

PREFILED DEC 21 2011

REFERENCE TITLE: homeowners' associations; public roadways

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2030

Introduced by
Representative Kavanagh

AN ACT

AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1817; RELATING TO PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2030

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 33, chapter 16, article 1, Arizona Revised Statutes,
3 is amended by adding section 33-1817, to read:
4 33-1817. Community authority over public roadways
5 NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AFTER THE
6 PERIOD OF DECLARANT CONTROL, AN ASSOCIATION HAS NO AUTHORITY OVER AND SHALL
7 NOT REGULATE ANY ROADWAY FOR WHICH THE OWNERSHIP HAS BEEN DEDICATED TO OR IS
8 OTHERWISE HELD BY A GOVERNMENTAL ENTITY.

REFERENCE TITLE: homeowners' associations; public roadways.

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SB 1113

Introduced by
Senators Barto: Antenori, Biggs, Crandall, Gould, Griffin, Shooter

AN ACT

AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1817; RELATING TO PLANNED COMMUNITIES.

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4 33-1817. Community authority over public roadways

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6 PERIOD OF DECLARANT CONTROL, AN ASSOCIATION HAS NO AUTHORITY OVER AND SHALL
7 NOT REGULATE ANY ROADWAY FOR WHICH THE OWNERSHIP HAS BEEN DEDICATED TO OR IS
8 OTHERWISE HELD BY A GOVERNMENTAL ENTITY.

REFERENCE TITLE: **planned communities; firearms regulation**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2095

Introduced by
Representative Harper

AN ACT

AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1817; RELATING TO PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 33, chapter 16, article 1, Arizona Revised Statutes,
3 is amended by adding section 33-1817, to read:
4 33-1817. Firearms regulation; limitation
5 A. AN ASSOCIATION SHALL NOT RESTRICT FIREARMS EXCEPT AS PRESCRIBED IN
6 THIS SECTION.
7 B. THE ASSOCIATION MAY INCLUDE THE FOLLOWING PROVISIONS IN THE
8 COMMUNITY DOCUMENTS TO APPLY TO MEMBERS, MEMBERS' TENANTS, GUESTS AND
9 VISITORS WITH REGARD TO FIREARMS:
10 1. MEMBERS, MEMBERS' TENANTS, GUESTS AND VISITORS SHALL COMPLY WITH
11 ALL FEDERAL AND STATE LAWS GOVERNING THE POSSESSION, CARRYING AND USE OF
12 FIREARMS.
13 2. NO FIREARMS ARE PERMITTED IN THE MANAGEMENT OFFICE AT ANY TIME.
14 C. ANY PROVISION OF THE COMMUNITY DOCUMENTS THAT IS INCONSISTENT WITH
15 THIS SECTION IS UNENFORCEABLE.

REFERENCE TITLE: homeowners' associations; election procedures

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2160

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 33-1250 AND 33-1812, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2160

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1250, Arizona Revised Statutes, is amended to
3 read:

4 33-1250. Voting; proxies; absentee ballots; applicability;
5 definition; violation; classification

6 A. If only one of the multiple owners of a unit is present at a
7 meeting of the association, the owner is entitled to cast all the votes
8 allocated to that unit. If more than one of the multiple owners are present,
9 the votes allocated to that unit may be cast only in accordance with the
10 agreement of a majority in interest of the multiple owners unless the
11 declaration expressly provides otherwise. There is majority agreement if any
12 one of the multiple owners casts the votes allocated to that unit without
13 protest being made promptly to the person presiding over the meeting by any
14 of the other owners of the unit.

15 B. During the period of declarant control, votes allocated to a unit
16 may be cast pursuant to a proxy duly executed by a unit owner. If a unit is
17 owned by more than one person, each owner of the unit may vote or register
18 protest to the casting of votes by the other owners of the unit through a
19 duly executed proxy. A unit owner may not revoke a proxy given pursuant to
20 this section except by actual notice of revocation to the person presiding
21 over a meeting of the association. A proxy is void if it is not dated or
22 purports to be revocable without notice. The proxy is revoked on
23 presentation of a later dated proxy executed by the same unit owner. A proxy
24 terminates one year after its date, unless it specifies a shorter term or
25 unless it states that it is coupled with an interest and is irrevocable.

26 C. Notwithstanding any provision in the condominium documents, after
27 termination of the period of declarant control, votes allocated to a unit may
28 not be cast pursuant to a proxy. The association shall provide for votes to
29 be cast in person and by absentee ballot and may provide for voting by some
30 other form of delivery. Notwithstanding section 10-3708 or the provisions of
31 the condominium documents, any action taken at an annual, regular or special
32 meeting of the members shall comply with all of the following if absentee
33 ballots are used:

34 1. The absentee ballot shall set forth each proposed action.

35 2. The absentee ballot shall provide an opportunity to vote for or
36 against each proposed action.

37 3. The absentee ballot is valid for only one specified election or
38 meeting of the members and expires automatically after the completion of the
39 election or meeting.

40 4. The absentee ballot specifies the time and date by which the ballot
41 must be delivered to the board of directors in order to be counted, which
42 shall be at least seven days after the date that the board delivers the
43 unvoted absentee ballot to the member.

44 5. The absentee ballot does not authorize another person to cast votes
45 on behalf of the member.

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1 D. Votes cast by absentee ballot or other form of delivery are valid
2 for the purpose of establishing a quorum.

3 E. Notwithstanding subsection C of this section, an association for a
4 timeshare plan as defined in section 32-2197 may permit votes by a proxy that
5 is duly executed by a unit owner.

6 F. If the declaration requires that votes on specified matters
7 affecting the condominium be cast by lessees rather than unit owners of
8 leased units all of the following apply:

9 1. The provisions of subsections A and B of this section apply to
10 lessees as if they were unit owners.

11 2. Unit owners who have leased their units to other persons shall not
12 cast votes on those specified matters.

13 3. Lessees are entitled to notice of meetings, access to records and
14 other rights respecting those matters as if they were unit owners. Unit
15 owners shall also be given notice, in the manner prescribed in section
16 33-1248, of all meetings at which lessees may be entitled to vote.

17 G. Unless the declaration provides otherwise, votes allocated to a
18 unit owned by the association shall not be cast.

19 H. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, A
20 CONDOMINIUM ELECTION IN WHICH VOTES ARE CAST IN PERSON, BY ABSENTEE BALLOT OR
21 ANY OTHER FORM OF DELIVERY SHALL COMPLY WITH THE FOLLOWING:

22 1. BALLOTING SHALL BE SECRET, AND MARKED BALLOTS SHALL BE RECEIVED AND
23 HELD USING A METHOD THAT ENSURES SECRECY IN BALLOTING. ABSENTEE BALLOTS
24 SHALL USE A SYSTEM IN WHICH THE VOTER'S SIGNATURE AND ANY OTHER IDENTIFYING
25 INFORMATION ARE ON THE OUTSIDE OF THE ENVELOPE AND THE VOTED BALLOT IS
26 CONTAINED INSIDE THE ENVELOPE.

27 2. BALLOTS AND BALLOT ENVELOPES SHALL NOT BE OPENED OR TABULATED UNTIL
28 AFTER THE TIME FOR VOTING HAS CLOSED.

29 3. EACH CANDIDATE FOR AN OFFICE MAY DESIGNATE AN OBSERVER, WHO MAY BE
30 A CANDIDATE, TO WITNESS THE TALLYING OF THE BALLOTS.

31 4. VOTED BALLOTS SHALL BE SAVED INTACT AND MAINTAINED FOR A PERIOD OF
32 SIX MONTHS UNDER THE SUPERVISION OF A PERSON DULY AUTHORIZED BY THE BOARD.

33 5. A CANDIDATE MAY AUDIT THE RESULTS OF THE TALLY IF THE CANDIDATE
34 MAKES THAT REQUEST WITHIN THIRTY DAYS AFTER THE CLOSE OF VOTING. A
35 CANDIDATE'S AUDIT MAY OCCUR ONLY UNDER THE SUPERVISION OF A PERSON DULY
36 AUTHORIZED BY THE BOARD AND SHALL BE PERFORMED AT A SITE ACCESSIBLE TO THE
37 OWNERS OF THE CONDOMINIUM.

38 6. THE BOARD OF DIRECTORS SHALL NOT INCLUDE ENDORSEMENTS FOR ANY
39 CANDIDATES FOR ELECTION IN ANY OFFICIAL MATERIALS CIRCULATED, POSTED OR
40 PROVIDED BY THE BOARD, INCLUDING THE BALLOTS AND RELATED ENVELOPES.

41 7. AN UNVOTED BALLOT, ISSUE, QUESTION OR RACE SHALL NOT BE TABULATED
42 AS EITHER A VOTE "FOR" OR A VOTE "AGAINST" ANY PARTICULAR ISSUE, QUESTION OR
43 CANDIDATE.

44 I. A CORPORATION OR OTHER ENTITY THAT INTENTIONALLY VIOLATES
45 SUBSECTION H OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

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1 5. A CANDIDATE MAY AUDIT THE RESULTS OF THE TALLY IF THE CANDIDATE
2 MAKES THAT REQUEST WITHIN THIRTY DAYS AFTER THE CLOSE OF VOTING. A
3 CANDIDATE'S AUDIT MAY OCCUR ONLY UNDER THE SUPERVISION OF A PERSON DULY
4 AUTHORIZED BY THE BOARD AND SHALL BE PERFORMED AT A SITE ACCESSIBLE TO THE
5 MEMBERS OF THE COMMUNITY.

6 6. THE BOARD OF DIRECTORS SHALL NOT INCLUDE ENDORSEMENTS FOR ANY
7 CANDIDATES FOR ELECTION IN ANY OFFICIAL MATERIALS CIRCULATED, POSTED OR
8 PROVIDED BY THE BOARD, INCLUDING THE BALLOTS AND RELATED ENVELOPES.

9 7. AN UNVOTED BALLOT, ISSUE, QUESTION OR RACE SHALL NOT BE TABULATED
10 AS EITHER A VOTE "FOR" OR A VOTE "AGAINST" ANY PARTICULAR ISSUE, QUESTION OR
11 CANDIDATE.

12 D. A CORPORATION OR OTHER ENTITY THAT INTENTIONALLY VIOLATES
13 SUBSECTION C OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

14 ~~C.~~ E. Notwithstanding subsection A of this section, an association
15 for a timeshare plan as defined in section 32-2197 may permit votes by a
16 proxy that is duly executed by a unit owner.

17 ~~D.~~ F. For the purposes of this section, "period of declarant control"
18 means the time during which the declarant or persons designated by the
19 declarant may elect or appoint the members of the board of directors pursuant
20 to the community documents or by virtue of superior voting power.

REFERENCE TITLE: homeowners' associations; dispute resolution, tapping

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2290

Introduced by
Representative Smith D

AN ACT

AMENDING SECTIONS 33-1242, 33-1248, 33-1803 AND 33-1804, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2290

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; notice to unit
5 owner of violation; attorney fees; arbitration

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

7 1. Adopt and amend bylaws and rules.

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

10 3. Hire and discharge managing agents and other employees, agents and
11 independent contractors.

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

15 5. Make contracts and incur liabilities.

16 6. Regulate the use, maintenance, repair, replacement and modification
17 of common elements.

18 7. Cause additional improvements to be made as a part of the common
19 elements.

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

24 9. Grant easements, leases, licenses and concessions through or over
25 the common elements.

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

30 11. Impose charges for late payment of assessments and, after notice
31 and an opportunity to be heard, impose reasonable monetary penalties upon
32 unit owners for violations of the declaration, bylaws and rules of the
33 association.

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

36 13. Provide for the indemnification of its officers and executive board
37 of directors and maintain directors' and officers' liability insurance.

38 14. Assign its right to future income, including the right to receive
39 common expense assessments, but only to the extent the declaration expressly
40 provides.

41 15. Be a member of a master association or other entity owning,
42 maintaining or governing in any respect any portion of the common elements or
43 other property benefitting or related to the condominium or the unit owners
44 in any respect.

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

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

3 18. Exercise any other powers necessary and proper for the governance
4 and operation of the association.

5 B. A unit owner who receives a written notice that the condition of
6 the property owned by the unit owner is in violation of a requirement of the
7 condominium documents without regard to whether a monetary penalty is imposed
8 by the notice may provide the association with a written response by sending
9 the response by certified mail within ten business days after the date of the
10 notice. The response shall be sent to the address contained in the notice or
11 in the recorded notice prescribed by section 33-1256, subsection J.

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

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

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

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

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

23 D. Unless the information required in subsection C, paragraph 4 of
24 this section is provided in the notice of violation, the association shall
25 not proceed with any action to enforce the condominium documents, including
26 the collection of attorney fees, before or during the time prescribed by
27 subsection C of this section regarding the exchange of information between
28 the association and the unit owner. At any time before or after completion
29 of the exchange of information pursuant to this section, the unit owner may
30 petition for a hearing pursuant to section 41-2198.01 if the dispute is
31 within the jurisdiction of the department of fire, building and life safety
32 as prescribed in section 41-2198.01, subsection B.

33 E. FOR ANY DISPUTE BETWEEN A UNIT OWNER AND THE BOARD OF DIRECTORS OR
34 THE ASSOCIATION, BEFORE THE UNIT OWNER, THE BOARD OF DIRECTORS OR THE
35 ASSOCIATION FILES A CIVIL ACTION REGARDING THE DISPUTE, THE PARTIES TO THE
36 DISPUTE SHALL SUBMIT TO ARBITRATION OF THE DISPUTE BY A NATIONALLY RECOGNIZED
37 ARBITRATION ASSOCIATION OR THE PARTIES MAY AGREE TO MEDIATE THE DISPUTE.
38 EACH PARTY IS LIABLE FOR THEIR OWN FEES AND COSTS INCURRED IN A MEDIATION BUT
39 THE ARBITRATOR MAY APPORTION BETWEEN AND AMONG THE PARTIES THE REASONABLE
40 FEES AND COSTS FOR THE ARBITRATION.

41 Sec. 2. Section 33-1248, Arizona Revised Statutes, is amended to read:
42 33-1248. Open meetings; exceptions

43 A. Notwithstanding any provision in the declaration, bylaws or other
44 documents to the contrary, all meetings of the unit owners' association and
45 the board of directors, and any regularly scheduled committee meetings, are

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1 open to all members of the association or any person designated by a member
2 in writing as the member's representative and all members or designated
3 representatives so desiring shall be permitted to attend and speak at an
4 appropriate time during the deliberations and proceedings. The board may
5 place reasonable time restrictions on those persons speaking during the
6 meeting but shall permit a member or a member's designated representative to
7 speak once after the board has discussed a specific agenda item but before
8 the board takes formal action on that item in addition to any other
9 opportunities to speak. The board shall provide for a reasonable number of
10 persons to speak on each side of an issue. **IF A PERSON PROVIDES NOTICE TO**
11 **THE BOARD TWENTY-FOUR HOURS IN ADVANCE**, persons attending may audiotape or
12 videotape those portions of the meetings of the board of directors and
13 meetings of the members that are open. ~~The board of directors of the~~
14 ~~association may adopt reasonable rules governing the audiotaping or~~
15 ~~videotaping of open portions of the meetings of the board and the membership,~~
16 ~~but such rules shall not preclude such audiotaping or videotaping by those~~
17 ~~attending.~~ Any portion of a meeting may be closed only if that portion of
18 the meeting is limited to consideration of one or more of the following:
19 1. Legal advice from an attorney for the board or the association. On
20 final resolution of any matter for which the board received legal advice or
21 that concerned pending or contemplated litigation, the board may disclose
22 information about that matter in an open meeting except for matters that are
23 required to remain confidential by the terms of a settlement agreement or
24 judgment.
25 2. Pending or contemplated litigation.
26 3. Personal, health or financial information about an individual
27 member of the association, an individual employee of the association or an
28 individual employee of a contractor for the association, including records of
29 the association directly related to the personal, health or financial
30 information about an individual member of the association, an individual
31 employee of the association or an individual employee of a contractor for the
32 association.
33 4. Matters relating to the job performance of, compensation of, health
34 records of or specific complaints against an individual employee of the
35 association or an individual employee of a contractor of the association who
36 works under the direction of the association.
37 5. Discussion of a unit owner's appeal of any violation cited or
38 penalty imposed by the association except on request of the affected unit
39 owner that the meeting be held in an open session.
40 B. Notwithstanding any provision in the condominium documents, all
41 meetings of the unit owners' association and the board shall be held in this
42 state. A meeting of the unit owners' association shall be held at least once
43 each year. Special meetings of the unit owners' association may be called by
44 the president, by a majority of the board of directors or by unit owners
45 having at least twenty-five per cent, or any lower percentage specified in

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1 the bylaws, of the votes in the association. Not fewer than ten nor more
2 than fifty days in advance of any meeting of the unit owners, the secretary
3 shall cause notice to be hand delivered or sent prepaid by United States mail
4 to the mailing address of each unit or to any other mailing address
5 designated in writing by the unit owner. The notice of any meeting of the
6 unit owners shall state the time and place of the meeting. The notice of any
7 special meeting of the unit owners shall also state the purpose for which the
8 meeting is called, including the general nature of any proposed amendment to
9 the declaration or bylaws, any changes in assessments that require approval
10 of the unit owners and any proposal to remove a director or officer. The
11 failure of any unit owner to receive actual notice of a meeting of the unit
12 owners does not affect the validity of any action taken at that meeting.

