

REFERENCE TITLE: homeowners' associations; condominiums; fees; signs

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

## **HB 2345**

Introduced by  
Representatives Antenori, Gowan, Jones, Montenegro: Goodale, Kavanagh,  
Stevens, Weiers JP

AN ACT

AMENDING SECTIONS 33-1258, 33-1260, 33-1261, 33-1805, 33-1806 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 33-1258, Arizona Revised Statutes, is amended to  
3 read:

4 33-1258. Association financial and other records; applicability

5 A. Except as provided in subsection B of this section, all financial  
6 and other records of the association shall be made reasonably available for  
7 examination by any member or any person designated by the member in writing  
8 as the member's representative. The association shall not charge a member or  
9 any person designated by the member in writing for making material available  
10 for review. The association shall have ten business days to fulfill a  
11 request for examination. On request for purchase of copies of records by any  
12 member or any person designated by the member in writing as the member's  
13 representative, the association shall have ten business days to provide  
14 copies of the requested records. An association may charge a fee for making  
15 copies of not more than fifteen cents per page.

16 B. Books and records kept by or on behalf of the association and the  
17 board may be withheld from disclosure to the extent that the portion withheld  
18 relates to any of the following:

19 1. Privileged communication between an attorney for the association  
20 and the association.

21 2. Pending litigation.

22 3. Meeting minutes or other records of a session of a board meeting  
23 that is not required to be open to all members pursuant to section 33-1248.

24 4. Personal, health or financial records of an individual member of  
25 the association, an individual employee of the association or an individual  
26 employee of a contractor for the association, including records of the  
27 association directly related to the personal, health or financial information  
28 about an individual member of the association, an individual employee of the  
29 association or an individual employee of a contractor for the association.

30 5. Records relating to the job performance of, compensation of, health  
31 records of or specific complaints against an individual employee of the  
32 association or an individual employee of a contractor of the association who  
33 works under the direction of the association.

34 C. The association shall not be required to disclose financial and  
35 other records of the association if disclosure would violate any state or  
36 federal law.

37 D. THE ASSOCIATION SHALL MAKE AVAILABLE ON THE INTERNET AT NO CHARGE A  
38 COPY OF THE MOST CURRENT DECLARATIONS OF THE CONDOMINIUM AND SHALL PROMPTLY  
39 UPDATE THE POSTED COPY OF THE DECLARATIONS AFTER ANY AMENDMENT.

40 ~~D.~~ E. This section does not apply to an association for a timeshare  
41 plan that is subject to chapter 20 of this title.



1 me (the purchaser). I also understand that as a matter of Arizona law, if I  
2 fail to pay my association assessments, the association may foreclose on my  
3 property." The statement shall also include a signature line for the  
4 purchaser and shall be returned to the association within fourteen calendar  
5 days.

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

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

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

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

16 C. The association may NOT charge the unit owner ~~a reasonable ANY fee~~  
17 ~~to compensate the association for the costs incurred in~~ the preparation of a  
18 statement furnished by the association pursuant to this section. ~~The~~  
19 ~~association shall make available to any interested party the amount of any~~  
20 ~~fee established from time to time by the association.~~

21 D. A sale in which a public report is issued pursuant to sections  
22 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt  
23 from this section.

24 E. AN ASSOCIATION AND ANY OF ITS REPRESENTATIVES, INCLUDING A  
25 MANAGEMENT COMPANY, SHALL NOT ASSESS OR COLLECT A FEE FOR THE TRANSFER OR  
26 INSPECTION OF AN INTEREST IN A LOT OR UNIT IN THE CONDOMINIUM, REGARDLESS OF  
27 HOW THE FEE IS DENOMINATED.

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

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

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

37 33-1261. Flag display; for sale signs; political petitions;  
38 applicability

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

41 1. The American flag or an official or replica of a flag of the United  
42 States army, navy, air force, marine corps or coast guard by a unit owner on  
43 that unit owner's property if the American flag or military flag is displayed  
44 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;  
45 4 United States Code sections 4 through 10).

- 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 the indoor or outdoor display of a for sale  
11 sign and a sign rider by a unit owner on that owner's property, including a  
12 sign that indicates the unit owner is offering the property for sale by  
13 owner. The size of a sign offering a property for sale shall be in  
14 conformance with the industry standard size sign, which shall not exceed  
15 eighteen by twenty-four inches, and the industry standard size sign rider,  
16 which shall not exceed six by twenty-four inches. WITH RESPECT TO REAL  
17 ESTATE FOR SALE IN THE CONDOMINIUM, AN ASSOCIATION SHALL NOT PROHIBIT OR  
18 OTHERWISE REGULATE ANY OF THE FOLLOWING:

19           1. OPEN HOUSE OR OTHER TEMPORARY FOR SALE SIGNS. THE ASSOCIATION  
20 SHALL NOT REQUIRE THE USE OF PARTICULAR SIGNS INDICATING AN OPEN HOUSE OR  
21 REAL PROPERTY FOR SALE AND MAY NOT FURTHER REGULATE THE USE OF OPEN HOUSE OR  
22 TEMPORARY FOR SALE SIGNS THAT ARE INDUSTRY STANDARD SIZE AND THAT ARE OWNED  
23 OR USED BY THE SELLER OR THE SELLER'S AGENT.

24           2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN  
25 OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE CONDOMINIUM, EXCEPT THAT  
26 THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 6:00 A.M. OR  
27 AFTER 10:00 P.M.

