

REFERENCE TITLE: homeowners' associations; rulemaking

State of Arizona  
Senate  
Fifty-seventh Legislature  
Second Regular Session  
2026

## **SB 1659**

Introduced by  
Senator Ortiz

AN ACT

AMENDING SECTIONS 33-1242 AND 33-1817, 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 33-1242, Arizona Revised Statutes, is amended to  
3 read:

4 33-1242. Powers of unit owners' association; rules; notice to  
5 unit owner of violation

6 A. Subject to the provisions of the declaration, the association  
7 may:

8 1. Adopt and amend BOTH:

9 (a) Bylaws. ~~And~~

10 (b) Rules AS DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION.

11 2. Adopt and amend budgets for revenues, expenditures and reserves  
12 and collect assessments for common expenses from unit owners.

13 3. Hire and discharge managing agents and other employees, agents  
14 and independent contractors.

15 4. Institute, defend or intervene in litigation or administrative  
16 proceedings in its own name on behalf of itself or two or more unit owners  
17 on matters affecting the condominium.

18 5. Make contracts and incur liabilities.

19 6. Regulate the use, maintenance, repair, replacement and  
20 modification of common elements.

21 7. Cause additional improvements to be made as a part of the common  
22 elements.

23 8. Acquire, hold, encumber and convey in its own name any right,  
24 title or interest to real or personal property, except that common  
25 elements may be conveyed or subjected to a security interest only pursuant  
26 to section 33-1252.

27 9. Grant easements, leases, licenses and concessions through or  
28 over the common elements.

29 10. Impose and receive any payments, fees or charges for the  
30 use, ~~OR~~ rental ~~or operation~~ of the common elements other than limited  
31 common elements described in section 33-1212, paragraphs 2 and 4 and for  
32 services provided to unit owners.

33 11. Impose charges for late payment of assessments after the  
34 association has provided notice that the assessment is overdue or provided  
35 notice that the assessment is considered overdue after a certain date and,  
36 after notice and an opportunity to be heard, impose reasonable monetary  
37 penalties on unit owners for violations of the declaration, bylaws and  
38 rules of the association.

39 12. Impose reasonable charges for the preparation and recordation  
40 of amendments to the declaration or statements of unpaid assessments.

41 13. Provide for the indemnification of its officers and executive  
42 board of directors and maintain directors' and officers' liability  
43 insurance.

1           14. Assign its right to future income, including the right to  
2 receive common expense assessments, but only to the extent the declaration  
3 expressly provides.

4           15. Be a member of a master association or other entity owning,  
5 maintaining or governing in any respect any portion of the common elements  
6 or other property benefitting or related to the condominium or the unit  
7 owners in any respect.

8           16. Exercise any other powers conferred by the declaration or  
9 bylaws.

10           ~~17. Exercise all other powers that may be exercised in this state~~  
11 ~~by legal entities of the same type as the association.~~

12           ~~18.~~ 17. Exercise any other powers necessary and proper for the  
13 governance and operation of the association.

14           B. NOTWITHSTANDING ANY PROVISION OF THE CONDOMINIUM DOCUMENTS TO  
15 THE CONTRARY, THE ASSOCIATION SHALL ENFORCE THE SPECIFIC COVENANTS,  
16 CONDITIONS AND RESTRICTIONS IN THE DECLARATION WITH REASONABLE DISCRETION  
17 AS NECESSARY TO PROTECT PROPERTY VALUES IN THE COMMUNITY. THE ASSOCIATION  
18 SHALL REASONABLY PROVIDE FOR THE PROTECTION, PRESERVATION AND UPKEEP OF  
19 THE COMMON ELEMENTS, TO PROVIDE FOR AND PROMOTE SAFETY IN THE USE OF THE  
20 COMMON ELEMENTS AND TO MANAGE THE AVAILABILITY OF THE COMMON ELEMENTS. IF  
21 THE DECLARATION GRANTS THE GENERAL POWER TO ADOPT RULES, THE ASSOCIATION  
22 HAS THE AUTHORITY TO ADOPT RULES OR POLICIES TO:

23           1. PROTECT UNIT OWNERS FROM UNREASONABLE INTERFERENCE IN THE  
24 ENJOYMENT, PRIVACY AND USE OF THEIR UNITS OR COMMON ELEMENTS CAUSED BY THE  
25 USE OR BEHAVIORS OF OTHER UNIT OWNERS, RESIDENTS OR GUESTS AND TO PROTECT  
26 THE STRUCTURAL INTEGRITY OR THE SAFETY OF ADJACENT UNITS OR THEIR  
27 OCCUPANTS OR THE CONDOMINIUM AS A WHOLE.

