



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

May 7, 2019

The Honorable Katie Hobbs
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 1st Regular Session, which I signed on May 7th, 2019:

H.B. 2059 independent oversight committees; report; website (Barto)
H.B. 2060 pharmacists; providers; drug therapy; refills (Barto)
H.B. 2083 kindergarten; survey; report. (Biasiucci)
H.B. 2113 public restrooms; changing stations (Griffin)
H.B. 2119 school safety; reporting (Barto)
H.B. 2589 distinguished flying cross license plates (Kavanagh)
H.B. 2602 multiple sentences for imprisonment (Finchem)
S.B. 1007 insurance; corporate governance; disclosure (Livingston)
S.B. 1018 ASRS; compensation; definition (Livingston)
S.B. 1029 qualifying physicians; opiate-dependent patients (Carter)
S.B. 1035 insurance; small employers; continuation coverage (Brophy-McGee)
S.B. 1039 pain management clinics; regulation (Brophy-McGee)
S.B. 1094 planned communities; applicability; recreational center (Borrelli)
S.B. 1186 municipalities; pension fund; transfer (Pratt)
S.B. 1304 mechanics liens; notice; applicability (Livingston)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

House Engrossed Senate Bill

FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 185
SENATE BILL 1094

AN ACT

AMENDING SECTIONS 33-1801 AND 33-1802, ARIZONA REVISED STATUTES; 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. Section 33-1801, Arizona Revised Statutes, is amended to
3 read:
4 33-1801. Applicability; exemptions; voluntary election to be
5 subjected to chapter
6 A. This chapter applies to all planned communities.
7 B. Notwithstanding any provisions in the community documents, this
8 chapter does not apply to any school that receives monies from this state,
9 including a charter school, and a school is exempt from regulation or any
10 enforcement action by any homeowners' association that is subject to this
11 chapter. With the exception of homeschools as defined in section 15-802,
12 schools shall not be established within the living units of a homeowners'
13 association. The homeowners' association may enter into a contractual
14 agreement with a school district or charter school to allow use of the
15 homeowners' association's common areas by the school district or charter
16 school.
17 C. This chapter does not apply to EITHER OF THE FOLLOWING:
18 1. Timeshare plans or associations that are subject to chapter 20
19 of this title.
20 2. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, A
21 NONPROFIT CORPORATION OR UNINCORPORATED ASSOCIATION OF OWNERS THAT IS
22 CREATED OR INCORPORATED BEFORE JANUARY 1, 1974 AND THAT DOES NOT HAVE
23 AUTHORITY TO ENFORCE COVENANTS, CONDITIONS AND RESTRICTIONS RELATED TO THE
24 USE, OCCUPANCY OR APPEARANCE OF THE SEPARATELY OWNED LOTS, PARCELS OR
25 UNITS IN A REAL ESTATE DEVELOPMENT, UNLESS A MAJORITY OF ALL THE MEMBERS
26 OF SUCH A NONPROFIT CORPORATION OR UNINCORPORATED ASSOCIATION OF OWNERS
27 ELECT IN WRITING TO SUBJECT THE CORPORATION OR ASSOCIATION TO THIS CHAPTER
28 BY RECORDING A NOTICE OF ELECTION PURSUANT TO SUBSECTION D OF THIS
29 SECTION.
30 D. A NONPROFIT CORPORATION OR UNINCORPORATED ASSOCIATION OF OWNERS
31 THAT HAS THE POWER UNDER RECORDED COVENANTS TO ASSESS MEMBERS TO PAY THE
32 COSTS AND EXPENSES INCURRED IN THE PERFORMANCE OF OBLIGATIONS CREATED BY
33 RECORDED COVENANTS FOR A REAL ESTATE DEVELOPMENT THAT DOES NOT QUALIFY AS
34 A PLANNED COMMUNITY MAY ELECT TO SUBJECT THE NONPROFIT CORPORATION OR
35 UNINCORPORATED ASSOCIATION OF OWNERS TO THIS CHAPTER WITH THE WRITTEN
36 APPROVAL OF A MAJORITY OF ALL THE MEMBERS. A NOTICE OF ELECTION TO BE
37 SUBJECT TO THIS CHAPTER SHALL BE RECORDED BY THE NONPROFIT CORPORATION OR
38 UNINCORPORATED ASSOCIATION OF OWNERS WITH THE COUNTY RECORDER OF THE
39 COUNTY OR COUNTIES IN WHICH THE REAL ESTATE DEVELOPMENT IS LOCATED. THE
40 NOTICE IS EFFECTIVE AS OF THE DATE OF THE RECORDING OF THE NOTICE. ANY
41 SUCH ELECTION MAY BE RESCINDED IN THE SAME MANNER AS AN ELECTION AND IS
42 EFFECTIVE AS OF THE DATE OF THE RECORDING OF THE NOTICE OF RESCISSION.