13 C. Notwithstanding any provision in the declaration, bylaws or other
14 condominium documents, for meetings of the board of directors that are held
15 after the termination of declarant control of the association, notice to unit
16 owners of meetings of the board of directors shall be given at least
17 forty-eight hours in advance of the meeting by newsletter, conspicuous
18 posting or any other reasonable means as determined by the board of
19 directors. An affidavit of notice by an officer of the association is prima
20 facie evidence that notice was given as prescribed by this section. Notice
21 to unit owners of meetings of the board of directors is not required if
22 emergency circumstances require action by the board before notice can be
23 given. Any notice of a board meeting shall state the time and place of the
24 meeting. The failure of any unit owner to receive actual notice of a meeting
25 of the board of directors does not affect the validity of any action taken at
26 that meeting.

27 D. Notwithstanding any provision in the declaration, bylaws or other
28 condominium documents, for meetings of the board of directors that are held
29 after the termination of declarant control of the association, all of the
30 following apply:

31 1. The agenda shall be available to all unit owners attending.

32 2. An emergency meeting of the board of directors may be called to
33 discuss business or take action that cannot be delayed until the next
34 regularly scheduled board meeting. The minutes of the emergency meeting
35 shall state the reason necessitating the emergency meeting. The minutes of
36 the emergency meeting shall be read and approved at the next regularly
37 scheduled meeting of the board of directors.

38 3. A quorum of the board of directors may meet by means of a telephone
39 conference if a speakerphone is available in the meeting room that allows
40 board members and unit owners to hear all parties who are speaking during the
41 meeting.

42 4. Any quorum of the board of directors that meets informally to
43 discuss association business, including workshops, shall comply with the open
44 meeting and notice provisions of this section without regard to whether the
45 board votes or takes any action on any matter at that informal meeting.

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1 E. It is the policy of this state as reflected in this section that
2 all meetings of a condominium, whether meetings of the unit owners'
3 association or meetings of the board of directors of the association, be
4 conducted openly and that notices and agendas be provided for those meetings
5 that contain the information that is reasonably necessary to inform the unit
6 owners of the matters to be discussed or decided and to ensure that unit
7 owners have the ability to speak after discussion of agenda items, but before
8 a vote of the board of directors is taken. Toward this end, any person or
9 entity that is charged with the interpretation of these provisions shall take
10 into account this declaration of policy and shall construe any provision of
11 this section in favor of open meetings.

12 F. This section does not apply to timeshare plans or associations that
13 are subject to chapter 20 of this title.

14 Sec. 3. Section 33-1803, Arizona Revised Statutes, is amended to read:
15 33-1803. Penalties; notice to member of violation; attorney
16 fees; arbitration

17 A. Unless limitations in the community documents would result in a
18 lower limit for the assessment, the association shall not impose a regular
19 assessment that is more than twenty per cent greater than the immediately
20 preceding fiscal year's assessment without the approval of the majority of
21 the members of the association. Unless reserved to the members of the
22 association, the board of directors may impose reasonable charges for the
23 late payment of assessments. A payment by a member is deemed late if it is
24 unpaid fifteen or more days after its due date, unless the community
25 documents provide for a longer period. Charges for the late payment of
26 assessments are limited to the greater of fifteen dollars or ten per cent of
27 the amount of the unpaid assessment. Any monies paid by the member for an
28 unpaid assessment shall be applied first to the principal amount unpaid and
29 then to the interest accrued.

30 B. After notice and an opportunity to be heard, the board of directors
31 may impose reasonable monetary penalties on members for violations of the
32 declaration, bylaws and rules of the association. Notwithstanding any
33 provision in the community documents, the board of directors shall not impose
34 a charge for a late payment of a penalty that exceeds the greater of fifteen
35 dollars or ten per cent of the amount of the unpaid penalty. A payment is
36 deemed late if it is unpaid fifteen or more days after its due date, unless
37 the declaration, bylaws or rules of the association provide for a longer
38 period. Any monies paid by a member for an unpaid penalty shall be applied
39 first to the principal amount unpaid and then to the interest accrued.
40 Notice pursuant to this subsection shall include information pertaining to
41 the manner in which the penalty shall be enforced.

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1 C. A member who receives a written notice that the condition of the
2 property owned by the member is in violation of the community documents
3 without regard to whether a monetary penalty is imposed by the notice may
4 provide the association with a written response by sending the response by
5 certified mail within ten business days after the date of the notice. The
6 response shall be sent to the address contained in the notice or in the
7 recorded notice prescribed by section 33-1807, subsection J.

8 D. Within ten business days after receipt of the certified mail
9 containing the response from the member, the association shall respond to the
10 member with a written explanation regarding the notice that shall provide at
11 least the following information unless previously provided in the notice of
12 violation:

13 1. The provision of the community documents that has allegedly been
14 violated.

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

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

18 4. The process the member must follow to contest the notice.

19 E. Unless the information required in subsection D, paragraph 4 of
20 this section is provided in the notice of violation, the association shall
21 not proceed with any action to enforce the community documents, including the
22 collection of attorney fees, before or during the time prescribed by
23 subsection D of this section regarding the exchange of information between
24 the association and the member. At any time before or after completion of
25 the exchange of information pursuant to this section, the member may petition
26 for a hearing pursuant to section 41-2198.01 if the dispute is within the
27 jurisdiction of the department of fire, building and life safety as
28 prescribed in section 41-2198.01, subsection B.

29 F. FOR ANY DISPUTE BETWEEN A MEMBER AND THE BOARD OF DIRECTORS OR THE
30 ASSOCIATION, BEFORE THE MEMBER, THE BOARD OF DIRECTORS OR THE ASSOCIATION
31 FILES A CIVIL ACTION REGARDING THE DISPUTE, THE PARTIES TO THE DISPUTE SHALL
32 SUBMIT TO ARBITRATION OF THE DISPUTE BY A NATIONALLY RECOGNIZED ARBITRATION
33 ASSOCIATION OR THE PARTIES MAY AGREE TO MEDIATE THE DISPUTE. EACH PARTY IS
34 LIABLE FOR THEIR OWN FEES AND COSTS INCURRED IN A MEDIATION BUT THE
35 ARBITRATOR MAY APPORTION BETWEEN AND AMONG THE PARTIES THE REASONABLE FEES
36 AND COSTS FOR THE ARBITRATION.

37 Sec. 4. Section 33-1804, Arizona Revised Statutes, is amended to read:

38 33-1804. Open meetings; exceptions

39 A. Notwithstanding any provision in the declaration, bylaws or other
40 documents to the contrary, all meetings of the members' association and the
41 board of directors, and any regularly scheduled committee meetings, are open
42 to all members of the association or any person designated by a member in
43 writing as the member's representative and all members or designated
44 representatives so desiring shall be permitted to attend and speak at an
45 appropriate time during the deliberations and proceedings. The board may

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1 place reasonable time restrictions on those persons speaking during the
2 meeting but shall permit a member or member's designated representative to
3 speak once after the board has discussed a specific agenda item but before
4 the board takes formal action on that item in addition to any other
5 opportunities to speak. The board shall provide for a reasonable number of
6 persons to speak on each side of an issue. IF A PERSON PROVIDES NOTICE TO
7 THE BOARD TWENTY-FOUR HOURS IN ADVANCE, persons attending may ~~tape record~~
8 AUDIOTAPE or videotape those portions of the meetings of the board of
9 directors and meetings of the members that are open. ~~The board of directors~~
10 ~~of the association may adopt reasonable rules governing the taping of open~~
11 ~~portions of the meetings of the board and the membership, but such rules~~
12 ~~shall not preclude such tape recording or videotaping by those attending.~~
13 Any portion of a meeting may be closed only if that closed portion of the
14 meeting is limited to consideration of one or more of the following:

15 1. Legal advice from an attorney for the board or the association. On
16 final resolution of any matter for which the board received legal advice or
17 that concerned pending or contemplated litigation, the board may disclose
18 information about that matter in an open meeting except for matters that are
19 required to remain confidential by the terms of a settlement agreement or
20 judgment.

21 2. Pending or contemplated litigation.

22 3. Personal, health or financial information about an individual
23 member of the association, an individual employee of the association or an
24 individual employee of a contractor for the association, including records of
25 the association directly related to the personal, health or financial
26 information about an individual member of the association, an individual
27 employee of the association or an individual employee of a contractor for the
28 association.

29 4. Matters relating to the job performance of, compensation of, health
30 records of or specific complaints against an individual employee of the
31 association or an individual employee of a contractor of the association who
32 works under the direction of the association.

33 5. Discussion of a member's appeal of any violation cited or penalty
34 imposed by the association except on request of the affected member that the
35 meeting be held in an open session.

36 B. Notwithstanding any provision in the community documents, all
37 meetings of the members' association and the board shall be held in this
38 state. A meeting of the members' association shall be held at least once
39 each year. Special meetings of the members' association may be called by the
40 president, by a majority of the board of directors or by members having at
41 least twenty-five per cent, or any lower percentage specified in the bylaws,
42 of the votes in the association. Not fewer than ten nor more than fifty days
43 in advance of any meeting of the members the secretary shall cause notice to
44 be hand-delivered or sent prepaid by United States mail to the mailing
45 address for each lot, parcel or unit owner or to any other mailing address

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1 designated in writing by a member. The notice shall state the time and place
2 of the meeting. A notice of any special meeting of the members shall also
3 state the purpose for which the meeting is called, including the general
4 nature of any proposed amendment to the declaration or bylaws, changes in
5 assessments that require approval of the members and any proposal to remove a
6 director or an officer. The failure of any member to receive actual notice
7 of a meeting of the members does not affect the validity of any action taken
8 at that meeting.

9 C. Notwithstanding any provision in the declaration, bylaws or other
10 community documents, for meetings of the board of directors that are held
11 after the termination of declarant control of the association, notice to
12 members of meetings of the board of directors shall be given at least
13 forty-eight hours in advance of the meeting by newsletter, conspicuous
14 posting or any other reasonable means as determined by the board of
15 directors. An affidavit of notice by an officer of the corporation is prima
16 facie evidence that notice was given as prescribed by this section. Notice
17 to members of meetings of the board of directors is not required if emergency
18 circumstances require action by the board before notice can be given. Any
19 notice of a board meeting shall state the time and place of the meeting. The
20 failure of any member to receive actual notice of a meeting of the board of
21 directors does not affect the validity of any action taken at that meeting.

22 D. Notwithstanding any provision in the declaration, bylaws or other
23 community documents, for meetings of the board of directors that are held
24 after the termination of declarant control of the association, all of the
25 following apply:

26 1. The agenda shall be available to all members attending.

27 2. An emergency meeting of the board of directors may be called to
28 discuss business or take action that cannot be delayed until the next
29 regularly scheduled board meeting. The minutes of the emergency meeting
30 shall state the reason necessitating the emergency meeting. The minutes of
31 the emergency meeting shall be read and approved at the next regularly
32 scheduled meeting of the board of directors.

33 3. A quorum of the board of directors may meet by means of a telephone
34 conference if a speakerphone is available in the meeting room that allows
35 board members and association members to hear all parties who are speaking
36 during the meeting.

37 4. Any quorum of the board of directors that meets informally to
38 discuss association business, including workshops, shall comply with the open
39 meeting and notice provisions of this section without regard to whether the
40 board votes or takes any action on any matter at that informal meeting.

41 E. It is the policy of this state as reflected in this section that
42 all meetings of a planned community, whether meetings of the members'
43 association or meetings of the board of directors of the association, be
44 conducted openly and that notices and agendas be provided for those meetings
45 that contain the information that is reasonably necessary to inform the

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1 members of the matters to be discussed or decided and to ensure that members
2 have the ability to speak after discussion of agenda items, but before a vote
3 of the board of directors is taken. Toward this end, any person or entity
4 that is charged with the interpretation of these provisions shall take into
5 account this declaration of policy and shall construe any provision of this
6 section in favor of open meetings.

REFERENCE TITLE: homeowners' associations; enforcement; board
indemnification

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2455

Introduced by
Representatives Alston: Gonzales

AN ACT

AMENDING SECTIONS 33-1243, 33-1810 AND 33-1811, ARIZONA REVISED STATUTES;
RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2455

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1243, Arizona Revised Statutes, is amended to
3 read:

4 33-1243. Board of directors and officers: conflict: powers:
5 limitations: removal: annual audit: indemnification:
6 applicability

7 A. Except as provided in the declaration, the bylaws, subsection B or
8 other provisions of this chapter, the board of directors may act in all
9 instances on behalf of the association.

10 B. The board of directors shall not act on behalf of the association
11 to amend the declaration, terminate the condominium, elect members of the
12 board of directors or determine the qualifications, powers and duties or
13 terms of office of board of directors members. The board of directors may
14 fill vacancies in its membership for the unexpired portion of any term.

15 C. If any contract, decision or other action for compensation taken by
16 or on behalf of the board of directors would benefit any member of the board
17 of directors or any person who is a parent, grandparent, spouse, child or
18 sibling of a member of the board of directors or a parent or spouse of any of
19 those persons, that member of the board of directors shall declare a conflict
20 of interest for that issue. The member shall declare the conflict in an open
21 meeting of the board before the board discusses or takes action on that issue
22 and that member may ~~then~~ NOT vote on that issue. Any contract entered into
23 in violation of this subsection is void and unenforceable.

24 D. Except as provided in the declaration, within thirty days after
25 adoption of any proposed budget for the condominium, the board of directors
26 shall provide a summary of the budget to all the unit owners. Unless the
27 board of directors is expressly authorized in the declaration to adopt and
28 amend budgets from time to time, any budget or amendment shall be ratified by
29 the unit owners in accordance with the procedures set forth in this
30 subsection. If ratification is required, the board of directors shall set a
31 date for a meeting of the unit owners to consider ratification of the budget
32 not fewer than fourteen nor more than thirty days after mailing of the
33 summary. Unless at that meeting a majority of all the unit owners or any
34 larger vote specified in the declaration rejects the budget, the budget is
35 ratified, whether or not a quorum is present. **THE BOARD OF DIRECTORS SHALL**
36 **PROVIDE A COPY OF THE BUDGET THAT WAS RATIFIED BY THE UNIT OWNERS TO ALL THE**
37 **UNIT OWNERS.** If the proposed budget is rejected, the periodic budget last
38 ratified by the unit owners shall be continued until such time as the unit
39 owners ratify a subsequent budget proposed by the board of directors.

40 E. The declaration may provide for a period of declarant control of
41 the association, during which period a declarant or persons designated by the
42 declarant may appoint and remove the officers and members of the board of
43 directors. Regardless of the period provided in the declaration, a period of
44 declarant control terminates no later than the earlier of:

45 1. Ninety days after conveyance of seventy-five per cent of the units
46 which may be created to unit owners other than a declarant.

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1 2. Four years after all declarants have ceased to offer units for sale
2 in the ordinary course of business.

3 F. A declarant may voluntarily surrender the right to appoint and
4 remove officers and members of the board of directors before termination of
5 the period prescribed in subsection E, but in that event the declarant may
6 require, for the duration of the period of declarant control, that specified
7 actions of the association or board of directors, as described in a recorded
8 instrument executed by the declarant, be approved by the declarant before
9 they become effective.

