

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2700

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 33-1227, Arizona Revised Statutes, is amended to  
3 read:

4 33-1227. Amendment of declaration

5 A. Except in cases of amendments that may be executed by a declarant  
6 under section 33-1220, by the association under section 33-1206 or section  
7 33-1216, subsection D, or by certain unit owners under section 33-1218,  
8 subsection B, section 33-1222, section 33-1223 or section 33-1228,  
9 subsection B, and except to the extent ~~permitted~~ ALLOWED or required by  
10 other provisions of this chapter, NOTWITHSTANDING ANY PROVISION IN THE  
11 CONDOMINIUM DOCUMENTS, the declaration, including the plat, AND THE BYLAWS  
12 may be amended only by a vote of the unit owners to which at least  
13 sixty-seven ~~per cent~~ PERCENT of the votes in the association are allocated,  
14 or any ~~larger majority~~ SMALLER PERCENTAGE the declaration specifies, EXCEPT  
15 AS FOLLOWS:

16 1. AN AMENDMENT THAT CHANGES PARKING RESTRICTIONS FOR THE  
17 CONDOMINIUM REQUIRES THE APPROVAL OF AT LEAST FIFTY PERCENT OF THE UNIT  
18 OWNERS.

19 2. AN AMENDMENT THAT CHANGES PROVISIONS RELATING TO EXTERNAL  
20 AESTHETIC CHANGES, SUCH AS AN APPROVED PAINT COLOR PALETTE, REQUIRES THE  
21 APPROVAL OF AT LEAST FIFTY PERCENT OF THE UNIT OWNERS.

22 3. AN AMENDMENT THAT MAKES AN ADMINISTRATIVE CHANGE TO THE  
23 ORGANIZATIONAL OR OPERATIONAL PROVISIONS FOR THE CONDOMINIUM REQUIRES THE  
24 APPROVAL OF AT LEAST FIFTY PERCENT OF THE UNIT OWNERS.

25 B. The declaration may specify a smaller percentage only if all of  
26 the units are restricted exclusively to nonresidential use. The

1 declaration may also provide that the consent of the declarant is required  
2 to an amendment during any period of declarant control pursuant to section  
3 33-1243. Within thirty days after the adoption of any amendment pursuant  
4 to this subsection, the association shall prepare, execute and record a  
5 written instrument setting forth the amendment.

6 ~~C.~~ C. An action to challenge the validity of an amendment adopted  
7 by the association pursuant to this section shall not be brought more than  
8 one year after the amendment is recorded.

9 ~~D.~~ D. An amendment to the declaration shall be recorded in each  
10 county in which any portion of the condominium is located and is effective  
11 only on recordation in the same manner as required for the declaration  
12 under section 33-1211.

13 ~~E.~~ E. Except to the extent expressly ~~permitted~~ ALLOWED or required  
14 by other provisions of this chapter, an amendment shall not create or  
15 increase special declarant rights, increase the number of units or change  
16 the boundaries of any unit, the allocated interests of a unit or the uses  
17 to which any unit is restricted, in the absence of unanimous consent of the  
18 unit owners.

19 ~~F.~~ F. An amendment shall not terminate or decrease any unexpired  
20 development right, special declarant right or period of declarant control  
21 unless the declarant approves.

22 ~~G.~~ G. Amendments to the declaration required by this chapter to be  
23 executed by the association shall be executed on behalf of the association  
24 by any officer of the association designated for that purpose or, in the  
25 absence of designation, by the president of the association.

26 Sec. 2. Section 33-1817, Arizona Revised Statutes, is amended to  
27 read:

28 33-1817. Declaration amendment: design, architectural  
29 committees; review

30 A. Except during the period of declarant control, or if during the  
31 period of declarant control with the written consent of the declarant in  
32 each instance, **AND NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY**

1       DOCUMENTS, the following apply to an amendment to a declaration OR THE  
2       BYLAWS:

3             1. The declaration OR BYLAWS may be amended by the association, if  
4       any, or, if there is no association or board, the owners of the property  
5       that is subject to the declaration, by an affirmative vote or written  
6       consent of SIXTY-SEVEN PERCENT OF the number of owners or eligible voters  
7       ~~specified in the declaration~~, OR ANY SMALLER PERCENTAGE THE DECLARATION  
8       SPECIFIES, including the assent of any individuals or entities that are  
9       specified in the declaration, EXCEPT AS FOLLOWS:

10            (a) AN AMENDMENT THAT CHANGES PARKING RESTRICTIONS FOR THE PLANNED  
11       COMMUNITY REQUIRES THE APPROVAL OF AT LEAST FIFTY PERCENT OF THE MEMBERS.

12            (b) AN AMENDMENT THAT CHANGES PROVISIONS RELATING TO EXTERNAL  
13       AESTHETIC CHANGES, SUCH AS AN APPROVED PAINT COLOR PALETTE, REQUIRES THE  
14       APPROVAL OF AT LEAST FIFTY PERCENT OF THE MEMBERS.