28           2. PROTECT UNIT OWNERS, RESIDENTS AND GUESTS FROM DISCRIMINATION OR  
29 THE CREATION OF HOSTILE ENVIRONMENT HARASSMENT AS DESCRIBED IN 24 CODE OF  
30 FEDERAL REGULATIONS SECTION 100.600.

31           3. ALLOW FOR THE APPLICATION OF REASONABLE ACCOMMODATIONS TO  
32 ADDRESS ACCESSIBILITY NEEDS RAISED BY DISABLED OWNERS AS REQUIRED BY THE  
33 AMERICANS WITH DISABILITIES ACT AS DEFINED IN SECTION 41-1492.

34           4. SATISFY VALID UNDERWRITING REQUIREMENTS OF INSTITUTIONAL LENDERS  
35 UNDER FEDERAL LAW AND 24 CODE OF FEDERAL REGULATIONS SECTION 203.43b,  
36 INCLUDING RESTRICTING THE NUMBER OF NONOWNER OCCUPIED UNITS.

37           5. MAINTAIN REASONABLE DECORUM AND CIVILITY IN THE CONDUCT OF ALL  
38 ASSOCIATION MEETINGS OR INTERACTIONS WITH BOARD OF DIRECTORS MEMBERS, UNIT  
39 OWNERS OR ANY OTHER CONTRACTOR OR AGENT OF THE ASSOCIATION IF THE RULES  
40 APPLY TO AND ARE ENFORCED EQUALLY ON ALL PARTIES.

41           6. ESTABLISH POLICIES FOR THE BUSINESS CONDUCT AND EXPECTATIONS OF  
42 THE CONDOMINIUM ASSOCIATION, ITS AGENTS AND CONTRACTORS.

7. LIMIT THE ENFORCEMENT OF RESTRICTIONS IDENTIFIED IN THE DECLARATION THAT THE ASSOCIATION REASONABLY BELIEVES WILL NOT HAVE AN ADVERSE IMPACT ON ADJACENT PROPERTY VALUES FOR SPECIFIC SITUATIONS BASED ON EXTENUATING CIRCUMSTANCES, WITHOUT WAIVING ITS RIGHT TO ENFORCE THOSE RESTRICTIONS ON UNITS WITHOUT THE EXTENUATING CIRCUMSTANCES.

C. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION, A RULE IS REASONABLE IF IT IS NOT ARBITRARY OR CAPRICIOUS AND IT IS ENFORCED FAIRLY AND CONSISTENTLY ON ALL UNIT OWNERS.

D. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, ELSEWHERE IN THIS CHAPTER OR AS EXPLICITLY AUTHORIZED AND NOTICED IN THE DECLARATION, THE ASSOCIATION MAY NOT:

1. ADOPT RULES THAT RESTRICT ANY PHYSICAL CHARACTERISTIC, THE USE OR OCCUPANCY OF INDIVIDUAL UNITS OR THE RIGHTS OR BEHAVIORS OF UNIT OWNERS.

2. CREATE A RULE OR POLICY, OR TAKE ANY ACTION THAT UNREASONABLY BURDENS OR RESTRICTS A FUNDAMENTAL CONSTITUTIONAL RIGHT OF THE UNIT OWNERS, INCLUDING FREEDOM OF SPEECH, FREEDOM OF RELIGION, FREEDOM TO ASSEMBLE PEACEFULLY, FREEDOM TO PETITION THEIR GOVERNING BODY TO REDRESS GRIEVANCES, THE RIGHT TO DUE PROCESS OF LAW, THE RIGHT TO PRIVACY, FREEDOM FROM UNREASONABLE AND EXCESSIVE PENALTIES, OR AS PROTECTED BY THE CONSUMER REVIEW FAIRNESS ACT OF 2016 (P.L. 114-258; 130 STAT. 1355; 15 UNITED STATES CODE SECTION 45b).

3. ADOPT RULES THAT CHANGE THE BASIS FOR THE ALLOCATED INTEREST OR COMMON EXPENSE LIABILITY. ANY RULE OR POLICY INCONSISTENT WITH THIS SUBSECTION IS INVALID AND UNENFORCEABLE.

