

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 119

HOUSE BILL 2659

AN ACT

AMENDING TITLE 33, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-440; RELATING TO CONVEYANCES AND DEEDS.

(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 4, article 3, Arizona Revised Statutes,
3 is amended by adding section 33-440, to read:

4 33-440. Enforceability of private covenants; definitions

5 A. AN OWNER OF REAL PROPERTY MAY ENTER INTO A PRIVATE COVENANT
6 REGARDING THAT REAL PROPERTY AND THE PRIVATE COVENANT IS VALID AND
7 ENFORCEABLE ACCORDING TO ITS TERMS IF ALL OF THE FOLLOWING APPLY:

8 1. THE PRIVATE COVENANT IS NOT PROHIBITED BY ANY OTHER EXISTING
9 PRIVATE COVENANT OR DECLARATION AFFECTING THE REAL PROPERTY AND DOES NOT
10 VIOLATE ANY STATUTE GOVERNING THE SUBJECT MATTER OF THE PRIVATE COVENANT THAT
11 IS IN EFFECT BEFORE THE EFFECTIVE DATE OF THIS SECTION.

12 2. THE OWNER OF THE REAL PROPERTY AFFECTED BY THE PRIVATE COVENANT AND
13 ANY PERSON ON WHOM THE PRIVATE COVENANT IMPOSES ANY LIABILITY OR OBLIGATION
14 HAVE CONSENTED TO THE PRIVATE COVENANT.

15 3. ANY CONSENT REQUIREMENTS CONTAINED IN THE EXPRESS PROVISIONS OF ANY
16 EXISTING PRIVATE COVENANT OR DECLARATION AFFECTING THE REAL PROPERTY HAVE
17 BEEN MET.

18 B. A PRIVATE COVENANT IS DEEMED NOT TO CONSTITUTE AN AMENDMENT TO ANY
19 EXISTING PRIVATE COVENANT OR DECLARATION UNLESS THE PRIVATE COVENANT
20 EXPRESSLY VIOLATES AN EXPRESS PROVISION OF THE EXISTING PRIVATE COVENANT OR
21 DECLARATION.

22 C. FOR THE PURPOSES OF THIS SECTION:

23 1. "DECLARATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 33-1802.

24 2. "PRIVATE COVENANT" MEANS ANY UNIFORM OR NONUNIFORM COVENANT,
25 RESTRICTION OR CONDITION REGARDING REAL PROPERTY THAT IS CONTAINED IN ANY
26 DEED, CONTRACT, AGREEMENT OR OTHER RECORDED INSTRUMENT AFFECTING REAL
27 PROPERTY.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House March 18, 20 08

Passed the Senate April 21, 20 08

by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting

0 Nays, 2 Not Voting

Speaker of the House

President of the Senate

President Pro Tempore of the Senate

Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

22nd day of April, 2008

at 2:40 o'clock P. M.

Secretary to the Governor

Approved this 28 day of

April 2008

at 10⁵⁵ o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 28 day of April, 2008

at 1:35 o'clock P. M.

Secretary of State

H.B. 2659