

REFERENCE TITLE: political flyers; petitions; homeowners' associations

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# **SB 1540**

Introduced by  
Senator Melvin

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

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

41           Sec. 3. Section 33-1808, Arizona Revised Statutes, is amended to read:  
42 33-1808. Flag display; political signs; caution signs; for sale  
43 signs; political petitions

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

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

6           2. The POW/MIA flag.

7           3. The Arizona state flag.

8           4. An Arizona Indian nations flag.

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

14           C. Notwithstanding any provision in the community documents, an  
15 association shall not prohibit the indoor or outdoor display of a political  
16 sign by an association member on that member's property, except that an  
17 association may prohibit the display of political signs earlier than  
18 ~~forty-five~~ FIFTY-FIVE days before the day of an election and later than ~~seven~~  
19 FIFTEEN days after an election day. An association may regulate the size and  
20 number of political signs that may be placed on a member's property if the  
21 association's regulation is no more restrictive than any applicable city,  
22 town or county ordinance that regulates the size and number of political  
23 signs on residential property. If the city, town or county in which the  
24 property is located does not regulate the size and number of political signs  
25 on residential property, the association shall permit at least one political  
26 sign with the maximum dimensions of twenty-four inches by twenty-four inches  
27 on a member's property. For the purposes of this subsection, "political  
28 sign" means a sign that attempts to influence the outcome of an election,  
29 including supporting or opposing the recall of a public officer or supporting  
30 or opposing the circulation of a petition for a ballot measure, question or  
31 proposition or the recall of a public officer.

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

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

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

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

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

40           5. The signs are professionally manufactured or produced.

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

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

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

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

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

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

37 1. RESTRICT OR PROHIBIT THE DOOR TO DOOR POLITICAL ACTIVITY FROM  
38 SUNSET TO SUNRISE.

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

1           H. A planned community is not required to comply with ~~this~~ subsection  
2 G if the planned community restricts vehicular or pedestrian access to the  
3 planned community. Nothing in this ~~subsection~~ SECTION requires a planned  
4 community to make its common elements OTHER THAN ROADWAYS AND SIDEWALKS THAT  
5 ARE NORMALLY OPEN TO VISITORS available for the circulation of political  
6 petitions to anyone who is not an owner or resident of the community.