

REFERENCE TITLE: homeowners' associations; military flags

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2149

Introduced by
Representatives Andrade: Blackman, Butler, Fillmore, Kaiser, Kavanagh,
Payne

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, rent or lease signs;
5 political signs and activities; applicability;
6 definition

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

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

16 2. The POW/MIA flag.

17 3. The Arizona state flag.

18 4. An Arizona Indian nations flag.

19 5. The Gadsden flag.

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

26 C. Notwithstanding any provision in the condominium documents, an
27 association shall not prohibit or charge a fee for the use of, the
28 placement of or the indoor or outdoor display of a for sale, for rent or
29 for lease sign and a sign rider by a unit owner on that owner's property
30 in any combination, including a sign that indicates the unit owner is
31 offering the property for sale by owner. The size of a sign offering a
32 property for sale, for rent or for lease shall be in conformance with the
33 industry standard size sign, which shall not exceed eighteen by
34 twenty-four inches, and the industry standard size sign rider, which shall
35 not exceed six by twenty-four inches. This subsection applies only to a
36 commercially produced sign and an association may prohibit ~~the use of~~
37 USING signs that are not commercially produced. With respect to real
38 estate for sale, for rent or for lease in the condominium, an association
39 shall not prohibit in any way other than as is specifically authorized by
40 this section or otherwise regulate any of the following:

41 1. Temporary open house signs or a unit owner's for sale sign. The
42 association shall not require the use of particular signs indicating an
43 open house or real property for sale and may not further regulate the use
44 of temporary open house or for sale signs that are industry standard size
45 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
2 an open house for real estate that is for sale in the condominium, except
3 that the association may prohibit an open house being held before
4 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
5 common elements of the condominium.

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

15 D. Notwithstanding any provision in the condominium documents, an
16 association shall not prohibit door-to-door political activity, including
17 solicitations of support or opposition regarding candidates or ballot
18 issues, and shall not prohibit ~~the circulation of~~ CIRCULATING political
19 petitions, including candidate nomination petitions or petitions in
20 support of or opposition to an initiative, referendum or recall or other
21 political issue on property normally open to visitors within the
22 association, except that an association may do the following:

23 1. Restrict or prohibit door-to-door political activity regarding
24 candidates or ballot issues from sunset to sunrise.

25 2. Require the prominent display of an identification tag for each
26 person engaged in the activity, along with the prominent identification of
27 the candidate or ballot issue that is the subject of the support or
28 opposition.

29 E. Notwithstanding any provision in the condominium documents, an
30 association shall not prohibit the indoor or outdoor display of a
31 political sign by a unit owner by placement of a sign on that unit owner's
32 property, including any limited common elements for that unit that are
33 doors, walls or patios or other limited common elements that touch the
34 unit, other than the roof. An association may prohibit the display of
35 political signs as follows:

36 1. Earlier than seventy-one days before the day of a primary
37 election.

38 2. Later than fifteen days after the day of the general election.

39 3. For a sign for a candidate in a primary election who does not
40 advance to the general election, later than fifteen days after the primary
41 election.

42 F. An association may regulate the size and number of political
43 signs that may be placed in the common element ground, on a unit owner's
44 property or on a limited common element for that unit if the association's
45 regulation is not more restrictive than any applicable city, town or

1 county ordinance that regulates the size and number of political signs on
2 residential property. If the city, town or county in which the property
3 is located does not regulate the size and number of political signs on
4 residential property, the association shall not limit the number of
5 political signs, except that the maximum aggregate total dimensions of all
6 political signs on a unit owner's property shall not exceed nine square
7 feet. An association shall not make any regulations regarding the number
8 of candidates supported, the number of public officers supported or
9 opposed in a recall or the number of propositions supported or opposed on
10 a political sign.

11 G. An association shall not require political signs to be
12 commercially produced or professionally manufactured or prohibit the
13 utilization of both sides of a political sign.

14 H. A condominium is not required to comply with subsection D of
15 this section if the condominium restricts vehicular or pedestrian access
16 to the condominium. This section does not require a condominium to make
17 its common elements other than roadways and sidewalks that are normally
18 open to visitors available for the circulation of political petitions to
19 anyone who is not an owner or resident of the community.

20 I. An association or managing agent that violates subsection C of
21 this section forfeits and extinguishes the lien rights authorized under
22 section 33-1256 against that unit for a period of six consecutive months
23 ~~from~~ AFTER the date of the violation.

24 J. This section does not apply to timeshare plans or associations
25 that are subject to chapter 20 of this title.

26 K. For the purposes of this section, "political sign" means a sign
27 that attempts to influence the outcome of an election, including
28 supporting or opposing the recall of a public officer or supporting or
29 opposing the circulation of a petition for a ballot measure, question or
30 proposition or the recall of a public officer.

31 Sec. 2. Section 33-1808, Arizona Revised Statutes, is amended to
32 read:

33 33-1808. Flag display; political signs; caution signs; for
34 sale, rent or lease signs; political activities;
35 definition

36 A. Notwithstanding any provision in the community documents, an
37 association shall not prohibit the outdoor front yard or backyard display
38 of any of the following:

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

45 2. The POW/MIA flag.