E. IN ANY ACTION OR HEARING PURSUANT TO SECTION 32-2199.01 THAT IS INITIATED BY A UNIT OWNER AGAINST THE ASSOCIATION FOR A VIOLATION OF THIS SECTION OR IN ANY ACTION INITIATED BY THE ASSOCIATION TO ENFORCE AN ALLEGED VIOLATION OF RULES OR POLICIES, THE ASSOCIATION HAS THE BURDEN OF PROOF TO ESTABLISH THAT ANY RULE OR POLICY THAT IS ESTABLISHED BY THE ASSOCIATION COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

~~B.~~ F. A unit owner who receives a written notice that the condition of the property owned by the unit owner is in violation of a requirement of the condominium documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within twenty-one calendar days after the date of the notice. The response shall be sent to the address identified in the notice.

~~E.~~ G. Within ten business days after receipt of the certified mail containing the response from the unit owner, the association shall respond to the unit owner with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the condominium documents that has allegedly been violated.

2. The date of the violation or the date the violation was observed.

3. The first and last name of the person or persons who observed the violation.

4. The process the unit owner must follow to contest the notice.

~~D.~~ H. Unless the information required in subsection ~~E~~ G, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the condominium documents, including the collection of attorney fees, before or during the time prescribed by subsection ~~E~~ G of this section regarding the exchange of information between the association and the unit owner and shall give the unit owner written notice of the unit owner's option to petition for an administrative hearing on the matter in the state real estate department pursuant to section 32-2199.01. At any time before or after completion of the exchange of information pursuant to this section, the unit owner may petition for a hearing pursuant to section 32-2199.01 if the dispute is within the jurisdiction of the state real estate department as prescribed in section 32-2199.01.

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

33-1817. Declaration amendment; rules; design, architectural committees; review

A. Except during the period of declarant control, or if during the period of declarant control with the written consent of the declarant in each instance, the following apply to an amendment to a declaration:

1. The declaration may be amended by the association, if any, or, if there is no association or board, the owners of the property that is subject to the declaration, by an affirmative vote or written consent of the number of owners or eligible voters specified in the declaration, including the assent of any individuals or entities that are specified in the declaration.

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

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

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

3. Within thirty days after the adoption of any amendment pursuant to this section, the association or, if there is no association or board, 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  
5 is effective immediately on recordation of the instrument in the county in  
6 which the property is located.

7 B. NOTWITHSTANDING ANY PROVISION OF THE COMMUNITY DOCUMENTS TO THE  
8 CONTRARY, THE ASSOCIATION SHALL ENFORCE THE SPECIFIC COVENANTS, CONDITIONS  
9 AND RESTRICTIONS IN THE DECLARATION WITH REASONABLE DISCRETION AS  
10 NECESSARY TO PROTECT PROPERTY VALUES IN THE COMMUNITY. THE ASSOCIATION  
11 SHALL REASONABLY PROVIDE FOR THE PROTECTION, PRESERVATION AND UPKEEP OF  
12 THE COMMON AREAS, TO PROVIDE FOR AND PROMOTE SAFETY IN THE USE OF THE  
13 COMMON AREAS AND TO MANAGE THE AVAILABILITY OF THE COMMON AREAS. IF THE  
14 DECLARATION GRANTS THE GENERAL POWER TO ADOPT RULES, THE ASSOCIATION HAS  
15 THE AUTHORITY TO ADOPT RULES OR POLICIES TO:

16 1. PROTECT MEMBERS FROM THE UNREASONABLE INTERFERENCE IN THE  
17 ENJOYMENT, PRIVACY AND USE OF THEIR PROPERTY OR COMMON AREAS CAUSED BY THE  
18 PROPERTY USE OR BEHAVIORS OF OTHER MEMBERS OR GUESTS.

19 2. PROTECT MEMBERS AND RESIDENTS AND GUESTS FROM DISCRIMINATION OR  
20 THE CREATION OF HOSTILE ENVIRONMENT HARASSMENT AS DESCRIBED IN 24 CODE OF  
21 FEDERAL REGULATIONS SECTION 100.600.

22 3. ALLOW FOR THE APPLICATION OF REASONABLE ACCOMMODATIONS TO  
23 ADDRESS ACCESSIBILITY NEEDS RAISED BY DISABLED MEMBERS OR RESIDENTS AS  
24 REQUIRED BY THE AMERICANS WITH DISABILITIES ACT AS DEFINED IN SECTION  
25 41-1492.