10 G. Not later than the termination of any period of declarant control
11 the unit owners shall elect a board of directors of at least three members,
12 at least a majority of whom must be unit owners. The board of directors
13 shall elect the officers. The board members and officers shall take office
14 upon election.

15 H. Notwithstanding any provision of the declaration or bylaws to the
16 contrary, the unit owners, by a majority vote of members entitled to vote and
17 voting on the matter at a meeting of the members called pursuant to this
18 section at which a quorum is present, may remove any member of the board of
19 directors with or without cause, other than a member appointed by the
20 declarant. For purposes of calling for removal of a member of the board of
21 directors, other than a member appointed by the declarant, the following
22 apply:

23 1. In an association with one thousand or fewer members, on receipt of
24 a petition that calls for removal of a member of the board of directors and
25 that is signed by the number of persons who are entitled to cast at least
26 twenty-five per cent of the votes in the association or one hundred votes in
27 the association, whichever is less, the board shall call and provide written
28 notice of a special meeting of the association as prescribed by section
29 33-1248, subsection B.

30 2. Notwithstanding section 33-1248, subsection B, in an association
31 with more than one thousand members, on receipt of a petition that calls for
32 removal of a member of the board of directors and that is signed by the
33 number of persons who are entitled to cast at least ten per cent of the votes
34 in the association or one thousand votes in the association, whichever is
35 less, the board shall call and provide written notice of a special meeting of
36 the association. The board shall provide written notice of a special meeting
37 as prescribed by section 33-1248, subsection B.

38 3. The special meeting shall be called, noticed and held within thirty
39 days after receipt of the petition.

40 4. For purposes of a special meeting called pursuant to this
41 subsection, a quorum is present if the number of owners to whom at least
42 twenty per cent of the votes or one thousand votes, whichever is less, are
43 allocated is present at the meeting in person or as otherwise permitted by
44 law.

45 5. If a civil action is filed regarding the removal of a board member,
46 the prevailing party in the civil action shall be awarded its reasonable
47 attorney fees and costs.

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1 6. The board of directors shall retain all documents and other records
2 relating to the proposed removal of the member of the board of directors for
3 at least one year after the date of the special meeting and shall permit
4 members to inspect those documents and records pursuant to section 33-1258.

5 7. A petition that calls for the removal of the same member of the
6 board of directors shall not be submitted more than once during each term of
7 office for that member.

8 I. For an association in which board members are elected from
9 separately designated voting districts, a member of the board of directors,
10 other than a member appointed by the declarant, may be removed only by a vote
11 of the members from that voting district, and only the members from that
12 voting district are eligible to vote on the matter or be counted for purposes
13 of determining a quorum.

14 J. Unless any provision in the condominium documents requires an
15 annual audit by a certified public accountant, the board of directors shall
16 provide for an annual financial audit, review or compilation of the
17 association. The audit, review or compilation shall be completed no later
18 than one hundred eighty days after the end of the association's fiscal year
19 and shall be made available upon request to the unit owners within thirty
20 days after its completion.

21 K. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, IF A
22 UNIT OWNER INCURS ATTORNEY FEES AND IS SUCCESSFUL IN COMPELLING THE BOARD TO
23 COMPLY WITH ANY PROVISION OF THE CONDOMINIUM DOCUMENTS OR ARIZONA LAW, THE
24 INDIVIDUAL BOARD MEMBERS ARE JOINTLY AND SEVERALLY LIABLE FOR THE UNIT
25 OWNER'S ATTORNEY FEES AND THE ASSOCIATION SHALL NOT INDEMNIFY THE BOARD
26 MEMBERS FOR THAT LIABILITY UNLESS THAT INDEMNIFICATION IS APPROVED BY A VOTE
27 OF TWO-THIRDS OR MORE OF THE MEMBERSHIP.

28 ~~K.~~ L. This section does not apply to timeshare plans or associations,
29 or the period of declarant control under timeshare instruments, that are
30 subject to chapter 20 of this title.

31 Sec. 2. Section 33-1810, Arizona Revised Statutes, is amended to read:

32 33-1810. Board of directors; annual audit; indemnification

33 A. Unless any provision in the planned community documents requires an
34 annual audit by a certified public accountant, the board of directors shall
35 provide for an annual financial audit, review or compilation of the
36 association. The audit, review or compilation shall be completed no later
37 than one hundred eighty days after the end of the association's fiscal year
38 and shall be made available upon request to the members within thirty days
39 after its completion.

40 B. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, IF A
41 MEMBER INCURS ATTORNEY FEES AND IS SUCCESSFUL IN COMPELLING THE BOARD TO
42 COMPLY WITH ANY PROVISION OF THE COMMUNITY DOCUMENTS OR ARIZONA LAW, THE
43 INDIVIDUAL BOARD MEMBERS ARE JOINTLY AND SEVERALLY LIABLE FOR THE MEMBER'S
44 ATTORNEY FEES AND THE ASSOCIATION SHALL NOT INDEMNIFY THE BOARD MEMBERS FOR
45 THAT LIABILITY UNLESS THAT INDEMNIFICATION IS APPROVED BY A VOTE OF
46 TWO-THIRDS OR MORE OF THE MEMBERSHIP.

HB 2455

1 Sec. 3. Section 33-1811, Arizona Revised Statutes, is amended to read:

2 33-1811. Board of directors; contracts; conflict

3 If any contract, decision or other action for compensation taken by or
4 on behalf of the board of directors would benefit any member of the board of
5 directors or any person who is a parent, grandparent, spouse, child or
6 sibling of a member of the board of directors or a parent or spouse of any of
7 those persons, that member of the board of directors shall declare a conflict
8 of interest for that issue. The member shall declare the conflict in an open
9 meeting of the board before the board discusses or takes action on that issue
10 and that member may ~~then~~ NOT vote on that issue. Any contract entered into
11 in violation of this section is void and unenforceable.

REFERENCE TITLE: condominiums; planned communities; rental properties

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2513

Introduced by
Representatives Urie: Brophy McGee, Carter

AN ACT

AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1260.01; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1806.01; RELATING TO RENTAL PROPERTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2513

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 33, chapter 9, article 3, Arizona Revised Statutes,
3 is amended by adding section 33-1260.01, to read:
4 33-1260.01. Rental property; unit owner, agent information;
5 disclosure
6 A. UNLESS PROHIBITED IN THE CONDOMINIUM DOCUMENTS, A UNIT OWNER MAY
7 USE THE UNIT OWNER'S UNIT AS A RENTAL PROPERTY.
8 B. A UNIT OWNER MAY MAKE A WRITTEN DESIGNATION OF A THIRD PARTY TO ACT
9 AS THE UNIT OWNER'S AGENT WITH RESPECT TO ALL ASSOCIATION MATTERS RELATING TO
10 THE RENTAL UNIT. THE UNIT OWNER SHALL PROVIDE THE ASSOCIATION A COPY OF THE
11 WRITTEN DESIGNATION OF THE AGENT THAT SHALL BE SIGNED BY THE UNIT OWNER OF
12 RECORD FOR THE RENTAL UNIT. ON DELIVERY OF THE WRITTEN DESIGNATION, THE
13 ASSOCIATION IS AUTHORIZED TO CONDUCT ALL ASSOCIATION BUSINESS RELATING TO THE
14 UNIT OWNER'S RENTAL UNIT THROUGH THE DESIGNATED AGENT. NOTICE BY THE
15 ASSOCIATION TO A UNIT OWNER'S DESIGNATED AGENT ON ANY MATTER RELATING TO THE
16 UNIT OWNER'S RENTAL UNIT CONSTITUTES NOTICE TO THE OWNER.
17 C. ON RENTAL OF A UNIT OWNER'S UNIT, THE UNIT OWNER OR UNIT OWNER'S
18 AGENT SHALL PROVIDE THE ASSOCIATION THE NAME, AGE AND TELEPHONE NUMBER OF THE
19 TENANTS OCCUPYING THE UNIT AND A DESCRIPTION AND LICENSE PLATE NUMBER OF THE
20 TENANTS' VEHICLES. IF THE CONDOMINIUM IS AN AGE RESTRICTED CONDOMINIUM, THE
21 UNIT OWNER, THE UNIT OWNER'S AGENT OR THE TENANT SHALL SHOW A GOVERNMENT
22 ISSUED IDENTIFICATION THAT BEARS A PHOTOGRAPH AND THAT CONFIRMS THAT THE
23 TENANT MEETS THE CONDOMINIUM'S AGE RESTRICTIONS OR REQUIREMENTS.
24 D. THE ASSOCIATION MAY CHARGE AN ADMINISTRATIVE FEE THAT IS LIMITED TO
25 ONE PER CENT OF THE ANNUAL, REGULAR ASSESSMENT OF THE UNIT OR FIFTY DOLLARS,
26 WHICHEVER IS GREATER. THE ADMINISTRATIVE FEE MAY BE CHARGED EACH YEAR OR A
27 PORTION OF A YEAR THAT THE UNIT IS RENTED. EXCEPT FOR THE ADMINISTRATIVE FEE
28 PERMITTED BY THIS SUBSECTION, THE ASSOCIATION SHALL NOT ASSESS, LEVY OR
29 CHARGE A FEE OR FINE OR OTHERWISE IMPOSE A REQUIREMENT ON A UNIT OWNER'S
30 RENTAL UNIT ANY DIFFERENTLY THAN AN OWNER-OCCUPIED UNIT IN THE ASSOCIATION.
31 E. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, THE
32 ASSOCIATION IS PROHIBITED FROM EITHER OF THE FOLLOWING:
33 1. REQUIRING A UNIT OWNER TO PROVIDE THE ASSOCIATION WITH A COPY OF
34 THE TENANT'S RENTAL APPLICATION, CREDIT REPORT, LEASE AGREEMENT OR RENTAL
35 CONTRACT OR OTHER PERSONAL INFORMATION REGARDING THE TENANT EXCEPT AS
36 PRESCRIBED BY THIS SECTION. THIS PARAGRAPH DOES NOT PROHIBIT THE ASSOCIATION
37 FROM ACQUIRING A CREDIT REPORT ON A PERSON IN AN ATTEMPT TO COLLECT A DEBT.
38 2. REQUIRING THE TENANT TO SIGN A WAIVER OR OTHER DOCUMENT LIMITING
39 THE TENANT'S CIVIL RIGHTS OF DUE PROCESS AS A CONDITION OF THE TENANT'S
40 OCCUPANCY OF THE RENTAL UNIT.

HB 2513

1 Sec. 2. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
2 amended by adding section 33-1806.01, to read:

3 33-1806.01. Rental property; member, agent information;
4 disclosure

5 A. UNLESS PROHIBITED IN THE COMMUNITY DOCUMENTS, A MEMBER MAY USE THE
6 MEMBER'S PROPERTY AS A RENTAL PROPERTY.

7 B. A MEMBER MAY MAKE A WRITTEN DESIGNATION OF A THIRD PARTY TO ACT AS
8 THE MEMBER'S AGENT WITH RESPECT TO ALL ASSOCIATION MATTERS RELATING TO THE
9 RENTAL PROPERTY. THE MEMBER SHALL PROVIDE THE ASSOCIATION A COPY OF THE
10 WRITTEN DESIGNATION OF THE AGENT THAT SHALL BE SIGNED BY THE MEMBER OF RECORD
11 FOR THE RENTAL PROPERTY. ON DELIVERY OF THE WRITTEN DESIGNATION, THE
12 ASSOCIATION IS AUTHORIZED TO CONDUCT ALL ASSOCIATION BUSINESS RELATING TO THE
13 MEMBER'S RENTAL PROPERTY THROUGH THE DESIGNATED AGENT. NOTICE BY THE
14 ASSOCIATION TO A MEMBER'S DESIGNATED AGENT ON ANY MATTER RELATING TO THE
15 MEMBER'S RENTAL PROPERTY CONSTITUTES NOTICE TO THE MEMBER.

16 C. ON RENTAL OF A MEMBER'S PROPERTY, THE MEMBER OR MEMBER'S AGENT
17 SHALL PROVIDE THE ASSOCIATION THE NAME, AGE AND TELEPHONE NUMBER OF THE
18 TENANTS OCCUPYING THE PROPERTY AND A DESCRIPTION AND LICENSE PLATE NUMBER OF
19 THE TENANTS' VEHICLES. IF THE PLANNED COMMUNITY IS AN AGE RESTRICTED
20 COMMUNITY, THE MEMBER, THE MEMBER'S AGENT OR THE TENANT SHALL SHOW A
21 GOVERNMENT ISSUED IDENTIFICATION THAT BEARS A PHOTOGRAPH AND THAT CONFIRMS
22 THAT THE TENANT MEETS THE COMMUNITY'S AGE RESTRICTIONS OR REQUIREMENTS.

23 D. THE ASSOCIATION MAY CHARGE AN ADMINISTRATIVE FEE THAT IS LIMITED TO
24 ONE PER CENT OF THE ANNUAL, REGULAR ASSESSMENT OF THE PROPERTY OR FIFTY
25 DOLLARS, WHICHEVER IS GREATER. THE ADMINISTRATIVE FEE MAY BE CHARGED EACH
26 YEAR OR PORTION OF A YEAR THAT THE PROPERTY IS RENTED. EXCEPT FOR THE
27 ADMINISTRATIVE FEE PERMITTED BY THIS SUBSECTION, THE ASSOCIATION SHALL NOT
28 ASSESS, LEVY OR CHARGE A FEE OR FINE OR OTHERWISE IMPOSE A REQUIREMENT ON A
29 MEMBER'S RENTAL PROPERTY ANY DIFFERENTLY THAN AN OWNER-OCCUPIED PROPERTY IN
30 THE ASSOCIATION.

31 E. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, THE
32 ASSOCIATION IS PROHIBITED FROM EITHER OF THE FOLLOWING:

33 1. REQUIRING A MEMBER TO PROVIDE THE ASSOCIATION WITH A COPY OF THE
34 TENANT'S RENTAL APPLICATION, CREDIT REPORT, LEASE AGREEMENT OR RENTAL
35 CONTRACT OR OTHER PERSONAL INFORMATION REGARDING THE TENANT EXCEPT AS
36 PRESCRIBED BY THIS SECTION. THIS PARAGRAPH DOES NOT PROHIBIT THE ASSOCIATION
37 FROM ACQUIRING A CREDIT REPORT ON A PERSON IN AN ATTEMPT TO COLLECT A DEBT.

38 2. REQUIRING THE TENANT TO SIGN A WAIVER OR OTHER DOCUMENT LIMITING
39 THE TENANT'S CIVIL RIGHTS OF DUE PROCESS AS A CONDITION OF THE TENANT'S
40 OCCUPANCY OF THE RENTAL PROPERTY.

REFERENCE TITLE: **leash law exemption; liability insurance**

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SB 1065

Introduced by
Senator Klein

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-499.16; AMENDING SECTION 11-1012, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1262; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1817; RELATING TO LEASHED DOGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

SB 1065

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-499.16, to read:

4 9-499.16. Dogs; applicability of leash laws; proof of
5 insurance; definition

6 A. ANY ORDINANCE, COVENANT, CONDITION OR RESTRICTION ENACTED BY A CITY
7 OR TOWN THAT REGULATES, RESTRAINS OR PROHIBITS A DOG FROM RUNNING AT LARGE
8 DOES NOT APPLY IF THE OWNER OF THE DOG PROVIDES TO AN ENFORCEMENT OFFICER
9 CURRENT PROOF OF CANINE LIABILITY INSURANCE IN AN AMOUNT OF AT LEAST ONE
10 HUNDRED THOUSAND DOLLARS THAT PROVIDES COVERAGE FOR INJURY TO ANY PERSON OR
11 DAMAGE TO ANY PROPERTY THAT IS CAUSED BY THE DOG WHILE AT LARGE.

12 B. FOR THE PURPOSES OF THIS SECTION, "AT LARGE" MEANS BEING NEITHER
13 CONFINED BY AN ENCLOSURE NOR PHYSICALLY RESTRAINED BY A LEASH.

