

REFERENCE TITLE: condominiums; construction defects; actions

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2599

Introduced by
Representative Blackman

AN ACT

AMENDING SECTION 12-552, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1242.01; RELATING TO CONDOMINIUM PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-552, Arizona Revised Statutes, is amended to
3 read:

4 12-552. Actions involving development of real property
5 design, engineering and construction of
6 improvements

7 A. Notwithstanding any other statute, an action or arbitration
8 based in contract may not be instituted or maintained against a person who
9 develops or develops and sells real property, or performs or furnishes the
10 design, specifications, surveying, planning, supervision, testing,
11 construction or observation of construction of an improvement to real
12 property more than ~~eight~~ FOUR years after substantial completion of the
13 improvement to real property.

14 B. Notwithstanding any other statute, a municipality or a county
15 may not institute or maintain an action or arbitration against a person
16 who develops or develops and sells real property or performs or furnishes
17 the design, specifications, surveying, planning, supervision, testing,
18 construction or observation of construction of an improvement to real
19 property that is dedicated to the municipality or county more than ~~eight~~
20 FOUR years after the improvement to real property has been accepted by the
21 municipality or county for ownership, operation and maintenance if the
22 action or arbitration is based on either:

23 1. A municipal or county code, ordinance or other legal
24 requirement.

25 2. A permit that is required as a condition of development.

26 C. The limitations of subsection B of this section do not apply to
27 an action or arbitration that is based on a claim of a wilful, reckless or
28 concealed violation of a municipal or county requirement.

29 D. Subsection B of this section does not limit any immunity or
30 defense that is available to a municipality or county pursuant to chapter
31 7, article 2 of this title.

32 E. Notwithstanding subsection A or B of this section, in the case
33 of injury to real property or an improvement to real property, if the
34 injury occurred during the ~~eighth~~ FOURTH year after the substantial
35 completion or, in the case of a latent defect, was not discovered until
36 the ~~eighth~~ FOURTH year after substantial completion, an action to recover
37 damages for injury to the real property may be brought within ~~one year~~ TWO
38 YEARS after the date on which the injury to real property or an
39 improvement to real property occurred or a latent defect was discovered,
40 but an action may not be brought more than ~~nine~~ SIX years after the
41 substantial completion of the improvement.

42 F. The limitations in subsections A, B and E of this section
43 include any action based on implied warranty arising out of the contract
44 or the construction, including implied warranties of habitability, fitness
45 or workmanship.

1 G. This section does not apply to actions for personal injury or
2 death or shorten the period of warranty provided in an express written
3 warranty.

4 H. For the purposes of subsections A, E and F of this section, an
5 improvement to real property is considered substantially complete when any
6 of the following first occurs:

7 1. It is first used by the owner or occupant of the improvement.

8 2. It is first available for use after having been completed
9 according to the contract or agreement covering the improvement, including
10 agreed changes to the contract or agreement.

11 3. Final inspection, if required, by the governmental body that
12 issued the building permit for the improvement.

13 I. In this section an action based in contract is an action based
14 on a written real estate contract, sales agreement, construction
15 agreement, conveyance or written agreement for construction or for the
16 services set forth in subsection A of this section. This section does not
17 extend the period prescribed by the laws of this state for bringing any
18 action. If a shorter period of limitation is prescribed for a specific
19 action, the shorter period governs.

20 ~~J. With respect to an improvement to real property that was~~
21 ~~substantially complete on or before September 15, 1989, the eight and~~
22 ~~nine-year periods established in subsections A and E of this section shall~~
23 ~~begin to run on September 15, 1989. Notwithstanding the provisions of~~
24 ~~subsection H of this section and section 12-505, subsection A, this~~
25 ~~subsection applies to claims that accrued before May 14, 1992.~~

26 Sec. 2. Title 33, chapter 9, article 3, Arizona Revised Statutes,
27 is amended by adding section 33-1242.01, to read:

28 33-1242.01. Association's construction defect claims:
29 inspection; meeting; vote

30 A. IN A CIVIL ACTION BROUGHT PURSUANT TO SECTION 12-552, THE BOARD
31 OF DIRECTORS SHALL FIRST OBTAIN THE APPROVAL BY A VOTE OF AT LEAST
32 TWO-THIRDS OF THE UNIT OWNERS VOTING ON THE MATTER BEFORE THE BOARD OF
33 DIRECTORS MAY INSTITUTE, DEFEND OR INTERVENE IN LITIGATION OR
34 ADMINISTRATIVE PROCEEDINGS. THE BOARD OF DIRECTORS MAY INITIATE THE ACTION
35 ONLY IF AUTHORIZED BY A VOTE OF THE UNIT OWNERS PURSUANT TO THIS SECTION.

