

REFERENCE TITLE: **condominiums; terminations**

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

HB 2817

Introduced by
Representative Simacek

AN ACT

AMENDING SECTIONS 33-1228 AND 33-1260, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1262; RELATING TO CONDOMINIUMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1228, Arizona Revised Statutes, is amended to
3 read:

4 **33-1228. Termination of condominium; definition**

5 A. Except as provided in subsection B of this section, a
6 condominium may be terminated only by agreement of unit owners of units to
7 which at least eighty percent of the votes in the association are
8 allocated, or any larger percentage the declaration specifies, except:

9 1. In the case of a taking of all the units by eminent domain.

10 2. If the declaration specifies a smaller percentage, but only if
11 all of the units in the condominium are restricted exclusively to
12 nonresidential uses.

13 B. A condominium created on or after September 24, 2022 may be
14 terminated only by agreement of unit owners of units to which ninety-five
15 percent of the votes in the association are allocated, or any larger
16 percentage the declaration specifies, except as provided in subsection A,
17 paragraph 1 or 2 of this section.

18 C. At least thirty days before recording a termination agreement,
19 the board of directors of the association shall convene a regular or
20 special meeting of the board of directors at which a person or entity that
21 purports to have the agreement of at least the percentage of the votes in
22 the association specified in subsection A or B of this section, as
23 applicable, or any larger percentage if required, shall produce and make
24 available to the unit owners copies of a signed notarized statement that
25 the owner of a unit has executed a termination agreement. The person or
26 entity shall produce copies of a statement for each unit owner who has
27 agreed to the termination, or may produce the signed termination agreement
28 that includes a sufficient number of unit owners. Any meeting called
29 pursuant to this subsection shall be noticed as otherwise provided by law,
30 except that the board may not take action by written consent or any other
31 method that does not provide for an actual meeting that is open to all the
32 unit owners. Any termination agreement that is recorded without full
33 compliance with this subsection is invalid.

34 D. An agreement to terminate shall be evidenced by the execution or
35 ratifications of a termination agreement, in the same manner as a deed, by
36 the requisite number of unit owners. The termination agreement shall
37 specify a date after which the agreement will be void unless it is
38 recorded before that date. A termination agreement and all ratifications
39 of a termination agreement shall be recorded in each county in which a
40 portion of the condominium is situated and is effective only on
41 recordation.

42 E. A termination agreement may provide that all the common elements
43 and units of the condominium shall be sold following termination. If,
44 pursuant to the agreement, any real estate in the condominium is to be

1 sold following termination, the termination agreement shall set forth the
2 minimum terms of the sale.

3 F. The association, on behalf of the unit owners, may contract for
4 the sale of real estate in the condominium, but the contract is not
5 binding on the unit owners until approved pursuant to subsections A, B, C
6 and D of this section. If any real estate in the condominium is to be
7 sold following termination, title to that real estate on termination vests
8 in the association as trustee for the holders of all interest in the
9 units. Thereafter, the association has all powers necessary and
10 appropriate to effect the sale. Until the sale has been concluded and the
11 proceeds of the sale distributed, the association continues in existence
12 with all powers it had before termination. Proceeds of the sale shall be
13 distributed to unit owners and lienholders as their interests may appear,
14 in proportion to the respective interests of unit owners as provided in
15 subsection I of this section. Unless otherwise specified in the
16 termination agreement, as long as the association holds title to the real
17 estate, each unit owner and the unit owner's successors in interest have
18 an exclusive right to occupancy of the portion of the real estate that
19 formerly constituted the unit owner's unit. During the period of that
20 occupancy, each unit owner and the successors in interest remain liable
21 for all assessments and other obligations imposed on unit owners by this
22 chapter or the declaration.

23 G. If the real estate constituting the condominium is not to be
24 sold following termination, title to all the real estate in the
25 condominium vests in the unit owners on termination as tenants in common
26 in proportion to their respective interests as provided in subsection I of
27 this section, and liens on the units shift accordingly. While the tenancy
28 in common exists, each unit owner and the unit owner's successors in
29 interest have an exclusive right to occupancy of the portion of the real
30 estate that formerly constituted the unit owner's unit.

31 H. Following termination of the condominium, the proceeds of any
32 sale of real estate, together with the assets of the association, are held
33 by the association as trustee for unit owners and holders of liens on the
34 units as their interests may appear. Following termination, creditors of
35 the association holding liens on the units that were recorded before
36 termination may enforce those liens in the same manner as any lienholder.