26 4. MAINTAIN REASONABLE DECORUM AND CIVILITY IN THE CONDUCT OF ALL  
27 ASSOCIATION MEETINGS OR INTERACTIONS WITH BOARD MEMBERS, MEMBERS OR ANY  
28 OTHER CONTRACTOR OR AGENT OF THE ASSOCIATION IF THE RULES APPLY TO AND ARE  
29 ENFORCED EQUALLY ON ALL PARTIES.

30 5. ESTABLISH POLICIES FOR THE BUSINESS CONDUCT AND EXPECTATIONS OF  
31 THE PLANNED COMMUNITY ASSOCIATION, ITS AGENTS AND CONTRACTORS.

32 6. LIMIT THE ENFORCEMENT OF RESTRICTIONS IDENTIFIED IN THE  
33 DECLARATION THAT THE ASSOCIATION REASONABLY BELIEVES WILL NOT HAVE AN  
34 ADVERSE IMPACT ON ADJACENT PROPERTY VALUES FOR SPECIFIC SITUATIONS BASED  
35 ON EXTENUATING CIRCUMSTANCES, WITHOUT WAIVING ITS RIGHT TO ENFORCE THOSE  
36 RESTRICTIONS ON LOTS WITHOUT THE EXTENUATING CIRCUMSTANCES.

37 7. RESTRICT THE APPLICATION OF SPECIFIC BUILDING COLORS, MATERIALS  
38 OR CHARACTERISTIC, OBJECTIONAL AND DIVISIVE DISPLAYS, LANDSCAPING OR  
39 PLANTINGS ONLY TO THE EXTENT THAT IT REASONABLY AND JUSTIFIABLY BELIEVES  
40 WOULD NEGATIVELY IMPACT THE AESTHETIC CHARACTER OF THE COMMUNITY OR  
41 DIRECTLY IMPACT THE PROPERTY VALUES OF THE ADJACENT PROPERTIES. THE  
42 ASSOCIATION MAY NOT LIMIT THE MEMBERS' OPTIONS FOR THOSE FEATURES TO ONLY  
43 SPECIFICALLY APPROVED COLORS, MATERIALS, FEATURES OR PLANTINGS UNLESS  
44 EXPLICITLY AUTHORIZED AND NOTICED IN THE DECLARATION.

8. ESTABLISH REASONABLE MAINTENANCE STANDARDS ON PRIVATE STRUCTURES OR LANDSCAPING THAT WILL BE REASONABLY NECESSARY TO PROTECT THE PROPERTY VALUES OR THE SAFETY, INCLUDING WILDFIRE SAFETY, OF ADJACENT PROPERTIES. THE STANDARDS MAY NOT EXCEED THE STANDARDS APPLIED BY THE ASSOCIATION TO THE ASSOCIATION'S COMMON AREAS.

C. IF THE DECLARATION GRANTS THE ASSOCIATION THE GENERAL AUTHORITY TO ESTABLISH SEPARATE DESIGN CONTROL GUIDELINES ON PRIVATE PROPERTY, THE GUIDELINES ARE VALID IF THEY ARE REASONABLE AND LIMITED ONLY TO HIGH ORDER GENERAL RESTRICTIONS NECESSARY TO MAINTAIN THE DECLARATION'S INTENDED CHARACTER AND STRUCTURAL, AESTHETIC AND SETBACK HARMONY OF THE COMMUNITY THAT ARE REASONABLY NECESSARY AND DIRECTLY RELATED TO THE ASSOCIATION'S PRIMARY PURPOSE OF MAINTAINING PROPERTY VALUES.

D. FOR THE PURPOSES OF THIS SECTION, FOR ANY RULE OR DESIGN GUIDELINE TO BE REASONABLE, IT MAY NOT BE ARBITRARY OR CAPRICIOUS AND MUST BE ENFORCED FAIRLY AND CONSISTENTLY ON ALL MEMBERS.

E. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS B AND C OF THIS SECTION, ELSEWHERE IN THIS CHAPTER OR AS EXPLICITLY AUTHORIZED AND NOTICED IN THE DECLARATION, THE ASSOCIATION MAY NOT:

1. ADOPT RULES THAT RESTRICT ANY PHYSICAL CHARACTERISTIC, THE USE OR OCCUPANCY OF INDIVIDUAL PROPERTIES OR THE RIGHTS OR BEHAVIORS OF MEMBERS.

