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**COMMUNITY ASSOCIATION
GUIDE TO
THE 2011 CHANGES IN THE LAWS
AFFECTING COMMUNITY
ASSOCIATIONS**

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I. INTRODUCTION

This Community Association Guide to the 2011 Changes in the Laws Affecting Community Associations provides 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. This Guide is also available for download from our website www.shawlines.com.

PLEASE NOTE THAT THE BELOW CHANGES WILL TAKE EFFECT ON JULY 19, 2011.

Also, Shaw & Lines will be hosting our 2011 Changes in the Law Lunch and Learn Lecture at Noon (check in at 11:30) on Monday, May 23, 2011 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 mary@shawlines.com.

II. CHANGES IN THE LAWS REGARDING BOARD MEETINGS, COMMITTEE MEETINGS AND OTHER ASSOCIATION MEETINGS.

A. Changes in the law concerning the videotaping and audio taping of Board Member Meetings – HB 2245 Revised A.R.S. § 33-1804 (Planned Communities) and Revised A.R.S. § 33-1248 (Condominiums).

House Bill 2245 adds new provisions to A.R.S. §33-1804(A) (Planned Communities) and A.R.S. §33-1248(A) (Condominiums) regarding the audio taping and videotaping of Board Meetings. The new law states that individuals attending Board Meetings may audio tape or videotape those portions of the meetings of the Board of Directors and meetings of the members (such as annual meetings or special meetings of the members) that are open (meaning executive session meetings may not be recorded).

The Board of Directors of the Association may adopt reasonable rules governing the audio taping or videotaping of open portions of the above listed meetings; however, any rules created shall not preclude such audio taping or videotaping by those attending.

Thus, while the Association may create rules, the Association must keep in mind that if a rule is too intrusive, it may be struck down by a court. Reasonable Rules concerning audio taping or videotaping could include:

1. A Rule requiring that anyone desiring to record a meeting inform the Association at least 48 hours prior the meeting detailing whether they will audio tape or video tape the meeting;

2. A Rule requiring that owners provide the Association with a copy of the recording made within 48 hours of the meeting;
3. A Rule stating that the audio or video recording of a meeting may not be intrusive or otherwise interfere with the conducting of the meeting.

B. Changes in the law concerning the conducting of Association Meetings – HB 2609 - Revised A.R.S. § 33-1804 (Planned Communities) and Revised A.R.S. § 33-1248 (Condominiums).

House Bill 2609 adds several new provisions to A.R.S. §33-1804 (Planned Communities) and A.R.S. §33-1248 (Condominiums) as listed below.

i. Location of Association Meetings.

House Bill 2609 now requires that all Association meetings be held within the State of Arizona. This means that the origin of the meeting must be in Arizona. Teleconferences are still allowed so long as the call originates in Arizona.

ii. Committee Meetings Must Be Noticed, have an Agenda and Members must be allowed to attend and participate.

House Bill 2609 now requires that Associations provide members with notice of regularly scheduled committee meetings (i.e. architectural review committee, landscape committee, etc.) and provide members with the right to address the Committee after the Committee has discussed an item on the agenda for the meeting but prior to the Committee voting on the item.

iii. Prior to Board Meeting – The Requirement for an Agenda.

House Bill 2609 requires that an agenda be prepared prior to Board meetings and “shall be available to all owners attending.” The requirement to have an agenda also means that an Association must stick to the agenda and not deviate from it.

iv. During the Board Meeting - Members must be allowed to attend and participate.

House Bill 2609 now requires the Association to provide members with the right to address the Board of Directors after the Board has discussed an item on the agenda for the meeting but prior to the Board voting on the item.

v. During the Board Meeting – Board quorum and what is a Board Meeting.

House Bill 2609 states any quorum of the board of directors that meets informally to discuss association business, including workshops, shall comply with the open meeting and notice rules without regard to whether the board votes or takes any action on any matter at that informal meeting.

Therefore, House Bill 2609 now defines any gathering of a quorum of Board members where Association business is discussed to be a Board Meeting that must be properly noticed and have an agenda prepared.

vi. During the Board Meeting - Executive Session Meetings – Addition of Executive Session Topic.

House Bill 2609 also adds an additional topic that may be discussed in executive session, which is a closed meeting of the Board. House Bill 2609 states that the following may be discussed in executive session:

Discussion of a unit owner’s appeal of any violation cited or penalty imposed by the association except on request of the affected unit owner that the meeting be held in an open session.

vii. During the Meeting – Emergency Board Meetings.

House Bill 2609 also provides new rules regarding emergency meetings of the Association. The new law states that an emergency meeting of the board of directors may be called to discuss business or take action that cannot be delayed until the next regularly scheduled board meeting. The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting (yes, minutes must now be taken at emergency board meetings) shall be read and approved at the next regularly scheduled meeting of the board of directors.

viii Public Policy Regarding Open Board Meetings.

House Bill 2609 also outlines the Legislature’s “public policy” belief that an Association should err on the side of open meetings instead of closed meetings. This means that the Board of Directors must do all they can to ensure that they only meet in executive session or have an emergency meeting when the applicable statutory allowance is at play.

III. CHANGES IN THE LAWS REGARDING SIGNS IN THE ASSOCIATION.

A. HB 2609 – For Sale, For Rent and For Lease Signs – Revised A.R.S. § 33-1808 (Planned Communities) and Revised A.R.S. § 33-1261 (Condominiums).

HB 2609 now restricts Associations from charging a fee for the installation or placement of a for sale, a for lease, or a for rent sign. Additionally, failure by the Association or its managing agent to abide by all regulations regarding for sale, for lease and for rent signs would result in the Association potentially losing its Association lien on the affected property for six months. However, the Association may restrict the use of non-commercially produced for sale, for lease and for rent signs.

B. HB 2609 & SB 1540 (Caution, these new laws conflict) – Political Signs – Revised A.R.S. § 33-1808 (Planned Communities) and Revised A.R.S. § 33-1261 (Condominiums).

HB 2609 & SB 1540 both discuss political signs and have conflicting provisions. Therefore, we discuss the most conservative interpretation of the two new laws.

This new law states that Associations shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than seventy-one days before the day of an election and fifteen days after an election day.

An Association may regulate the size and number of political signs that may be placed on a member's property if the Association's regulation conforms to any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the Association shall not limit the number of political signs, except that the maximum aggregate total dimensions of all political signs on a member's property shall not exceed nine square feet. All types of political signs, both commercially made and handmade, are allowed.

C. SB 1540 - Political Solicitation – Revised A.R.S. § 33-1808 (Planned Communities) and Revised A.R.S. § 33-1261 (Condominiums).

This new law allows for the door-to-door solicitation regarding political candidates and causes on property within the Association “normally open to visitors within the association,” except that an Association may:

1. Restrict or prohibit door to door political activity regarding candidates or ballot issues from sunset to sunrise.
2. Require the prominent display of an identification tag for each person engaged in the activity, along with the prominent identification of the candidate or ballot issue that is the subject of the support or opposition.

D. SB 1326 – Addition of Gadsden Flag to Allowed Flags – Limitation on Number of Flags and Flag Pole Height – Revised A.R.S. § 33-1808 (Planned Communities) and Revised A.R.S. § 33-1261 (Condominiums).

This new law allows members to fly the Gadsden flag in addition to the other flags allowed by the statute. Moreover, the Association’s rules may limit the member to displaying no more than two flags at once and may limit the height of the flagpole to no higher than the height of the rooftop of the member's home.

The Association may no longer prohibit the installation of a flagpole in the front yard or backyard of the member's property.

IV. CHANGES IN THE LAWS REGARDING RESALE AND DISCLOSURE STATEMENTS AND OTHER ASSOCIATION STATEMENTS.

A. SB 1149 – Requirement to provide status of owner account - Revised A.R.S. § 33-1807 (Planned Communities) and Revised A.R.S. § 33-1256 (Condominiums).

This new law requires the Association to process and respond to a request for an owner's statement of account within 10 days after receipt of a written request by an owner, his representative or a lien holder. **Failure to provide this information within 10 days will result in the lien being extinguished regarding the requesting property.** Any information is binding upon the Association. As such, it is important that the statement of account be accurate.

B. SB 1149 – Requirement regarding resale and disclosure statements-Revised A.R.S. § 33-1806 (Planned Communities) and Revised A.R.S. § 33-1260 (Condominiums).

This new law adds new requirements to the resale and disclosure process. The new law allows a purchaser or their authorized agent to engage in the resale and disclosure process. The new law also allows the Association to respond to a request in either paper or electronic format.

In addition to the current required resale and disclosure information, Associations must now also provide a statement summarizing any pending lawsuits, except those suits relating to the collection of assessments owed by members other than the selling member, in which the association is a named party, including the amount of any money claimed. This requirement would include enforcement actions.

Failure to provide the required resale and disclosure information within the 10 day timeframe will result in the extinguishing of any lien for any unpaid assessment then due against that property.

Also, the new law limits what may be charged to process a resale and disclosure request. The new law states that an Association may charge the member a fee of no more than an aggregate of four hundred dollars (\$400.00). An Association may charge a rush fee of no more than one hundred dollars (\$100.00) if the rush services are required to be performed within seventy-two hours after the request for rush services, and may charge a statement or other documents update fee of no more than fifty dollars (\$50.00) if thirty days or more have passed since the date of the original disclosure statement or documents were delivered.

Additionally, the new law states that if the aggregate resale and disclosure fee is less than four hundred dollars (\$400.00) on January 1, 2010, the fee may increase at a rate of no more than twenty per cent per year based on the immediately preceding fiscal year's amount not to exceed the four hundred dollar aggregate fee.

Finally, an association that charges or collects a fee in violation of this section is subject to a civil penalty of no more than one thousand two hundred dollars (\$1,200.00).

V. CHANGES IN THE LAW CONCERNING ADMINISTRATIVE LAW JUDGE HEARINGS – SB 1148 - REVISED A.R.S. § 44-2141.

Senate Bill 1148 purports to bring back the Administrative Law Judge procedures recently held unconstitutional. The new Arizona Law allows an owner or association to bring disputes concerning the association's governing documents or Arizona laws that apply to the association, before an Administrative Law Judge. The new change does not require disputes to be brought before an Administrative Law Judge. It simply provides an opportunity for an owner or the association to bring disputes before an Administrative Law Judge.

The new statutes also discuss the procedures required to file an action before an Administrative Law Judge and also provides the Judge with the power to set any applicable filing fee and impose penalties should the Judge determine a violation has occurred.

The new statutes allow an Association's manager or Board member to represent the association before the Administrative Law Judge. Also, if an Association chooses to use an attorney, the new statutes do not provide for the recouping of attorney's fees.

VI. CONCLUSION AND APPENDIX

Should you have any questions regarding the Guide, please feel free to attend our 2011 Changes in the Law Lunch and Learn Lecture or e-mail ashaw@shawlines.com or miles@shawlines.com.

<p>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.</p>

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2245

AN ACT

AMENDING SECTIONS 33-1248 AND 33-1804, 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 33-1248, Arizona Revised Statutes, is amended to
3 read:

4 33-1248. Open meetings; exceptions

5 A. Notwithstanding any provision in the declaration, bylaws or other
6 documents to the contrary, all meetings of the association and board of
7 directors are open to all members of the association or any person designated
8 by a member in writing as the member's representative and all members or
9 designated representatives so desiring shall be permitted to attend and speak
10 at an appropriate time during the deliberations and proceedings. The board
11 may place reasonable time restrictions on those persons speaking during the
12 meeting but shall permit a member or a member's designated representative to
13 speak before the board takes formal action on an item under discussion in
14 addition to any other opportunities to speak. The board shall provide for a
15 reasonable number of persons to speak on each side of an issue. **PERSONS
16 ATTENDING MAY AUDIOTAPE OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE
17 BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF
18 DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE
19 AUDIOTAPING OR VIDEOTAPING OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND
20 THE MEMBERSHIP, BUT SUCH RULES SHALL NOT PRECLUDE SUCH AUDIOTAPING OR
21 VIDEOTAPING BY THOSE ATTENDING.** Any portion of a meeting may be closed only
22 if that portion of the meeting is limited to consideration of one or more of
23 the following:

24 1. Legal advice from an attorney for the board or the association. On
25 final resolution of any matter for which the board received legal advice or
26 that concerned pending or contemplated litigation, the board may disclose
27 information about that matter in an open meeting except for matters that are
28 required to remain confidential by the terms of a settlement agreement or
29 judgment.

