

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 33-1817. Declaration amendment; rules; design, architectural
22 committees; review

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

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

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

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

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

43 3. Within thirty days after the adoption of any amendment pursuant
44 to this section, the association or, if there is no association or board,
45 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.

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

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

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

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

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

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

30 3. RESTRICTS THE MEMBER'S RIGHTS TO:

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

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

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

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

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

43 **~~F.~~** G. Notwithstanding any provision in the community documents:

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

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

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

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

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

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

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

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

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

37 (d) Within thirty business days after the second formal review, the
38 association shall provide to the member a copy of the written report
39 specifying any deficiencies, violations or unapproved variations from the
40 approved plans, as amended, that have come to the attention of the
41 association. If the written report does not specify any deficiencies,
42 violations or unapproved variations from the approved plans, as amended,
43 that have come to the attention of the association, the association shall
44 promptly release the deposit monies to the member. If the report
45 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.