14 Sec. 2. Section 11-1012, Arizona Revised Statutes, is amended to read:

15 11-1012. Dogs not permitted at large; wearing licenses;
16 exception; proof of insurance

17 A. Neither a female dog during her breeding or mating season nor a
18 vicious dog shall be permitted at large.

19 B. In a rabies quarantine area, no dogs shall be permitted at large.
20 Each dog shall be confined within an enclosure on the owner's property,
21 secured so that the dog is confined entirely to the owner's property, or on a
22 leash not to exceed six feet in length and directly under the owner's control
23 when not on the owner's property.

24 C. Any dog over the age of three months running at large shall wear a
25 collar or harness to which is attached a valid license tag. Dogs that are
26 used for control of livestock, being used or trained for hunting or dogs,
27 being exhibited or trained at a kennel club event or engaged in races
28 approved by the Arizona racing commission, and while the dogs are being
29 transported to and from such events, need not wear a collar or harness with a
30 valid license attached provided that they are properly vaccinated, licensed
31 and controlled.

32 D. No person in charge of any dog shall permit such dog in a public
33 park or upon any public school property unless the dog is physically
34 restrained by a leash, enclosed in a car, cage or similar enclosure or being
35 exhibited or trained at a recognized kennel club event, public school or park
36 sponsored event. ANY ORDINANCE, COVENANT, CONDITION OR RESTRICTION, BYLAW OR
37 POLICY ENACTED BY A COUNTY, CITY, TOWN, CONDOMINIUM ASSOCIATION OR COMMUNITY
38 ASSOCIATION THAT REGULATES, RESTRAINS OR PROHIBITS A DOG FROM RUNNING AT
39 LARGE AND THIS SUBSECTION DO NOT APPLY IF THE OWNER OF THE DOG PROVIDES TO AN
40 ENFORCEMENT OFFICER CURRENT PROOF OF CANINE LIABILITY INSURANCE IN AN AMOUNT
41 OF AT LEAST ONE HUNDRED THOUSAND DOLLARS THAT PROVIDES COVERAGE FOR INJURY TO
42 ANY PERSON OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY THE DOG WHILE AT
43 LARGE.

REFERENCE TITLE: process servers; privileges; records; assault

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2341

Introduced by
Representatives Jones, Pancrazi, Judd, Urie, Vogt

AN ACT

AMENDING SECTIONS 11-445, 11-483, 11-484, 13-1204, 16-153, 28-454 AND 28-455,
ARIZONA REVISED STATUTES; RELATING TO PROCESS SERVERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2341

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-445, Arizona Revised Statutes, is amended to
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs,
5 constables and private process servers; authority of
6 private process servers; background investigation;
7 constables' logs

8 A. The sheriff shall receive the following fees in civil actions:

9 1. For serving each true copy of the original summons in a civil suit,
10 sixteen dollars, except that the sheriff shall not charge a fee for service
11 of any document pursuant to section 13-3602 or any injunction against
12 harassment pursuant to section 12-1809 if the court indicates the injunction
13 arises out of a dating relationship.

14 2. For summoning each witness, sixteen dollars.

15 3. For levying and returning each writ of attachment or claim and
16 delivery, forty-eight dollars.

17 4. For taking and approving each bond and returning it to the proper
18 court when necessary, twelve dollars.

19 5. For endorsing the forfeiture of any bond required to be endorsed by
20 him, twelve dollars.

21 6. For levying each execution, twenty-four dollars.

22 7. For returning each execution, sixteen dollars.

23 8. For executing and returning each writ of possession or restitution,
24 forty-eight dollars plus a rate of forty dollars per hour per deputy or
25 constable for the actual time spent in excess of three hours.

26 9. For posting the advertisement for sale under execution, or any
27 order of sale, twelve dollars.

28 10. For posting or serving any notice, process, writ, order, pleading
29 or paper required or permitted by law, not otherwise provided for, sixteen
30 dollars except that posting for a writ of restitution shall not exceed ten
31 dollars.

32 11. For executing a deed to each purchaser of real property under
33 execution or order of sale, twenty-four dollars.

34 12. For executing a bill of sale to each purchaser of real and personal
35 property under an execution or order of sale, when demanded by the purchaser,
36 sixteen dollars.

37 13. For services in designating a homestead or other exempt property,
38 twelve dollars.

39 14. For receiving and paying money on redemption and issuing a
40 certificate of redemption, twenty-four dollars.

41 15. For serving and returning each writ of garnishment and related
42 papers, forty dollars.

43 16. For the preparation, including notarization, of each affidavit of
44 service or other document pertaining to service, eight dollars.

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1 17. For every writ served on behalf of a justice of the peace, a fee
2 established by the board of supervisors not to exceed five dollars per writ.
3 Monies collected from the writ fees shall be deposited in the constable
4 ethics standards and training fund established by section 22-138.

5 B. The sheriff shall also collect the appropriate recording fees if
6 applicable and other appropriate disbursements.

7 C. The sheriff may charge:

8 1. Fifty-six dollars plus disbursements for any skip tracing services
9 performed.

10 2. A reasonable fee for executing a civil arrest warrant ordered
11 pursuant to court rule by a judge or justice of the peace. The fee shall
12 only be charged to the party requesting the issuance of the civil arrest
13 warrant.

14 3. A reasonable fee for storing personal property levied on pursuant
15 to title 12, chapter 9.

16 D. For traveling to serve or on each attempt to serve civil process,
17 writs, orders, pleadings or papers, the sheriff shall receive two dollars
18 forty cents for each mile actually and necessarily traveled but, in any
19 event, not to exceed two hundred miles, nor to be less than sixteen dollars.
20 Mileage shall be charged one way only. For service made or attempted at the
21 same time and place, regardless of the number of parties or the number of
22 papers so served or attempted, only one charge for travel fees shall be made
23 for such service or attempted service.

24 E. For collecting money on an execution when it is made by sale, the
25 sheriff and the constable shall receive eight dollars for each one hundred
26 dollars or major portion thereof not to exceed a total of two thousand
27 dollars, but when money is collected by the sheriff without a sale, only
28 one-half of such fee shall be allowed. When satisfaction or partial
29 satisfaction of a judgment is received by the judgment creditor after the
30 sheriff or constable has received an execution on the judgment, the
31 commission is due the sheriff or constable and is established by an affidavit
32 of the judgment creditor filed with the officer. If the affidavit is not
33 lodged with the officer within thirty days of the request, the commission
34 shall be based on the total amount of judgment due as billed by the officer
35 and may be collected as any other debt by that officer.

36 F. The sheriff shall be allowed for all process issued from the
37 supreme court and served by the sheriff the same fees as are allowed the
38 sheriff for similar services on process issued from the superior court.

39 G. The constable shall receive the same fees as the sheriff for
40 performing the same services in civil actions, except that mileage shall be
41 computed from the office of the justice of the peace originating the civil
42 action to the place of service.

43 H. Notwithstanding subsection G of this section, in a county with a
44 population of more than three million persons, if an office of a justice of
45 the peace is located outside of the precinct boundaries, the mileage for a

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1 constable shall be calculated pursuant to subsection D of this section,
2 except that the distance between the precinct boundaries and the office of
3 the justice of the peace, as determined by the county and certified by the
4 board of supervisors of that county, shall be subtracted from the mileage
5 calculation. This certified mileage calculation shall be transmitted to the
6 justice courts and the clerks of those courts shall calculate the mileage
7 between the office of the justice of the peace and the location where the
8 civil process, writ, order, pleading or paper was served and reduce the
9 mileage used to calculate the mileage fee according to the certified mileage
10 calculation for that respective jurisdiction.

11 I. Private process servers duly appointed or registered pursuant to
12 rules established by the supreme court may serve all process, writs, orders,
13 pleadings or papers required or permitted by law to be served before, during
14 or independently of a court action, including all such as are required or
15 permitted to be served by a sheriff or constable, except writs or orders
16 requiring the service officer to sell, deliver or take into the officer's
17 custody persons or property, or as may otherwise be limited by rule
18 established by the supreme court. A private process server is an officer of
19 the court. As a condition of registration, the supreme court shall require
20 each private process server applicant to furnish a full set of fingerprints
21 to enable a criminal background investigation to be conducted to determine
22 the suitability of the applicant. The completed applicant fingerprint card
23 shall be submitted with the fee prescribed in section 41-1750 to the
24 department of public safety. The applicant shall bear the cost of obtaining
25 the applicant's criminal history record information. The cost shall not
26 exceed the actual cost of obtaining the applicant's criminal history record
27 information. Applicant criminal history records checks shall be conducted
28 pursuant to section 41-1750 and Public Law 92-544. The department of public
29 safety is authorized to exchange the submitted applicant fingerprint card
30 information with the federal bureau of investigation for a federal criminal
31 records check. A private process server may charge such fees for services as
32 may be agreed on between the process server and the party engaging the
33 process server. **IN THE PERFORMANCE OF ATTEMPTING TO SERVE OR WHILE SERVING**
34 **PROCESS, A DULY APPOINTED OR REGISTERED PROCESS SERVER IS AUTHORIZED AND**
35 **PRIVILEGED TO ENTER AND REMAIN LAWFULLY:**

- 36 1. ON REAL PROPERTY.
37 2. UNANNOUNCED IN A PLANNED COMMUNITY OR CONDOMINIUM ASSOCIATION THAT
38 IS GUARDED OR GATED.

39 J. Constables shall maintain a log of work related activities
40 including a listing of all processes served and the number of processes
41 attempted to be served by case number, the names of the plaintiffs and
42 defendants, the names and addresses of the persons to be served except as
43 otherwise precluded by law, the date of process and the daily mileage.

44 K. The log maintained in subsection J of this section is a public
45 record and shall be made available by the constable at the constable's office

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1 during regular office hours. Copies of the log shall be filed monthly with
2 the clerk of the justice court and with the clerk of the board of
3 supervisors.

4 Sec. 2. Section 11-483, Arizona Revised Statutes, is amended to read:
5 11-483. Records maintained by county recorder; confidentiality;
6 definitions

7 A. Notwithstanding any other provision of this article, in any county
8 an eligible person may request that the general public be prohibited from
9 accessing the unique identifier and the recording date contained in indexes
10 of recorded instruments maintained by the county recorder and may request the
11 county recorder to prohibit access to that person's residential address and
12 telephone number contained in instruments or writings recorded by the county
13 recorder.

14 B. An eligible person may request this action by filing an affidavit
15 that states all of the following on an application form developed by the
16 administrative office of the courts in agreement with an association of
17 counties, an organization of peace officers and the motor vehicle division of
18 the department of transportation:

19 1. The person's full legal name and residential address.

20 2. The full legal description and parcel number of the person's
21 property.

22 3. The position the person currently holds and a description of the
23 person's duties, except that an eligible person who is protected under an
24 order of protection or injunction against harassment shall instead attach a
25 copy of the order of protection or injunction against harassment.

26 4. The reasons the person reasonably believes that the person's life
27 or safety or that of another person is in danger and that restricting access
28 pursuant to this section will serve to reduce the danger.

29 5. The document locator number and recording date of each instrument
30 for which the person requests access restriction pursuant to this section.

31 6. A copy of pages from each instrument that includes the document
32 locator number and the person's full legal name and residential address or
33 full legal name and telephone number.

34 C. If an eligible person is also requesting pursuant to section 11-484
35 that the general public be prohibited from accessing records maintained by
36 the county assessor and county treasurer, the eligible person may combine the
37 request pursuant to subsection B of this section with the request pursuant to
38 section 11-484 by filing one affidavit. The affidavit and subsequent action
39 by the appropriate authorities shall meet all of the requirements of this
40 section and section 11-484.

41 D. The affidavit shall be filed with the presiding judge of the
42 superior court in the county in which the affiant resides. To prevent a
43 multiplicity of filings, an eligible person who is a peace officer, public
44 defender, prosecutor, code enforcement officer, corrections or detention
45 officer, corrections support staff member or law enforcement support staff

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1 member shall deliver the affidavit to the peace officer's commanding officer,
2 or to the head of the prosecuting, public defender, code enforcement, law
3 enforcement, corrections or detention agency, as applicable, or that person's
4 designee, who shall file the affidavits at one time. In the absence of an
5 affidavit that contains a request for immediate action and that is supported
6 by facts justifying an earlier presentation, the commanding officer, or the
7 head of the prosecuting, public defender, code enforcement, law enforcement,
8 corrections or detention agency, as applicable, or that person's designee,
9 shall not file affidavits more often than quarterly.

10 E. On receipt of an affidavit or affidavits, the presiding judge of
11 the superior court shall file with the clerk of the superior court a petition
12 on behalf of all requesting affiants. Each affidavit presented shall be
13 attached to the petition. In the absence of an affidavit that contains a
14 request for immediate action and that is supported by facts justifying an
15 earlier consideration, the presiding judge may accumulate affidavits and file
16 a petition at the end of each quarter.

17 F. The presiding judge of the superior court shall review the petition
18 and each attached affidavit to determine whether the action requested by each
19 affiant should be granted. If the presiding judge of the superior court
20 concludes that the action requested by the affiant will reduce a danger to
21 the life or safety of the affiant or another person, the presiding judge of
22 the superior court shall order that the county recorder prohibit access for
23 five years to the affiant's residential address and telephone number
24 contained in instruments or writings recorded by the county recorder and made
25 available on the internet. If the presiding judge of the superior court
26 concludes that the affiant or another person is in actual danger of physical
27 harm from a person or persons with whom the affiant has had official dealings
28 and that action pursuant to this section will reduce a danger to the life or
29 safety of the affiant or another person, the presiding judge of the superior
30 court shall order that the general public be prohibited for five years from
31 accessing the unique identifier and the recording date contained in indexes
32 of recorded instruments maintained by the county recorder and identified
33 pursuant to subsection B of this section.

34 G. On motion to the court, if the presiding judge of the superior
35 court concludes that an instrument or writing recorded by the county recorder
36 has been redacted or sealed in error, that the original affiant no longer
37 lives at the address listed in the original affidavit, that the cause for the
38 original affidavit no longer exists or that temporary access to the
39 instrument or writing is needed, the presiding judge may temporarily stay or
40 permanently vacate all or part of the court order prohibiting public access
41 to the recorded instrument or writing.

42 H. On entry of the court order, the clerk of the superior court shall
43 file the court order and a copy of the affidavit required by subsection B of
44 this section with the county recorder. No more than ten days after the date
45 on which the county recorder receives the court order, the county recorder

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1 shall restrict access to the information as required by subsection F of this
2 section.

3 I. If the court denies an affiant's request pursuant to this section,
4 the affiant may request a court hearing. The hearing shall be conducted by
5 the court in the county where the petition was filed.

6 J. The county recorder shall remove the restrictions on all records
7 restricted pursuant to this section by January 5 in the year after the court
8 order expires. The county recorder shall send by mail one notification to
9 either the CERTIFIED PROCESS SERVER, peace officer, public defender,
10 prosecutor, code enforcement officer, corrections or detention officer,
11 corrections support staff member or law enforcement support staff member or
12 the employing agency of a peace officer, public defender, prosecutor, code
13 enforcement officer, corrections or detention officer, corrections support
14 staff member or law enforcement support staff member who was granted an order
15 pursuant to this section of the order's expiration date at least six months
16 before the expiration date. If the notice is sent to the employing agency,
17 the employing agency shall immediately notify the person who was granted the
18 order of the upcoming expiration date. The county recorder may coordinate
19 with the county assessor and county treasurer to prevent multiple notices
20 from being sent to the same person.

21 K. To include subsequent recordings in the court order, the eligible
22 person shall present to the county recorder at the time of recordation a
23 certified copy of the court order or shall provide to the county recorder the
24 recording number of the court order. The county recorder shall ensure that
25 public access shall be restricted pursuant to subsection A of this section.

26 L. This section shall not be interpreted to restrict access to public
27 records for the purposes of perfecting a lien pursuant to title 12, chapter
28 9, article 2.

29 M. This section does not prohibit access to the records of the county
30 recorder by parties to the instrument, a law enforcement officer performing
31 the officer's official duties pursuant to subsection N of this section, a
32 title insurer, a title insurance agent or an escrow agent licensed by the
33 department of insurance or the department of financial institutions.

34 N. A law enforcement officer is deemed to be performing the officer's
35 official duties if the officer provides a subpoena, court order or search
36 warrant for the records.