30 2. Pending or contemplated litigation.

31 3. Personal, health or financial information about an individual
32 member of the association, an individual employee of the association or an
33 individual employee of a contractor for the association, including records of
34 the association directly related to the personal, health or financial
35 information about an individual member of the association, an individual
36 employee of the association or an individual employee of a contractor for the
37 association.

38 4. Matters relating to the job performance of, compensation of, health
39 records of or specific complaints against an individual employee of the
40 association or an individual employee of a contractor of the association who
41 works under the direction of the association.

42 B. Notwithstanding any provision in the condominium documents, all
43 meetings of the association and the board shall be held in this state. A
44 meeting of the association shall be held at least once each year. Special
45 meetings of the association may be called by the president, by a majority of

1 the board of directors or by unit owners having at least twenty-five per
2 cent, or any lower percentage specified in the bylaws, of the votes in the
3 association. Unless otherwise provided in the articles or the bylaws of the
4 association, not fewer than ten nor more than fifty days in advance of any
5 meeting of the unit owners, the secretary shall cause notice to be hand
6 delivered or sent prepaid by United States mail to the mailing address of
7 each unit or to any other mailing address designated in writing by the unit
8 owner. The notice of any meeting of the unit owners shall state the time and
9 place of the meeting. The notice of any special meeting of the unit owners
10 shall also state the purpose for which the meeting is called, including the
11 general nature of any proposed amendment to the declaration or bylaws, any
12 changes in assessments that require approval of the unit owners and any
13 proposal to remove a director or officer. The failure of any unit owner to
14 receive actual notice of a meeting of the unit owners does not affect the
15 validity of any action taken at that meeting.

16 C. Unless otherwise provided in the articles or bylaws of the
17 association, for meetings of the board of directors that are held after the
18 termination of declarant control of the association, notice to unit owners of
19 meetings of the board of directors shall be given at least forty-eight hours
20 in advance of the meeting by newsletter, conspicuous posting or any other
21 reasonable means as determined by the board of directors. An affidavit of
22 notice by an officer of the association is prima facie evidence that notice
23 was given as prescribed by this section. Notice to unit owners of meetings
24 of the board of directors is not required if emergency circumstances require
25 action by the board before notice can be given. Any notice of a board
26 meeting shall state the time and place of the meeting. The failure of any
27 unit owner to receive actual notice of a meeting of the board of directors
28 does not affect the validity of any action taken at that meeting.

29 D. This section does not apply to timeshare plans or associations that
30 are subject to chapter 20 of this title.

31 Sec. 2. Section 33-1804, Arizona Revised Statutes, is amended to read:

32 33-1804. Open meetings; exceptions

33 A. Notwithstanding any provision in the declaration, bylaws or other
34 documents to the contrary, all meetings of the association and board of
35 directors are open to all members of the association or any person designated
36 by a member in writing as the member's representative and all members or
37 designated representatives so desiring shall be permitted to attend and speak
38 at an appropriate time during the deliberations and proceedings. The board
39 may place reasonable time restrictions on those persons speaking during the
40 meeting but shall permit a member or member's designated representative to
41 speak before the board takes formal action on an item under discussion in
42 addition to any other opportunities to speak. The board shall provide for a
43 reasonable number of persons to speak on each side of an issue. **PERSONS**
44 **ATTENDING MAY TAPE RECORD OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE**
45 **BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF**

1 DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE TAPING
2 OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND THE MEMBERSHIP, BUT SUCH
3 RULES SHALL NOT PRECLUDE SUCH TAPE RECORDING OR VIDEOTAPING BY THOSE
4 ATTENDING. Any portion of a meeting may be closed only if that closed
5 portion of the meeting is limited to consideration of one or more of the
6 following:

7 1. Legal advice from an attorney for the board or the association. On
8 final resolution of any matter for which the board received legal advice or
9 that concerned pending or contemplated litigation, the board may disclose
10 information about that matter in an open meeting except for matters that are
11 required to remain confidential by the terms of a settlement agreement or
12 judgment.

13 2. Pending or contemplated litigation.

14 3. Personal, health or financial information about an individual
15 member of the association, an individual employee of the association or an
16 individual employee of a contractor for the association, including records of
17 the association directly related to the personal, health or financial
18 information about an individual member of the association, an individual
19 employee of the association or an individual employee of a contractor for the
20 association.

21 4. Matters relating to the job performance of, compensation of, health
22 records of or specific complaints against an individual employee of the
23 association or an individual employee of a contractor of the association who
24 works under the direction of the association.

25 B. Notwithstanding any provision in the community documents, all
26 meetings of the association and the board shall be held in this state. A
27 meeting of the association shall be held at least once each year. Special
28 meetings of the association may be called by the president, by a majority of
29 the board of directors or by members having at least twenty-five per cent, or
30 any lower percentage specified in the bylaws, of the votes in the
31 association. Unless otherwise provided in the articles or bylaws of the
32 association, not fewer than ten nor more than fifty days in advance of any
33 meeting of the members the secretary shall cause notice to be hand-delivered
34 or sent prepaid by United States mail to the mailing address for each lot,
35 parcel or unit owner or to any other mailing address designated in writing by
36 a member. The notice shall state the time and place of the meeting. A
37 notice of any special meeting of the members shall also state the purpose for
38 which the meeting is called, including the general nature of any proposed
39 amendment to the declaration or bylaws, changes in assessments that require
40 approval of the members and any proposal to remove a director or an officer.
41 The failure of any member to receive actual notice of a meeting of the
42 members does not affect the validity of any action taken at that meeting.

43 C. Unless otherwise provided in the articles or bylaws of the
44 association, for meetings of the board of directors that are held after the
45 termination of declarant control of the association, notice to members of

1 meetings of the board of directors shall be given at least forty-eight hours
2 in advance of the meeting by newsletter, conspicuous posting or any other
3 reasonable means as determined by the board of directors. An affidavit of
4 notice by an officer of the corporation is prima facie evidence that notice
5 was given as prescribed by this section. Notice to members of meetings of
6 the board of directors is not required if emergency circumstances require
7 action by the board before notice can be given. Any notice of a board
8 meeting shall state the time and place of the meeting. The failure of any
9 member to receive actual notice of a meeting of the board of directors does
10 not affect the validity of any action taken at that meeting.

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2609

AN ACT

AMENDING SECTIONS 33-1248, 33-1261, 33-1804 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 33-1248, Arizona Revised Statutes, is amended to
3 read:

4 33-1248. Open meetings; exceptions

5 A. Notwithstanding any provision in the declaration, bylaws or other
6 documents to the contrary, all meetings of the **UNIT OWNERS'** association and
7 **THE** board of directors, **AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS**, are
8 open to all members of the association or any person designated by a member
9 in writing as the member's representative and all members or designated
10 representatives so desiring shall be permitted to attend and speak at an
11 appropriate time during the deliberations and proceedings. The board may
12 place reasonable time restrictions on those persons speaking during the
13 meeting but shall permit a member or a member's designated representative to
14 speak **ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT** before
15 the board takes formal action on ~~an~~ **THAT** item ~~under discussion~~ in addition to
16 any other opportunities to speak. The board shall provide for a reasonable
17 number of persons to speak on each side of an issue. Any portion of a
18 meeting may be closed only if that portion of the meeting is limited to
19 consideration of one or more of the following:

20 1. Legal advice from an attorney for the board or the association. On
21 final resolution of any matter for which the board received legal advice or
22 that concerned pending or contemplated litigation, the board may disclose
23 information about that matter in an open meeting except for matters that are
24 required to remain confidential by the terms of a settlement agreement or
25 judgment.

26 2. Pending or contemplated litigation.

27 3. Personal, health or financial information about an individual
28 member of the association, an individual employee of the association or an
29 individual employee of a contractor for the association, including records of
30 the association directly related to the personal, health or financial
31 information about an individual member of the association, an individual
32 employee of the association or an individual employee of a contractor for the
33 association.

34 4. Matters relating to the job performance of, compensation of, health
35 records of or specific complaints against an individual employee of the
36 association or an individual employee of a contractor of the association who
37 works under the direction of the association.

38 **5. DISCUSSION OF A UNIT OWNER'S APPEAL OF ANY VIOLATION CITED OR**
39 **PENALTY IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED UNIT**
40 **OWNER THAT THE MEETING BE HELD IN AN OPEN SESSION.**

41 B. Notwithstanding any provision in the condominium documents, all
42 meetings of the **UNIT OWNERS'** association and the board shall be held in this
43 state. A meeting of the **UNIT OWNERS'** association shall be held at least once
44 each year. Special meetings of the **UNIT OWNERS'** association may be called by
45 the president, by a majority of the board of directors or by unit owners

1 having at least twenty-five per cent, or any lower percentage specified in
2 the bylaws, of the votes in the association. ~~Unless otherwise provided in~~
3 ~~the articles or the bylaws of the association,~~ Not fewer than ten nor more
4 than fifty days in advance of any meeting of the unit owners, the secretary
5 shall cause notice to be hand delivered or sent prepaid by United States mail
6 to the mailing address of each unit or to any other mailing address
7 designated in writing by the unit owner. The notice of any meeting of the
8 unit owners shall state the time and place of the meeting. The notice of any
9 special meeting of the unit owners shall also state the purpose for which the
10 meeting is called, including the general nature of any proposed amendment to
11 the declaration or bylaws, any changes in assessments that require approval
12 of the unit owners and any proposal to remove a director or officer. The
13 failure of any unit owner to receive actual notice of a meeting of the unit
14 owners does not affect the validity of any action taken at that meeting.

15 C. ~~Unless otherwise provided in the articles or bylaws of the~~
16 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
17 CONDOMINIUM DOCUMENTS, for meetings of the board of directors that are held
18 after the termination of declarant control of the association, notice to unit
19 owners of meetings of the board of directors shall be given at least
20 forty-eight hours in advance of the meeting by newsletter, conspicuous
21 posting or any other reasonable means as determined by the board of
22 directors. An affidavit of notice by an officer of the association is prima
23 facie evidence that notice was given as prescribed by this section. Notice
24 to unit owners of meetings of the board of directors is not required if
25 emergency circumstances require action by the board before notice can be
26 given. Any notice of a board meeting shall state the time and place of the
27 meeting. The failure of any unit owner to receive actual notice of a meeting
28 of the board of directors does not affect the validity of any action taken at
29 that meeting.

30 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
31 CONDOMINIUM DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
32 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
33 FOLLOWING APPLY:

34 1. THE AGENDA SHALL BE AVAILABLE TO ALL UNIT OWNERS ATTENDING.

35 2. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO
36 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT
37 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING
38 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF
39 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY
40 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

41 3. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
42 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS
43 BOARD MEMBERS AND UNIT OWNERS TO HEAR ALL PARTIES WHO ARE SPEAKING DURING THE
44 MEETING.