1 Sec. 2. Section 33-1802, Arizona Revised Statutes, is amended to
2 read:

3 33-1802. Definitions

4 In this chapter and in the community documents, unless the context
5 otherwise requires:

6 1. "Association" means a nonprofit corporation or unincorporated
7 association of owners that is created pursuant to a declaration to own and
8 operate portions of a planned community and that has the power under the
9 declaration to assess association members to pay the costs and expenses
10 incurred in the performance of the association's obligations under the
11 declaration. ASSOCIATION DOES NOT INCLUDE A NONPROFIT CORPORATION OR
12 UNINCORPORATED ASSOCIATION OF OWNERS THAT IS CREATED OR INCORPORATED
13 BEFORE JANUARY 1, 1974 AND THAT DOES NOT HAVE AUTHORITY TO ENFORCE
14 COVENANTS, CONDITIONS OR RESTRICTIONS RELATED TO THE USE, OCCUPANCY OR
15 APPEARANCE OF THE SEPARATELY OWNED LOTS, PARCELS OR UNITS IN A REAL ESTATE
16 DEVELOPMENT, UNLESS THE NONPROFIT CORPORATION OR UNINCORPORATED
17 ASSOCIATION OF OWNERS ELECTS TO BE SUBJECT TO THIS CHAPTER PURSUANT TO
18 SECTION 33-1801, SUBSECTION D.

19 2. "Community documents" means the declaration, bylaws, articles of
20 incorporation, if any, and rules, if any.

21 3. "Declaration" means any instruments, however denominated, that
22 establish a planned community and any amendment to those instruments.

23 4. "Planned community" means a real estate development that
24 includes real estate owned and operated by or real estate on which an
25 easement to maintain roadways or a covenant to maintain roadways is held
26 by a nonprofit corporation or unincorporated association of owners, that
27 is created for the purpose of managing, maintaining or improving the
28 property and in which THE DECLARATION EXPRESSLY STATES BOTH THAT the
29 owners of separately owned lots, parcels or units are mandatory members
30 and THAT THE OWNERS are required to pay assessments to the association for
31 these purposes. Planned community does not include ANY OF THE FOLLOWING:

32 (a) A timeshare plan or a timeshare association that is governed by
33 chapter 20 of this title. ~~or~~

34 (b) A condominium that is governed by chapter 9 of this title.

35 (c) A REAL ESTATE DEVELOPMENT THAT IS NOT MANAGED OR MAINTAINED BY
36 AN ASSOCIATION.

37 Sec. 3. Legislative intent; association; planned community;
38 clarifying language

39 The legislature intends that the amendments made to section 33-1802,
40 Arizona Revised Statutes, are clarifying changes that are consistent with
41 the legislature's intent in 1994 in first enacting section 33-1802,
42 Arizona Revised Statutes, and that the remaining provisions of the act are
43 intended to further these clarifying changes.

1 Sec. 4. Retroactivity
2 Section 33-1802, Arizona Revised Statutes, as amended by this act,
3 applies retroactively to from and after July 16, 1994.

4 Sec. 5. Severability
5 If a provision of this act or its application to any person or
6 circumstance is held invalid, the invalidity does not affect other
7 provisions or applications of the act that can be given effect without the
8 invalid provision or application, and to this end the provisions of this
9 act are severable.

APPROVED BY THE GOVERNOR MAY 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2019.

Passed the House April 24, 2019,

Passed the Senate February 14, 2019,

by the following vote: 33 Ayes,

by the following vote: 30 Ayes,

25 Nays, 2 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1094

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 1, 2019

by the following vote: 17 Ayes,

11 Nays, 2 Not Voting

Karen Farn
President of the Senate

Susan Owens
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of May, 2019

at 11:32 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 7th day of

May 2019

at 12:40 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7 day of May, 2019

at 4:01 o'clock P. M.

[Signature]
Secretary of State

S.B. 1094