37 I. The respective interests of unit owners referred to in
38 subsections F, G and H of this section are as follows:

39 1. Except as provided in paragraph 2 of this subsection, the
40 respective interests of unit owners are the fair market values of their
41 units, limited common elements and common element interests immediately
42 before the termination, ~~AND~~ **AND** their pro rata share of any monies in the
43 association's reserve fund and the operating account **IMMEDIATELY BEFORE**
44 **THE TERMINATION.** ~~and~~ **ONLY FOR A UNIT THAT IS OWNER-OCCUPIED, THE UNIT**

1 OWNER SHALL RECEIVE an additional ~~five~~ TEN percent of that total amount
2 for relocation costs, ALONG WITH ALL CLOSING COSTS OF THE SALES
3 TRANSACTION, INCLUDING COSTS FOR TITLE INSURANCE IF REQUESTED BY THE UNIT
4 OWNER. FOR ALL UNIT OWNERS, THE FAIR MARKET VALUE OF THE UNIT SHALL BE
5 DETERMINED BY AN INDEPENDENT APPRAISAL OF THE UNIT THAT IS MADE USING
6 UNITS WITH A SIMILAR SQUARE FOOTAGE, A SIMILAR AGE, A SIMILAR NUMBER OF
7 BEDROOMS AND BATHROOMS AND OTHER SIMILAR FEATURES, INCLUDING COMMON
8 ELEMENT AMENITIES, SUCH AS SWIMMING POOLS, RECREATIONAL COURTS AND
9 CLUBHOUSES. THE APPRAISAL SHALL BE CONDUCTED BY A PERSON WHO IS A
10 STATE-LICENSED REAL ESTATE APPRAISER, STATE-CERTIFIED RESIDENTIAL REAL
11 ESTATE APPRAISER OR STATE-CERTIFIED GENERAL REAL ESTATE APPRAISER AS
12 PRESCRIBED BY TITLE 32, CHAPTER 36 AND SHALL INCLUDE AT LEAST THREE
13 COMPARABLE SALES, WITH ONE COMPARABLE SALE OF A UNIT FROM WITHIN THAT
14 CONDOMINIUM COMPLEX, IF AVAILABLE, AND TWO COMPARABLE SALES FROM OUTSIDE
15 THAT CONDOMINIUM COMPLEX. THE COMPARABLE SALES THAT ARE USED BY THE
16 APPRAISER MUST BE COMPLETED TRANSACTIONS. ANY APPRAISAL USED FOR THIS
17 PURPOSE IS AT THE UNIT OWNER'S OPTION, AND THE BUYER SHALL PAY FOR THE
18 APPRAISAL. IF THE UNIT OWNER CHOOSES NOT TO USE AN APPRAISAL, THE FAIR
19 MARKET VALUE SHALL BE DETERMINED WITHOUT IT AS PRESCRIBED BY THIS
20 PARAGRAPH. THE FAIR MARKET VALUE SHALL NOT BE REDUCED BY ANY SPECIAL
21 ASSESSMENTS, CAPITAL IMPROVEMENT FEES OR OTHER CHARGES IMPOSED BY THE
22 ASSOCIATION DURING THE THREE-MONTH PERIOD IMMEDIATELY PRECEDING THE
23 TERMINATION. An independent appraiser selected by the association shall
24 determine the total fair market values. The determination of the
25 independent appraiser shall be distributed to the unit owners and becomes
26 final unless disapproved within sixty days after distribution to the unit
27 owner. Any unit owner may obtain a second independent appraisal AS
28 PRESCRIBED BY THIS PARAGRAPH at the unit owner's expense and, if the unit
29 owner's independent appraisal amount differs from the association's
30 independent appraisal amount by five percent or less, the higher appraisal
31 is final. If the total amount of compensation owed as determined by the
32 second appraiser is more than five percent higher than the amount
33 determined by the association's appraiser, ~~AND IF THE UNIT OWNER AND THE~~
34 ~~BUYER DO NOT AGREE ON THE FAIR MARKET VALUE OF THE UNIT AND, IF~~
35 ~~APPLICABLE, THE RELOCATION COSTS AND OTHER ADDITIONAL AMOUNTS DUE TO THE~~
36 ~~OWNER OF AN OWNER-OCCUPIED UNIT, the unit owner ~~shall~~ OR THE BUYER MAY~~
37 ~~submit THE ISSUES to arbitration by an arbitrator affiliated with a~~
38 ~~national arbitration association and under the rules of that association,~~
39 ~~at the association's expense~~ and the arbitration amount is the final sale
40 amount. ~~As part of the arbitration process, the appraisers shall fully~~
41 ~~disclose their appraisal methodologies and shall disclose any other~~
42 ~~transaction occurring between the buyer and the sellers. An additional~~
43 ~~five percent of the final sale amount shall be added for relocation costs.~~

1 2. If any unit or any limited common element is destroyed to the
2 extent that an appraisal of the fair market value of the unit or element
3 before destruction cannot be made, the interests of all unit owners are
4 their respective common element interests immediately before the
5 termination.