1 MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALY PRODUCED. With
2 respect to real estate for sale, FOR RENT or FOR lease in the condominium, an
3 association shall not prohibit IN ANY WAY OTHER THAN IS SPECIFICALLY
4 AUTHORIZED BY THIS SECTION or otherwise regulate any of the following:

5 1. Temporary open house signs or a unit owner's for sale sign. The
6 association shall not require the use of particular signs indicating an open
7 house or real property for sale and may not further regulate the use of
8 temporary open house or for sale signs that are industry standard size and
9 that are owned or used by the seller or the seller's agent.

10 2. Open house hours. The association may not limit the hours for an
11 open house for real estate that is for sale in the condominium, except that
12 the association may prohibit an open house being held before 8:00 a.m. or
13 after 6:00 p.m. and may prohibit open house signs on the common elements of
14 the condominium.

15 3. An owner's or an owner's agent's FOR RENT OR for lease sign unless
16 an association's documents prohibit or restrict leasing of a unit or units.
17 An association shall not further regulate a FOR RENT OR for lease sign or
18 require the use of a particular FOR RENT OR for lease sign other than the FOR
19 RENT OR for lease sign shall not be any larger than the industry standard
20 size sign of eighteen by twenty-four inches and on or in the unit owner's
21 property. If RENTAL OR leasing of a unit is allowed, the association may
22 prohibit AN open house FOR RENTAL OR leasing being held before 8:00 a.m. or
23 after 6:00 p.m.

24 D. Notwithstanding any provision in the condominium documents, an
25 association shall not prohibit but may reasonably regulate the circulation of
26 political petitions, including candidate nomination petitions or petitions in
27 support of or opposition to an initiative, referendum or recall or other
28 political issue on property dedicated to the public within the association.
29 A condominium is not required to comply with this subsection if the
30 condominium restricts vehicular or pedestrian access to the condominium.
31 Nothing in this subsection requires a condominium to make its common elements
32 available for the circulation of political petitions to anyone who is not an
33 owner or resident of the community.

34 E. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF THIS
35 SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION
36 33-1256 AGAINST THAT UNIT FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE
37 DATE OF THE VIOLATION.

38 ~~E.~~ F. This section does not apply to timeshare plans or associations
39 that are subject to chapter 20 of this title.

40 Sec. 3. Section 33-1804, Arizona Revised Statutes, is amended to read:
41 33-1804. Open meetings; exceptions

42 A. Notwithstanding any provision in the declaration, bylaws or other
43 documents to the contrary, all meetings of the MEMBERS' association and THE
44 board of directors, AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS, are open
45 to all members of the association or any person designated by a member in

1 writing as the member's representative and all members or designated
2 representatives so desiring shall be permitted to attend and speak at an
3 appropriate time during the deliberations and proceedings. The board may
4 place reasonable time restrictions on those persons speaking during the
5 meeting but shall permit a member or member's designated representative to
6 speak **ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT** before
7 the board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to
8 any other opportunities to speak. The board shall provide for a reasonable
9 number of persons to speak on each side of an issue. Any portion of a
10 meeting may be closed only if that closed portion of the meeting is limited
11 to consideration of one or more of the following:

12 1. Legal advice from an attorney for the board or the association. On
13 final resolution of any matter for which the board received legal advice or
14 that concerned pending or contemplated litigation, the board may disclose
15 information about that matter in an open meeting except for matters that are
16 required to remain confidential by the terms of a settlement agreement or
17 judgment.

18 2. Pending or contemplated litigation.

19 3. Personal, health or financial information about an individual
20 member of the association, an individual employee of the association or an
21 individual employee of a contractor for the association, including records of
22 the association directly related to the personal, health or financial
23 information about an individual member of the association, an individual
24 employee of the association or an individual employee of a contractor for the
25 association.

26 4. Matters relating to the job performance of, compensation of, health
27 records of or specific complaints against an individual employee of the
28 association or an individual employee of a contractor of the association who
29 works under the direction of the association.

30 5. **DISCUSSION OF A MEMBER'S APPEAL OF ANY VIOLATION CITED OR PENALTY**
31 **IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED MEMBER THAT THE**
32 **MEETING BE HELD IN AN OPEN SESSION.**

33 B. Notwithstanding any provision in the community documents, all
34 meetings of the **MEMBERS'** association and the board shall be held in this
35 state. A meeting of the **MEMBERS'** association shall be held at least once
36 each year. Special meetings of the **MEMBERS'** association may be called by the
37 president, by a majority of the board of directors or by members having at
38 least twenty-five per cent, or any lower percentage specified in the bylaws,
39 of the votes in the association. ~~Unless otherwise provided in the articles~~
40 ~~or bylaws of the association,~~ Not fewer than ten nor more than fifty days in
41 advance of any meeting of the members the secretary shall cause notice to be
42 hand-delivered or sent prepaid by United States mail to the mailing address
43 for each lot, parcel or unit owner or to any other mailing address designated
44 in writing by a member. The notice shall state the time and place of the
45 meeting. A notice of any special meeting of the members shall also state the

1 purpose for which the meeting is called, including the general nature of any
2 proposed amendment to the declaration or bylaws, changes in assessments that
3 require approval of the members and any proposal to remove a director or an
4 officer. The failure of any member to receive actual notice of a meeting of
5 the members does not affect the validity of any action taken at that meeting.

6 C. ~~Unless otherwise provided in the articles or bylaws of the~~
7 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
8 COMMUNITY DOCUMENTS, for meetings of the board of directors that are held
9 after the termination of declarant control of the association, notice to
10 members of meetings of the board of directors shall be given at least
11 forty-eight hours in advance of the meeting by newsletter, conspicuous
12 posting or any other reasonable means as determined by the board of
13 directors. An affidavit of notice by an officer of the corporation is prima
14 facie evidence that notice was given as prescribed by this section. Notice
15 to members of meetings of the board of directors is not required if emergency
16 circumstances require action by the board before notice can be given. Any
17 notice of a board meeting shall state the time and place of the meeting. The
18 failure of any member to receive actual notice of a meeting of the board of
19 directors does not affect the validity of any action taken at that meeting.

20 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
21 COMMUNITY DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
22 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
23 FOLLOWING APPLY:

24 1. THE AGENDA SHALL BE AVAILABLE TO ALL MEMBERS ATTENDING.

25 2. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO
26 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT
27 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING
28 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF
29 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY
30 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

31 3. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
32 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS
33 BOARD MEMBERS AND ASSOCIATION MEMBERS TO HEAR ALL PARTIES WHO ARE SPEAKING
34 DURING THE MEETING.

35 4. ANY QUORUM OF THE BOARD OF DIRECTORS THAT MEETS INFORMALLY TO
36 DISCUSS ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN
37 MEETING AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE
38 BOARD VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

39 E. IT IS THE POLICY OF THIS STATE AS REFLECTED IN THIS SECTION THAT
40 ALL MEETINGS OF A PLANNED COMMUNITY, WHETHER MEETINGS OF THE MEMBERS'
41 ASSOCIATION OR MEETINGS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, BE
42 CONDUCTED OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR THOSE MEETINGS
43 THAT CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE
44 MEMBERS OF THE MATTERS TO BE DISCUSSED OR DECIDED AND TO ENSURE THAT MEMBERS
45 HAVE THE ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS, BUT BEFORE A VOTE

1 OF THE BOARD OF DIRECTORS IS TAKEN. TOWARD THIS END, ANY PERSON OR ENTITY
2 THAT IS CHARGED WITH THE INTERPRETATION OF THESE PROVISIONS SHALL TAKE INTO
3 ACCOUNT THIS DECLARATION OF POLICY AND SHALL CONSTRUE ANY PROVISION OF THIS
4 SECTION IN FAVOR OF OPEN MEETINGS.

5 Sec. 4. Section 33-1808, Arizona Revised Statutes, is amended to read:
6 33-1808. Flag display; political signs; caution signs; for sale
7 or lease signs; political petitions

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

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

15 2. The POW/MIA flag.

16 3. The Arizona state flag.

17 4. An Arizona Indian nations flag.

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

23 C. Notwithstanding any provision in the community documents, an
24 association shall not prohibit the indoor or outdoor display of a political
25 sign by an association member on that member's property, except that an
26 association may prohibit the display of political signs earlier than
27 ~~forty-five~~ SEVENTY-ONE days before the day of an election and later than
28 ~~seven~~ THREE days after an election day. An association may regulate the size
29 and number of political signs that may be placed on a member's property if
30 the association's regulation ~~is no more restrictive than~~ CONFORMS TO any
31 applicable city, town or county ordinance that regulates the size and number
32 of political signs on residential property. If the city, town or county in
33 which the property is located does not regulate the size and number of
34 political signs on residential property, the association shall ~~permit at~~
35 ~~least one~~ NOT LIMIT THE NUMBER OF political ~~sign with~~ SIGNS, EXCEPT THAT the
36 maximum AGGREGATE TOTAL dimensions of ~~twenty-four inches by twenty-four~~
37 ~~inches~~ ALL POLITICAL SIGNS on a member's property SHALL NOT EXCEED NINE
38 SQUARE FEET. THIS SUBSECTION APPLIES ONLY TO A COMMERCIALY PRODUCED SIGN
39 AND AN ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALY
40 PRODUCED. For the purposes of this subsection, "political sign" means a sign
41 that attempts to influence the outcome of an election, including supporting
42 or opposing the recall of a public officer or supporting or opposing the
43 circulation of a petition for a ballot measure, question or proposition or
44 the recall of a public officer.

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

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

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

15 F. Notwithstanding any provision in the community documents, an
16 association shall not prohibit OR CHARGE A FEE FOR THE USE OR PLACEMENT OF
17 the indoor or outdoor display of a for sale, FOR RENT OR FOR LEASE sign and a
18 sign rider by an association member on that member's property IN ANY
19 COMBINATION, including a sign that indicates the member is offering the
20 property for sale by owner. The size of a sign offering a property for sale,
21 FOR RENT OR FOR LEASE shall be in conformance with the industry standard size
22 sign, which shall not exceed eighteen by twenty-four inches, and the industry
23 standard size sign rider, which shall not exceed six by twenty-four inches.
24 THIS SUBSECTION APPLIES ONLY TO A COMMERCIALY PRODUCED SIGN AND AN
25 ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALY PRODUCED.
26 With respect to real estate for sale, FOR RENT or FOR lease in the planned
27 community, an association shall not prohibit IN ANY WAY OTHER THAN IS
28 SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the
29 following:

30 1. Temporary open house signs or a ~~unit-owner's~~ MEMBER'S for sale
31 sign. The association shall not require the use of particular signs
32 indicating an open house or real property for sale and may not further
33 regulate the use of temporary open house or for sale signs that are industry
34 standard size and that are owned or used by the seller or the seller's agent.

35 2. Open house hours. The association may not limit the hours for an
36 open house for real estate that is for sale in the planned community, except
37 that the association may prohibit an open house being held before 8:00 a.m.
38 or after 6:00 p.m. and may prohibit open house signs on the common areas of
39 the planned community.

40 3. An owner's or an owner's agent's FOR RENT OR for lease sign unless
41 an association's documents prohibit or restrict leasing of a member's
42 property. An association shall not further regulate a FOR RENT OR for lease
43 sign or require the use of a particular FOR RENT OR for lease sign other than
44 the FOR RENT OR for lease sign shall not be any larger than the industry
45 standard size sign of eighteen by twenty-four inches on or in the member's

1 property. If RENTAL OR leasing of a member's property is not prohibited or
2 restricted, the association may prohibit AN open house FOR RENTAL OR leasing
3 being held before 8:00 a.m. or after 6:00 p.m.

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

14 H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS
15 SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION
16 33-1807 AGAINST THAT MEMBER'S PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS
17 FROM THE DATE OF THE VIOLATION.

