Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 41

HOUSE BILL 2345

AN ACT

AMENDING SECTIONS 33-1261 AND 33-1808, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 33-1261, Arizona Revised Statutes, is amended to read:

33-1261. Flag display; for sale signs; political petitions; applicability

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

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

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

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

C. Notwithstanding any provision in the condominium documents, an association shall not prohibit the indoor or outdoor display of a for sale sign and a sign rider by a unit owner on that owner's property, including a sign that indicates the unit owner is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. WITH RESPECT TO REAL ESTATE FOR SALE OR LEASE IN THE CONDOMINIUM, AN ASSOCIATION SHALL NOT PROHIBIT OR OTHERWISE REGULATE ANY OF THE FOLLOWING:

1. TEMPORARY OPEN HOUSE SIGNS OR A UNIT OWNER'S FOR SALE SIGN. THE ASSOCIATION SHALL NOT REQUIRE THE USE OF PARTICULAR SIGNS INDICATING AN OPEN HOUSE OR REAL PROPERTY FOR SALE AND MAY NOT FURTHER REGULATE THE USE OF TEMPORARY OPEN HOUSE OR FOR SALE SIGNS THAT ARE INDUSTRY STANDARD SIZE AND THAT ARE OWNED OR USED BY THE SELLER OR THE SELLER'S AGENT.

2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE CONDOMINIUM, EXCEPT THAT THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 8:00 A.M. OR AFTER 6:00 P.M AND MAY PROHIBIT OPEN HOUSE SIGNS ON THE COMMON ELEMENTS OF THE CONDOMINIUM.

3. AN OWNER'S OR AN OWNER'S AGENT'S FOR LEASE SIGN UNLESS AN ASSOCIATION'S DOCUMENTS PROHIBIT OR RESTRICT LEASING OF A UNIT OR UNITS. AN ASSOCIATION SHALL NOT FURTHER REGULATE A FOR LEASE SIGN OR REQUIRE THE USE OF A PARTICULAR FOR LEASE SIGN OTHER THAN THE FOR LEASE SIGN SHALL NOT BE ANY

LARGER THAN THE INDUSTRY STANDARD SIZE SIGN OF EIGHTEEN BY TWENTY FOUR INCHES AND ON OR IN THE UNIT OWNER'S PROPERTY. IF LEASING OF A UNIT IS ALLOWED, THE ASSOCIATION MAY PROHIBIT OPEN HOUSE LEASING BEING HELD BEFORE 8:00 A.M. OR AFTER 6:00 P.M.

D. Notwithstanding any provision in the condominium documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A condominium is not required to comply with this ~~section~~ SUBSECTION if the condominium restricts vehicular or pedestrian access to the condominium. Nothing in this ~~section~~ SUBSECTION requires a condominium to make its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

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

Sec. 2. Section 33-1808, Arizona Revised Statutes, is amended to read:

33-1808. <u>Flag display; political signs; caution signs; for sale signs; political petitions</u>

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

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

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

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

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the

property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of twenty-four inches by twenty-four inches on a member's property. For the purposes of this subsection, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

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

1. The signs are displayed in residential areas only.

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

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

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

5. The signs are professionally manufactured or produced.

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

F. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a for sale sign and a sign rider by an association member on that member's property, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. WITH RESPECT TO REAL ESTATE FOR SALE OR LEASE IN THE PLANNED COMMUNITY, AN ASSOCIATION SHALL NOT PROHIBIT OR OTHERWISE REGULATE ANY OF THE FOLLOWING:

1. TEMPORARY OPEN HOUSE SIGNS OR A UNIT OWNER'S FOR SALE SIGN. THE ASSOCIATION SHALL NOT REQUIRE THE USE OF PARTICULAR SIGNS INDICATING AN OPEN HOUSE OR REAL PROPERTY FOR SALE AND MAY NOT FURTHER REGULATE THE USE OF TEMPORARY OPEN HOUSE OR FOR SALE SIGNS THAT ARE INDUSTRY STANDARD SIZE AND THAT ARE OWNED OR USED BY THE SELLER OR THE SELLER'S AGENT.

2. OPEN HOUSE HOURS. THE ASSOCIATION MAY NOT LIMIT THE HOURS FOR AN OPEN HOUSE FOR REAL ESTATE THAT IS FOR SALE IN THE PLANNED COMMUNITY, EXCEPT THAT THE ASSOCIATION MAY PROHIBIT AN OPEN HOUSE BEING HELD BEFORE 8:00 A.M. OR AFTER 6:00 P.M AND MAY PROHIBIT OPEN HOUSE SIGNS ON THE COMMON AREAS OF THE PLANNED COMMUNITY.

3. AN OWNER'S OR AN OWNER'S AGENT'S FOR LEASE SIGN UNLESS AN ASSOCIATION'S DOCUMENTS PROHIBIT OR RESTRICT LEASING OF A MEMBER'S PROPERTY. AN ASSOCIATION SHALL NOT FURTHER REGULATE A FOR LEASE SIGN OR REQUIRE THE USE OF A PARTICULAR FOR LEASE SIGN OTHER THAN THE FOR LEASE SIGN SHALL NOT BE ANY LARGER THAN THE INDUSTRY STANDARD SIZE SIGN OF EIGHTEEN BY TWENTY FOUR INCHES ON OR IN THE MEMBER'S PROPERTY. IF LEASING OF A MEMBER'S PROPERTY IS NOT PROHIBITED OR RESTRICTED, THE ASSOCIATION MAY PROHIBIT OPEN HOUSE LEASING BEING HELD BEFORE 8:00 A.M. OR AFTER 6:00 P.M.

G. Notwithstanding any provision in the community documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A planned community is not required to comply with this ~~section~~ SUBSECTION if the planned community restricts vehicular or pedestrian access to the planned community. Nothing in this ~~section~~ SUBSECTION requires a planned community to make its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

APPROVED BY THE GOVERNOR APRIL 14, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2010.

Passed the House March 15, 2010

by the following vote: 53 Ayes,

0 Nays, 6 Not Voting 1 vacancy

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 1, 2010

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____ day of

_____

at _____ o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2345

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 8, 2010,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Kirk Adam
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8th day of April, 2010,

at 3:53 o'clock P. M.

Nicole Bandke
Secretary to the Governor

Approved this 14th day of

April, 2010,

at 4:45 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14th day of April, 2010,

at 8:56 o'clock a M.

Ken Bennett
Secretary of State

H.B. 2345