

REFERENCE TITLE: **planned communities; applicability; recreational center**

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2374

Introduced by
Representative Payne

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: exemption

5 A. This chapter applies to all planned communities AND ASSOCIATIONS
6 THAT ARE INCORPORATED OR ORGANIZED AFTER 1973.

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 timeshare plans or associations
18 that are subject to chapter 20 of this title.

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

21 33-1802. Definitions

22 In this chapter and in the community documents, unless the context
23 otherwise requires:

24 1. "Association" means a nonprofit corporation or unincorporated
25 association of owners that is created pursuant to a declaration to own and
26 operate portions of a planned community and that has the power under the
27 declaration to assess association members to pay the costs and expenses
28 incurred in the performance of the association's obligations under the
29 declaration. ASSOCIATION DOES NOT INCLUDE AN ORGANIZATION THAT IS CREATED
30 OR INCORPORATED FOR THE SOLE PURPOSE OF SUPPORTING RECREATIONAL ACTIVITIES
31 IN A REAL ESTATE DEVELOPMENT.

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

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

36 4. "Planned community" means a real estate development that
37 includes real estate owned and operated by or real estate on which an
38 easement to maintain roadways or a covenant to maintain roadways is held
39 by a nonprofit corporation or unincorporated association of owners, that
40 is created for the purpose of managing, maintaining or improving the
41 property and in which THE DECLARATION EXPRESSLY STATES BOTH THAT the
42 owners of separately owned lots, parcels or units are mandatory members
43 and THAT THE OWNERS are required to pay assessments to the association for
44 these purposes. Planned community does not include a timeshare plan or a

1 timeshare association that is governed by chapter 20 of this title or a
2 condominium that is governed by chapter 9 of this title.

3 Sec. 3. Legislative intent; association; planned community;
4 clarifying changes

5 It is the intent of the legislature that the amendments made to
6 section 33-1802, Arizona Revised Statutes, are clarifying changes that are
7 consistent with the legislature's intent in 1994 in first enacting section
8 33-1802, Arizona Revised Statutes, and that the remaining provisions of
9 this act are intended to further these clarifying changes.

10 Sec. 4. Retroactivity

11 Section 33-1802, Arizona Revised Statutes, as amended by this act,
12 applies retroactively to from and after July 16, 1994.

13 Sec. 5. Severability

14 If a provision of this act or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other
16 provisions or applications of the act that can be given effect without the
17 invalid provision or application, and to this end the provisions of this
18 act are severable.