

REFERENCE TITLE: homeowners' association dwelling actions

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

HB 2713

Introduced by
Representative Blackman

AN ACT

AMENDING SECTIONS 12-552 AND 33-2002, ARIZONA REVISED STATUTES; RELATING
TO ACTIONS INVOLVING REAL 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, AND EXCEPT FOR A MUNICIPALITY
8 OR A COUNTY AS PRESCRIBED BY SUBSECTION B OF THIS SECTION, an action or
9 arbitration based in contract may not be instituted or maintained against
10 a person who develops or develops and sells real property, or performs or
11 furnishes the design, specifications, surveying, planning, supervision,
12 testing, construction or observation of construction of an improvement to
13 real property more than ~~eight~~ FOUR years after substantial completion of
14 the improvement to real property.

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

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

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

27 3. AN IMPROVEMENT THAT IS DIRECTLY CONTRACTED FOR BY THE
28 MUNICIPALITY OR COUNTY.

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

32 D. Subsection B of this section does not limit any immunity or
33 defense that is available to a municipality or county pursuant to chapter
34 7, article 2 of this title.

35 E. Notwithstanding subsection A or B of this section, in the case
36 of injury to real property or an improvement to real property THE
37 FOLLOWING APPLY: ~~;~~

38 1. FOR A MUNICIPALITY OR A COUNTY:

39 (a) If the injury occurred during the eighth year after the
40 substantial completion or, in the case of a latent defect, was not
41 discovered until the eighth year after substantial completion, an action
42 to recover damages for injury to the real property may be brought within
43 one year after the date on which the injury to real property or an
44 improvement to real property occurred or a latent defect was
45 discovered. ~~;~~ ~~but~~

1 (b) NOTWITHSTANDING SUBDIVISION (a) OF THIS PARAGRAPH, an action
2 may not be brought more than nine years after the substantial completion
3 of the improvement.

4 2. FOR ALL CLAIMANTS THAT ARE NOT PRESCRIBED BY PARAGRAPH 1 OF THIS
5 SUBSECTION:

6 (a) IF THE INJURY OCCURRED DURING THE FOURTH YEAR AFTER THE
7 SUBSTANTIAL COMPLETION OR, IN THE CASE OF A LATENT DEFECT, WAS NOT
8 DISCOVERED UNTIL THE FOURTH YEAR AFTER SUBSTANTIAL COMPLETION, AN ACTION
9 TO RECOVER DAMAGES FOR INJURY TO THE REAL PROPERTY MAY BE BROUGHT WITHIN
10 TWO YEARS AFTER THE DATE ON WHICH THE INJURY TO REAL PROPERTY OR AN
11 IMPROVEMENT TO REAL PROPERTY OCCURRED OR A LATENT DEFECT WAS DISCOVERED.

12 (b) NOTWITHSTANDING SUBDIVISION (a) OF THIS PARAGRAPH, AN ACTION
13 MAY NOT BE BROUGHT MORE THAN SIX YEARS AFTER THE SUBSTANTIAL COMPLETION OF
14 THE IMPROVEMENT.

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

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

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

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

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

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

31 I. In this section an action based in contract is an action based
32 on a written real estate contract, sales agreement, construction
33 agreement, conveyance or written agreement for construction or for the
34 services set forth in subsection A of this section. This section does not
35 extend the period prescribed by the laws of this state for bringing any
36 action. If a shorter period of limitation is prescribed for a specific
37 action, the shorter period governs.