15            (c) AN AMENDMENT THAT MAKES AN ADMINISTRATIVE CHANGE TO THE  
16       ORGANIZATIONAL OR OPERATIONAL PROVISIONS FOR THE PLANNED COMMUNITY REQUIRES  
17       THE APPROVAL OF AT LEAST FIFTY PERCENT OF THE MEMBERS.

18             2. An amendment to a declaration may apply to fewer than all of the  
19       lots or less than all of the property that is bound by the declaration and  
20       an amendment is deemed to conform to the general design and plan of the  
21       community, if both of the following apply:

22            (a) The amendment receives the affirmative vote or written consent  
23       of the number of owners or eligible voters specified in the declaration,  
24       including the assent of any individuals or entities that are specified in  
25       the declaration.

26            (b) The amendment receives the affirmative vote or written consent  
27       of all of the owners of the lots or property to which the amendment  
28       applies.

29             3. Within thirty days after the adoption of any amendment pursuant  
30       to this section, the association or, if there is no association or board,  
31       an owner that is authorized by the affirmative vote on or the written

1 consent to the amendment shall prepare, execute and record a written  
2 instrument setting forth the amendment.

3 4. Notwithstanding any provision in the declaration that provides  
4 for periodic renewal of the declaration, an amendment to the declaration is  
5 effective immediately on recordation of the instrument in the county in  
6 which the property is located.

7 B. Notwithstanding any provision in the community documents:

8 1. Membership on a design review committee, an architectural  
9 committee or a committee that performs similar functions, however  
10 denominated, for the planned community shall include at least one member of  
11 the board of directors who shall serve as chairperson of the committee.

12 2. For new construction of the main residential structure on a lot  
13 or for rebuilds of the main residential structure on a lot and only in a  
14 planned community that has enacted design guidelines, architectural  
15 guidelines or other similar rules, however denominated, and if the  
16 association documents ~~permit~~ ALLOW the association to charge the member a  
17 security deposit and the association requires the member to pay a security  
18 deposit to secure completion of the member's construction project or  
19 compliance with approved plans, all of the following apply:

20 (a) The deposit shall be placed in a trust account with the  
21 following instructions:

22 (i) The cost of the trust account shall be shared equally between  
23 the association and the member.

24 (ii) If the construction project is abandoned, the board of  
25 directors may determine the appropriate use of any deposit monies.

26 (iii) Any interest earned on the refundable security deposit shall  
27 become part of the security deposit.

28 (b) The association or the design review committee must hold a final  
29 design approval meeting for the purpose of issuing approval of the plans,  
30 and the member or member's agent must have the opportunity to attend the  
31 meeting. If the plans are approved, the association's design review  
32 representative shall provide written acknowledgement that the approved

1 plans, including any approved amendments, are in compliance with all rules  
2 and guidelines in effect at the time of the approval and that the refund of  
3 the deposit requires that construction be completed in accordance with  
4 those approved plans.

5 (c) The association must provide for at least two on-site formal  
6 reviews during construction for the purpose of determining compliance with  
7 the approved plans. The member or member's agent shall be provided the  
8 opportunity to attend both formal reviews. Within five business days after  
9 the formal reviews, the association shall cause a written report to be  
10 provided to the member or member's agent specifying any deficiencies,  
11 violations or unapproved variations from the approved plans, as amended,  
12 that have come to the attention of the association.

13 (d) Within thirty business days after the second formal review, the  
14 association shall provide to the member a copy of the written report  
15 specifying any deficiencies, violations or unapproved variations from the  
16 approved plans, as amended, that have come to the attention of the  
17 association. If the written report does not specify any deficiencies,  
18 violations or unapproved variations from the approved plans, as amended,  
19 that have come to the attention of the association, the association shall  
20 promptly release the deposit monies to the member. If the report  
21 identifies any deficiencies, violations or unapproved variations from the  
22 approved plans, as amended, the association may hold the deposit for one  
23 hundred eighty days or until receipt of a subsequent report of construction  
24 compliance, whichever is less. If a report of construction compliance is  
25 received before the one hundred eightieth day, the association shall  
26 promptly release the deposit monies to the member. If a compliance report  
27 is not received within one hundred eighty days, the association shall  
28 release the deposit monies promptly from the trust account to the  
29 association.

30 (e) Neither the approval of the plans nor the approval of the actual  
31 construction by the association or the design review committee shall  
32 constitute a representation or warranty that the plans or construction

1       comply with applicable governmental requirements or applicable engineering,  
2       design or safety standards. The association in its discretion may release  
3       all or any part of the deposit to the member before receiving a compliance  
4       report. Release of the deposit to the member does not constitute a  
5       representation or warranty from the association that the construction  
6       complies with the approved plans.

7                3. Approval of a construction project's architectural designs, plans  
8       and amendments shall not unreasonably be withheld."

9 Amend title to conform

NEAL CARTER

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