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1148

AN ACT

AMENDING SECTIONS 41-2141, 41-2198.02 AND 41-2198.04, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2141, Arizona Revised Statutes, is amended to
3 read:

4 41-2141. Department of fire, building and life safety:
5 establishment; purposes; components

6 A. The department of fire, building and life safety is established to
7 further the public interest of safety and welfare by maintaining and
8 enforcing standards of quality and safety for manufactured homes, mobile
9 homes and factory-built buildings and by reducing hazards to life and
10 property through the maintenance and enforcement of the state fire code by
11 providing fire training, fire investigations and public life safety education
12 as provided for in this chapter.

13 B. THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY HAS AS AN
14 ADDITIONAL PURPOSE THE PROTECTION OF THE PUBLIC INTEREST IN MAINTAINING THE
15 SUBSTANTIAL RESPONSIBILITY FOR INTERPRETING AND ENFORCING THE TERMS OF MOBILE
16 HOME PARK RENTAL AGREEMENTS THROUGH ITS HEARING OFFICER FUNCTIONS AND HAS
17 EXERCISED THAT RESPONSIBILITY FOR MOBILE HOME COMMUNITIES FOR MANY YEARS,
18 INCLUDING INTERPRETATION OF STATUTES REGULATING THOSE COMMON INTEREST
19 COMMUNITIES AND THE INTERPRETATION AND ENFORCEMENT OF THE OTHERWISE PRIVATE
20 CONTRACTS AND RULES THAT GOVERN THOSE COMMUNITIES, EVEN THOUGH THE
21 COMMUNITIES THEMSELVES ARE NOT DIRECTLY LICENSED BY THE DEPARTMENT.
22 ACCORDINGLY, THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY PERFORMS A
23 SIMILAR FUNCTION FOR CONDOMINIUMS REGULATED BY TITLE 33, CHAPTER 9 AND
24 PLANNED COMMUNITIES REGULATED BY TITLE 33, CHAPTER 16 IN THAT THE DEPARTMENT,
25 THROUGH ITS HEARING OFFICER FUNCTION, APPLIES AND ENFORCES THE STATUTES
26 REGULATING THOSE COMMON INTEREST COMMUNITIES AND THE INTERPRETATION AND
27 ENFORCEMENT OF THE OTHERWISE PRIVATE CONTRACTS AND RULES THAT GOVERN THOSE
28 COMMUNITIES. SIMILARLY, THE DEPARTMENT DOES NOT DIRECTLY LICENSE THOSE
29 COMMUNITIES. It is also the purpose of the department to establish a
30 procedure to protect the consumer of such products and services, INCLUDING
31 THE OWNERS IN CONDOMINIUMS AND PLANNED COMMUNITIES AS WELL AS THE RENTERS IN
32 MOBILE HOME PARK COMMUNITIES.

33 ~~B.~~ C. The department of fire, building and life safety consists of
34 the board of manufactured housing, the installation standards committee, the
35 state fire safety committee and the director of the department. The
36 director's office consists of the deputy director, the office of manufactured
37 housing, the office of state fire marshal and the office of administration.

38 ~~C.~~ D. The attorney general shall act for the department in all legal
39 actions or proceedings and shall advise the department on all questions of
40 law arising out of the administration of this chapter.

41 Sec. 2. Section 41-2198.02, Arizona Revised Statutes, is amended to
42 read:

43 41-2198.02. Orders; penalties; disposition

44 A. The administrative law judge may order any party to abide by the
45 statute, condominium documents, community documents or contract provision at
46 issue and may levy a civil penalty on the basis of each violation. For

1 purposes of actions brought under the Arizona mobile home parks residential
2 landlord and tenant act, the civil penalty shall not exceed five hundred
3 dollars. All monies collected pursuant to this article shall be deposited in
4 the state general fund to be used to offset the cost of administering the
5 administrative law judge function, except that monies collected from disputes
6 involving condominiums or planned communities as prescribed in section
7 41-2198.01, subsection B shall be deposited in the condominium and planned
8 community hearing office fund established by section 41-2198.05. If the
9 petitioner prevails, the administrative law judge shall order the respondent
10 to pay to the petitioner the filing fee required by section 41-2198.01.

11 B. The order issued by the administrative law judge is binding on the
12 parties unless a rehearing is granted pursuant to section 41-2198.04 based on
13 a petition setting forth the reasons for the request for rehearing, in which
14 case the order issued at the conclusion of the rehearing is binding on the
15 parties. ~~Notwithstanding sections 41-1092.08, subsection B and 41-1092.09,~~
16 ~~an order issued by the administrative law judge in an action regarding a~~
17 ~~condominium or planned community is the final administrative decision and is~~
18 ~~not subject to a request for rehearing.~~ The order issued by the
19 administrative law judge is enforceable through contempt of court proceedings
20 **AND IS SUBJECT TO JUDICIAL REVIEW AS PRESCRIBED BY SECTION 41-1092.08.**

21 Sec. 3. Section 41-2198.04, Arizona Revised Statutes, is amended to
22 read:

23 41-2198.04. Rehearing; appeal

24 A. ~~Except for an action relating to condominium documents or planned~~
25 ~~community documents or the statutes regulating condominiums or planned~~
26 ~~communities,~~ A person aggrieved by a decision of the administrative law judge
27 may apply for a rehearing by filing with the director a petition in writing
28 pursuant to section 41-1092.09. Within ten days after filing such petition,
29 the director shall serve notice of the request on the other party by mailing
30 a copy of the petition in the manner prescribed in section 41-2198.01 for
31 notice of hearing.

32 B. The filing of a petition for rehearing temporarily suspends the
33 operation of the administrative law judge's action. If the petition is
34 granted, the administrative law judge's action is suspended pending the
35 decision on the rehearing.

36 C. In the order granting or denying a rehearing, the director shall
37 include a statement of the particular grounds and reasons for the director's
38 action on the petition and shall promptly mail a copy of the order to the
39 parties who have appeared in support of or in opposition to the petition for
40 rehearing.

41 D. In a rehearing conducted pursuant to this section, a corporation
42 may be represented by a corporate officer or employee who is not a member of
43 the state bar if:

44 1. The corporation has specifically authorized such officer or
45 employee to represent it.

1 2. Such representation is not the officer's or employee's primary duty
2 to the corporation but is secondary or incidental to such officer's or
3 employee's duties relating to the management or operation of the corporation.

4 Sec. 4. Legislative findings and intent: department of fire,
5 building and life safety; community disputes

6 It is the intent of the legislature to find, determine and clarify all
7 of the following after careful consideration of the case Gelb v. Department
8 of Fire, Building and Life Safety, 1 CA CV 09-0744, filed October 28, 2010
9 (Ct. App. 2010):

10 1. The department of fire, building and life safety has exercised
11 substantial responsibility for many years in the enforcement and application
12 of state laws and private contracts that regulate the relationships between
13 those who reside in and those who control certain types of common housing,
14 namely, mobile home park residential communities.

15 2. The legislature has determined that while the direct licensure of
16 mobile home parks and their owners may not have been necessary, the
17 regulation of their private, legal relationships with their tenants has been
18 and continues to be an important consumer protection function of the
19 department of fire, building and life safety and that department has
20 developed considerable expertise in interpreting, enforcing and applying the
21 statutes relating to these mobile home communities and in interpreting,
22 applying and enforcing the terms of the leases, rules and other documents
23 that regulate the relationship between the residents of the mobile home parks
24 and the owners and managers of those parks, and doing so in a cost-effective
25 manner for the residents.

26 3. The legislature further determines and finds that while direct
27 licensure and regulation of condominiums and planned communities may not be
28 necessary at this time, the legislature has repeatedly found over the years
29 that owners in condominiums and planned communities are frequently subjected
30 to inconsistent, unreasonable and often unlawful enforcement and application
31 of the declarations, rules and bylaws that govern their communities, their
32 managers and their boards of directors, and owners are often unable to afford
33 the cost of formally litigating their disputes in the superior court.

34 4. The legislature further finds that the continuing use of the
35 existing hearing officer function in the department of fire, building and
36 life safety will provide for an efficient use of already-established common
37 interest community expertise at this agency, will provide an important
38 consumer protection for owners in condominiums and planned communities and
39 will efficiently and effectively provide for resolution of these common
40 interest community disputes without the expense, formality and difficulty of
41 requiring a trial in the superior court in every instance, and will do so
42 without the cost and bureaucratic complexity of creating an entirely new
43 administrative body to perform these important functions, while still
44 maintaining the ability and right to recourse in the superior court, and
45 without threat to the core functions of the judiciary.

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1149

AN ACT

AMENDING SECTIONS 33-1256, 33-1260, 33-1261, 33-1806, 33-1807 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 33-1256, Arizona Revised Statutes, is amended to
3 read:

4 33-1256. Lien for assessments: priority: mechanics' and
5 materialmen's liens: applicability

6 A. The association has a lien on a unit for any assessment levied
7 against that unit from the time the assessment becomes due. The
8 association's lien for assessments, for charges for late payment of those
9 assessments, for reasonable collection fees and for reasonable attorney fees
10 and costs incurred with respect to those assessments may be foreclosed in the
11 same manner as a mortgage on real estate but may be foreclosed only if the
12 owner has been delinquent in the payment of monies secured by the lien,
13 excluding reasonable collection fees, reasonable attorney fees and charges
14 for late payment of and costs incurred with respect to those assessments, for
15 a period of one year or in the amount of one thousand two hundred dollars or
16 more, whichever occurs first. Fees, charges, late charges, monetary
17 penalties and interest charged pursuant to section 33-1242, subsection A,
18 paragraphs 10, 11 and 12, other than charges for late payment of assessments,
19 are not enforceable as assessments under this section. If an assessment is
20 payable in installments, the full amount of the assessment is a lien from the
21 time the first installment of the assessment becomes due. The association
22 has a lien for fees, charges, late charges, other than charges for late
23 payment of assessments, monetary penalties or interest charged pursuant to
24 section 33-1242, subsection A, paragraphs 10, 11 and 12 after the entry of a
25 judgment in a civil suit for those fees, charges, late charges, monetary
26 penalties or interest from a court of competent jurisdiction and the
27 recording of that judgment in the office of the county recorder as otherwise
28 provided by law. The association's lien for monies other than for
29 assessments, for charges for late payment of those assessments, for
30 reasonable collection fees and for reasonable attorney fees and costs
31 incurred with respect to those assessments may not be foreclosed and is
32 effective only on conveyance of any interest in the real property.

33 B. A lien for assessments, for charges for late payment of those
34 assessments, for reasonable collection fees and for reasonable attorney fees
35 and costs incurred with respect to those assessments under this section is
36 prior to all other liens, interests and encumbrances on a unit except:

37 1. Liens and encumbrances recorded before the recordation of the
38 declaration.

39 2. A recorded first mortgage on the unit, a seller's interest in a
40 first contract for sale pursuant to chapter 6, article 3 of this title on the
41 unit recorded prior to the lien arising pursuant to subsection A of this
42 section or a recorded first deed of trust on the unit.

43 3. Liens for real estate taxes and other governmental assessments or
44 charges against the unit.

1 C. Subsection B of this section does not affect the priority of
2 mechanics' or materialmen's liens or the priority of liens for other
3 assessments made by the association. The lien under this section is not
4 subject to chapter 8 of this title.

5 D. Unless the declaration otherwise provides, if two or more
6 associations have liens for assessments created at any time on the same real
7 estate, those liens have equal priority.

8 E. Recording of the declaration constitutes record notice and
9 perfection of the lien for assessments, for charges for late payment of those
10 assessments, for reasonable collection fees and for reasonable attorney fees
11 and costs incurred with respect to those assessments. Further recordation of
12 any claim of lien for assessments under this section is not required.

