

REFERENCE TITLE: homeowner's associations; declaration amendment

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

SB 1806

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 33-1227 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 33-1227, 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
6 declarant under section 33-1220, by the association under section 33-1206
7 or section 33-1216, subsection D, or by certain unit owners under section
8 33-1218, subsection B, section 33-1222, ~~section~~ OR 33-1223 or section
9 33-1228, subsection D, and except to the extent allowed or required by
10 other provisions of this chapter, the declaration, including the plat, may
11 be amended only by a vote of the unit owners to which at least sixty-seven
12 percent of the votes in the association are allocated, or any larger
13 majority the declaration specifies. The declaration may specify a smaller
14 percentage only if all of the units are restricted exclusively to
15 nonresidential use. The declaration may also provide that the consent of
16 the declarant is required to an amendment during any period of declarant
17 control pursuant to section 33-1243. Within thirty days after ~~the~~
18 ~~adoption of~~ ADOPTING any amendment pursuant to this subsection, the
19 association shall prepare, execute and record a written instrument setting
20 forth the amendment.

21 B. NOTWITHSTANDING ANY OTHER LAW, IF AT LEAST NINETY-FIVE PERCENT
22 OF THE UNITS IN THE CONDOMINIUM HAVE BEEN SOLD TO PERSONS OTHER THAN THE
23 DECLARANT, THE DECLARATION MAY BE AMENDED AS FOLLOWS:

24 1. THE BOARD OF DIRECTORS SHALL CALL A MEETING OF THE UNIT OWNERS
25 OR THE MEMBERS OF THE UNIT OWNERS' ASSOCIATION MAY CALL A SPECIAL MEETING
26 OF THE UNIT OWNERS' ASSOCIATION AS PRESCRIBED BY SECTION 33-1248.

27 2. THE BOARD OF DIRECTORS OR THE UNIT OWNERS, AS APPLICABLE, SHALL
28 PROVIDE NOTICE OF THE MEETING AND NOTICE OF THE POSSIBLE AMENDMENT TO THE
29 DECLARATION AT LEAST SIXTY DAYS BEFORE THE DATE OF THE MEETING. THE TEXT
30 OF THE PROPOSED AMENDMENT TO THE DECLARATION SHALL ALSO BE MADE AVAILABLE
31 TO ALL OF THE UNIT OWNERS AT LEAST SIXTY DAYS BEFORE THE DATE OF THE
32 MEETING.

33 3. IF A MAJORITY OF THOSE VOTING ON THE MATTER VOTES TO APPROVE THE
34 PROPOSED AMENDMENT, THE DECLARATION IS AMENDED. THE BOARD OF DIRECTORS
35 SHALL PROMPTLY RECORD THE AMENDED DECLARATION IN THE OFFICE OF THE COUNTY
36 RECORDER FOR THE COUNTY IN WHICH THE CONDOMINIUM IS LOCATED.

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

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

44 ~~D.~~ E. Except to the extent expressly allowed or required by other
45 provisions of this chapter, an amendment shall not create or increase

1 special declarant rights, increase the number of units or change the
2 boundaries of any unit, the allocated interests of a unit or the uses to
3 which any unit is restricted, in the absence of unanimous consent of the
4 unit owners.

5 ~~F.~~ F. An amendment shall not terminate or decrease any unexpired
6 development right, special declarant right or period of declarant control
7 unless the declarant approves.

8 ~~F.~~ G. Amendments to the declaration required by this chapter to be
9 executed by the association shall be executed on behalf of the association
10 by any officer of the association designated for that purpose or, in the
11 absence of designation, by the president of the association.

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

14 33-1817. Declaration amendment; design, architectural
15 committees; review

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

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

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

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

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

36 3. Within thirty days after ~~the adoption of~~ ADOPTING any amendment
37 pursuant to this section, the association or, if there is no association
38 or board, an owner that is authorized by the affirmative vote on or the
39 written consent to the amendment shall prepare, execute and record a
40 written instrument setting forth the amendment.

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

1 B. NOTWITHSTANDING ANY OTHER LAW, IF AT LEAST NINETY-FIVE PERCENT
2 OF THE PROPERTIES IN THE PLANNED COMMUNITY HAVE BEEN SOLD TO PERSONS OTHER
3 THAN THE DECLARANT, THE DECLARATION MAY BE AMENDED AS FOLLOWS:

4 1. THE BOARD OF DIRECTORS SHALL CALL A MEETING OF THE MEMBERS OF
5 THE ASSOCIATION OR THE MEMBERS OF THE ASSOCIATION MAY CALL A SPECIAL
6 MEETING OF THE MEMBERS' ASSOCIATION AS PRESCRIBED BY SECTION 33-1804.

7 2. THE BOARD OF DIRECTORS OR THE MEMBERS, AS APPLICABLE, SHALL
8 PROVIDE NOTICE OF THE MEETING AND NOTICE OF THE POSSIBLE AMENDMENT TO THE
9 DECLARATION AT LEAST SIXTY DAYS BEFORE THE DATE OF THE MEETING. THE TEXT
10 OF THE PROPOSED AMENDMENT TO THE DECLARATION SHALL ALSO BE MADE AVAILABLE
11 TO ALL OF THE MEMBERS AT LEAST SIXTY DAYS BEFORE THE DATE OF THE MEETING.

12 3. IF A MAJORITY OF THOSE VOTING ON THE MATTER VOTES TO APPROVE THE
13 PROPOSED AMENDMENT, THE DECLARATION IS AMENDED. THE BOARD OF DIRECTORS
14 SHALL PROMPTLY RECORD THE AMENDED DECLARATION IN THE OFFICE OF THE COUNTY
15 RECORDER FOR THE COUNTY IN WHICH THE PLANNED COMMUNITY IS LOCATED.

16 ~~B.~~ C. Notwithstanding any provision in the community documents:

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

21 2. For new construction of the main residential structure on a lot
22 or for rebuilds of the main residential structure on a lot and only in a
23 planned community that has enacted design guidelines, architectural
24 guidelines or other similar rules, however denominated, and if the
25 association documents ~~permit~~ ALLOW the association to charge the member a
26 security deposit and the association requires the member to pay a security
27 deposit to secure completion of the member's construction project or
28 compliance with approved plans, all of the following apply:

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

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

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

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

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

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

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

26 (e) Neither the approval of the plans nor the approval of the
27 actual construction by the association or the design review committee
28 shall constitute a representation or warranty that the plans or
29 construction comply with applicable governmental requirements or
30 applicable engineering, design or safety standards. The association in
31 its discretion may release all or any part of the deposit to the member
32 before receiving a compliance report. Release of the deposit to the member
33 does not constitute a representation or warranty from the association that
34 the construction complies with the approved plans.

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