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

1 Sec. 2. Section 33-2002, Arizona Revised Statutes, is amended to
2 read:

3 33-2002. Homeowners' association dwelling actions; conditions

4 A. Notwithstanding any provision to the contrary in title 10,
5 chapter 39 or chapter 9 or 16 of this title and in addition to any
6 requirements prescribed in the community documents of a homeowners'
7 association, a homeowners' association may file a homeowners' association
8 dwelling action only after all of the following have occurred:

9 1. The board of directors has provided full disclosure in writing
10 to all members of the HOMEOWNERS' association AND EACH SELLER AND
11 CONSTRUCTION PROFESSIONAL AGAINST WHOM A DWELLING ACTION IS PROPOSED of
12 all material information relating to the filing of ~~the~~ A DWELLING
13 action. The material information shall include a statement that describes
14 the nature of the action and the relief sought, including any demands,
15 notices, offers to settle or responses to offers to settle made either by
16 the HOMEOWNERS' association or the seller, and the expenses and fees that
17 the HOMEOWNERS' association anticipates will be incurred, directly or
18 indirectly, in prosecuting the DWELLING action, including attorney fees,
19 consultant fees, expert witness fees, court costs and impacts on the
20 values of the dwellings that are the subject of the action and those that
21 are not. The material information described by this paragraph shall be
22 distributed to all members before the meeting described in paragraph 2 of
23 this subsection occurs.

24 2. The HOMEOWNERS' association has held a meeting of its members
25 and board of directors for which reasonable and adequate notice was
26 provided to all members, THE SELLER AND EACH CONSTRUCTION PROFESSIONAL
27 AGAINST WHOM A DWELLING ACTION IS PROPOSED in the manner prescribed in
28 section 33-1248 or 33-1804, as applicable. THE MEETING SHALL INCLUDE A
29 PRESENTATION BY THE HOMEOWNERS' ASSOCIATION OR ITS ATTORNEYS OF THE
30 ALLEGED CONSTRUCTION DEFECTS. THE SELLER AND EACH CONSTRUCTION
31 PROFESSIONAL AGAINST WHOM A DWELLING ACTION IS PROPOSED SHALL HAVE THE
32 RIGHT TO PRESENT AT THE MEETING AND OFFER TO REMEDY ANY DEFECT.

33 3. ~~The board of directors~~ AT LEAST TWO-THIRDS OF THE MEMBERS of the
34 homeowners' association ~~authorizes~~ VOTE TO AUTHORIZE the filing of the
35 action pursuant to the VOTING procedures prescribed in the community
36 documents. At the time of commencing a dwelling action or amending a
37 complaint to add a cause of action for a construction defect, the
38 homeowners' association has an affirmative duty to demonstrate compliance
39 with the procedures prescribed in the community documents and the
40 requirements of this section, ~~—~~ INCLUDING THE FOLLOWING:

41 (a) A MEMBER'S VOTE SHALL BE SUBMITTED ONLY ONCE AND MAY BE
42 OBTAINED IN ANY WRITTEN FORMAT THAT CONFIRMS THE MEMBER'S VOTE TO APPROVE
43 OR REJECT THE PROPOSED DWELLING ACTION. THE HOMEOWNERS' ASSOCIATION SHALL
44 MAINTAIN A RECORD OF ALL VOTES UNTIL THE CONCLUSION OF THE CONSTRUCTION
45 DEFECT ACTION, INCLUDING ANY APPEALS.

1 (b) BEFORE HOLDING A VOTE PURSUANT TO THIS PARAGRAPH:

2 (i) THE HOMEOWNERS' ASSOCIATION SHALL OBTAIN AN INSPECTION FROM A
 3 PROFESSIONAL ENGINEER WHO IS REGISTERED PURSUANT TO TITLE 32, CHAPTER 1.
 4 THE INSPECTION SHALL DESCRIBE THE DWELLINGS OR COMMON ELEMENTS THAT ARE
 5 THE SUBJECT OF A PROPOSED ACTION, DESCRIBE THE PHYSICAL CONDITION OF THE
 6 UNITS OR COMMON ELEMENTS IN QUESTION, AND ANY MAINTENANCE, REPAIRS OR
 7 MODIFICATIONS PERFORMED BY THE HOMEOWNERS' ASSOCIATION OR OWNERS.