37 O. For the purposes of this section:

38 1. "CERTIFIED PROCESS SERVER" MEANS ANY OFFICER OF THE COURT WHO IS
39 CERTIFIED TO PERFORM SERVICE OF PROCESS.

40 ~~1-~~ 2. "Code enforcement officer" means a person who is employed by a
41 state or local government and whose duties include performing field
42 inspections of buildings, structures or property to ensure compliance with
43 and enforce national, state and local laws, ordinances and codes.

44 ~~2-~~ 3. "Commissioner" means a commissioner of the superior court.

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1 ~~3-~~ 4. "Corrections support staff member" means an adult or juvenile
2 corrections employee who has direct contact with inmates.

3 ~~4-~~ 5. "Eligible person" means a CERTIFIED PROCESS SERVER, peace
4 officer, justice, judge, commissioner, public defender, prosecutor, code
5 enforcement officer, adult or juvenile corrections officer, corrections
6 support staff member, probation officer, member of the board of executive
7 clemency, law enforcement support staff member, national guard member who is
8 acting in support of a law enforcement agency, person who is protected under
9 an order of protection or injunction against harassment or firefighter who is
10 assigned to the Arizona counterterrorism center in the department of public
11 safety.

12 ~~5-~~ 6. "Indexes" means only those indexes that are maintained by and
13 located in the office of the county recorder, that are accessed
14 electronically and that contain information beginning from and after January
15 1, 1987.

16 ~~6-~~ 7. "Judge" means a judge of the United States district court, the
17 United States court of appeals, the United States magistrate court, the
18 United States bankruptcy court, the Arizona court of appeals, the superior
19 court or a municipal court.

20 ~~7-~~ 8. "Justice" means a justice of the United States or Arizona
21 supreme court or a justice of the peace.

22 ~~8-~~ 9. "Law enforcement support staff member" means a person who
23 serves in the role of an investigator or prosecutorial assistant in an agency
24 that investigates or prosecutes crimes, who is integral to the investigation
25 or prosecution of crimes and whose name or identity will be revealed in the
26 course of public proceedings.

27 ~~9-~~ 10. "Peace officer" means any person vested by law, or formerly
28 vested by law, with a duty to maintain public order and make arrests.

29 ~~10-~~ 11. "Prosecutor" means a county attorney, a municipal prosecutor,
30 the attorney general or a United States attorney and includes an assistant or
31 deputy United States attorney, county attorney, municipal prosecutor or
32 attorney general.

33 ~~11-~~ 12. "Public defender" means a federal public defender, county
34 public defender, county legal defender or county contract indigent defense
35 counsel and includes an assistant or deputy federal public defender, county
36 public defender or county legal defender.

37 Sec. 3. Section 11-484, Arizona Revised Statutes, is amended to read:

38 ~~11-484.~~ Records maintained by county assessor and county
39 treasurer; redaction; definitions

40 A. Notwithstanding any other provision of this article, in any county
41 an eligible person may request that the general public be prohibited from
42 accessing that person's residential address and telephone number that are
43 contained in instruments, writings and information maintained by the county
44 assessor and the county treasurer.

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1 B. An eligible person may request this action by filing an affidavit
2 that states all of the following on an application form developed by the
3 administrative office of the courts in agreement with an association of
4 counties, an organization of peace officers and the motor vehicle division of
5 the department of transportation:

6 1. The person's full legal name and residential address.

7 2. The full legal description and parcel number of the person's
8 property.

9 3. The position the person currently holds and a description of the
10 person's duties, except that an eligible person who is protected under an
11 order of protection or injunction against harassment shall attach a copy of
12 the order of protection or injunction against harassment.

13 4. The reasons the person reasonably believes that the person's life
14 or safety or that of another person is in danger and that redacting the
15 residential address and telephone number will serve to reduce the danger.

16 C. If an eligible person is also requesting pursuant to section 11-483
17 that the general public be prohibited from accessing records maintained by
18 the county recorder, the eligible person may combine the request pursuant to
19 subsection B of this section with the request pursuant to section 11-483 by
20 filing one affidavit. The affidavit and subsequent action by the appropriate
21 authorities shall meet all of the requirements of this section and section
22 11-483.

23 D. The affidavit shall be filed with the presiding judge of the
24 superior court in the county in which the affiant resides. To prevent a
25 multiplicity of filings, an eligible person who is a peace officer, public
26 defender, prosecutor, code enforcement officer, corrections or detention
27 officer, corrections support staff member or law enforcement support staff
28 member shall deliver the affidavit to the peace officer's commanding officer,
29 or to the head of the prosecuting, public defender, code enforcement, law
30 enforcement, corrections or detention agency, as applicable, or that person's
31 designee, who shall file the affidavits at one time. In the absence of an
32 affidavit that contains a request for immediate action and that is supported
33 by facts justifying an earlier presentation, the commanding officer, or the
34 head of the prosecuting, public defender, code enforcement, law enforcement,
35 corrections or detention agency, as applicable, or that person's designee,
36 shall not file affidavits more often than quarterly.

37 E. On receipt of an affidavit or affidavits, the presiding judge of
38 the superior court shall file with the clerk of the superior court a petition
39 on behalf of all requesting affiants. Each affidavit presented shall be
40 attached to the petition. In the absence of an affidavit that contains a
41 request for immediate action and that is supported by facts justifying an
42 earlier consideration, the presiding judge may accumulate affidavits and file
43 a petition at the end of each quarter.

44 F. The presiding judge of the superior court shall review the petition
45 and each attached affidavit to determine whether the action requested by each

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1 affiant should be granted. If the presiding judge of the superior court
2 concludes that the action requested by the affiant will reduce a danger to
3 the life or safety of the affiant or another person, the presiding judge of
4 the superior court shall order the redaction of the affiant's residential
5 address and telephone number that are contained in instruments, writings and
6 information maintained by the county assessor and the county treasurer. The
7 redaction shall be in effect for five years.

8 G. On motion to the court, if the presiding judge of the superior
9 court concludes that an instrument or writing maintained by the county
10 assessor or the county treasurer has been redacted or sealed in error, that
11 the original affiant no longer lives at the address listed in the original
12 affidavit, that the cause for the original affidavit no longer exists or that
13 temporary access to the instrument or writing is needed, the presiding judge
14 may temporarily stay or permanently vacate all or part of the court order
15 prohibiting public access to the instrument or writing.

16 H. On entry of the court order, the clerk of the superior court shall
17 file the court order and a copy of the affidavit required by subsection B of
18 this section with the county assessor and the county treasurer. No more than
19 ten days after the date on which the county assessor and the county treasurer
20 receive the court order, the county assessor and the county treasurer shall
21 restrict access to the information as required by subsection F of this
22 section.

23 I. If the court denies an affiant's request pursuant to this section,
24 the affiant may request a court hearing. The hearing shall be conducted by
25 the court in the county where the petition was filed.

26 J. The county assessor and the county treasurer shall remove the
27 restrictions on all records that are redacted pursuant to this section by
28 January 5 in the year after the court order expires. The county assessor or
29 the county treasurer shall send by mail one notification to either the
30 CERTIFIED PROCESS SERVER, peace officer, public defender, prosecutor, code
31 enforcement officer, corrections or detention officer, corrections support
32 staff member or law enforcement support staff member or the employing agency
33 of a peace officer, public defender, prosecutor, code enforcement officer,
34 corrections or detention officer, corrections support staff member or law
35 enforcement support staff member who was granted an order pursuant to this
36 section of the order's expiration date at least six months before the
37 expiration date. If the notice is sent to the employing agency, the
38 employing agency shall immediately notify the person who was granted the
39 order of the upcoming expiration date. The county assessor or county
40 treasurer may coordinate with the county recorder to prevent multiple notices
41 from being sent to the same person.

42 K. For the purposes of this section:

43 1. "CERTIFIED PROCESS SERVER" MEANS ANY OFFICER OF THE COURT WHO IS
44 CERTIFIED TO PERFORM SERVICE OF PROCESS.

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1 ~~1-~~ 2. "Code enforcement officer" means a person who is employed by a
2 state or local government and whose duties include performing field
3 inspections of buildings, structures or property to ensure compliance with
4 and enforce national, state and local laws, ordinances and codes.

5 ~~2-~~ 3. "Commissioner" means a commissioner of the superior court.

6 ~~3-~~ 4. "Corrections support staff member" means an adult or juvenile
7 corrections employee who has direct contact with inmates.

8 ~~4-~~ 5. "Eligible person" means a CERTIFIED PROCESS SERVER, peace
9 officer, justice, judge, commissioner, public defender, prosecutor, code
10 enforcement officer, adult or juvenile corrections officer, corrections
11 support staff member, probation officer, member of the board of executive
12 clemency, law enforcement support staff member, national guard member who is
13 acting in support of a law enforcement agency, person who is protected under
14 an order of protection or injunction against harassment or firefighter who is
15 assigned to the Arizona counterterrorism center in the department of public
16 safety.

17 ~~5-~~ 6. "Judge" means a judge of the United States district court, the
18 United States court of appeals, the United States magistrate court, the
19 United States bankruptcy court, the Arizona court of appeals, the superior
20 court or a municipal court.

21 ~~6-~~ 7. "Justice" means a justice of the United States or Arizona
22 supreme court or a justice of the peace.

23 ~~7-~~ 8. "Law enforcement support staff member" means a person who
24 serves in the role of an investigator or prosecutorial assistant in an agency
25 that investigates or prosecutes crimes, who is integral to the investigation
26 or prosecution of crimes and whose name or identity will be revealed in the
27 course of public proceedings.

28 ~~8-~~ 9. "Peace officer" means any person vested by law, or formerly
29 vested by law, with a duty to maintain public order and make arrests.

30 ~~9-~~ 10. "Prosecutor" means a county attorney, a municipal prosecutor,
31 the attorney general or a United States attorney and includes an assistant or
32 deputy United States attorney, county attorney, municipal prosecutor or
33 attorney general.

34 ~~10-~~ 11. "Public defender" means a federal public defender, county
35 public defender, county legal defender or county contract indigent defense
36 counsel and includes an assistant or deputy federal public defender, county
37 public defender or county legal defender.

38 Sec. 4. Section 13-1204, Arizona Revised Statutes, is amended to read:

39 ~~13-1204.~~ Aggravated assault; classification; definition

40 A. A person commits aggravated assault if the person commits assault
41 as prescribed by section 13-1203 under any of the following circumstances:

42 1. If the person causes serious physical injury to another.

43 2. If the person uses a deadly weapon or dangerous instrument.

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1 3. If the person commits the assault by any means of force that causes
2 temporary but substantial disfigurement, temporary but substantial loss or
3 impairment of any body organ or part or a fracture of any body part.

4 4. If the person commits the assault while the victim is bound or
5 otherwise physically restrained or while the victim's capacity to resist is
6 substantially impaired.

7 5. If the person commits the assault after entering the private home
8 of another with the intent to commit the assault.

9 6. If the person is eighteen years of age or older and commits the
10 assault on a minor under fifteen years of age.

11 7. If the person commits assault as prescribed by section 13-1203,
12 subsection A, paragraph 1 or 3 and the person is in violation of an order of
13 protection issued against the person pursuant to section 13-3602 or 13-3624.

14 8. If the person commits the assault knowing or having reason to know
15 that the victim is any of the following:

16 (a) A peace officer, or a person summoned and directed by the officer
17 while engaged in the execution of any official duties.

18 (b) A constable, or a person summoned and directed by the constable
19 while engaged in the execution of any official duties.

20 (c) A firefighter, fire investigator, fire inspector, emergency
21 medical technician or paramedic engaged in the execution of any official
22 duties, or a person summoned and directed by such individual while engaged in
23 the execution of any official duties.

24 (d) A teacher or other person employed by any school and the teacher
25 or other employee is on the grounds of a school or grounds adjacent to the
26 school or is in any part of a building or vehicle used for school purposes,
27 any teacher or school nurse visiting a private home in the course of the
28 teacher's or nurse's professional duties or any teacher engaged in any
29 authorized and organized classroom activity held on other than school
30 grounds.

31 (e) A health care practitioner who is certified or licensed pursuant
32 to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by
33 the licensed health care practitioner while engaged in the person's
34 professional duties. This subdivision does not apply if the person who
35 commits the assault is seriously mentally ill, as defined in section 36-550,
36 or is afflicted with alzheimer's disease or related dementia.

37 (f) A prosecutor.

38 (g) A code enforcement officer as defined in section 39-123.

39 (h) A state or municipal park ranger.

40 (i) A public defender.

41 (j) A CERTIFIED PROCESS SERVER WHILE ENGAGED IN THE PERFORMANCE OF
42 ATTEMPTING TO SERVE OR WHILE SERVING PROCESS.

43 9. If the person knowingly takes or attempts to exercise control over
44 any of the following:

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1 (a) A peace officer's or other officer's firearm and the person knows
2 or has reason to know that the victim is a peace officer or other officer
3 employed by one of the agencies listed in paragraph 10, subdivision (a), item
4 (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the
5 execution of any official duties.

6 (b) Any weapon other than a firearm that is being used by a peace
7 officer or other officer or that the officer is attempting to use, and the
8 person knows or has reason to know that the victim is a peace officer or
9 other officer employed by one of the agencies listed in paragraph 10,
10 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is
11 engaged in the execution of any official duties.

12 (c) Any implement that is being used by a peace officer or other
13 officer or that the officer is attempting to use, and the person knows or has
14 reason to know that the victim is a peace officer or other officer employed
15 by one of the agencies listed in paragraph 10, subdivision (a), item (i),
16 (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution
17 of any official duties. For the purposes of this subdivision, "implement"
18 means an object that is designed for or that is capable of restraining or
19 injuring an individual. Implement does not include handcuffs.

20 10. If the person meets both of the following conditions:

21 (a) Is imprisoned or otherwise subject to the custody of any of the
22 following:

23 (i) The state department of corrections.

24 (ii) The department of juvenile corrections.

25 (iii) A law enforcement agency.

26 (iv) A county or city jail or an adult or juvenile detention facility
27 of a city or county.

28 (v) Any other entity that is contracting with the state department of
29 corrections, the department of juvenile corrections, a law enforcement
30 agency, another state, any private correctional facility, a county, a city or
31 the federal bureau of prisons or other federal agency that has responsibility
32 for sentenced or unsentenced prisoners.

33 (b) Commits an assault knowing or having reason to know that the
34 victim is acting in an official capacity as an employee of any of the
35 entities listed in subdivision (a) of this paragraph.

36 B. A person commits aggravated assault if the person commits assault
37 by either intentionally, knowingly or recklessly causing any physical injury
38 to another person, intentionally placing another person in reasonable
39 apprehension of imminent physical injury or knowingly touching another person
40 with the intent to injure the person, and both of the following occur:

41 1. The person intentionally or knowingly impedes the normal breathing
42 or circulation of blood of another person by applying pressure to the throat
43 or neck or by obstructing the nose and mouth either manually or through the
44 use of an instrument.

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1 2. Any of the circumstances exists that are set forth in section
2 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

3 C. A person who is convicted of intentionally or knowingly committing
4 aggravated assault on a peace officer while the officer is engaged in the
5 execution of any official duties pursuant to subsection A, paragraph 1 or 2
6 of this section shall be sentenced to imprisonment for not less than the
7 presumptive sentence authorized under chapter 7 of this title and is not
8 eligible for suspension of sentence, commutation or release on any basis
9 until the sentence imposed is served.

10 D. Except pursuant to subsections E and F of this section, aggravated
11 assault pursuant to subsection A, paragraph 1 or 2 or paragraph 9,
12 subdivision (a) of this section is a class 3 felony except if the victim is
13 under fifteen years of age in which case it is a class 2 felony punishable
14 pursuant to section 13-705. Aggravated assault pursuant to subsection A,
15 paragraph 3 or subsection B of this section is a class 4 felony. Aggravated
16 assault pursuant to subsection A, paragraph 9, subdivision (b) or paragraph
17 10 of this section is a class 5 felony. Aggravated assault pursuant to
18 subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of
19 this section is a class 6 felony.

20 E. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of
21 this section committed on a peace officer while the officer is engaged in the
22 execution of any official duties is a class 2 felony. Aggravated assault
23 pursuant to subsection A, paragraph 3 of this section committed on a peace
24 officer while the officer is engaged in the execution of any official duties
25 is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph
26 8, subdivision (a) of this section committed on a peace officer while the
27 officer is engaged in the execution of any official duties is a class 5
28 felony unless the assault results in any physical injury to the peace officer
29 while the officer is engaged in the execution of any official duties, in
30 which case it is a class 4 felony.