36 B. BEFORE HOLDING A MEETING OF THE UNIT OWNERS TO VOTE ON THE
37 MATTER PURSUANT TO THIS SECTION, THE ASSOCIATION SHALL OBTAIN AN
38 INSPECTION FROM A PROFESSIONAL ENGINEER WHO IS REGISTERED PURSUANT TO
39 TITLE 32, CHAPTER 1 THAT:

40 1. IDENTIFIES THE SPECIFIC UNITS OR COMMON ELEMENTS THAT ARE
41 SUBJECT TO THE ALLEGED CONSTRUCTION DEFECT.

42 2. DESCRIBES THE PHYSICAL CONDITION OF THE UNITS OR COMMON ELEMENTS
43 THAT ARE SUBJECT TO THE CLAIM.

44 3. DESCRIBES ANY MODIFICATIONS, MAINTENANCE OR REPAIRS TO THE UNITS
45 THAT WERE PERFORMED BY THE UNIT OWNERS OR THE ASSOCIATION.

1 C. THE ASSOCIATION SHALL PROVIDE WRITTEN NOTICE OF THE INSPECTION
2 PRESCRIBED BY SUBSECTION B OF THIS SECTION TO THE CONDOMINIUM DEVELOPER
3 NOT LATER THAN FIVE BUSINESS DAYS BEFORE THE DATE OF THE INSPECTION. THE
4 NOTICE OF INSPECTION SHALL INCLUDE ALL OF THE FOLLOWING:
5 1. THE NAME AND COMPANY OF THE REGISTERED PROFESSIONAL ENGINEER WHO
6 IS CONDUCTING THE INSPECTION.
7 2. THE SPECIFIC UNITS OR COMMON ELEMENTS TO BE INSPECTED.
8 3. THE DATE AND TIME THE INSPECTION WILL OCCUR.
9 D. THE CONDOMINIUM DEVELOPER OR THE DEVELOPER'S DESIGNEE MAY ATTEND
10 THE INSPECTION.
11 E. BEFORE A VOTE OF THE UNIT OWNERS PURSUANT TO THIS SECTION, THE
12 ASSOCIATION SHALL DELIVER BY CERTIFIED MAIL WRITTEN NOTICE OF THE
13 ANTICIPATED COMMENCEMENT OF A CONSTRUCTION DEFECT ACTION TO THE FOLLOWING:
14 1. EACH UNIT OWNER.
15 2. THE DEVELOPER OF THE CONDOMINIUM.
16 3. EACH CONSTRUCTION PROFESSIONAL AGAINST WHOM A CONSTRUCTION
17 DEFECT ACTION IS PROPOSED.
18 F. THE NOTICE TO UNIT OWNERS PURSUANT TO SUBSECTION E OF THIS
19 SECTION MUST CALL FOR A MEETING OF THE UNIT OWNERS TO BE HELD NOT LESS
20 THAN FIFTEEN DAYS AND NOT MORE THAN THIRTY DAYS AFTER THE MAILING DATE OF
21 THE NOTICE. THE NOTICE MUST CONTAIN:
22 1. A DESCRIPTION OF THE NATURE OF THE CONSTRUCTION DEFECT ACTION, A
23 DESCRIPTION OF THE ALLEGED DEFECT OR DEFECTS, THE RELIEF SOUGHT AND A GOOD
24 FAITH ESTIMATE OF THE BENEFITS AND RISKS INVOLVED.
25 2. A COPY OF THE INSPECTION REPORT PREPARED BY THE REGISTERED
26 PROFESSIONAL ENGINEER WHO CONDUCTED THE INSPECTION PURSUANT TO SUBSECTION
27 B OF THIS SECTION.
28 3. A DISCLOSURE THAT THE CONSTRUCTION DEFECT CLAIM MAY RESULT IN
29 INCREASED COSTS TO THE ASSOCIATION IN MAINTENANCE OR REPAIR OR CAUSE AN
30 INCREASE IN ASSESSMENTS OR SPECIAL ASSESSMENTS TO COVER THE COST OF
31 REPAIRS.
32 4. A DISCLOSURE THAT UNTIL THE ALLEGED DEFECTS ARE REPAIRED, A UNIT
33 OWNER WHO IS SELLING A UNIT MAY BE REQUIRED TO DISCLOSE KNOWN DEFECTS TO
34 BUYERS.
35 5. THE FEE ARRANGEMENT AGREED TO BY THE BOARD OF DIRECTORS AND THE
36 ATTORNEYS REPRESENTING THE ASSOCIATION, INCLUDING THE PERCENTAGE OF THE
37 RECOVERY FROM THE DEFENDANT THAT THE ATTORNEYS MAY RECEIVE.
38 6. A DISCLOSURE THAT IF THE ASSOCIATION DOES NOT PREVAIL ON ITS
39 CLAIM, THE ASSOCIATION MAY BE RESPONSIBLE FOR PAYING ATTORNEY FEES.
40 7. A DISCLAIMER THAT THERE IS NO GUARANTEE THAT THE ASSOCIATION
41 WILL RECOVER THE MONIES TO REPAIR THE DEFECTS AND THAT IF THE DEFECTS ARE
42 NOT REPAIRED THE ASSOCIATION MAY INCREASE ASSESSMENTS.
43 G. AT LEAST FIVE BUSINESS DAYS BEFORE MAILING THE NOTICE TO UNIT
44 OWNERS, THE ASSOCIATION SHALL NOTIFY THE CONDOMINIUM DEVELOPER AND EACH
45 CONSTRUCTION PROFESSIONAL AGAINST WHOM A CONSTRUCTION DEFECT ACTION IS