13 F. A lien for unpaid assessments is extinguished unless proceedings to
14 enforce the lien are instituted within three years after the full amount of
15 the assessments becomes due.

16 G. This section does not prohibit actions to recover sums for which
17 subsection A of this section creates a lien or does not prohibit an
18 association from taking a deed in lieu of foreclosure.

19 H. A judgment or decree in any action brought under this section shall
20 include costs and reasonable attorney fees for the prevailing party.

21 I. The association on written request shall furnish to a lienholder,
22 escrow agent, unit owner or person designated by a unit owner a statement
23 setting forth the amount of unpaid assessments against the unit. The
24 statement shall be furnished within ~~fifteen~~ TEN days after receipt of the
25 request and the statement is binding on the association, the board of
26 directors and every unit owner if the statement is requested by an escrow
27 agency that is licensed pursuant to title 6, chapter 7. Failure to provide
28 the statement to the escrow agent within the time provided for in this
29 subsection shall extinguish any lien for any unpaid assessment then due.

30 J. The association shall record in the office of the county recorder
31 in the county in which the condominium is located a notice stating the name
32 of the association or designated agent or management company for the
33 association, the address for the association and the telephone number of the
34 association or its designated agent or management company. The notice shall
35 include the name of the condominium community, the date of the recording and
36 the recorded instrument number or book and page for the main document that
37 constitutes the declaration. If an association's address, designated agent
38 or management company changes, the association shall amend its notice or
39 record a new notice within ninety days after the change.

40 K. Notwithstanding any provision in the condominium documents or in
41 any contract between the association and a management company, unless the
42 member directs otherwise, all payments received on a member's account shall
43 be applied first to any unpaid assessments, for unpaid charges for late
44 payment of those assessments, for reasonable collection fees and for unpaid
45 attorney fees and costs incurred with respect to those assessments, in that

1 order, with any remaining amounts applied next to other unpaid fees, charges
2 and monetary penalties or interest and late charges on any of those amounts.

3 L. This section does not apply to timeshare plans or associations that
4 are subject to chapter 20 of this title.

5 Sec. 2. Section 33-1260, Arizona Revised Statutes, is amended to read:
6 33-1260. Resale of units; information required; fees; civil
7 penalty; applicability; definition

8 A. For condominiums with fewer than fifty units, a unit owner shall
9 mail or deliver to a purchaser OR A PURCHASER'S AUTHORIZED AGENT within ten
10 days after receipt of a written notice of a pending sale of the unit, and for
11 condominiums with fifty or more units, the association shall mail or deliver
12 to a purchaser OR A PURCHASER'S AUTHORIZED AGENT within ten days after
13 receipt of a written notice of a pending sale that contains the name and
14 address of the purchaser, all of the following IN EITHER PAPER OR ELECTRONIC
15 FORMAT:

- 16 1. A copy of the bylaws and the rules of the association.
- 17 2. A copy of the declaration.
- 18 3. A dated statement containing:

19 (a) The telephone number and address of a principal contact for the
20 association, which may be an association manager, an association management
21 company, an officer of the association or any other person designated by the
22 board of directors.

23 (b) The amount of the common expense assessment for the unit and any
24 unpaid common expense assessment, special assessment or other assessment, fee
25 or charge currently due and payable from the selling unit owner. IF THE
26 REQUEST IS MADE BY A LIENHOLDER, ESCROW AGENT, UNIT OWNER OR PERSON
27 DESIGNATED BY A UNIT OWNER PURSUANT TO SECTION 33-1256, FAILURE TO PROVIDE
28 THE INFORMATION PURSUANT TO THIS SUBDIVISION WITHIN THE TIME PROVIDED FOR IN
29 THIS SUBSECTION SHALL EXTINGUISH ANY LIEN FOR ANY UNPAID ASSESSMENT THEN DUE
30 AGAINST THAT UNIT.

31 (c) A statement as to whether a portion of the unit is covered by
32 insurance maintained by the association.

33 (d) The total amount of money held by the association as reserves.

34 (e) If the statement is being furnished by the association, a
35 statement as to whether the records of the association reflect any
36 alterations or improvements to the unit that violate the declaration. The
37 association is not obligated to provide information regarding alterations or
38 improvements that occurred more than six years before the proposed sale.
39 Nothing in this subdivision relieves the seller of a unit from the obligation
40 to disclose alterations or improvements to the unit that violate the
41 declaration, nor precludes the association from taking action against the
42 purchaser of a unit for violations that are apparent at the time of purchase
43 and that are not reflected in the association's records.

1 (f) If the statement is being furnished by the unit owner, a statement
2 as to whether the unit owner has any knowledge of any alterations or
3 improvements to the unit that violate the declaration.

4 (g) A statement of case names and case numbers for pending litigation
5 with respect to the unit filed by the association against the unit owner or
6 filed by the unit owner against the association. The unit owner or the
7 association shall not be required to disclose information concerning the
8 pending litigation that would violate any applicable rule of attorney-client
9 privilege under Arizona law.

10 (h) A statement that provides "I hereby acknowledge that the
11 declaration, bylaws and rules of the association constitute a contract
12 between the association and me (the purchaser). By signing this statement, I
13 acknowledge that I have read and understand the association's contract with
14 me (the purchaser). I also understand that as a matter of Arizona law, if I
15 fail to pay my association assessments, the association may foreclose on my
16 property." The statement shall also include a signature line for the
17 purchaser and shall be returned to the association within fourteen calendar
18 days.

19 4. A copy of the current operating budget of the association.

20 5. A copy of the most recent annual financial report of the
21 association. If the report is more than ten pages, the association may
22 provide a summary of the report in lieu of the entire report.

23 6. A copy of the most recent reserve study of the association, if any.

24 7. A STATEMENT SUMMARIZING ANY PENDING LAWSUITS, EXCEPT THOSE RELATING
25 TO THE COLLECTION OF ASSESSMENTS OWED BY UNIT OWNERS OTHER THAN THE SELLING
26 UNIT OWNER, IN WHICH THE ASSOCIATION IS A NAMED PARTY, INCLUDING THE AMOUNT
27 OF ANY MONEY CLAIMED.

28 B. A purchaser or seller who is damaged by the failure of the unit
29 owner or the association to disclose the information required by subsection A
30 of this section may pursue all remedies at law or in equity against the unit
31 owner or the association, whichever failed to comply with subsection A of
32 this section, including the recovery of reasonable attorney fees.

33 C. The association may charge the unit owner a ~~reasonable~~ fee OF NO
34 MORE THAN AN AGGREGATE OF FOUR HUNDRED DOLLARS to compensate the association
35 for the costs incurred in the preparation of a statement OR OTHER DOCUMENTS
36 furnished by the association pursuant to this section FOR PURPOSES OF RESALE
37 DISCLOSURE, LIEN ESTOPPEL AND ANY OTHER SERVICES RELATED TO THE TRANSFER OR
38 USE OF THE PROPERTY. IN ADDITION, THE ASSOCIATION MAY CHARGE A RUSH FEE OF
39 NO MORE THAN ONE HUNDRED DOLLARS IF THE RUSH SERVICES ARE REQUIRED TO BE
40 PERFORMED WITHIN SEVENTY-TWO HOURS AFTER THE REQUEST FOR RUSH SERVICES, AND
41 MAY CHARGE A STATEMENT OR OTHER DOCUMENTS UPDATE FEE OF NO MORE THAN FIFTY
42 DOLLARS IF THIRTY DAYS OR MORE HAVE PASSED SINCE THE DATE OF THE ORIGINAL
43 DISCLOSURE STATEMENT OR DOCUMENTS WERE DELIVERED. The association shall make
44 available to any interested party the amount of any fee established from time
45 to time by the association. IF THE AGGREGATE FEE FOR PURPOSES OF RESALE

1 DISCLOSURE, LIEN ESTOPPEL AND ANY OTHER SERVICES RELATED TO THE TRANSFER OR
2 USE OF A PROPERTY IS LESS THAN FOUR HUNDRED DOLLARS ON JANUARY 1, 2010, THE
3 FEE MAY INCREASE AT A RATE OF NO MORE THAN TWENTY PER CENT PER YEAR BASED ON
4 THE IMMEDIATELY PRECEDING FISCAL YEAR'S AMOUNT NOT TO EXCEED THE FOUR HUNDRED
5 DOLLAR AGGREGATE FEE. THE ASSOCIATION MAY CHARGE THE SAME FEE WITHOUT REGARD
6 TO WHETHER THE ASSOCIATION IS FURNISHING THE STATEMENT OR OTHER DOCUMENTS IN
7 PAPER OR ELECTRONIC FORMAT.

8 D. THE FEES PRESCRIBED BY THIS SECTION SHALL BE COLLECTED NO EARLIER
9 THAN AT THE CLOSE OF ESCROW AND MAY ONLY BE CHARGED ONCE TO A UNIT OWNER FOR
10 THAT TRANSACTION BETWEEN THE PARTIES SPECIFIED IN THE NOTICE REQUIRED
11 PURSUANT TO SUBSECTION A OF THIS SECTION. AN ASSOCIATION SHALL NOT CHARGE OR
12 COLLECT A FEE RELATING TO SERVICES FOR RESALE DISCLOSURE, LIEN ESTOPPEL AND
13 ANY OTHER SERVICES RELATED TO THE TRANSFER OR USE OF A PROPERTY EXCEPT AS
14 SPECIFICALLY AUTHORIZED IN THIS SECTION. AN ASSOCIATION THAT CHARGES OR
15 COLLECTS A FEE IN VIOLATION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF
16 NO MORE THAN ONE THOUSAND TWO HUNDRED DOLLARS.

17 E. THIS SECTION APPLIES TO A MANAGING AGENT FOR AN ASSOCIATION THAT IS
18 ACTING ON BEHALF OF THE ASSOCIATION.

19 ~~D.~~ F. A sale in which a public report is issued pursuant to sections
20 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
21 from this section.

22 ~~E.~~ G. This section does not apply to timeshare plans or associations
23 that are subject to chapter 20 of this title.

24 ~~F.~~ H. For the purposes of this section, unless the context otherwise
25 requires, "unit owner" means the seller of the condominium unit title and
26 excludes any real estate salesperson or real estate broker who is licensed
27 under title 32, chapter 20 and who is acting as a salesperson or broker and
28 also excludes a trustee of a deed of trust who is selling the property in a
29 trustee's sale pursuant to chapter 6.1 of this title.

30 Sec. 3. Section 33-1261, Arizona Revised Statutes, is amended to read:

31 33-1261. Flag display; for sale signs; political petitions;
32 applicability

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

35 1. The American flag or an official or replica of a flag of the United
36 States army, navy, air force, marine corps or coast guard by a unit owner on
37 that unit owner's property if the American flag or military flag is displayed
38 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;
39 4 United States Code sections 4 through 10).

40 2. The POW/MIA flag.

41 3. The Arizona state flag.

42 4. An Arizona Indian nations flag.

43 B. The association shall adopt reasonable rules and regulations
44 regarding the placement and manner of display of the American flag, the
45 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian

1 nations flag. The association rules may regulate the location and size of
2 flagpoles but shall not prohibit the installation of a flagpole.

3 C. Notwithstanding any provision in the condominium documents, an
4 association shall not prohibit OR CHARGE ANY FEE FOR THE USE OF, THE
5 PLACEMENT OF OR the indoor or outdoor display of a for sale sign and a sign
6 rider by a unit owner on that owner's property, including a sign that
7 indicates the unit owner is offering the property for sale by owner. The
8 size of a sign offering a property for sale shall be in conformance with the
9 industry standard size sign, which shall not exceed eighteen by twenty-four
10 inches, and the industry standard size sign rider, which shall not exceed six
11 by twenty-four inches. With respect to real estate for sale or lease in the
12 condominium, an association shall not prohibit IN ANY WAY OTHER THAN AS
13 SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the
14 following:

15 1. Temporary open house signs or a unit owner's for sale sign. The
16 association shall not require the use of particular signs indicating an open
17 house or real property for sale and may not further regulate the use of
18 temporary open house or for sale signs that are industry standard size and
19 that are owned or used by the seller or the seller's agent.