31 F. Aggravated assault pursuant to:

32 1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony
33 if committed on a prosecutor.

34 2. Subsection A, paragraph 3 of this section is a class 3 felony if
35 committed on a prosecutor.

36 3. Subsection A, paragraph 8, subdivision (f) of this section is a
37 class 5 felony if the assault results in physical injury to a prosecutor.

38 G. For the purposes of this section, ~~—~~:

39 1. "CERTIFIED PROCESS SERVER" MEANS ANY OFFICER OF THE SUPERIOR COURT
40 WHO IS CERTIFIED TO SERVE PROCESS.

41 2. "Prosecutor" means a county attorney, a municipal prosecutor or the
42 attorney general and includes an assistant or deputy county attorney,
43 municipal prosecutor or attorney general.

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1 Sec. 5. Section 16-153, Arizona Revised Statutes, is amended to read:
2 16-153. Voter registration; confidentiality; definitions

3 A. Eligible persons, and any other registered voter who resides at the
4 same residence address as the eligible person, may request that the general
5 public be prohibited from accessing the residential address, telephone number
6 and voting precinct number contained in their voter registration record.

7 B. Eligible persons may request this action by filing an affidavit
8 that states all of the following on an application form developed by the
9 administrative office of the courts in agreement with an association of
10 counties and an organization of peace officers:

11 1. The person's full legal name, residential address and date of
12 birth.

13 2. The position the person currently holds and a description of the
14 person's duties, except that an eligible person who is protected under an
15 order of protection or injunction against harassment shall instead attach a
16 copy of the order of protection or injunction against harassment.

17 3. The reasons for reasonably believing that the person's life or
18 safety or that of another person is in danger and that sealing the
19 residential address, telephone number and voting precinct number of the
20 person's voting record will serve to reduce the danger.

21 C. The affidavit shall be filed with the presiding judge of the
22 superior court in the county in which the affiant resides. To prevent a
23 multiplicity of filings, an eligible person who is a peace officer,
24 prosecutor, public defender, code enforcement officer, corrections or
25 detention officer, corrections support staff member or law enforcement
26 support staff member shall deliver the affidavit to the peace officer's
27 commanding officer, or to the head of the prosecuting, public defender, code
28 enforcement, law enforcement, corrections or detention agency, as applicable,
29 or that person's designee, who shall file the affidavits at one time. In the
30 absence of an affidavit that contains a request for immediate action and is
31 supported by facts justifying an earlier presentation, the commanding
32 officer, or the head of the prosecuting, public defender, code enforcement,
33 law enforcement, corrections or detention agency, as applicable, or that
34 person's designee, shall not file affidavits more often than quarterly.

35 D. Upon receipt of an affidavit or affidavits, the presiding judge of
36 the superior court shall file with the clerk of the superior court a petition
37 on behalf of all requesting affiants. The petition shall have attached each
38 affidavit presented. In the absence of an affidavit that contains a request
39 for immediate action and that is supported by facts justifying an earlier
40 consideration, the presiding judge may accumulate affidavits and file a
41 petition at the end of each quarter.

42 E. The presiding judge of the superior court shall review the petition
43 and each attached affidavit to determine whether the action requested by each
44 affiant should be granted. The presiding judge of the superior court shall
45 order the sealing for five years of the information contained in the voter

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1 record of the affiant and, on request, any other registered voter who resides
2 at the same residence address if the presiding judge concludes that this
3 action will reduce a danger to the life or safety of the affiant.

4 F. The recorder shall remove the restrictions on all voter records
5 submitted pursuant to subsection E of this section by January 5 in the year
6 after the court order expires. The county recorder shall send by mail one
7 notification to either the **CERTIFIED PROCESS SERVER**, peace officer, public
8 defender, prosecutor, code enforcement officer, corrections or detention
9 officer, corrections support staff member or law enforcement support staff
10 member or the employing agency of a peace officer, public defender,
11 prosecutor, code enforcement officer, corrections or detention officer,
12 corrections support staff member or law enforcement support staff member who
13 was granted an order pursuant to this section of the order's expiration date
14 at least six months before the expiration date. If the notice is sent to the
15 employing agency, the employing agency shall immediately notify the person
16 who was granted the order of the upcoming expiration date. The county
17 recorder may coordinate with the county assessor and county treasurer to
18 prevent multiple notices from being sent to the same person.

19 G. Upon entry of the court order, the clerk of the superior court
20 shall file the court order with the county recorder. Upon receipt of the
21 court order the county recorder shall seal the voter registration of the
22 persons listed in the court order no later than one hundred twenty days from
23 the date of receipt of the court order. To include a subsequent voter
24 registration in the court order, a person listed in the court order shall
25 present to the county recorder at the time of registration a certified copy
26 of the court order or shall provide the county recorder the recording number
27 of the court order. The information in the registration shall not be
28 disclosed and is not a public record.

29 H. If the court denies an affiant's requested sealing of the voter
30 registration record, the affiant may request a court hearing. The hearing
31 shall be conducted by the court where the petition was filed.

32 I. On motion to the court, if the presiding judge of the superior
33 court concludes that a voter registration record has been sealed in error or
34 that the cause for the original affidavit no longer exists, the presiding
35 judge may vacate the court order prohibiting public access to the voter
36 registration record.

37 J. Upon request by a person who is protected under an order of
38 protection or injunction against harassment and presentation of an order of
39 protection issued pursuant to section 13-3602, an injunction against
40 harassment issued pursuant to section 12-1809 or an order of protection or
41 injunction against harassment issued by a court in another state, the county
42 recorder shall seal the voter registration record of the person who is
43 protected and, on request, any other registered voter who resides at the
44 residence address of the protected person. The record shall be sealed no
45 later than one hundred twenty days from the date of receipt of the court

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1 order. The information in the registration shall not be disclosed and is not
2 a public record.

3 K. For the purposes of this section:

4 1. "CERTIFIED PROCESS SERVER" MEANS ANY OFFICER OF THE COURT WHO IS
5 CERTIFIED TO PERFORM SERVICE OF PROCESS.

6 ~~1-~~ 2. "Code enforcement officer" means a person who is employed by a
7 state or local government and whose duties include performing field
8 inspections of buildings, structures or property to ensure compliance with
9 and enforce national, state and local laws, ordinances and codes.

10 ~~2-~~ 3. "Commissioner" means a commissioner of the superior court.

11 ~~3-~~ 4. "Corrections support staff member" means an adult or juvenile
12 corrections employee who has direct contact with inmates.

13 ~~4-~~ 5. "Eligible person" means a CERTIFIED PROCESS SERVER, peace
14 officer, border patrol agent, justice, judge, commissioner, public defender,
15 prosecutor, code enforcement officer, adult or juvenile corrections officer,
16 corrections support staff member, probation officer, member of the board of
17 executive clemency, law enforcement support staff member, national guard
18 member who is acting in support of a law enforcement agency, person who is
19 protected under an order of protection or injunction against harassment or
20 firefighter who is assigned to the Arizona counterterrorism center in the
21 department of public safety.

22 ~~5-~~ 6. "Judge" means a judge of the United States district court, the
23 United States court of appeals, the United States magistrate court, the
24 United States bankruptcy court, the Arizona court of appeals, the superior
25 court or a municipal court.

26 ~~6-~~ 7. "Justice" means a justice of the United States or Arizona
27 supreme court or a justice of the peace.

28 ~~7-~~ 8. "Law enforcement support staff member" means a person who
29 serves in the role of an investigator or prosecutorial assistant in an agency
30 that investigates or prosecutes crimes, who is integral to the investigation
31 or prosecution of crimes and whose name or identity will be revealed in the
32 course of public proceedings.

33 ~~8-~~ 9. "Prosecutor" means a United States attorney, a county attorney,
34 a municipal prosecutor or the attorney general and includes an assistant or
35 deputy United States attorney, county attorney, municipal prosecutor or
36 attorney general.

37 ~~9-~~ 10. "Public defender" means a federal public defender, county
38 public defender, county legal defender or county contract indigent defense
39 counsel and includes an assistant or deputy federal public defender, county
40 public defender or county legal defender.

41 Sec. 6. Section 28-454, Arizona Revised Statutes, is amended to read:

42 28-454. Records maintained by department of transportation;
43 redaction; definitions

44 A. Notwithstanding sections 28-447 and 28-455, an eligible person may
45 request that persons be prohibited from accessing the person's residential

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1 address and telephone number contained in any record maintained by the
2 department.

3 B. An eligible person may request this action by filing an affidavit
4 that states all of the following on an application form developed by the
5 administrative office of the courts in agreement with an association of
6 counties, an organization of peace officers and the department:

7 1. The person's full legal name and residential address.

8 2. The position the person currently holds and a description of the
9 person's duties, except that an eligible person who is protected under an
10 order of protection or injunction against harassment shall attach a copy of
11 the order of protection or injunction against harassment.

12 3. The reasons the person reasonably believes that the person's life
13 or safety or that of another person is in danger and that redacting the
14 residential address and telephone number from the department's public records
15 will serve to reduce the danger.

16 C. The affidavit shall be filed with the presiding judge of the
17 superior court in the county in which the affiant resides. To prevent a
18 multiplicity of filings, an eligible person who is a peace officer,
19 prosecutor, code enforcement officer, corrections or detention officer,
20 corrections support staff member or law enforcement support staff member
21 shall deliver the affidavit to the peace officer's commanding officer, or to
22 the head of the prosecuting, code enforcement, law enforcement, corrections
23 or detention agency, as applicable, or that person's designee, who shall file
24 the affidavits at one time. In the absence of an affidavit that contains a
25 request for immediate action and that is supported by facts justifying an
26 earlier presentation, the commanding officer, or the head of the prosecuting,
27 code enforcement, law enforcement, corrections or detention agency, as
28 applicable, or that person's designee, shall not file affidavits more often
29 than quarterly.

30 D. On receipt of an affidavit or affidavits, the presiding judge of
31 the superior court shall cause to be filed with the clerk of the superior
32 court a petition on behalf of all requesting affiants. Each affidavit
33 presented shall be attached to the petition. In the absence of an affidavit
34 that contains a request for immediate action and that is supported by facts
35 justifying an earlier consideration, the presiding judge may accumulate
36 affidavits and file a petition at the end of each quarter.

37 E. The presiding judge of the superior court shall review the petition
38 and each attached affidavit to determine whether the action requested by each
39 affiant should be granted. The presiding judge of the superior court shall
40 order the redaction of the residence address and telephone number from the
41 public records maintained by the department if the judge concludes that this
42 action will reduce a danger to the life or safety of the affiant or another
43 person.

44 F. On entry of the court order, the clerk of the superior court shall
45 file the court order with the department. No more than one hundred fifty

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1 days after the date the department receives the court order, the department
2 shall redact the residence addresses and telephone numbers of the affiants
3 listed in the court order from the public records of the department. The
4 residence addresses and telephone numbers shall not be disclosed and are not
5 part of a public record.

6 G. If the court denies an affiant's request pursuant to this section,
7 the affiant may request a court hearing. The hearing shall be conducted by
8 the court in the county where the petition was filed.

9 H. On motion to the court, if the presiding judge of the superior
10 court concludes that a residential address or telephone number has been
11 sealed in error or that the cause for the original affidavit no longer
12 exists, the presiding judge may vacate the court order prohibiting public
13 access to the residential address or telephone number.

14 I. Notwithstanding sections 28-447 and 28-455, the department shall
15 not release a photograph of a peace officer if the peace officer has made a
16 request as prescribed in this section that persons be prohibited from
17 accessing the peace officer's residential address and telephone number in any
18 record maintained by the department.

19 J. This section does not prohibit the use of a peace officer's
20 photograph that is either:

21 1. Used by a law enforcement agency to assist a person who has a
22 complaint against an officer to identify the officer.

23 2. Obtained from a source other than the department.

24 K. For the purposes of this section:

25 1. "CERTIFIED PROCESS SERVER" MEANS ANY OFFICER OF THE SUPERIOR COURT
26 WHO IS CERTIFIED TO SERVE PROCESS.

27 ~~1-~~ 2. "Code enforcement officer" means a person who is employed by a
28 state or local government and whose duties include performing field
29 inspections of buildings, structures or property to ensure compliance with
30 and enforce national, state and local laws, ordinances and codes.

31 ~~2-~~ 3. "Corrections support staff member" means an adult or juvenile
32 corrections employee who has direct contact with inmates.

33 ~~3-~~ 4. "Eligible person" means a CERTIFIED PROCESS SERVER, peace
34 officer, justice, judge, commissioner, public defender, prosecutor, code
35 enforcement officer, adult or juvenile corrections officer, corrections
36 support staff member, probation officer, member of the board of executive
37 clemency, law enforcement support staff member, national guard member who is
38 acting in support of a law enforcement agency, person who is protected under
39 an order of protection or injunction against harassment or firefighter who is
40 assigned to the Arizona counterterrorism center in the department of public
41 safety.

42 ~~4-~~ 5. "Law enforcement support staff member" means a person who
43 serves in the role of an investigator or prosecutorial assistant in an agency
44 that investigates or prosecutes crimes, who is integral to the investigation

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1 or prosecution of crimes and whose name or identity will be revealed in the
2 course of public proceedings.

3 ~~5-~~ 6. "Prosecutor" means a county attorney, a municipal prosecutor or
4 the attorney general and includes an assistant or deputy county attorney,
5 municipal prosecutor or attorney general.

6 Sec. 7. Section 28-455, Arizona Revised Statutes, is amended to read:

7 ~~28-455.~~ Release of personal information; fees

8 A. In accordance with section 28-458 and the driver's privacy
9 protection act of 1994 (18 United States Code sections 2721 through 2725) and
10 notwithstanding section 28-447, the department shall not knowingly disclose
11 or otherwise make available to any person:

12 1. Personal information obtained by the department in connection with
13 a motor vehicle record except as otherwise provided in this section.

14 2. Highly restricted personal information obtained by the department
15 in connection with a motor vehicle record without the express consent of the
16 person to whom the information applies except for uses allowed in subsection
17 C, paragraphs 1, 4, 6 and 9 of this section. This paragraph does not affect
18 the use of organ donation information on an individual's driver license or
19 affect the administration of organ donation in this state.

20 B. The department shall disclose personal information for use in
21 connection with the following matters:

22 1. Motor vehicle or driver safety and theft.

23 2. Motor vehicle emissions.

24 3. Motor vehicle product alterations, recalls or advisories.

25 4. Performance monitoring of motor vehicles and dealers by motor
26 vehicle manufacturers.

27 5. Removal of nonowner records from the original owner records of
28 motor vehicle manufacturers to carry out the purposes of titles I and IV of
29 the anti car theft act of 1992 (18 United States Code sections 2311 through
30 2322), the automobile information disclosure act (15 United States Code
31 sections 1231, 1232 and 1233), the clean air act of 1963 (42 United States
32 Code sections 7401 through ~~7671~~ 7671q) and 49 United States Code chapters
33 301, 305 and 321 through 331.

34 C. Subject to subsection A of this section, the department may
35 disclose personal information as follows:

36 1. For use by any government agency, including any court or law
37 enforcement agency, in carrying out its functions or any private person or
38 entity acting on behalf of a government agency in carrying out its functions.

39 2. For use in connection with matters of:

40 (a) Performance monitoring of motor vehicles, motor vehicle parts and
41 dealers.

42 (b) Motor vehicle market research activities, including survey
43 research.

44 (c) Removal of nonowner records from the original owner records of
45 motor vehicle manufacturers.

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1 3. For use in the normal course of business by a legitimate business
2 or its agents, employees or contractors, but only:

3 (a) To verify the accuracy of personal information submitted by the
4 individual to the business or its agents, employees or contractors.

5 (b) If the information submitted is not correct or is no longer
6 correct, to obtain the correct information for the purpose of preventing
7 fraud by, pursuing legal remedies against or recovering on a debt or security
8 interest against the individual.