6 J. Except as provided in subsection K of this section, foreclosure
7 or enforcement of a lien or encumbrance against the entire condominium
8 does not of itself terminate the condominium, and foreclosure or
9 enforcement of a lien or encumbrance against a portion of the condominium
10 does not withdraw that portion from the condominium. Foreclosure or
11 enforcement of a lien or encumbrance against withdrawable real estate does
12 not of itself withdraw that real estate from the condominium, but the
13 person taking title may require from the association, on request, an
14 amendment excluding the real estate from the condominium.

15 K. If a lien or encumbrance against a portion of the real estate
16 comprising the condominium has priority over the declaration, and the lien
17 or encumbrance has not been partially released, the parties foreclosing
18 the lien or encumbrance, on foreclosure, may record an instrument
19 excluding the real estate subject to that lien or encumbrance from the
20 condominium.

21 L. The provisions of subsections E, F, G, H, J and K of this
22 section do not apply if the original declaration, an amendment to the
23 original declaration recorded before the conveyance of any unit to an
24 owner other than the declarant or an agreement by all of the unit owners
25 contains provisions inconsistent with these subsections.

26 M. ~~Beginning on August 3, 2018,~~ Any provisions in the declaration
27 that conflict with subsection I, paragraph 1 of this section are void as a
28 matter of public policy.

29 N. FOR THE PURPOSES OF THIS SECTION, "OWNER-OCCUPIED" MEANS A
30 PROPERTY IN WHICH THE OWNER RESIDES FOR ANY PORTION OF A YEAR AND FOR
31 WHICH THE OWNER DOES NOT RECEIVE RENT FOR MORE THAN ONE-HALF OF THE YEAR.

32 Sec. 2. Section 33-1260, Arizona Revised Statutes, is amended to
33 read:

34 33-1260. Resale of units; information required; fees; civil
35 penalty; applicability; definition

36 A. For condominiums with fewer than fifty units, a unit owner shall
37 mail or deliver to a purchaser or a purchaser's authorized agent within
38 ten days after receipt of a written notice of a pending sale of the unit,
39 and for condominiums with fifty or more units, the association shall mail
40 or deliver to a purchaser or a purchaser's authorized agent within ten
41 days after receipt of a written notice of a pending sale that contains the
42 name and address of the purchaser all of the following in either paper or
43 electronic format:

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

- 1 2. A copy of the declaration.
- 2 3. A dated statement containing:
 - 3 (a) The telephone number and address of a principal contact for the
4 association, which may be an association manager, an association
5 management company, an officer of the association or any other person
6 designated by the board of directors.
 - 7 (b) The amount of the common expense assessment for the unit and
8 any unpaid common expense assessment, special assessment or other
9 assessment, fee or charge currently due and payable from the selling unit
10 owner. If the request is made by a lienholder, escrow agent, unit owner
11 or person designated by a unit owner pursuant to section 33-1256, failure
12 to provide the information pursuant to this subdivision within the time
13 provided for in this subsection shall extinguish any lien for any unpaid
14 assessment then due against that unit.
 - 15 (c) A statement as to whether a portion of the unit is covered by
16 insurance maintained by the association.
 - 17 (d) The total amount of money held by the association as reserves.
 - 18 (e) If the statement is being furnished by the association, a
19 statement as to whether the records of the association reflect any
20 alterations or improvements to the unit that violate the declaration. The
21 association is not obligated to provide information regarding alterations
22 or improvements that occurred more than six years before the proposed
23 sale. ~~Nothing in~~ This subdivision ~~relieves~~ DOES NOT RELIEVE the seller of
24 a unit from the obligation to disclose alterations or improvements to the
25 unit that violate the declaration, ~~nor precludes~~ AND DOES NOT PRECLUDE the
26 association from taking action against the purchaser of a unit for
27 violations that are apparent at the time of purchase and that are not
28 reflected in the association's records.
 - 29 (f) If the statement is being furnished by the unit owner, a
30 statement as to whether the unit owner has any knowledge of any
31 alterations or improvements to the unit that violate the declaration.
 - 32 (g) A statement of case names and case numbers for pending
33 litigation with respect to the unit filed by the association against the
34 unit owner or filed by the unit owner against the association. The unit
35 owner or the association shall not be required to disclose information
36 concerning the pending litigation that would violate any applicable rule
37 of attorney-client privilege under ~~Arizona~~ STATE law.
 - 38 (h) A statement that provides "I hereby acknowledge that the
39 declaration, bylaws and rules of the association constitute a contract
40 between the association and me (the purchaser). By signing this
41 statement, I acknowledge that I have read and understand the association's
42 contract with me (the purchaser). I also understand that as a matter of
43 Arizona law, if I fail to pay my association assessments, the association
44 may foreclose on my property." The statement shall also include a