20 2. Open house hours. The association may not limit the hours for an
21 open house for real estate that is for sale in the condominium, except that
22 the association may prohibit an open house being held before 8:00 a.m. or
23 after 6:00 p.m. and may prohibit open house signs on the common elements of
24 the condominium.

25 3. An owner's or an owner's agent's for lease sign unless an
26 association's documents prohibit or restrict leasing of a unit or units. An
27 association shall not further regulate a for lease sign or require the use of
28 a particular for lease sign other than the for lease sign shall not be any
29 larger than the industry standard size sign of eighteen by twenty-four inches
30 and on or in the unit owner's property. If leasing of a unit is allowed, the
31 association may prohibit open house leasing being held before 8:00 a.m. or
32 after 6:00 p.m.

33 D. Notwithstanding any provision in the condominium documents, an
34 association shall not prohibit but may reasonably regulate the circulation of
35 political petitions, including candidate nomination petitions or petitions in
36 support of or opposition to an initiative, referendum or recall or other
37 political issue on property dedicated to the public within the association.
38 A condominium is not required to comply with this subsection if the
39 condominium restricts vehicular or pedestrian access to the condominium.
40 Nothing in this subsection requires a condominium to make its common elements
41 available for the circulation of political petitions to anyone who is not an
42 owner or resident of the community.

43 E. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF THIS
44 SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION

1 33-1256 AGAINST THAT UNIT FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE
2 DATE OF THIS VIOLATION.

3 ~~F.~~ F. This section does not apply to timeshare plans or associations
4 that are subject to chapter 20 of this title.

5 Sec. 4. Section 33-1806, Arizona Revised Statutes, is amended to read:
6 33-1806. Resale of units; information required; fees; civil
7 penalty; definition

8 A. For planned communities with fewer than fifty units, a member shall
9 mail or deliver to a purchaser OR A PURCHASER'S AUTHORIZED AGENT within ten
10 days after receipt of a written notice of a pending sale of the unit, and for
11 planned communities with fifty or more units, the association shall mail or
12 deliver to a purchaser OR A PURCHASER'S AUTHORIZED AGENT within ten days
13 after receipt of a written notice of a pending sale that contains the name
14 and address of the purchaser, all of the following IN EITHER PAPER OR
15 ELECTRONIC FORMAT:

- 16 1. A copy of the bylaws and the rules of the association.
- 17 2. A copy of the declaration.
- 18 3. A dated statement containing:

19 (a) The telephone number and address of a principal contact for the
20 association, which may be an association manager, an association management
21 company, an officer of the association or any other person designated by the
22 board of directors.

23 (b) The amount of the common regular assessment and the unpaid common
24 regular assessment, special assessment or other assessment, fee or charge
25 currently due and payable from the selling member. IF THE REQUEST IS MADE BY
26 A LIENHOLDER, ESCROW AGENT, MEMBER OR PERSON DESIGNATED BY A MEMBER PURSUANT
27 TO SECTION 33-1807, FAILURE TO PROVIDE THE INFORMATION PURSUANT TO THIS
28 SUBDIVISION WITHIN THE TIME PROVIDED FOR IN THIS SUBSECTION SHALL EXTINGUISH
29 ANY LIEN FOR ANY UNPAID ASSESSMENT THEN DUE AGAINST THAT PROPERTY.

30 (c) A statement as to whether a portion of the unit is covered by
31 insurance maintained by the association.

32 (d) The total amount of money held by the association as reserves.

33 (e) If the statement is being furnished by the association, a
34 statement as to whether the records of the association reflect any
35 alterations or improvements to the unit that violate the declaration. The
36 association is not obligated to provide information regarding alterations or
37 improvements that occurred more than six years before the proposed sale.
38 Nothing in this subdivision relieves the seller of a unit from the obligation
39 to disclose alterations or improvements to the unit that violate the
40 declaration, nor precludes the association from taking action against the
41 purchaser of a unit for violations that are apparent at the time of purchase
42 and that are not reflected in the association's records.

43 (f) If the statement is being furnished by the member, a statement as
44 to whether the member has any knowledge of any alterations or improvements to
45 the unit that violate the declaration.

1 (g) A statement of case names and case numbers for pending litigation
2 with respect to the unit filed by the association against the member or filed
3 by the member against the association. The member shall not be required to
4 disclose information concerning such pending litigation ~~which~~ THAT would
5 violate any applicable rule of attorney-client privilege under Arizona law.

6 (h) A statement that provides "I hereby acknowledge that the
7 declaration, bylaws and rules of the association constitute a contract
8 between the association and me (the purchaser). By signing this statement, I
9 acknowledge that I have read and understand the association's contract with
10 me (the purchaser). I also understand that as a matter of Arizona law, if I
11 fail to pay my association assessments, the association may foreclose on my
12 property." The statement shall also include a signature line for the
13 purchaser and shall be returned to the association within fourteen calendar
14 days.

15 4. A copy of the current operating budget of the association.

16 5. A copy of the most recent annual financial report of the
17 association. If the report is more than ten pages, the association may
18 provide a summary of the report in lieu of the entire report.

19 6. A copy of the most recent reserve study of the association, if any.

20 7. A STATEMENT SUMMARIZING ANY PENDING LAWSUITS, EXCEPT THOSE RELATING
21 TO THE COLLECTION OF ASSESSMENTS OWED BY MEMBERS OTHER THAN THE SELLING
22 MEMBER, IN WHICH THE ASSOCIATION IS A NAMED PARTY, INCLUDING THE AMOUNT OF
23 ANY MONEY CLAIMED.

24 B. A purchaser or seller who is damaged by the failure of the member
25 or the association to disclose the information required by subsection A of
26 this section may pursue all remedies at law or in equity against the member
27 or the association, whichever failed to comply with subsection A of this
28 section, including the recovery of reasonable attorney fees.

29 C. The association may charge the member a ~~reasonable~~ fee OF NO MORE
30 THAN AN AGGREGATE OF FOUR HUNDRED DOLLARS to compensate the association for
31 the costs incurred in the preparation of a statement OR OTHER DOCUMENTS
32 furnished by the association pursuant to this section FOR PURPOSES OF RESALE
33 DISCLOSURE, LIEN ESTOPPEL AND ANY OTHER SERVICES RELATED TO THE TRANSFER OR
34 USE OF THE PROPERTY. IN ADDITION, THE ASSOCIATION MAY CHARGE A RUSH FEE OF
35 NO MORE THAN ONE HUNDRED DOLLARS IF THE RUSH SERVICES ARE REQUIRED TO BE
36 PERFORMED WITHIN SEVENTY-TWO HOURS AFTER THE REQUEST FOR RUSH SERVICES, AND
37 MAY CHARGE A STATEMENT OR OTHER DOCUMENTS UPDATE FEE OF NO MORE THAN FIFTY
38 DOLLARS IF THIRTY DAYS OR MORE HAVE PASSED SINCE THE DATE OF THE ORIGINAL
39 DISCLOSURE STATEMENT OR DOCUMENTS WERE DELIVERED. The association shall make
40 available to any interested party the amount of any fee established from time
41 to time by the association. IF THE AGGREGATE FEE FOR PURPOSES OF RESALE
42 DISCLOSURE, LIEN ESTOPPEL AND ANY OTHER SERVICES RELATED TO THE TRANSFER OR
43 USE OF A PROPERTY IS LESS THAN FOUR HUNDRED DOLLARS ON JANUARY 1, 2010, THE
44 FEE MAY INCREASE AT A RATE OF NO MORE THAN TWENTY PER CENT PER YEAR BASED ON
45 THE IMMEDIATELY PRECEDING FISCAL YEAR'S AMOUNT NOT TO EXCEED THE FOUR HUNDRED

1 DOLLAR AGGREGATE FEE. THE ASSOCIATION MAY CHARGE THE SAME FEE WITHOUT REGARD
2 TO WHETHER THE ASSOCIATION IS FURNISHING THE STATEMENT OR OTHER DOCUMENTS IN
3 PAPER OR ELECTRONIC FORMAT.

4 D. THE FEES PRESCRIBED BY THIS SECTION SHALL BE COLLECTED NO EARLIER
5 THAN AT THE CLOSE OF ESCROW AND MAY ONLY BE CHARGED ONCE TO A MEMBER FOR THAT
6 TRANSACTION BETWEEN THE PARTIES SPECIFIED IN THE NOTICE REQUIRED PURSUANT TO
7 SUBSECTION A OF THIS SECTION. AN ASSOCIATION SHALL NOT CHARGE OR COLLECT A
8 FEE RELATING TO SERVICES FOR RESALE DISCLOSURE, LIEN ESTOPPEL AND ANY OTHER
9 SERVICES RELATED TO THE TRANSFER OR USE OF A PROPERTY EXCEPT AS SPECIFICALLY
10 AUTHORIZED IN THIS SECTION. AN ASSOCIATION THAT CHARGES OR COLLECTS A FEE IN
11 VIOLATION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF NO MORE THAN ONE
12 THOUSAND TWO HUNDRED DOLLARS.

13 E. THIS SECTION APPLIES TO A MANAGING AGENT FOR AN ASSOCIATION THAT IS
14 ACTING ON BEHALF OF THE ASSOCIATION.

15 ~~D.~~ F. A sale in which a public report is issued pursuant to sections
16 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
17 from this section.

18 ~~E.~~ G. For THE purposes of this section, unless the context otherwise
19 requires, "member" means the seller of the unit title and excludes any real
20 estate salesperson or real estate broker who is licensed under title 32,
21 chapter 20 and who is acting as a salesperson or broker and also excludes a
22 trustee of a deed of trust who is selling the property in a trustee's sale
23 pursuant to chapter 6.1 of this title.

24 Sec. 5. Section 33-1807, Arizona Revised Statutes, is amended to read:
25 33-1807. Lien for assessments: priority; mechanics' and
26 materialmen's liens

27 A. The association has a lien on a unit for any assessment levied
28 against that unit from the time the assessment becomes due. The
29 association's lien for assessments, for charges for late payment of those
30 assessments, for reasonable collection fees and for reasonable attorney fees
31 and costs incurred with respect to those assessments may be foreclosed in the
32 same manner as a mortgage on real estate but may be foreclosed only if the
33 owner has been delinquent in the payment of monies secured by the lien,
34 excluding reasonable collection fees, reasonable attorney fees and charges
35 for late payment of and costs incurred with respect to those assessments, for
36 a period of one year or in the amount of one thousand two hundred dollars or
37 more, whichever occurs first. Fees, charges, late charges, monetary
38 penalties and interest charged pursuant to section 33-1803, other than
39 charges for late payment of assessments are not enforceable as assessments
40 under this section. If an assessment is payable in installments, the full
41 amount of the assessment is a lien from the time the first installment of the
42 assessment becomes due. The association has a lien for fees, charges, late
43 charges, other than charges for late payment of assessments, monetary
44 penalties or interest charged pursuant to section 33-1803 after the entry of
45 a judgment in a civil suit for those fees, charges, late charges, monetary

1 penalties or interest from a court of competent jurisdiction and the
2 recording of that judgment in the office of the county recorder as otherwise
3 provided by law. The association's lien for monies other than for
4 assessments, for charges for late payment of those assessments, for
5 reasonable collection fees and for reasonable attorney fees and costs
6 incurred with respect to those assessments may not be foreclosed and is
7 effective only on conveyance of any interest in the real property.