9 4. For use by an attorney licensed to practice law, **A CERTIFIED**
10 **PROCESS SERVER** or by a licensed private investigator in connection with any
11 civil, criminal, administrative or arbitration proceeding in any court or
12 government agency or before any self-regulatory body, including the service
13 of process, investigation in anticipation of litigation and the execution or
14 enforcement of judgments and orders, or pursuant to a court order.

15 5. For use in research activities and for use in producing statistical
16 reports if the personal information is not published, redisclosed or used to
17 contact individuals.

18 6. For use by any insurer that writes automobile liability or motor
19 vehicle liability policies and that is under the jurisdiction of the
20 department of insurance or insurance support organization or by a
21 self-insured entity or its agents, employees or contractors in connection
22 with claims investigation activities, antifraud activities, rating or
23 underwriting.

24 7. For use in providing notice to the owners of towed or impounded
25 vehicles.

26 8. For use by any licensed private investigative agency or licensed
27 security service for any purpose allowed under this section.

28 9. For use by an employer or its agent or insurer to obtain or verify
29 information relating to a holder of a commercial driver license that is
30 required under ~~the commercial motor vehicle safety act of 1986~~ (49 United
31 States Code sections 31301 through 31317).

32 10. For use in connection with the operation of private toll
33 transportation facilities.

34 11. For any other use in response to requests for individual motor
35 vehicle records if the state has obtained the express consent of the person
36 to whom the personal information pertains.

37 12. For bulk distribution for surveys, marketing or solicitations if
38 the department has obtained the express consent of the person to whom the
39 personal information pertains.

40 13. For use by any requester if the requester demonstrates it has
41 obtained the written consent of the individual to whom the information
42 pertains.

43 14. For any other use that is specifically authorized by law and that
44 is related to the operation of a motor vehicle or public safety, including
45 the following:

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1 (a) Use by a financial institution or enterprise under the
2 jurisdiction of the department of financial institutions or a federal
3 monetary authority.

4 (b) Use by a motor vehicle dealer who is licensed and bonded by the
5 department or a state organization of licensed and bonded motor vehicle
6 dealers.

7 (c) Use by a person who is involved in an accident or the owner of a
8 vehicle involved in an accident if the person who requests the information
9 submits proof to the department of involvement in the accident.

10 (d) Use by a person applying for a bonded title if all of the
11 following conditions exist:

12 (i) The requester verifies to the satisfaction of the director that
13 the vehicle on which the requester is requesting the record is in the
14 requester's possession.

15 (ii) The record is requested in order for the requester to notify the
16 registered owner of the requester's intent to apply to the department for a
17 bonded title.

18 (iii) The requester provides a verification of a vehicle inspection
19 that was performed by an authorized department employee or agent.

20 (e) Use by an operator of a self-service storage facility who alleges
21 both of the following:

22 (i) That the vehicle on which the operator is requesting the record is
23 in the operator's possession.

24 (ii) That the record is requested to allow the operator to notify the
25 registered owner and any lienholders of record of the operator's intent to
26 foreclose its lien and to sell the vehicle.

27 (f) For any other use as determined by the director and established by
28 rule.

29 D. The department may establish and carry out procedures under which
30 the department, on receiving a request for personal information that does not
31 fall within one of the exceptions prescribed in subsection B or C of this
32 section, may mail a copy of the request to the individual about whom the
33 information was requested. The mailing shall inform the individual of the
34 request and contain a statement that the information will not be released
35 unless the individual waives the individual's right to privacy under this
36 section.

37 E. In addition to the permissible uses prescribed in subsection C of
38 this section, the department may disclose its motor vehicle records
39 information, including personal information, as a bulk record only under any
40 of the following conditions:

41 1. If the director determines either of the following:

42 (a) The sale or release of the record is necessary for the public
43 health or safety.

44 (b) The use is for general research or general statistical purposes
45 that do not provide specific factors from a record.

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1 2. For surveys, marketing or solicitations if the department has
2 obtained the express consent of the person to whom the personal information
3 pertains.

4 3. For the release of motor vehicle title and motor vehicle
5 registration information, vehicle identification numbers, title brands,
6 odometer readings and brands and title lien information to a requester if the
7 requester is in the business of preparing vehicle history reports and the
8 information is used to develop a vehicle history report.

9 F. The director shall provide in a clear and conspicuous manner on
10 forms for the issuance or renewal of driver licenses, nonoperating
11 identification licenses and title and registration, ~~—~~ the opportunity for
12 express consent so that each person who is the subject of a record of the
13 department may opt in, for any purpose as prescribed by the director.
14 Express consent shall be conveyed in a form prescribed by the director and
15 shall include at least the following:

16 1. Clear and conspicuous notice informing the person who is giving
17 express consent that by giving express consent, the person is allowing the
18 department to disclose information contained in the person's motor vehicle
19 record to any person requesting information for any purpose.

20 2. A written signature or an electronic signature.

21 3. An explanation of the difference between a one-time authorization
22 and general consent or opt in.

23 G. Subject to the requirements of subsection F of this section,
24 express consent may be conveyed as either of the following:

25 1. A one-time authorization submitted by a requester on a consent to
26 release form or by other written format as prescribed by the director.

27 2. General consent or opt in on certain department forms.

28 H. Driver histories shall not be disclosed under subsection E of this
29 section.

30 I. Except as provided in subsection J of this section and section
31 28-446, subsection B, records provided pursuant to subsections B and C of
32 this section are subject to the fees prescribed in section 28-446,
33 subsections A and C.

34 J. For records searched and provided for the purposes described in
35 subsection E of this section, the director:

36 1. Shall charge a search fee that is a minimum of six hundred dollars
37 per million records searched.

38 2. Shall charge a records fee that is a minimum of thirty dollars per
39 thousand records provided.

40 3. May prorate the charge for fractional quantities that are searched
41 or provided.

42 4. May charge only the search fee if the request is in accordance with
43 subsection E, paragraph 2 of this section.

REFERENCE TITLE: foreclosed properties; homeowners' associations;
maintenance

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2136

Introduced by
Representatives Miranda C: Saldate

AN ACT

AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1262; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1817; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2136

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 9, article 3, Arizona Revised Statutes,
3 is amended by adding section 33-1262, to read:

4 33-1262. Maintenance of foreclosed properties; liability; lien

5 FOR ANY PROPERTY THAT IS OWNED BY A PERSON WHO WAS THE FORECLOSING
6 BENEFICIARY OF A DEED OF TRUST ON THE PROPERTY AND WHO ACQUIRED THE PROPERTY
7 AT A TRUSTEE'S SALE, THE FOLLOWING APPLY:

8 1. THE ASSOCIATION MAY INSPECT THE EXTERIOR OF THE PROPERTY AND, AFTER
9 NOTICE TO THE OWNER, MAY REMOVE RUBBISH, TRASH, WEEDS OR OTHER ACCUMULATION
10 OF FILTH AND DEBRIS AND MAY REPAIR DILAPIDATED STRUCTURES THAT CONSTITUTE A
11 HAZARD TO PUBLIC HEALTH AND SAFETY.

12 2. THE OWNER IS LIABLE TO THE ASSOCIATION FOR THE REASONABLE COSTS OF
13 THE REMOVAL OR REPAIR, AND THE ASSOCIATION MAY PLACE A LIEN ON THE PROPERTY
14 FOR THE COSTS REASONABLY INCURRED IN THE REMOVAL OR REPAIR AS OTHERWISE
15 PROVIDED BY LAW.

16 Sec. 2. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
17 amended by adding section 33-1817, to read:

18 33-1817. Maintenance of foreclosed properties; liability; lien

19 FOR ANY PROPERTY THAT IS OWNED BY A PERSON WHO WAS THE FORECLOSING
20 BENEFICIARY OF A DEED OF TRUST ON THE PROPERTY AND WHO ACQUIRED THE PROPERTY
21 AT A TRUSTEE'S SALE, THE FOLLOWING APPLY:

22 1. THE ASSOCIATION MAY INSPECT THE EXTERIOR OF THE PROPERTY AND, AFTER
23 NOTICE TO THE OWNER, MAY REMOVE RUBBISH, TRASH, WEEDS OR OTHER ACCUMULATION
24 OF FILTH AND DEBRIS AND MAY REPAIR DILAPIDATED STRUCTURES THAT CONSTITUTE A
25 HAZARD TO PUBLIC HEALTH AND SAFETY.

26 2. THE OWNER IS LIABLE TO THE ASSOCIATION FOR THE REASONABLE COSTS OF
27 THE REMOVAL OR REPAIR, AND THE ASSOCIATION MAY PLACE A LIEN ON THE PROPERTY
28 FOR THE COSTS REASONABLY INCURRED IN THE REMOVAL OR REPAIR AS OTHERWISE
29 PROVIDED BY LAW.

REFERENCE TITLE: homeowners' associations; escrow agents

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2170

Introduced by
Representative Brophy McGee

AN ACT

AMENDING SECTIONS 33-1260 AND 33-1806, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

HB 2170

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1260, Arizona Revised Statutes, is amended to
3 read:

4 33-1260. Resale of units; information required; fees; civil
5 penalty; applicability; definition

6 A. For condominiums with fewer than fifty units, a unit owner shall
7 mail or deliver to a purchaser or a purchaser's authorized agent within ten
8 days after receipt of a written notice of a pending sale of the unit, and for
9 condominiums with fifty or more units, the association shall mail or deliver
10 to a purchaser or a purchaser's authorized agent within ten days after
11 receipt of a written notice of a pending sale that contains the name and
12 address of the purchaser, all of the following in either paper or electronic
13 format:

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

15 2. A copy of the declaration.

16 3. A dated statement containing:

17 (a) The telephone number and address of a principal contact for the
18 association, which may be an association manager, an association management
19 company, an officer of the association or any other person designated by the
20 board of directors.

21 (b) The amount of the common expense assessment for the unit and any
22 unpaid common expense assessment, special assessment or other assessment, fee
23 or charge currently due and payable from the selling unit owner. If the
24 request is made by a lienholder, escrow agent, unit owner or person
25 designated by a unit owner pursuant to section 33-1256, failure to provide
26 the information pursuant to this subdivision within the time provided for in
27 this subsection shall extinguish any lien for any unpaid assessment then due
28 against that unit.

29 (c) A statement as to whether a portion of the unit is covered by
30 insurance maintained by the association.

31 (d) The total amount of money held by the association as reserves.

32 (e) If the statement is being furnished by the association, a
33 statement as to whether the records of the association reflect any
34 alterations or improvements to the unit that violate the declaration. The
35 association is not obligated to provide information regarding alterations or
36 improvements that occurred more than six years before the proposed sale.
37 Nothing in this subdivision relieves the seller of a unit from the obligation
38 to disclose alterations or improvements to the unit that violate the
39 declaration, nor precludes the association from taking action against the
40 purchaser of a unit for violations that are apparent at the time of purchase
41 and that are not reflected in the association's records.

42 (f) If the statement is being furnished by the unit owner, a statement
43 as to whether the unit owner has any knowledge of any alterations or
44 improvements to the unit that violate the declaration.

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1 (g) A statement of case names and case numbers for pending litigation
2 with respect to the unit filed by the association against the unit owner or
3 filed by the unit owner against the association. The unit owner or the
4 association shall not be required to disclose information concerning the
5 pending litigation that would violate any applicable rule of attorney-client
6 privilege under Arizona law.

7 (h) A statement that provides "I hereby acknowledge that the
8 declaration, bylaws and rules of the association constitute a contract
9 between the association and me (the purchaser). By signing this statement, I
10 acknowledge that I have read and understand the association's contract with
11 me (the purchaser). I also understand that as a matter of Arizona law, if I
12 fail to pay my association assessments, the association may foreclose on my
13 property." The statement shall also include a signature line for the
14 purchaser and shall be returned to the association within fourteen calendar
15 days.

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

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

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

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

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

30 C. The association may charge the unit owner a fee of no more than an
31 aggregate of four hundred dollars to compensate the association for the costs
32 incurred in the preparation of a statement or other documents furnished by
33 the association pursuant to this section for purposes of resale disclosure,
34 lien estoppel and any other services related to the transfer or use of the
35 property. In addition, the association may charge a rush fee of no more than
36 one hundred dollars if the rush services are required to be performed within
37 seventy-two hours after the request for rush services, and may charge a
38 statement or other documents update fee of no more than fifty dollars if
39 thirty days or more have passed since the date of the original disclosure
40 statement or **THE DATE THE** documents were delivered. The association shall
41 make available to any interested party the amount of any fee established from
42 time to time by the association. If the aggregate fee for purposes of resale
43 disclosure, lien estoppel and any other services related to the transfer or
44 use of a property is less than four hundred dollars on January 1, 2010, the
45 fee may increase at a rate of no more than twenty per cent per year based on

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1 the immediately preceding fiscal year's amount not to exceed the four hundred
2 dollar aggregate fee. The association may charge the same fee without regard
3 to whether the association is furnishing the statement or other documents in
4 paper or electronic format.

5 D. The fees prescribed by this section shall be collected no earlier
6 than at the close of escrow and may only be charged once to a unit owner for
7 that transaction between the parties specified in the notice required
8 pursuant to subsection A of this section. An association shall not charge or
9 collect a fee relating to services for resale disclosure, lien estoppel and
10 any other services related to the transfer or use of a property except as
11 specifically authorized in this section. An association that charges or
12 collects a fee in violation of this section is subject to a civil penalty of
13 no more than one thousand two hundred dollars.

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

16 F. A sale in which a public report is issued pursuant to sections
17 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
18 from this section.

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

21 H. For the purposes of this section, unless the context otherwise
22 requires, "unit owner" means the seller of the condominium unit title and
23 excludes any real estate salesperson or real estate broker who is licensed
24 under title 32, chapter 20 and who is acting as a salesperson or broker, **ANY**
25 **ESCROW AGENT WHO IS LICENSED UNDER TITLE 6, CHAPTER 7 AND WHO IS ACTING AS AN**
26 **AGENT** and also excludes a trustee of a deed of trust who is selling the
27 property in a trustee's sale pursuant to chapter 6.1 of this title.

28 Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to read:

29 **33-1806. Resale of units; information required; fees; civil**
30 **penalty; definition**

31 A. For planned communities with fewer than fifty units, a member shall
32 mail or deliver to a purchaser or a purchaser's authorized agent within ten
33 days after receipt of a written notice of a pending sale of the unit, and for
34 planned communities with fifty or more units, the association shall mail or
35 deliver to a purchaser or a purchaser's authorized agent within ten days
36 after receipt of a written notice of a pending sale that contains the name
37 and address of the purchaser, all of the following in either paper or
38 electronic format:

- 39 1. A copy of the bylaws and the rules of the association.
- 40 2. A copy of the declaration.
- 41 3. A dated statement containing:

42 (a) The telephone number and address of a principal contact for the
43 association, which may be an association manager, an association management
44 company, an officer of the association or any other person designated by the
45 board of directors.

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1 (b) The amount of the common regular assessment and the unpaid common
2 regular assessment, special assessment or other assessment, fee or charge
3 currently due and payable from the selling member. If the request is made by
4 a lienholder, escrow agent, member or person designated by a member pursuant
5 to section 33-1807, failure to provide the information pursuant to this
6 subdivision within the time provided for in this subsection shall extinguish
7 any lien for any unpaid assessment then due against that property.

8 (c) A statement as to whether a portion of the unit is covered by
9 insurance maintained by the association.

10 (d) The total amount of money held by the association as reserves.

11 (e) If the statement is being furnished by the association, a
12 statement as to whether the records of the association reflect any
13 alterations or improvements to the unit that violate the declaration. The
14 association is not obligated to provide information regarding alterations or
15 improvements that occurred more than six years before the proposed sale.
16 Nothing in this subdivision relieves the seller of a unit from the obligation
17 to disclose alterations or improvements to the unit that violate the
18 declaration, nor precludes the association from taking action against the
19 purchaser of a unit for violations that are apparent at the time of purchase
20 and that are not reflected in the association's records.

21 (f) If the statement is being furnished by the member, a statement as
22 to whether the member has any knowledge of any alterations or improvements to
23 the unit that violate the declaration.

24 (g) A statement of case names and case numbers for pending litigation
25 with respect to the unit filed by the association against the member or filed
26 by the member against the association. The member shall not be required to
27 disclose information concerning such pending litigation that would violate
28 any applicable rule of attorney-client privilege under Arizona law.