- 1 3. The Arizona state flag.
- 2 4. An Arizona Indian nations flag.
- 3 5. The Gadsden 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
7 Indian nations flag. The association rules may regulate the location and
8 size of flagpoles, may limit the member to displaying not more than two
9 flags at once and may limit the height of the flagpole to not more than
10 the height of the rooftop of the member's home but shall not prohibit ~~the~~
11 ~~installation of~~ **INSTALLING** a flagpole in the front yard or backyard of the
12 member's property.

13 C. Notwithstanding any provision in the community documents, an
14 association shall not prohibit the indoor or outdoor display of a
15 political sign by an association member on that member's property, except
16 that an association may prohibit the display of political signs as
17 follows:

- 18 1. Earlier than seventy-one days before the day of a primary
19 election.
- 20 2. Later than fifteen days after the day of the general election.
- 21 3. For a sign for a candidate in a primary election who does not
22 advance to the general election, later than fifteen days after the primary
23 election.

24 D. An association may regulate the size and number of political
25 signs that may be placed on a member's property if the association's
26 regulation is not more restrictive than any applicable city, town or
27 county ordinance that regulates the size and number of political signs on
28 residential property. If the city, town or county in which the property
29 is located does not regulate the size and number of political signs on
30 residential property, the association shall not limit the number of
31 political signs, except that the maximum aggregate total dimensions of all
32 political signs on a member's property shall not exceed nine square
33 feet.

34 E. Notwithstanding any provision in the community documents, an
35 association shall not prohibit ~~the use of~~ **USING** cautionary signs regarding
36 children if the signs are used and displayed as follows:

- 37 1. The signs are displayed in residential areas only.
- 38 2. The signs are removed within one hour of children ceasing to
39 play.
- 40 3. The signs are displayed only when children are actually present
41 within fifty feet of the sign.
- 42 4. The temporary signs are not taller than three feet in height.
- 43 5. The signs are professionally manufactured or produced.

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

6 G. Notwithstanding any provision in the community documents, an
7 association shall not prohibit or charge a fee for the use of, the
8 placement of or the indoor or outdoor display of a for sale, for rent or
9 for lease sign and a sign rider by an association member on that member's
10 property in any combination, including a sign that indicates the member is
11 offering the property for sale by owner. The size of a sign offering a
12 property for sale, for rent or for lease shall be in conformance with the
13 industry standard size sign, which shall not exceed eighteen by twenty-
14 four inches, and the industry standard size sign rider, which shall not
15 exceed six by twenty-four inches. This subsection applies only to a
16 commercially produced sign, and an association may prohibit ~~the use of~~
17 **USING** signs that are not commercially produced. With respect to real
18 estate for sale, for rent or for lease in the planned community, an
19 association shall not prohibit in any way other than as is specifically
20 authorized by this section or otherwise regulate any of the following:

21 1. Temporary open house signs or a member's for sale sign. The
22 association shall not require the use of particular signs indicating an
23 open house or real property for sale and may not further regulate the use
24 of temporary open house or for sale signs that are industry standard size
25 and 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
27 an open house for real estate that is for sale in the planned community,
28 except that the association may prohibit an open house being held before
29 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
30 common areas of the planned community.

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

40 H. Notwithstanding any provision in the community documents, an
41 association shall not prohibit door-to-door political activity, including
42 solicitations of support or opposition regarding candidates or ballot
43 issues, and shall not prohibit ~~the circulation of~~ **CIRCULATING** political
44 petitions, including candidate nomination petitions or petitions in
45 support of or opposition to an initiative, referendum or recall or other

1 political issue on property normally open to visitors within the
2 association, except that an association may do the following:

3 1. Restrict or prohibit the door-to-door political activity from
4 sunset to sunrise.

5 2. Require the prominent display of an identification tag for each
6 person engaged in the activity, along with the prominent identification of
7 the candidate or ballot issue that is the subject of the support or
8 opposition.

9 I. A planned community shall not make any regulations regarding the
10 number of candidates supported, the number of public officers supported or
11 opposed in a recall or the number of propositions supported or opposed on
12 a political sign.

13 J. A planned community shall not require political signs to be
14 commercially produced or professionally manufactured or prohibit the
15 utilization of both sides of a political sign.

16 K. A planned community is not required to comply with subsection H
17 **OF THIS SECTION** if the planned community restricts vehicular or pedestrian
18 access to the planned community. This section does not require a planned
19 community to make its common elements other than roadways and sidewalks
20 that are normally open to visitors available for the circulation of
21 political petitions to anyone who is not an owner or resident of the
22 community.

23 L. An association or managing agent that violates subsection G of
24 this section forfeits and extinguishes the lien rights authorized under
25 section 33-1807 against that member's property for a period of six
26 consecutive months ~~from~~ **AFTER** the date of the violation.

27 M. For the purposes of this section, "political sign" means a sign
28 that attempts to influence the outcome of an election, including
29 supporting or opposing the recall of a public officer or supporting or
30 opposing the circulation of a petition for a ballot measure, question or
31 proposition or the recall of a public officer.