8 (ii) THE HOMEOWNERS' ASSOCIATION PROVIDES WRITTEN NOTICE OF THE
 9 INSPECTION TO BE CONDUCTED BY A PROFESSIONAL ENGINEER WHO IS REGISTERED
 10 PURSUANT TO TITLE 32, CHAPTER 1 TO ALL HOMEOWNERS AND THE SELLER NOT LATER
 11 THAN SEVEN DAYS BEFORE THE DATE OF INSPECTION. THE NOTICE SHALL IDENTIFY
 12 THE SPECIFIC DWELLINGS TO BE INSPECTED, DESCRIBE THE PHYSICAL CONDITION OF
 13 THE DWELLINGS TO BE INSPECTED, AND SPECIFY IN REASONABLE DETAIL ANY
 14 MATERIAL DEFICIENCY IN THE DWELLINGS. THE NOTICE SHALL INCLUDE THE NAME
 15 OF THE PROFESSIONAL ENGINEER PERFORMING THE INSPECTION, THE DWELLINGS TO
 16 BE INSPECTED, AND THE DATE AND TIME OF THE INSPECTION. THE SELLER OR A
 17 SELLER'S DESIGNEE SHALL HAVE THE RIGHT TO ATTEND THE INSPECTION.

18 4. The HOMEOWNERS' association provides the seller with notice of
 19 the alleged construction defects and the right to repair or replace the
 20 alleged construction defects pursuant to section 12-1363. THE RIGHT TO
 21 REPAIR OR REPLACE PURSUANT TO SECTION 12-1363 COMMENCES AFTER A VOTE IN
 22 FAVOR OF FILING AN ACTION OCCURS AS PRESCRIBED BY THIS SECTION.

23 B. If the notice required by subsection A, paragraph 2 of this
 24 section is provided to the homeowners' association's members less than
 25 sixty days before the expiration of a statute of limitations affecting the
 26 right of the association to bring a homeowners' association dwelling
 27 action, the statute of limitations is tolled for sixty days. The
 28 homeowners' association may meet the remaining requirements of subsection
 29 A of this section during the tolling period.

30 C. Notwithstanding any provision to the contrary in title 10,
 31 chapter 39 or in chapter 9 or 16 of this title and in addition to any
 32 requirements prescribed in the community documents of a homeowners'
 33 association, the board of directors of a homeowners' association or its
 34 authorized representative shall disclose in writing to the members of the
 35 HOMEOWNERS' association a plan that describes the manner in which the
 36 proceeds of a homeowners' association dwelling action, whether obtained by
 37 way of judgment, settlement or other means, have been or will be
 38 allocated. The plan shall be disclosed within thirty days after the
 39 HOMEOWNERS' association receives the proceeds of any homeowners'
 40 association dwelling action. The plan is not binding on the homeowners'
 41 association, but the board of directors or its authorized representative
 42 must disclose any material changes to the plan to the members of the
 43 HOMEOWNERS' association within thirty days ~~of~~ AFTER making the changes.

1 D. A homeowners' association shall prepare and preserve for a
2 period of five years records that are adequate to demonstrate its
3 compliance with this section.

4 E. A director who acts in good faith pursuant to this chapter is
5 not liable for any act or failure to act pursuant to this chapter. In any
6 action filed against a director arising out of any act or failure to act
7 pursuant to this chapter, a director is presumed in all cases to have
8 acted in good faith. The burden is on the party challenging a director's
9 conduct to establish by clear and convincing evidence facts that rebut the
10 good faith presumption.

11 F. In any contested dwelling action, the seller has standing to
12 assert a failure of the homeowners' association to comply with the
13 procedures prescribed by the community documents and the requirements of
14 this section.

15 Sec. 3. Applicability

16 Section 12-552, Arizona Revised Statutes, as amended by this act,
17 applies to actions filed after the effective date of this act.

18 Sec. 4. Short title

19 This act may be cited as the "Home Ownership Act".