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

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

40           Sec. 4. Section 33-1805, Arizona Revised Statutes, is amended to read:  
41           33-1805. Association financial and other records

42           A. Except as provided in subsection B of this section, all financial  
43 and other records of the association shall be made reasonably available for  
44 examination by any member or any person designated by the member in writing  
45 as the member's representative. The association shall not charge a member or

1 any person designated by the member in writing for making material available  
2 for review. The association shall have ten business days to fulfill a  
3 request for examination. On request for purchase of copies of records by any  
4 member or any person designated by the member in writing as the member's  
5 representative, the association shall have ten business days to provide  
6 copies of the requested records. An association may charge a fee for making  
7 copies of not more than fifteen cents per page.

8 B. Books and records kept by or on behalf of the association and the  
9 board may be withheld from disclosure to the extent that the portion withheld  
10 relates to any of the following:

11 1. Privileged communication between an attorney for the association  
12 and the association.

13 2. Pending litigation.

14 3. Meeting minutes or other records of a session of a board meeting  
15 that is not required to be open to all members pursuant to section 33-1804.

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

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

26 C. The association shall not be required to disclose financial and  
27 other records of the association if disclosure would violate any state or  
28 federal law.

29 D. THE ASSOCIATION SHALL MAKE AVAILABLE ON THE INTERNET AT NO CHARGE A  
30 COPY OF THE MOST CURRENT DECLARATIONS OF THE PLANNED COMMUNITY AND SHALL  
31 PROMPTLY UPDATE THE POSTED COPY OF THE DECLARATIONS AFTER ANY AMENDMENT.

32 Sec. 5. Section 33-1806, Arizona Revised Statutes, is amended to read:  
33 33-1806. Resale of units; information required; definition

34 A. For planned communities with fewer than fifty units, a member shall  
35 mail or deliver to a purchaser within ten days after receipt of a written  
36 notice of a pending sale of the unit, and for planned communities with fifty  
37 or more units, the association shall mail or deliver to a purchaser within  
38 ten days after receipt of a written notice of a pending sale that contains  
39 the name and address of the purchaser, all of the following:

40 1. A copy of the bylaws and the rules of the association.

41 2. A copy of the declaration.

42 3. A dated statement containing:

43 (a) The telephone number and address of a principal contact for the  
44 association, which may be an association manager, an association management

1 company, an officer of the association or any other person designated by the  
2 board of directors.

3 (b) The amount of the common regular assessment and the unpaid common  
4 regular assessment, special assessment or other assessment, fee or charge  
5 currently due and payable from the selling member.

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

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

9 (e) If the statement is being furnished by the association, a  
10 statement as to whether the records of the association reflect any  
11 alterations or improvements to the unit that violate the declaration. The  
12 association is not obligated to provide information regarding alterations or  
13 improvements that occurred more than six years before the proposed sale.  
14 Nothing in this subdivision relieves the seller of a unit from the obligation  
15 to disclose alterations or improvements to the unit that violate the  
16 declaration, nor precludes the association from taking action against the  
17 purchaser of a unit for violations that are apparent at the time of purchase  
18 and that are not reflected in the association's records.

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

22 (g) A statement of case names and case numbers for pending litigation  
23 with respect to the unit filed by the association against the member or filed  
24 by the member against the association. The member shall not be required to  
25 disclose information concerning such pending litigation which would violate  
26 any applicable rule of attorney-client privilege under Arizona law.

27 (h) A statement that provides "I hereby acknowledge that the  
28 declaration, bylaws and rules of the association constitute a contract  
29 between the association and me (the purchaser). By signing this statement, I  
30 acknowledge that I have read and understand the association's contract with  
31 me (the purchaser). I also understand that as a matter of Arizona law, if I  
32 fail to pay my association assessments, the association may foreclose on my  
33 property." The statement shall also include a signature line for the  
34 purchaser and shall be returned to the association within fourteen calendar  
35 days.

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

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

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

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

1 C. The association may NOT charge the member ~~a reasonable ANY fee to~~  
2 ~~compensate the association for the costs incurred in~~ the preparation of a  
3 statement furnished by the association pursuant to this section. ~~The~~  
4 ~~association shall make available to any interested party the amount of any~~  
5 ~~fee established from time to time by the association.~~

6 D. A sale in which a public report is issued pursuant to sections  
7 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt  
8 from this section.

9 E. AN ASSOCIATION AND ANY OF ITS REPRESENTATIVES, INCLUDING A  
10 MANAGEMENT COMPANY, SHALL NOT ASSESS OR COLLECT A FEE FOR THE TRANSFER OR  
11 INSPECTION OF AN INTEREST IN A LOT OR UNIT IN THE PLANNED COMMUNITY,  
12 REGARDLESS OF HOW THE FEE IS DENOMINATED.

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

19 Sec. 6. Section 33-1808, Arizona Revised Statutes, is amended to read:  
20 33-1808. Flag display; political signs; caution signs; for sale  
21 signs; political petitions

22 A. Notwithstanding any provision in the community documents, an  
23 association shall not prohibit the outdoor display of any of the following:  
24 1. The American flag or an official or replica of a flag of the United  
25 States army, navy, air force, marine corps or coast guard by an association  
26 member on that member's property if the American flag or military flag is  
27 displayed in a manner consistent with the federal flag code (P.L. 94-344; 90  
28 Stat. 810; 4 United States Code sections 4 through 10).

29 2. The POW/MIA flag.

30 3. The Arizona state flag.

31 4. An Arizona Indian nations 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 but shall not prohibit the installation of a flagpole.

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

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

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

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

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

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

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

39 2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN  
40 OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE PLANNED COMMUNITY, EXCEPT  
41 THAT THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 6:00 A.M.  
42 OR AFTER 10:00 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 ~~section~~ SUBSECTION if  
7 the planned community restricts vehicular or pedestrian access to the planned  
8 community. Nothing in this ~~section~~ SUBSECTION requires a planned community  
9 to make its common elements available for the circulation of political  
10 petitions to anyone who is not an owner or resident of the community.