1 signature line for the purchaser and shall be returned to the association
2 within fourteen calendar days.

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

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

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

9 7. A statement summarizing any pending lawsuits, except those
10 relating to the collection of assessments owed by unit owners other than
11 the selling unit owner, in which the association is a named party,
12 including the amount of any money claimed.

13 8. A STATEMENT NOTIFYING THE PURCHASER THAT UNDER THE LAWS OF THIS
14 STATE, THE CONDOMINIUM MAY BE TERMINATED BY A VOTE OF EIGHTY PERCENT OR
15 MORE OF THE OWNERS OF THE UNITS IN THE CONDOMINIUM AND IF A SUFFICIENT
16 NUMBER OF UNITS ARE ACQUIRED BY A POTENTIAL BUYER FOR THE ENTIRE PROPERTY,
17 THE UNIT OWNERS MAY BE REQUIRED TO SELL THEIR UNITS.

18 9. A STATEMENT THAT THE CONDOMINIUM IS GOVERNED BY RECORDED
19 COVENANTS, CONDITIONS AND RESTRICTIONS THAT REGULATE THE USE OF THE
20 PROPERTY.

21 B. A purchaser or seller who is damaged by the failure of the unit
22 owner or the association to disclose the information required by
23 subsection A of this section may pursue all remedies at law or in equity
24 against the unit owner or the association, whichever failed to comply with
25 subsection A of this section, including the recovery of reasonable
26 attorney fees.

27 C. The association may charge the unit owner a fee of not more than
28 an aggregate of ~~four hundred dollars~~ \$400 to compensate the association
29 for the costs incurred in the preparation and delivery of a statement or
30 other documents furnished by the association pursuant to this section for
31 purposes of resale disclosure, lien estoppel and any other services
32 related to the transfer or use of the property. In addition, the
33 association may charge a rush fee of not more than ~~one hundred dollars~~
34 \$100 if the rush services are required to be performed within seventy-two
35 hours after the request for rush services, and may charge a statement or
36 other documents update fee of not more than ~~fifty dollars~~ \$50 if thirty
37 days or more have passed since the date of the original disclosure
38 statement or the date the documents were delivered. The association shall
39 make available to any interested party the amount of any fee established
40 from time to time by the association. If the aggregate fee for purposes
41 of resale disclosure, lien estoppel and any other services related to the
42 transfer or use of a property is less than ~~four hundred dollars~~ \$400 on
43 January 1, 2010, the fee may increase at a rate of not more than twenty
44 percent per year based on the immediately preceding fiscal year's amount,

1 not to exceed the ~~four hundred dollar~~ \$400 aggregate fee. The association
2 may charge the same fee without regard to whether the association is
3 furnishing the statement or other documents in paper or electronic format.

4 D. The fees prescribed by this section shall be collected ~~to~~ NOT
5 earlier than at the close of escrow and may only be charged once to a unit
6 owner for that transaction between the parties specified in the notice
7 required pursuant to subsection A of this section. An association shall
8 not charge or collect a fee relating to services for resale disclosure,
9 lien estoppel and any other services related to the transfer or use of a
10 property except as specifically authorized in this section. An association that charges or collects a fee in violation of this section is
11 subject to a civil penalty of not more than ~~one thousand two hundred~~
12 ~~dollars~~ \$1,200.

13 E. This section applies to a managing agent for an association that
14 is acting on behalf of the association.

15 F. The following are exempt from this section:

16 1. A sale in which a public report is issued pursuant to section
17 32-2183 or 32-2197.02.

18 2. A sale pursuant to section 32-2181.02.

19 3. A conveyance by recorded deed that bears an exemption listed in
20 section 11-1134, subsection B, paragraph 3 or 7. On recordation of the
21 deed and for no additional charge, the unit owner shall provide the
22 association with the changes in ownership, including the unit owner's
23 name, billing address and phone number. Failure to provide the
24 information shall not prevent the unit owner from qualifying for the
25 exemption pursuant to this section.