1 PROPOSED BY CERTIFIED MAIL, AT THE LAST KNOWN ADDRESS, OF THE DATE, TIME
2 AND LOCATION OF THE MEETING TO CONSIDER THE CONSTRUCTION DEFECT ACTION
3 PURSUANT TO THIS SECTION.

4 H. THE MEETING TO CONSIDER INSTITUTING, DEFENDING OR INTERVENING IN
5 LITIGATION PURSUANT TO SECTION 12-552 AND IN COMPLIANCE WITH THIS SECTION
6 SHALL INCLUDE A PRESENTATION BY THE ASSOCIATION OR ITS ATTORNEYS OF THE
7 ALLEGED CONSTRUCTION DEFECTS. THE CONDOMINIUM DEVELOPER AND THE
8 CONSTRUCTION PROFESSIONALS AGAINST WHOM THE CONSTRUCTION DEFECT IS ALLEGED
9 HAVE THE RIGHT TO OFFER TO REMEDY TO ANY DEFECT ALLEGED AS PRESCRIBED IN
10 SECTION 12-1363.

11 I. PURSUANT TO SECTION 33-1250, THE CONCLUSION OF THE MEETING
12 CONSTITUTES THE BEGINNING OF THE VOTING PERIOD ON THE QUESTION, DURING
13 WHICH TIME THE ASSOCIATION SHALL ACCEPT VOTES FOR AND AGAINST PROCEEDING
14 WITH THE CONSTRUCTION DEFECT ACTION. THE VOTING PERIOD SHALL END NOT
15 LATER THAN FORTY-FIVE DAYS AFTER THE MEETING OR WHEN THE ASSOCIATION
16 DETERMINES THE CONSTRUCTION DEFECT ACTION IS EITHER APPROVED OR
17 DISAPPROVED.

18 J. A UNIT OWNER'S VOTE MAY NOT BE SUBMITTED MORE THAN ONCE AND MAY
19 BE OBTAINED IN ANY WRITTEN FORMAT PRESCRIBED BY SECTION 33-1250 THAT
20 CONFIRMS THE UNIT OWNER'S VOTE TO APPROVE OR REJECT THE PROPOSED
21 CONSTRUCTION DEFECT ACTION. THE ASSOCIATION SHALL MAINTAIN A RECORD OF
22 ALL VOTES UNTIL THE CONCLUSION OF THE CONSTRUCTION DEFECT ACTION,
23 INCLUDING ANY APPEALS.

24 K. FOR THE PURPOSES OF THIS SECTION, THE RIGHT TO CURE FOR
25 CONDOMINIUM DEVELOPERS AND CONSTRUCTION PROFESSIONALS AS PRESCRIBED IN
26 SECTION 12-1363 SHALL COMMENCE AFTER THE ASSOCIATION VOTES IN FAVOR OF THE
27 CONSTRUCTION DEFECT ACTION.

28 L. THIS SECTION DOES NOT APPLY TO A PUBLICLY OWNED BUILDING.

29 M. THIS SECTION APPLIES IN ADDITION TO ANY APPLICABLE PROVISIONS OF
30 TITLE 12, CHAPTER 8, ARTICLE 14 AND CHAPTER 18 OF THIS TITLE,

31 Sec. 3. Applicability

32 Section 12-552, Arizona Revised Statutes, as amended by this act,
33 applies to any claim filed after the effective date of this act.