

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

HOUSE BILL 2717

AN ACT

AMENDING SECTIONS 33-1242, 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 33-1242, Arizona Revised Statutes, is amended to
3 read:
4 33-1242. Powers of unit owners' association; penalties; notice
5 to unit owner of violation
6 A. Subject to the provisions of the declaration, the association may:
7 1. Adopt and amend bylaws and rules.
8 2. Adopt and amend budgets for revenues, expenditures and reserves and
9 collect assessments for common expenses from unit owners.
10 3. Hire and discharge managing agents and other employees, agents and
11 independent contractors.
12 4. Institute, defend or intervene in litigation or administrative
13 proceedings in its own name on behalf of itself or two or more unit owners on
14 matters affecting the condominium.
15 5. Make contracts and incur liabilities.
16 6. Regulate the use, maintenance, repair, replacement and modification
17 of common elements.
18 7. Cause additional improvements to be made as a part of the common
19 elements.
20 8. Acquire, hold, encumber and convey in its own name any right, title
21 or interest to real or personal property, except that common elements may be
22 conveyed or subjected to a security interest only pursuant to section
23 33-1252.
24 9. Grant easements, leases, licenses and concessions through or over
25 the common elements.
26 10. Impose and receive any payments, fees or charges for the use,
27 rental or operation of the common elements other than limited common elements
28 described in section 33-1212, paragraphs 2 and 4 and for services provided to
29 unit owners.
30 11. Impose charges for late payment of assessments and, after notice
31 and an opportunity to be heard, impose reasonable monetary penalties upon
32 unit owners for violations of the declaration, bylaws and rules of the
33 association.
34 12. Impose reasonable charges for the preparation and recordation of
35 amendments to the declaration or statements of unpaid assessments.
36 13. Provide for the indemnification of its officers and executive board
37 of directors and maintain directors' and officers' liability insurance.
38 14. Assign its right to future income, including the right to receive
39 common expense assessments, but only to the extent the declaration expressly
40 provides.
41 15. Be a member of a master association or other entity owning,
42 maintaining or governing in any respect any portion of the common elements or
43 other property benefitting or related to the condominium or the unit owners
44 in any respect.
45 16. Exercise any other powers conferred by the declaration or bylaws.

1 2. The POW/MIA flag.

2 3. The Arizona state flag.

3 4. An Arizona Indian nations flag.

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

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

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

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

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

39 D. Notwithstanding any provision in the condominium documents, an
40 association shall not prohibit but may reasonably regulate the circulation of
41 political petitions, including candidate nomination petitions or petitions in
42 support of or opposition to an initiative, referendum or recall or other
43 political issue on property dedicated to the public within the association.
44 A condominium is not required to comply with this subsection if the
45 condominium restricts vehicular or pedestrian access to the condominium.

1 Nothing in this subsection requires a condominium to make its common elements
2 available for the circulation of political petitions to anyone who is not an
3 owner or resident of the community.

4 E. ANY ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF
5 THIS SECTION, FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER
6 SECTION 33-1256 AGAINST THAT UNIT FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM
7 THE DATE OF THE VIOLATION.

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

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

11 33-1808. Flag display; political signs; caution signs; for sale
12 signs; political petitions

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

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

20 2. The POW/MIA flag.

21 3. The Arizona state flag.

22 4. An Arizona Indian nations flag.

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

28 C. Notwithstanding any provision in the community documents, an
29 association shall not prohibit the indoor or outdoor display of a political
30 sign by an association member on that member's property, except that an
31 association may prohibit the display of political signs earlier than
32 forty-five days before the day of an election and later than seven days after
33 an election day. An association may regulate the size and number of
34 political signs that may be placed on a member's property if the
35 association's regulation is no more restrictive than any applicable city,
36 town or county ordinance that regulates the size and number of political
37 signs on residential property. If the city, town or county in which the
38 property is located does not regulate the size and number of political signs
39 on residential property, the association shall permit at least one political
40 sign with the maximum dimensions of twenty-four inches by twenty-four inches
41 on a member's property. For the purposes of this subsection, "political
42 sign" means a sign that attempts to influence the outcome of an election,
43 including supporting or opposing the recall of a public officer or supporting
44 or opposing the circulation of a petition for a ballot measure, question or
45 proposition or 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 sign and a sign rider by an
18 association member on that member's property, including a sign that indicates
19 the member is offering the property for sale by owner. The size of a sign
20 offering a property for sale shall be in conformance with the industry
21 standard size sign, which shall not exceed eighteen by twenty-four inches,
22 and the industry standard size sign rider, which shall not exceed six by
23 twenty-four inches. With respect to real estate for sale or lease in the
24 planned community, an association shall not prohibit **IN ANY WAY OTHER THAN AS**
25 **SPECIFICALLY AUTHORIZED BY THIS SECTION** or otherwise regulate any of the
26 following:

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

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

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

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

11 H. ANY ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF
12 THIS SECTION, FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER
13 SECTION 33-1807 AGAINST THAT MEMBER'S PROPERTY FOR A PERIOD OF SIX
14 CONSECUTIVE MONTHS FROM THE DATE OF THE VIOLATION.