26 G. This section does not apply to timeshare plans or associations
27 that are subject to chapter 20 of this title.

28 H. For the purposes of this section, unless the context otherwise
29 requires, "unit owner":

30 1. Means the seller of the condominium unit title. ~~and excludes~~

31 2. DOES NOT INCLUDE:

32 (a) Any real estate salesperson or real estate broker who is
33 licensed under title 32, chapter 20 and who is acting as a salesperson or
34 broker. ,

35 (b) Any escrow agent who is licensed under title 6, chapter 7 and
36 who is acting as an escrow agent. ~~and also excludes~~

37 (c) A trustee of a deed of trust who is selling the property in a
38 trustee's sale pursuant to chapter 6.1 of this title.

39 Sec. 3. Title 33, chapter 9, article 3, Arizona Revised Statutes,
40 is amended by adding section 33-1262, to read:

41 33-1262. Annual notice to unit owners; termination; ownership

42 THE BOARD OF DIRECTORS SHALL PROVIDE AN ANNUAL NOTICE TO ALL UNIT
43 OWNERS THAT INCLUDES THE FOLLOWING:

1 1. A STATEMENT THAT, UNDER THE LAWS OF THIS STATE, THE CONDOMINIUM
2 MAY BE TERMINATED BY A VOTE OF EIGHTY PERCENT OR MORE OF THE OWNERS OF THE
3 UNITS IN THE CONDOMINIUM AND IF A SUFFICIENT NUMBER OF UNITS ARE ACQUIRED
4 BY A POTENTIAL BUYER FOR THE ENTIRE PROPERTY, THE UNIT OWNERS MAY BE
5 REQUIRED TO SELL THEIR UNITS.

6 2. A STATEMENT THAT PROVIDES THE TOTAL NUMBER OF UNITS IN THE
7 CONDOMINIUM, THE NUMBER OF UNITS OWNED BY EACH UNIT OWNER AND THE NAME OF
8 EACH UNIT OWNER.

9 Sec. 4. Legislative intent: condominium terminations;
10 retroactivity

11 A. The legislature finds that in recent years, numerous condominium
12 owners in this state have been forced to sell their residences at a
13 significantly reduced price to investors that have acquired a substantial
14 interest in the condominium units in that community and that are
15 terminating the condominium over the objection of those same owners and,
16 in most cases, converting the condominiums to rental property. These
17 condominium owners have been financially harmed by the inequitable system
18 used by the investors acquiring the condominium units at an extreme
19 discount in a forced sale. Some of these investors have further harmed
20 these condominium owners by levying special assessments or other similar
21 charges against the unit owners once the investors have legal control of
22 the association board of directors, thus requiring the special assessments
23 and charges to be paid on termination, reducing the net sales proceeds for
24 the unit owners even further. These inequities are compounded by recent
25 real estate market forces that have made condominium termination and
26 conversion a more favored investment option.

27 B. The statutory provisions that govern the acquisition and
28 termination of a condominium, originally written in 1977, have been in
29 place in this state since 1985 and have been unchanged for many years.
30 Beginning in 2018, the legislature recognized the inequities in the old
31 statutory scheme that leaves these condominium owners with unequal
32 bargaining power and has attempted to provide more protections for
33 condominium owners who are subject to a forced termination.

34 C. Based on the foregoing, the legislature finds and declares that
35 there is a vital public interest in maintaining these forms of private
36 property ownership as affordable and essential housing and in ensuring
37 through a lawful exercise of its police powers that condominium unit
38 owners are properly compensated for their private property ownership
39 rights and receive fair compensation for any condominium units that are
40 forced to be sold under the termination process. The legislature further
41 finds that even if this enactment does constitute a substantial impairment
42 to one or more contractual rights, this enactment is a valid exercise of
43 this state's police power in that it provides a safeguard to the vital
44 public interest in protecting these property rights and is a reasonable

1 and appropriate minor adjustment to the inherently unequal bargaining
2 position of the parties and furthers this significant and legitimate
3 public purpose. Therefore, the legislature intends for this act to be
4 retroactively applied to all condominiums in this state, whether
5 established before or after the effective date of this act.

6 Sec. 5. Retroactivity

7 Section 33-1228, subsection I, Arizona Revised Statutes, as amended
8 by this act, applies retroactively to all condominiums in this state,
9 whether established before or after the effective date of this act.