
11 PROPERTY TO PAY A FEE OR OTHER CHARGE TO A DECLARANT OR A THIRD PERSON ON
12 TRANSFER OF AN INTEREST IN THE PROPERTY OR IN CONSIDERATION FOR PERMITTING
13 SUCH A TRANSFER. REGULARLY SCHEDULED FEES OR CHARGES SHALL NOT BE CONSIDERED
14 PAYABLE ON TRANSFER OF AN INTEREST IF THE FEES OR CHARGES WILL BE PAYABLE BY
15 THE OWNER OF THE PROPERTY REGARDLESS OF WHETHER OR NOT THE PROPERTY IS
16 TRANSFERRED, EVEN IF THE OBLIGATION TO PAY DOES NOT COMMENCE UNTIL THE
17 TRUSTEE, DECLARANT, BUILDER OR DEVELOPER FIRST CONVEYS THE PROPERTY TO A
18 RETAIL PURCHASER.

19 B. A TRANSFER FEE PROVISION PRESCRIBED BY SUBSECTION A IS
20 UNENFORCEABLE WHETHER OR NOT RECORDED AND DOES NOT CREATE A LIEN RIGHT AND
21 ANY LIEN PURPORTEDLY ARISING OUT OF AN UNENFORCEABLE PROVISION PRESCRIBED BY
22 SUBSECTION A IS INVALID AND UNENFORCEABLE.

23 C. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

24 1. ANY PROVISION OF A PURCHASE CONTRACT, OPTION, MORTGAGE, SECURITY
25 AGREEMENT, REAL PROPERTY LISTING AGREEMENT OR OTHER AGREEMENT THAT OBLIGATES
26 ONE PARTY TO THE AGREEMENT TO PAY THE OTHER PARTY AS FULL OR PARTIAL
27 CONSIDERATION FOR THE AGREEMENT OR FOR A WAIVER OF RIGHTS UNDER THE AGREEMENT
28 IF THE AMOUNT TO BE PAID IS:

29 (a) A LOAN ASSUMPTION FEE OR SIMILAR FEE CHARGED BY A LENDER THAT
30 HOLDS A LIEN ON THE PROPERTY.

31 (b) A FEE OR COMMISSION PAID TO A LICENSED REAL ESTATE BROKER FOR
32 BROKERAGE SERVICES RENDERED IN CONNECTION WITH THE TRANSFER OF THE PROPERTY
33 FOR WHICH THE FEE OR COMMISSION IS PAID.

34 2. ANY PROVISION IN A DEED, MEMORANDUM OR OTHER DOCUMENT RECORDED FOR
35 THE PURPOSE OF PROVIDING RECORD NOTICE OF AN AGREEMENT PRESCRIBED IN
36 PARAGRAPH 1, SUBDIVISION (a) OF THIS SUBSECTION.

37 3. ANY PROVISION OF A DOCUMENT THAT REQUIRES PAYMENT OF A FEE OR
38 CHARGE TO AN ASSOCIATION TO BE USED EXCLUSIVELY FOR THE PURPOSE AUTHORIZED IN
39 THE DOCUMENT IF BOTH OF THE FOLLOWING APPLY:

40 (a) THE FEE BEING CHARGED TOUCHES AND CONCERNS THE LAND.

41 (b) NO PORTION OF THE CHARGE OR FEE IS REQUIRED TO BE PASSED THROUGH
42 TO A THIRD PARTY OR DECLARANT DESIGNATED OR IDENTIFIABLE BY DESCRIPTION IN
43 THE DOCUMENT OR IN ANOTHER DOCUMENT THAT IS REFERENCED IN THE DOCUMENT UNLESS
44 THE THIRD PARTY IS AUTHORIZED IN THE DOCUMENT TO MANAGE REAL PROPERTY WITHIN
45 THE ASSOCIATION OR WAS PART OF AN APPROVED DEVELOPMENT PLAN.

1 4. ANY RENT, REIMBURSEMENT, CHARGE, FEE OR OTHER AMOUNT PAYABLE BY A
2 LESSEE TO A LESSOR UNDER A LEASE, INCLUDING ANY FEE PAYABLE TO THE LESSOR FOR
3 CONSENTING TO AN ASSIGNMENT, SUBLEASE, ENCUMBRANCE OR TRANSFER OF THE LEASE.