8 B. A lien for assessments, for charges for late payment of those
9 assessments, for reasonable collection fees and for reasonable attorney fees
10 and costs incurred with respect to those assessments under this section is
11 prior to all other liens, interests and encumbrances on a unit except:

12 1. Liens and encumbrances recorded before the recordation of the
13 declaration.

14 2. A recorded first mortgage on the unit, a seller's interest in a
15 first contract for sale pursuant to chapter 6, article 3 of this title on the
16 unit recorded prior to the lien arising pursuant to subsection A of this
17 section or a recorded first deed of trust on the unit.

18 3. Liens for real estate taxes and other governmental assessments or
19 charges against the unit.

20 C. Subsection B of this section does not affect the priority of
21 mechanics' or materialmen's liens or the priority of liens for other
22 assessments made by the association. The lien under this section is not
23 subject to chapter 8 of this title.

24 D. Unless the declaration otherwise provides, if two or more
25 associations have liens for assessments created at any time on the same real
26 estate those liens have equal priority.

27 E. Recording of the declaration constitutes record notice and
28 perfection of the lien for assessments, for charges for late payment of
29 assessments, for reasonable collection fees and for reasonable attorney fees
30 and costs incurred with respect to those assessments. Further recordation of
31 any claim of lien for assessments under this section is not required.

32 F. A lien for an unpaid assessment is extinguished unless proceedings
33 to enforce the lien are instituted within three years after the full amount
34 of the assessment becomes due.

35 G. This section does not prohibit:

36 1. Actions to recover amounts for which subsection A of this section
37 creates a lien.

38 2. An association from taking a deed in lieu of foreclosure.

39 H. A judgment or decree in any action brought under this section shall
40 include costs and reasonable attorney fees for the prevailing party.

41 I. On written request, the association shall furnish to a lienholder,
42 escrow agent, unit owner or person designated by a unit owner a statement
43 setting forth the amount of any unpaid assessment against the unit. The
44 association shall furnish the statement within ~~fifteen~~ TEN days after receipt
45 of the request, and the statement is binding on the association, the board of

1 directors and every unit owner if the statement is requested by an escrow
2 agency that is licensed pursuant to title 6, chapter 7. Failure to provide
3 the statement to the escrow agent within the time provided for in this
4 subsection shall extinguish any lien for any unpaid assessment then due.

5 J. The association shall record in the office of the county recorder
6 in the county in which the planned community is located a notice stating the
7 name of the association or designated agent or management company for the
8 association, the address for the association and the telephone number of the
9 association or its designated agent or management company. The notice shall
10 include the name of the planned community, the date of the recording and the
11 recorded instrument number or book and page for the main document that
12 constitutes the declaration. If an association's address, designated agent
13 or management company changes, the association shall amend its notice or
14 record a new notice within ninety days after the change.

15 K. Notwithstanding any provision in the community documents or in any
16 contract between the association and a management company, unless the member
17 directs otherwise, all payments received on a member's account shall be
18 applied first to any unpaid assessments, for unpaid charges for late payment
19 of those assessments, for reasonable collection fees and for unpaid attorney
20 fees and costs incurred with respect to those assessments, in that order,
21 with any remaining amounts applied next to other unpaid fees, charges and
22 monetary penalties or interest and late charges on any of those amounts.

23 Sec. 6. Section 33-1808, Arizona Revised Statutes, is amended to read:
24 33-1808. Flag display; political signs; caution signs; for sale
25 signs; political petitions

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

28 1. The American flag or an official or replica of a flag of the United
29 States army, navy, air force, marine corps or coast guard by an association
30 member on that member's property if the American flag or military flag is
31 displayed in a manner consistent with the federal flag code (P.L. 94-344;
32 90 Stat. 810; 4 United States Code sections 4 through 10).

33 2. The POW/MIA flag.

34 3. The Arizona state flag.

35 4. An Arizona Indian nations flag.

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

41 C. Notwithstanding any provision in the community documents, an
42 association shall not prohibit the indoor or outdoor display of a political
43 sign by an association member on that member's property, except that an
44 association may prohibit the display of political signs earlier than
45 forty-five days before the day of an election and later than seven days after

1 an election day. An association may regulate the size and number of
2 political signs that may be placed on a member's property if the
3 association's regulation is no more restrictive than any applicable city,
4 town or county ordinance that regulates the size and number of political
5 signs on residential property. If the city, town or county in which the
6 property is located does not regulate the size and number of political signs
7 on residential property, the association shall permit at least one political
8 sign with the maximum dimensions of twenty-four inches by twenty-four inches
9 on a member's property. For the purposes of this subsection, "political
10 sign" means a sign that attempts to influence the outcome of an election,
11 including supporting or opposing the recall of a public officer or supporting
12 or opposing the circulation of a petition for a ballot measure, question or
13 proposition or the recall of a public officer.

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

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

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

28 F. Notwithstanding any provision in the community documents, an
29 association shall not prohibit **OR CHARGE ANY FEE FOR THE USE OF, THE**
30 **PLACEMENT OF OR** the indoor or outdoor display of a for sale sign and a sign
31 rider by an association member on that member's property, including a sign
32 that indicates the member is offering the property for sale by owner. The
33 size of a sign offering a property for sale shall be in conformance with the
34 industry standard size sign, which shall not exceed eighteen by twenty-four
35 inches, and the industry standard size sign rider, which shall not exceed six
36 by twenty-four inches. With respect to real estate for sale or lease in the
37 planned community, an association shall not prohibit or otherwise regulate **IN**
38 **ANY WAY OTHER THAN SPECIFICALLY AUTHORIZED BY THIS SECTION** any of the
39 following:

- 40 1. Temporary open house signs or a ~~unit-owner's~~ **MEMBER'S** for sale
41 sign. The association shall not require the use of particular signs
42 indicating an open house or real property for sale and may not further
43 regulate the use of temporary open house or for sale signs that are industry
44 standard size and that are owned or used by the seller or the seller's agent.

1 2. Open house hours. The association may not limit the hours for an
2 open house for real estate that is for sale in the planned community, except
3 that the association may prohibit an open house being held before 8:00 a.m.
4 or after 6:00 p.m. and may prohibit open house signs on the common areas of
5 the planned community.

6 3. An owner's or an owner's agent's for lease sign unless an
7 association's documents prohibit or restrict leasing of a member's property.
8 An association shall not further regulate a for lease sign or require the use
9 of a particular for lease sign other than the for lease sign shall not be any
10 larger than the industry standard size sign of eighteen by twenty-four inches
11 on or in the member's property. If leasing of a member's property is not
12 prohibited or restricted, the association may prohibit open house leasing
13 being held before 8:00 a.m. or after 6:00 p.m.

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

24 H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS
25 SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION
26 33-1807 AGAINST THAT PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE
27 DATE OF THE VIOLATION.

28 Sec. 7. Effective date

29 This act is effective from and after December 31, 2011.

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1326

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 5. **THE GADSDEN FLAG.**

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

22 C. Notwithstanding any provision in the condominium documents, an
23 association shall not prohibit the indoor or outdoor display of a for sale
24 sign and a sign rider by a unit owner on that owner's property, including a
25 sign that indicates the unit owner is offering the property for sale by
26 owner. The size of a sign offering a property for sale shall be in
27 conformance with the industry standard size sign, which shall not exceed
28 eighteen by twenty-four inches, and the industry standard size sign rider,
29 which shall not exceed six by twenty-four inches. With respect to real
30 estate for sale or lease in the condominium, an association shall not
31 prohibit or otherwise regulate any of the following:

32 1. Temporary open house signs or a unit owner's for sale sign. The
33 association shall not require the use of particular signs indicating an open
34 house or real property for sale and may not further regulate the use of
35 temporary open house or for sale signs that are industry standard size and
36 that are owned or used by the seller or the seller's agent.

37 2. Open house hours. The association may not limit the hours for an
38 open house for real estate that is for sale in the condominium, except that
39 the association may prohibit an open house being held before 8:00 a.m. or
40 after 6:00 p.m. and may prohibit open house signs on the common elements of
41 the condominium.

42 3. An owner's or an owner's agent's for lease sign unless an
43 association's documents prohibit or restrict leasing of a unit or units. An
44 association shall not further regulate a for lease sign or require the use of
45 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 subsection if the
11 condominium restricts vehicular or pedestrian access to the condominium.
12 Nothing in this subsection requires a condominium to make its common elements
13 available for the circulation of political petitions to anyone who is not an
14 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 FRONT YARD OR BACKYARD display of
22 any of the following:

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

28 2. The POW/MIA flag.

29 3. The Arizona state flag.

30 4. An Arizona Indian nations flag.

31 5. THE GADSDEN FLAG.

32 B. The association shall adopt reasonable rules and regulations
33 regarding the placement and manner of display of the American flag, the
34 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
35 nations flag. The association rules may regulate the location and size of
36 flagpoles, MAY LIMIT THE MEMBER TO DISPLAYING NO MORE THAN TWO FLAGS AT ONCE
37 AND MAY LIMIT THE HEIGHT OF THE FLAGPOLE TO NO MORE THAN THE HEIGHT OF THE
38 ROOFTOP OF THE MEMBER'S HOME but shall not prohibit the installation of a
39 flagpole IN THE FRONT YARD OR BACKYARD OF THE MEMBER'S PROPERTY.

40 C. Notwithstanding any provision in the community documents, an
41 association shall not prohibit the indoor or outdoor display of a political
42 sign by an association member on that member's property, except that an
43 association may prohibit the display of political signs earlier than
44 forty-five days before the day of an election and later than seven days after
45 an election day. An association may regulate the size and number of

1 political signs that may be placed on a member's property if the
2 association's regulation is no more restrictive than any applicable city,
3 town or county ordinance that regulates the size and number of political
4 signs on residential property. If the city, town or county in which the
5 property is located does not regulate the size and number of political signs
6 on residential property, the association shall permit at least one political
7 sign with the maximum dimensions of twenty-four inches by twenty-four inches
8 on a member's property. For the purposes of this subsection, "political
9 sign" means a sign that attempts to influence the outcome of an election,
10 including supporting or opposing the recall of a public officer or supporting
11 or opposing the circulation of a petition for a ballot measure, question or
12 proposition or the recall of a public officer.

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

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

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

27 F. Notwithstanding any provision in the community documents, an
28 association shall not prohibit the indoor or outdoor display of a for sale
29 sign and a sign rider by an association member on that member's property,
30 including a sign that indicates the member is offering the property for sale
31 by owner. The size of a sign offering a property for sale shall be in
32 conformance with the industry standard size sign, which shall not exceed
33 eighteen by twenty-four inches, and the industry standard size sign rider,
34 which shall not exceed six by twenty-four inches. With respect to real
35 estate for sale or lease in the planned community, an association shall not
36 prohibit or otherwise regulate any of the following:

- 37 1. Temporary open house signs or a ~~unit-owner's~~ MEMBER'S for sale
38 sign. The association shall not require the use of particular signs
39 indicating an open house or real property for sale and may not further
40 regulate the use of temporary open house or for sale signs that are industry
41 standard size and that are owned or used by the seller or the seller's agent.
- 42 2. Open house hours. The association may not limit the hours for an
43 open house for real estate that is for sale in the planned community, except
44 that the association may prohibit an open house being held before 8:00 a.m.

1 or after 6:00 p.m. and may prohibit open house signs on the common areas of
2 the planned community.

3 3. An owner's or an owner's agent's for lease sign unless an
4 association's documents prohibit or restrict leasing of a member's property.
5 An association shall not further regulate a for lease sign or require the use
6 of a particular for lease sign other than the for lease sign shall not be any
7 larger than the industry standard size sign of eighteen by twenty-four inches
8 on or in the member's property. If leasing of a member's property is not
9 prohibited or restricted, the association may prohibit open house leasing
10 being held before 8:00 a.m. or after 6:00 p.m.

