



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

HB2780: condominiums; termination; agreement

Sponsor: Representative Schwiebert, LD 2
Committee on Commerce

Overview

Modifies the requirements for terminating a condominium.

History

The declaration for creating a condominium must contain:

- 1) The name of the condominium and the name of the association;
- 2) The name of every county in which any portion of the condominium is located;
- 3) A legal description of the real estate included in the condominium;
- 4) A description of the boundaries of each unit created by the declaration;
- 5) A description of any limited common elements and of any porches, balconies, patios and entryways;
- 6) A description of any development rights and other special declarant rights with a legal description of the real estate, any time limit within which each of those rights must be exercised and any other conditions or limitations under which the rights may be exercised or will lapse;
- 7) An allocation to each unit of the allocated interests in the manner;
- 8) Any restrictions on use, occupancy and alienation of the units;
- 9) All matters required by statutorily prescribed requirements; and
- 10) A statement that the assessment obligation of the unit owner is secured by a lien on the owner's unit in favor of the association. ([A.R.S. § 33-1215](#))

All meetings of the unit owners' association and the board of directors, and any regularly scheduled committee meetings, are open to all members of the association or any person designated by a member in writing as the member's representative. All members or designated representatives so desiring must be permitted to attend and speak at an appropriate time during the deliberations and proceedings ([A.R.S. § 33-1248](#)).

A condominium is a real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners ([A.R.S. § 33-1202](#)).

A condominium unit owners' association must be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times must consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds, or their heirs, successors or assigns. The association must be organized as a profit or nonprofit corporation or as an unincorporated association ([A.R.S. § 33-1241](#)).

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
--	--	---	--------------------------------------

Provisions

Termination of a Condominium (Sec. 1)

1. Clarifies a condominium *and its declaration* may be terminated only *as prescribed in the declaration, if available*.
2. Specifies a condominium may be terminated only by written consent of at least 80% of the votes of unit owners, if the declaration is not available.
3. Deletes language related to termination agreement of at least 95% of unit owners and the requirement to hold a meeting at least 30 days before recording a termination agreement.
4. Requires any agreement terminating the condominium declaration to contain the requisite number of unit owners' signatures and their printed names and unit numbers.
5. Stipulates the termination agreement must:
 - a) Be signed and notarized by the person or entity presenting the termination agreement;
 - b) Describe the proposed organizational structure for making decisions and managing the common property; and
 - c) Clearly state that it will become the new declaration for the condominium.
6. Requires the termination agreement to contain the statutorily required contents, is prohibited from changing the voting rights or allocated interest of the unit owners as previously established in the declaration and add or alter a restriction on the use of private or common property unless reasonable notice of that restriction was previously provided.
7. Requires the board of directors, on notification that an individual or entity has obtained the necessary approvals to terminate the declaration, to call a special open meeting at least 15 days but not more than 30 days after the date of the notification.
8. Directs the individual or entity presenting the termination agreement to provide the original signed and notarized termination agreement to the board of directors.
9. Specifies any unit owner present at the meeting must be provided the opportunity to speak before a vote of the board of directors to ratify the termination agreement.
10. Requires the board of directors to confirm that the termination agreement contains the approval of the requisite number of unit owners and, if no legitimate reason has been presented to delay the ratification, to ratify the agreement.
11. Requires the association to take actions necessary to prepare for and record the ratified termination agreement within 50 days after the date of ratification.
12. Adds that the ratification of a termination agreement includes providing every unit owner a copy of the recorded document.
13. Deletes language relating to the selling of condominium real estate following a termination and what is considered as the respective interest of the unit owners.
14. Specifies each unit owner may sell the unit owner's interest in the individual unit, its real estate and the unit owner's interest in the common property as a single parcel subject to the recorded termination agreement.
15. Stipulates all financial assets and loans or continuing obligations of previous condominium association, following termination, transfer to the owners in common as organized under the termination agreement.
16. States that recording the termination agreement extinguishes:
 - a) The declaration and all amendments, except the plat defining the real estate;

- b) The previous condominium association however organized and any power or authority of its board of directors;
 - c) All other condominium documents, including articles of incorporation, bylaws, rules and design control standards;
 - d) All existing contracts entered into by the previous condominium association, within the termination clauses of those contracts;
 - e) All outstanding fines, penalties or fees that are applied to individual units by the previous condominium association, other than common expense assessments; and
 - f) All noncommon expense assessment liens established by the previous condominium association on individual units.
17. Stipulates a community is deemed to satisfy the definition of a condominium following termination and remains subject to the protections and obligations of regulation relating to condominiums.
18. States that the recorded termination agreement, along with the previously recorded plat, becomes the new declaration for the property.
19. Allows a person or entity to purchase the entire condominium property by acquiring title from all unit owners and tenants in common by negotiating the purchase of each property and either terminating the declaration or without terminating the declaration.
20. Permits the purchaser to record a document to terminate the declaration for the condominium and any amendments to and restatements of the declaration on completing the purchase of the entire property, terminating the condominium.

Miscellaneous

21. Specifies insurance proceeds must be distributed in proportion to the unit owners' respective interests in the condominiums as prescribed in the terminated declaration. (Sec. 3)
22. Makes technical and conforming changes. (Sec. 1, 2, 3)