4 5. ANY CONSIDERATION PAYABLE TO THE HOLDER OF AN OPTION TO PURCHASE AN
5 INTEREST IN THE REAL PROPERTY OR TO THE HOLDER OF A RIGHT OF FIRST REFUSAL OR
6 FIRST OFFER TO PURCHASE AN INTEREST IN REAL PROPERTY AND PAID FOR WAIVING,
7 RELEASING OR NOT EXERCISING THE OPTION OR RIGHT ON TRANSFER OF THE PROPERTY
8 TO ANOTHER PERSON.

9 6. ANY FEE, CHARGE, ASSESSMENT, DUES, CONTRIBUTION OR OTHER AMOUNT
10 RELATING TO THE PURCHASE OR TRANSFER OF A CLUB MEMBERSHIP RELATED TO THE REAL
11 PROPERTY OWNER BY THE TRANSFEROR.

12 7. ANY FEE OR CHARGE THAT IS IMPOSED BY A DOCUMENT AND THAT IS PAYABLE
13 TO A NONPROFIT CORPORATION FOR THE SOLE PURPOSE OF SUPPORTING RECREATIONAL
14 ACTIVITIES WITHIN THE ASSOCIATION.

15 8. ANY FEE, TAX, ASSESSMENT OR OTHER CHARGE IMPOSED BY A GOVERNMENTAL
16 AUTHORITY PURSUANT TO APPLICABLE LAWS, ORDINANCES OR REGULATIONS.

17 9. ANY CONSIDERATION PAYABLE BY THE TRANSFEREE TO THE TRANSFEROR FOR
18 THE INTEREST IN REAL PROPERTY BEING TRANSFERRED INCLUDING ANY SUBSEQUENT
19 ADDITIONAL CONSIDERATION FOR THE PROPERTY PAYABLE BY THE TRANSFEREE BASED ON
20 ANY SUBSEQUENT APPRECIATION, DEVELOPMENT OR SALE OF THE PROPERTY.

21 D. NOTWITHSTANDING ANY PROVISION IN THE DOCUMENT OR PURPORTED LIEN, A
22 TRANSFER FEE COVENANT OR OTHER DOCUMENT PRESCRIBED BY SUBSECTION A OR A LIEN
23 PURPORTING TO SECURE PAYMENT UNDER A TRANSFER FEE COVENANT OR DOCUMENT
24 PRESCRIBED BY SUBSECTION A THAT IS EXECUTED AFTER THE EFFECTIVE DATE OF THIS
25 SECTION IS NOT BINDING OR ENFORCEABLE. THIS SECTION SHALL NOT BE CONSTRUED
26 TO IMPLY THAT A TRANSFER FEE COVENANT OR OTHER DOCUMENT PRESCRIBED BY
27 SUBSECTION A THAT IS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS SECTION IS
28 ENFORCEABLE OR VALID.

29 E. FOR THE PURPOSES OF THIS SECTION:

30 1. "ASSOCIATION" MEANS A NONPROFIT MANDATORY MEMBERSHIP ORGANIZATION
31 THAT IS CREATED PURSUANT TO A DECLARATION, COVENANT OR OTHER APPLICABLE LAW
32 AND THAT IS COMPRISED OF THE OWNERS OF HOMES, CONDOMINIUMS, COOPERATIVES OR
33 MANUFACTURED HOMES OR ANY OTHER INTEREST IN REAL PROPERTY.

34 2. "TRANSFER" MEANS THE SALE, GIFT, CONVEYANCE, ASSIGNMENT,
35 INHERITANCE OR OTHER TRANSFER OF AN INTEREST IN REAL PROPERTY LOCATED IN THIS
36 STATE.

37 Sec. 2. Legislative findings and intent

38 The legislature finds that the public policy of this state favors the
39 transferability of interests in real property free from unreasonable
40 restraints on alienation and covenants or servitudes that do not touch and
41 concern the property. A transfer fee covenant proscribed in section 33-442,
42 subsection A, Arizona Revised Statutes, as added by this act, violates this
43 public policy by impairing the marketability of title to the affected real
44 property and constitutes an unreasonable restraint on alienation of property,
45 regardless of the duration of the covenant or the amount of the transfer fee
46 set forth in the covenant.