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

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1540

AN ACT

AMENDING SECTIONS 16-1019, 33-1261 AND 33-1808, ARIZONA REVISED STATUTES;
RELATING TO REGULATION OF POLITICAL ACTIVITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-1019, Arizona Revised Statutes, is amended to
3 read:

4 16-1019. Political signs; tampering; classification

5 A. It is a class 2 misdemeanor for any person to knowingly remove,
6 alter, deface or cover any political sign of any candidate for public office
7 **OR KNOWINGLY REMOVE, ALTER OR DEFACE ANY POLITICAL MAILERS, HANDOUTS, FLYERS**
8 **OR OTHER PRINTED MATERIALS OF A CANDIDATE THAT ARE DELIVERED BY HAND TO A**
9 **RESIDENCE** for the period commencing forty-five days ~~prior to~~ **BEFORE** a primary
10 election and ending seven days after the general election.

11 B. ~~The provisions of~~ This section ~~shall~~ **DOES** not apply to the removal,
12 alteration, defacing or covering of a political sign **OR OTHER PRINTED**
13 **MATERIALS** by the candidate or the authorized agent of the candidate in
14 support of whose election the sign was placed, or by the owner or authorized
15 agent of the owner of private property on which such signs are placed with or
16 without permission of the owner, or placed in violation of state law, or
17 county, city or town ordinance or regulation.

18 Sec. 2. Section 33-1261, Arizona Revised Statutes, is amended to read:

19 33-1261. Flag display; for sale signs; political petitions;
20 applicability

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

23 1. The American flag or an official or replica of a flag of the United
24 States army, navy, air force, marine corps or coast guard by a unit owner on
25 that unit owner's property if the American flag or military flag is displayed
26 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;
27 4 United States Code sections 4 through 10).

28 2. The POW/MIA flag.

29 3. The Arizona state flag.

30 4. An Arizona Indian nations flag.

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

36 C. Notwithstanding any provision in the condominium documents, an
37 association shall not prohibit the indoor or outdoor display of a for sale
38 sign and a sign rider by a unit owner on that owner's property, including a
39 sign that indicates the unit owner is offering the property for sale by
40 owner. The size of a sign offering a property for sale shall be in
41 conformance with the industry standard size sign, which shall not exceed
42 eighteen by twenty-four inches, and the industry standard size sign rider,
43 which shall not exceed six by twenty-four inches. With respect to real
44 estate for sale or lease in the condominium, an association shall not
45 prohibit or otherwise regulate any of the following:

1 1. Temporary open house signs or a unit owner's for sale sign. The
2 association shall not require the use of particular signs indicating an open
3 house or real property for sale and may not further regulate the use of
4 temporary open house or for sale signs that are industry standard size and
5 that are owned or used by the seller or the seller's agent.

6 2. Open house hours. The association may not limit the hours for an
7 open house for real estate that is for sale in the condominium, except that
8 the association may prohibit an open house being held before 8:00 a.m. or
9 after 6:00 p.m. and may prohibit open house signs on the common elements of
10 the condominium.

11 3. An owner's or an owner's agent's for lease sign unless an
12 association's documents prohibit or restrict leasing of a unit or units. An
13 association shall not further regulate a for lease sign or require the use of
14 a particular for lease sign other than the for lease sign shall not be any
15 larger than the industry standard size sign of eighteen by twenty-four inches
16 and on or in the unit owner's property. If leasing of a unit is allowed, the
17 association may prohibit open house leasing being held before 8:00 a.m. or
18 after 6:00 p.m.

19 D. Notwithstanding any provision in the condominium documents, an
20 association shall not prohibit ~~but may reasonably regulate~~ DOOR TO DOOR
21 POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION
22 REGARDING CANDIDATES OR BALLOT ISSUES, AND SHALL NOT PROHIBIT the circulation
23 of political petitions, including candidate nomination petitions or petitions
24 in support of or opposition to an initiative, referendum or recall or other
25 political issue on property ~~dedicated to the public~~ NORMALLY OPEN TO VISITORS
26 within the association, EXCEPT THAT AN ASSOCIATION MAY DO THE FOLLOWING:

27 1. RESTRICT OR PROHIBIT DOOR TO DOOR POLITICAL ACTIVITY REGARDING
28 CANDIDATES OR BALLOT ISSUES FROM SUNSET TO SUNRISE.

29 2. REQUIRE THE PROMINENT DISPLAY OF AN IDENTIFICATION TAG FOR EACH
30 PERSON ENGAGED IN THE ACTIVITY, ALONG WITH THE PROMINENT IDENTIFICATION OF
31 THE CANDIDATE OR BALLOT ISSUE THAT IS THE SUBJECT OF THE SUPPORT OR
32 OPPOSITION.

33 E. AN ASSOCIATION SHALL NOT MAKE ANY REGULATIONS REGARDING THE NUMBER
34 OF CANDIDATES SUPPORTED, THE NUMBER OF PUBLIC OFFICERS SUPPORTED OR OPPOSED
35 IN A RECALL OR THE NUMBER OF PROPOSITIONS SUPPORTED OR OPPOSED ON A POLITICAL
36 SIGN.

37 F. AN ASSOCIATION SHALL NOT REQUIRE POLITICAL SIGNS TO BE COMMERCIALY
38 PRODUCED OR PROFESSIONALLY MANUFACTURED OR PROHIBIT THE UTILIZATION OF BOTH
39 SIDES OF A POLITICAL SIGN.

40 G. A condominium is not required to comply with ~~this~~ subsection D if
41 the condominium restricts vehicular or pedestrian access to the condominium.
42 Nothing in this ~~subsection~~ SECTION requires a condominium to make its common
43 elements OTHER THAN ROADWAYS AND SIDEWALKS THAT ARE NORMALLY OPEN TO VISITORS
44 available for the circulation of political petitions to anyone who is not an
45 owner or resident of the community.

1 ~~E.~~ H. This section does not apply to timeshare plans or associations
2 that are subject to chapter 20 of this title.

3 Sec. 3. Section 33-1808, Arizona Revised Statutes, is amended to read:

4 33-1808. Flag display; political signs; caution signs; for sale
5 signs; political petitions

6 A. Notwithstanding any provision in the community 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 an association
10 member on that member's property if the American flag or military flag is
11 displayed in a manner consistent with the federal flag code (P.L. 94-344; 90
12 Stat. 810; 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 community documents, an
22 association shall not prohibit the indoor or outdoor display of a political
23 sign by an association member on that member's property, except that an
24 association may prohibit the display of political signs earlier than
25 ~~forty-five~~ FIFTY-FIVE days before the day of an election and later than ~~seven~~
26 FIFTEEN days after an election day. An association may regulate the size and
27 number of political signs that may be placed on a member's property if the
28 association's regulation is no more restrictive than any applicable city,
29 town or county ordinance that regulates the size and number of political
30 signs on residential property. If the city, town or county in which the
31 property is located does not regulate the size and number of political signs
32 on residential property, the association shall permit at least one political
33 sign with the maximum dimensions of twenty-four inches by twenty-four inches
34 on a member's property. For the purposes of this subsection, "political
35 sign" means a sign that attempts to influence the outcome of an election,
36 including supporting or opposing the recall of a public officer or supporting
37 or opposing the circulation of a petition for a ballot measure, question or
38 proposition or the recall of a public officer.

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

42 1. The signs are displayed in residential areas only.

43 2. The signs are removed within one hour of children ceasing to play.

44 3. The signs are displayed only when children are actually present
45 within fifty feet of the sign.

1 4. The temporary signs are no taller than three feet in height.

2 5. The signs are professionally manufactured or produced.

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

8 F. Notwithstanding any provision in the community documents, an
9 association shall not prohibit the indoor or outdoor display of a for sale
10 sign and a sign rider by an association member on that member's property,
11 including a sign that indicates the member is offering the property for sale
12 by owner. The size of a sign offering a property for sale shall be in
13 conformance with the industry standard size sign, which shall not exceed
14 eighteen by twenty-four inches, and the industry standard size sign rider,
15 which shall not exceed six by twenty-four inches. With respect to real
16 estate for sale or lease in the planned community, an association shall not
17 prohibit or otherwise regulate any of the following:

18 1. Temporary open house signs or a ~~unit owner's~~ MEMBER'S for sale
19 sign. The association shall not require the use of particular signs
20 indicating an open house or real property for sale and may not further
21 regulate the use of temporary open house or for sale signs that are industry
22 standard size and that are owned or used by the seller or the seller's agent.

23 2. Open house hours. The association may not limit the hours for an
24 open house for real estate that is for sale in the planned community, except
25 that the association may prohibit an open house being held before 8:00 a.m.
26 or after 6:00 p.m. and may prohibit open house signs on the common areas of
27 the planned community.

28 3. An owner's or an owner's agent's for lease sign unless an
29 association's documents prohibit or restrict leasing of a member's property.
30 An association shall not further regulate a for lease sign or require the use
31 of a particular for lease sign other than the for lease sign shall not be any
32 larger than the industry standard size sign of eighteen by twenty-four inches
33 on or in the member's property. If leasing of a member's property is not
34 prohibited or restricted, the association may prohibit open house leasing
35 being held before 8:00 a.m. or after 6:00 p.m.

36 G. Notwithstanding any provision in the community documents, an
37 association shall not prohibit ~~but may reasonably regulate~~ DOOR TO DOOR
38 POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION
39 REGARDING CANDIDATES OR BALLOT ISSUES, AND SHALL NOT PROHIBIT the circulation
40 of political petitions, including candidate nomination petitions or petitions
41 in support of or opposition to an initiative, referendum or recall or other
42 political issue on property ~~dedicated to the public~~ NORMALLY OPEN TO VISITORS
43 within the association, EXCEPT THAT AN ASSOCIATION MAY DO THE FOLLOWING:

44 1. RESTRICT OR PROHIBIT THE DOOR TO DOOR POLITICAL ACTIVITY FROM
45 SUNSET TO SUNRISE.

1 2. REQUIRE THE PROMINENT DISPLAY OF AN IDENTIFICATION TAG FOR EACH
2 PERSON ENGAGED IN THE ACTIVITY, ALONG WITH THE PROMINENT IDENTIFICATION OF
3 THE CANDIDATE OR BALLOT ISSUE THAT IS THE SUBJECT OF THE SUPPORT OR
4 OPPOSITION.

5 H. A PLANNED COMMUNITY SHALL NOT MAKE ANY REGULATIONS REGARDING THE
6 NUMBER OF CANDIDATES SUPPORTED, THE NUMBER OF PUBLIC OFFICERS SUPPORTED OR
7 OPPOSED IN A RECALL OR THE NUMBER OF PROPOSITIONS SUPPORTED OR OPPOSED ON A
8 POLITICAL SIGN.

9 I. A PLANNED COMMUNITY SHALL NOT REQUIRE POLITICAL SIGNS TO BE
10 COMMERCIALY PRODUCED OR PROFESSIONALLY MANUFACTURED OR PROHIBIT THE
11 UTILIZATION OF BOTH SIDES OF A POLITICAL SIGN.

12 J. A planned community is not required to comply with ~~this~~ subsection
13 G if the planned community restricts vehicular or pedestrian access to the
14 planned community. Nothing in this ~~subsection~~ SECTION requires a planned
15 community to make its common elements OTHER THAN ROADWAYS AND SIDEWALKS THAT
16 ARE NORMALLY OPEN TO VISITORS available for the circulation of political
17 petitions to anyone who is not an owner or resident of the community.