2. CREATE A RULE OR POLICY, OR TAKE ANY ACTION THAT UNREASONABLY BURDENS OR RESTRICTS A FUNDAMENTAL CONSTITUTIONAL RIGHT OF THE MEMBERS, INCLUDING FREEDOM OF SPEECH, FREEDOM OF RELIGION, FREEDOM TO ASSEMBLE PEACEFULLY, FREEDOM TO PETITION THEIR GOVERNING BODY TO REDRESS GRIEVANCES, THE RIGHT TO DUE PROCESS OF LAW, THE RIGHT TO PRIVACY, FREEDOM FROM UNREASONABLE AND EXCESSIVE PENALTIES, OR AS PROTECTED BY THE CONSUMER REVIEW FAIRNESS ACT OF 2016 (P.L. 114-258; 130 STAT. 1355; 15 UNITED STATES CODE SECTION 45b).

3. RESTRICTS THE MEMBER'S RIGHTS TO:

(a) USE THE MEMBER'S PROPERTY AS THE MEMBER CHOOSES.

(b) APPLY THE MEMBER'S PERSONAL TASTE AND DESIRES.

(c) MEET THE MEMBER'S REASONABLE INDIVIDUAL FAMILY NEEDS.

4. ADOPT RULES THAT CHANGE THE BASIS FOR THE ALLOCATED INTEREST OR COMMON EXPENSE LIABILITY. ANY RULE OR POLICY INCONSISTENT WITH THIS SUBSECTION IS INVALID AND UNENFORCEABLE.

F. IN ANY ACTION OR HEARING PURSUANT TO SECTION 32-2199.01 THAT IS INITIATED BY A MEMBER AGAINST THE ASSOCIATION FOR VIOLATION OF THIS SECTION OR ANY ACTION THAT IS INITIATED BY THE ASSOCIATION TO ENFORCE RULES OR DESIGN GUIDELINES, THE ASSOCIATION HAS THE BURDEN OF PROOF TO ESTABLISH THAT ANY RULE, DESIGN GUIDELINE OR POLICY THAT IS ESTABLISHED BY THE ASSOCIATION COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

~~B.~~ G. Notwithstanding any provision in the community documents:

1. Membership on a design review committee, an architectural committee or a committee that performs similar functions, however

denominated, for the planned community shall include at least one member of the board of directors who shall serve as chairperson of the committee.

2. For new construction of the main residential structure on a lot or for rebuilds of the main residential structure on a lot and only in a planned community that has enacted design guidelines, architectural guidelines or other similar rules **AS DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION**, however denominated, and if the association documents ~~permit~~ **ALLOW** the association to charge the member a security deposit and the association requires the member to pay a security deposit to secure completion of the member's construction project or compliance with approved plans, all of the following apply:

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

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

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

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

(b) The association or the design review committee must hold a final design approval meeting for the purpose of issuing approval of the plans, and the member or member's agent must have the opportunity to attend the meeting. If the plans are approved, the association's design review representative shall provide written acknowledgement that the approved plans, including any approved amendments, are in compliance with all rules and guidelines in effect at the time of the approval and that the refund of the deposit requires that construction be completed in accordance with those approved plans.

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

(d) Within thirty business days after the second formal review, the association shall provide to the member a copy of the written report specifying any deficiencies, violations or unapproved variations from the approved plans, as amended, that have come to the attention of the association. If the written report does not specify any deficiencies, violations or unapproved variations from the approved plans, as amended, that have come to the attention of the association, the association shall promptly release the deposit monies to the member. If the report identifies any deficiencies, violations or unapproved variations from the

1 approved plans, as amended, the association may hold the deposit for one  
2 hundred eighty days or until receipt of a subsequent report of  
3 construction compliance, whichever is less. If a report of construction  
4 compliance is received before the one hundred eightieth day, the  
5 association shall promptly release the deposit monies to the member. If a  
6 compliance report is not received within one hundred eighty days, the  
7 association shall release the deposit monies promptly from the trust  
8 account to the association.

9 (e) Neither the approval of the plans nor the approval of the  
10 actual construction by the association or the design review committee  
11 shall constitute a representation or warranty that the plans or  
12 construction comply with applicable governmental requirements or  
13 applicable engineering, design or safety standards. The association in  
14 its discretion may release all or any part of the deposit to the member  
15 before receiving a compliance report. Release of the deposit to the member  
16 does not constitute a representation or warranty from the association that  
17 the construction complies with the approved plans.

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