29 (h) A statement that provides "I hereby acknowledge that the
30 declaration, bylaws and rules of the association constitute a contract
31 between the association and me (the purchaser). By signing this statement, I
32 acknowledge that I have read and understand the association's contract with
33 me (the purchaser). I also understand that as a matter of Arizona law, if I
34 fail to pay my association assessments, the association may foreclose on my
35 property." The statement shall also include a signature line for the
36 purchaser and shall be returned to the association within fourteen calendar
37 days.

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

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

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

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1 7. A statement summarizing any pending lawsuits, except those relating
2 to the collection of assessments owed by members other than the selling
3 member, in which the association is a named party, including the amount of
4 any money claimed.

5 B. A purchaser or seller who is damaged by the failure of the member
6 or the association to disclose the information required by subsection A of
7 this section may pursue all remedies at law or in equity against the member
8 or the association, whichever failed to comply with subsection A of this
9 section, including the recovery of reasonable attorney fees.

10 C. The association may charge the member a fee of no more than an
11 aggregate of four hundred dollars to compensate the association for the costs
12 incurred in the preparation of a statement or other documents furnished by
13 the association pursuant to this section for purposes of resale disclosure,
14 lien estoppel and any other services related to the transfer or use of the
15 property. In addition, the association may charge a rush fee of no more than
16 one hundred dollars if the rush services are required to be performed within
17 seventy-two hours after the request for rush services, and may charge a
18 statement or other documents update fee of no more than fifty dollars if
19 thirty days or more have passed since the date of the original disclosure
20 statement or **THE DATE THE** documents were delivered. The association shall
21 make available to any interested party the amount of any fee established from
22 time to time by the association. If the aggregate fee for purposes of resale
23 disclosure, lien estoppel and any other services related to the transfer or
24 use of a property is less than four hundred dollars on January 1, 2010, the
25 fee may increase at a rate of no more than twenty per cent per year based on
26 the immediately preceding fiscal year's amount not to exceed the four hundred
27 dollar aggregate fee. The association may charge the same fee without regard
28 to whether the association is furnishing the statement or other documents in
29 paper or electronic format.

30 D. The fees prescribed by this section shall be collected no earlier
31 than at the close of escrow and may only be charged once to a member for that
32 transaction between the parties specified in the notice required pursuant to
33 subsection A of this section. An association shall not charge or collect a
34 fee relating to services for resale disclosure, lien estoppel and any other
35 services related to the transfer or use of a property except as specifically
36 authorized in this section. An association that charges or collects a fee in
37 violation of this section is subject to a civil penalty of no more than one
38 thousand two hundred dollars.

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

41 F. A sale in which a public report is issued pursuant to sections
42 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
43 from this section.

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1 G. For the purposes of this section, unless the context otherwise
2 requires, "member" means the seller of the unit title and excludes any real
3 estate salesperson or real estate broker who is licensed under title 32,
4 chapter 20 and who is acting as a salesperson or broker, **ANY ESCROW AGENT WHO**
5 **IS LICENSED UNDER TITLE 6, CHAPTER 7 AND WHO IS ACTING AS AN AGENT** and also
6 excludes a trustee of a deed of trust who is selling the property in a
7 trustee's sale pursuant to chapter 6.1 of this title.

REFERENCE TITLE: homeowners' associations; conflicting enactments

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2471

Introduced by
Representatives Brophy McGee, Urie: Carter, Gowan

AN ACT

AMENDING SECTION 33-1261, AS AMENDED BY LAWS 2011, CHAPTER 152, SECTION 1, CHAPTER 154, SECTION 2, CHAPTER 156, SECTION 2 AND CHAPTER 292, SECTION 1; REPEALING SECTION 33-1261, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 65, SECTION 3, CHAPTER 152, SECTION 1 AND CHAPTER 154, SECTION 2; AMENDING SECTION 33-1808, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 152, SECTION 2 AND CHAPTER 154, SECTION 3; REPEALING SECTION 33-1808, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 152, SECTION 2 AND CHAPTER 156, SECTION 4; REPEALING SECTION 33-1808, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 152, SECTION 2 AND CHAPTER 292, SECTION 2; REPEALING SECTION 33-1808, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 65, SECTION 6 AND CHAPTER 152, SECTION 2; BLENDING MULTIPLE ENACTMENTS; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1261, Arizona Revised Statutes, as amended by
3 Laws 2011, chapter 152, section 1, chapter 154, section 2, chapter 156,
4 section 2 and chapter 292, section 1, is amended to read:

5 33-1261. Flag display; for sale, rent or lease signs; political
6 activities; applicability

7 A. Notwithstanding any provision in the condominium documents, an
8 association shall not prohibit the outdoor display of any of the following:

9 1. The American flag or an official or replica of a flag of the United
10 States army, navy, air force, marine corps or coast guard by a unit owner on
11 that unit owner's property if the American flag or military flag is displayed
12 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;
13 4 United States Code sections 4 through 10).

14 2. The POW/MIA flag.

15 3. The Arizona state flag.

16 4. An Arizona Indian nations flag.

17 5. The Gadsden flag.

18 B. The association shall adopt reasonable rules and regulations
19 regarding the placement and manner of display of the American flag, the
20 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
21 nations flag. The association rules may regulate the location and size of
22 flagpoles but shall not prohibit the installation of a flagpole.

23 C. Notwithstanding any provision in the condominium documents, an
24 association shall not prohibit or charge a fee for the use ~~of~~ OF, THE
25 placement of OR the indoor or outdoor display of a for sale, for rent or for
26 lease sign and a sign rider by a unit owner on that owner's property in any
27 combination, including a sign that indicates the unit owner is offering the
28 property for sale by owner. The size of a sign offering a property for sale,
29 for rent or for lease shall be in conformance with the industry standard size
30 sign, which shall not exceed eighteen by twenty-four inches, and the industry
31 standard size sign rider, which shall not exceed six by twenty-four
32 inches. This subsection applies only to a commercially produced sign and an
33 association may prohibit the use of signs that are not commercially produced.
34 With respect to real estate for sale, for rent or for lease in the
35 condominium, an association shall not prohibit in any way other than as IS
36 specifically authorized by this section or otherwise regulate any of the
37 following:

38 1. Temporary open house signs or a unit owner's for sale sign. The
39 association shall not require the use of particular signs indicating an open
40 house or real property for sale and may not further regulate the use of
41 temporary open house or for sale signs that are industry standard size and
42 that are owned or used by the seller or the seller's agent.

43 2. Open house hours. The association may not limit the hours for an
44 open house for real estate that is for sale in the condominium, except that
45 the association may prohibit an open house being held before 8:00 a.m. or

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1 after 6:00 p.m. and may prohibit open house signs on the common elements of
2 the condominium.

3 3. An owner's or an owner's agent's for rent or for lease sign unless
4 an association's documents prohibit or restrict leasing of a unit or units.
5 An association shall not further regulate a for rent or for lease sign or
6 require the use of a particular for rent or for lease sign other than the for
7 rent or for lease sign shall not be any larger than the industry standard
8 size sign of eighteen by twenty-four inches and on or in the unit owner's
9 property. If rental or leasing of a unit is allowed, the association may
10 prohibit an open house for rental or leasing being held before 8:00 a.m. or
11 after 6:00 p.m.

12 D. Notwithstanding any provision in the condominium documents, an
13 association shall not prohibit door to door political activity, including
14 solicitations of support or opposition regarding candidates or ballot issues,
15 and shall not prohibit the circulation of political petitions, including
16 candidate nomination petitions or petitions in support of or opposition to an
17 initiative, referendum or recall or other political issue on property
18 normally open to visitors within the association, except that an association
19 may do the following:

20 1. Restrict or prohibit door to door political activity regarding
21 candidates or ballot issues from sunset to sunrise.

22 2. Require the prominent display of an identification tag for each
23 person engaged in the activity, along with the prominent identification of
24 the candidate or ballot issue that is the subject of the support or
25 opposition.

26 E. An association shall not make any regulations regarding the number
27 of candidates supported, the number of public officers supported or opposed
28 in a recall or the number of propositions supported or opposed on a political
29 sign.

30 F. An association shall not require political signs to be commercially
31 produced or professionally manufactured or prohibit the utilization of both
32 sides of a political sign.

33 G. A condominium is not required to comply with subsection D **OF THIS**
34 **SECTION** if the condominium restricts vehicular or pedestrian access to the
35 condominium. Nothing in this section requires a condominium to make its
36 common elements other than roadways and sidewalks that are normally open to
37 visitors available for the circulation of political petitions to anyone who
38 is not an owner or resident of the community.

39 H. An association or managing agent that violates subsection C of this
40 section, ~~forfeits~~ and extinguishes the lien rights authorized under section
41 33-1256 against that unit for a period of six consecutive months from the
42 date of the violation.

43 I. This section does not apply to timeshare plans or associations that
44 are subject to chapter 20 of this title.

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1 Sec. 2. Repeal

2 Section 33-1261, Arizona Revised Statutes, as amended by Laws 2011,
3 chapter 65, section 3, chapter 152, section 1 and chapter 154, section 2, is
4 repealed.

5 Sec. 3. Section 33-1808, Arizona Revised Statutes, as amended by Laws
6 2011, chapter 152, section 2 and chapter 154, section 3, is amended to read:
7 33-1808. Flag display; political signs; caution signs; for
8 sale, rent or lease signs; political activities

9 A. Notwithstanding any provision in the community documents, an
10 association shall not prohibit the outdoor front yard or backyard display of
11 any of the following:

12 1. The American flag or an official or replica of a flag of the United
13 States army, navy, air force, marine corps or coast guard by an association
14 member on that member's property if the American flag or military flag is
15 displayed in a manner consistent with the federal flag code (P.L. 94-344; 90
16 Stat. 810; 4 United States Code sections 4 through 10).

17 2. The POW/MIA flag.

18 3. The Arizona state flag.

19 4. An Arizona Indian nations flag.

20 5. The Gadsden flag.

21 B. The association shall adopt reasonable rules and regulations
22 regarding the placement and manner of display of the American flag, the
23 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
24 nations flag. The association rules may regulate the location and size of
25 flagpoles, may limit the member to displaying no more than two flags at once
26 and may limit the height of the flagpole to no more than the height of the
27 rooftop of the member's home but shall not prohibit the installation of a
28 flagpole in the front yard or backyard of the member's property.

29 C. Notwithstanding any provision in the community documents, an
30 association shall not prohibit the indoor or outdoor display of a political
31 sign by an association member on that member's property, except that an
32 association may prohibit the display of political signs earlier than
33 ~~fifty-five~~ SEVENTY-ONE days before the day of an election and later than
34 ~~fifteen~~ THREE days after an election day. An association may regulate the
35 size and number of political signs that may be placed on a member's property
36 if the association's regulation is no more restrictive than any applicable
37 city, town or county ordinance that regulates the size and number of
38 political signs on residential property. If the city, town or county in
39 which the property is located does not regulate the size and number of
40 political signs on residential property, the association shall ~~permit at~~
41 ~~least one~~ NOT LIMIT THE NUMBER OF political ~~sign with~~ SIGNS, EXCEPT THAT the
42 maximum AGGREGATE TOTAL dimensions of ~~twenty-four inches by twenty-four~~
43 ~~inches~~ ALL POLITICAL SIGNS on a member's property SHALL NOT EXCEED NINE
44 SQUARE FEET. For the purposes of this subsection, "political sign" means a
45 sign that attempts to influence the outcome of an election, including

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1 supporting or opposing the recall of a public officer or supporting or
2 opposing the circulation of a petition for a ballot measure, question or
3 proposition or the recall of a public officer.

4 D. Notwithstanding any provision in the community documents, an
5 association shall not prohibit the use of cautionary signs regarding children
6 if the signs are used and displayed as follows:

7 1. The signs are displayed in residential areas only.

8 2. The signs are removed within one hour of children ceasing to play.

9 3. The signs are displayed only when children are actually present
10 within fifty feet of the sign.

11 4. The temporary signs are no taller than three feet in height.

12 5. The signs are professionally manufactured or produced.

13 E. Notwithstanding any provision in the community documents, an
14 association shall not prohibit children who reside in the planned community
15 from engaging in recreational activity on residential roadways that are under
16 the jurisdiction of the association and on which the posted speed limit is
17 twenty-five miles per hour or less.

18 F. Notwithstanding any provision in the community documents, an
19 association shall not prohibit OR CHARGE A FEE FOR THE USE OF, PLACEMENT OF
20 OR the indoor or outdoor display of a for sale, FOR RENT OR FOR LEASE sign
21 and a sign rider by an association member on that member's property IN ANY
22 COMBINATION, including a sign that indicates the member is offering the
23 property for sale by owner. The size of a sign offering a property for sale,
24 FOR RENT OR FOR LEASE shall be in conformance with the industry standard size
25 sign, which shall not exceed eighteen by twenty-four inches, and the industry
26 standard size sign rider, which shall not exceed six by twenty-four inches.
27 THIS SUBSECTION APPLIES ONLY TO A COMMERCIALY PRODUCED SIGN, AND AN
28 ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALY PRODUCED.
29 With respect to real estate for sale, FOR RENT or FOR lease in the planned
30 community, an association shall not prohibit IN ANY WAY OTHER THAN AS IS
31 SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the
32 following:

33 1. Temporary open house signs or a member's for sale sign. The
34 association shall not require the use of particular signs indicating an open
35 house or real property for sale and may not further regulate the use of
36 temporary open house or for sale signs that are industry standard size and
37 that are owned or used by the seller or the seller's agent.

38 2. Open house hours. The association may not limit the hours for an
39 open house for real estate that is for sale in the planned community, except
40 that the association may prohibit an open house being held before 8:00 a.m.
41 or after 6:00 p.m. and may prohibit open house signs on the common areas of
42 the planned community.

43 3. An owner's or an owner's agent's FOR RENT OR for lease sign unless
44 an association's documents prohibit or restrict leasing of a member's
45 property. An association shall not further regulate a FOR RENT OR for lease

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1 sign or require the use of a particular FOR RENT OR for lease sign other than
2 the FOR RENT OR for lease sign shall not be any larger than the industry
3 standard size sign of eighteen by twenty-four inches on or in the member's
4 property. If RENTAL OR leasing of a member's property is not prohibited or
5 restricted, the association may prohibit AN open house FOR RENTAL OR leasing
6 being held before 8:00 a.m. or after 6:00 p.m.

7 G. Notwithstanding any provision in the community documents, an
8 association shall not prohibit door to door political activity, including
9 solicitations of support or opposition regarding candidates or ballot issues,
10 and shall not prohibit the circulation of political petitions, including
11 candidate nomination petitions or petitions in support of or opposition to an
12 initiative, referendum or recall or other political issue on property
13 normally open to visitors within the association, except that an association
14 may do the following:

15 1. Restrict or prohibit the door to door political activity from
16 sunset to sunrise.

17 2. Require the prominent display of an identification tag for each
18 person engaged in the activity, along with the prominent identification of
19 the candidate or ballot issue that is the subject of the support or
20 opposition.

21 H. A planned community shall not make any regulations regarding the
22 number of candidates supported, the number of public officers supported or
23 opposed in a recall or the number of propositions supported or opposed on a
24 political sign.

25 I. A planned community shall not require political signs to be
26 commercially produced or professionally manufactured or prohibit the
27 utilization of both sides of a political sign.

28 J. A planned community is not required to comply with subsection G if
29 the planned community restricts vehicular or pedestrian access to the planned
30 community. Nothing in this section requires a planned community to make its
31 common elements other than roadways and sidewalks that are normally open to
32 visitors available for the circulation of political petitions to anyone who
33 is not an owner or resident of the community.

34 K. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS
35 SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION
36 33-1807 AGAINST THAT MEMBER'S PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS
37 FROM THE DATE OF THE VIOLATION.

38 Sec. 4. Repeal

39 A. Section 33-1808, Arizona Revised Statutes, as amended by Laws 2011,
40 chapter 152, section 2 and chapter 156, section 4, is repealed.

41 B. Section 33-1808, Arizona Revised Statutes, as amended by Laws 2011,
42 chapter 152, section 2 and chapter 292, section 2, is repealed.

43 C. Section 33-1808, Arizona Revised Statutes, as amended by Laws 2011,
44 chapter 65, section 6 and chapter 152, section 2, is repealed.