

REFERENCE TITLE: homeowners' associations; condominiums; fees

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1343

Introduced by
Senator Antenori

AN ACT

AMENDING SECTIONS 33-1260 AND 33-1806, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND 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 33-1260, Arizona Revised Statutes, is amended to
3 read:

4 33-1260. Resale of units; information required; fees;
5 applicability; definition

6 A. For condominiums with fewer than fifty units, a unit owner shall
7 mail or deliver to a purchaser within ten days after receipt of a written
8 notice of a pending sale of the unit, and for condominiums with fifty or more
9 units, the association shall mail or deliver to a purchaser within ten days
10 after receipt of a written notice of a pending sale that contains the name
11 and address of the purchaser, all of the following:

- 12 1. A copy of the bylaws and the rules of the association.
- 13 2. A copy of the declaration.
- 14 3. A dated statement containing:

15 (a) The telephone number and address of a principal contact for the
16 association, which may be an association manager, an association management
17 company, an officer of the association or any other person designated by the
18 board of directors.

19 (b) The amount of the common expense assessment for the unit and any
20 unpaid common expense assessment, special assessment or other assessment, fee
21 or charge currently due and payable from the selling unit owner.

22 (c) A statement as to whether a portion of the unit is covered by
23 insurance maintained by the association.

24 (d) The total amount of money held by the association as reserves.

25 (e) If the statement is being furnished by the association, a
26 statement as to whether the records of the association reflect any
27 alterations or improvements to the unit that violate the declaration. The
28 association is not obligated to provide information regarding alterations or
29 improvements that occurred more than six years before the proposed sale.
30 Nothing in this subdivision relieves the seller of a unit from the obligation
31 to disclose alterations or improvements to the unit that violate the
32 declaration, nor precludes the association from taking action against the
33 purchaser of a unit for violations that are apparent at the time of purchase
34 and that are not reflected in the association's records.

35 (f) If the statement is being furnished by the unit owner, a statement
36 as to whether the unit owner has any knowledge of any alterations or
37 improvements to the unit that violate the declaration.

38 (g) A statement of case names and case numbers for pending litigation
39 with respect to the unit filed by the association against the unit owner or
40 filed by the unit owner against the association. The unit owner or the
41 association shall not be required to disclose information concerning the
42 pending litigation that would violate any applicable rule of attorney-client
43 privilege under Arizona law.

44 (h) A statement that provides "I hereby acknowledge that the
45 declaration, bylaws and rules of the association constitute a contract

1 between the association and me (the purchaser). By signing this statement, I
2 acknowledge that I have read and understand the association's contract with
3 me (the purchaser). I also understand that as a matter of Arizona law, if I
4 fail to pay my association assessments, the association may foreclose on my
5 property." The statement shall also include a signature line for the
6 purchaser and shall be returned to the association within fourteen calendar
7 days.

8 4. A copy of the current operating budget of the association.

9 5. A copy of the most recent annual financial report of the
10 association. If the report is more than ten pages, the association may
11 provide a summary of the report in lieu of the entire report.

12 6. A copy of the most recent reserve study of the association, if any.

13 B. A purchaser or seller who is damaged by the failure of the unit
14 owner or the association to disclose the information required by subsection A
15 of this section may pursue all remedies at law or in equity against the unit
16 owner or the association, whichever failed to comply with subsection A of
17 this section, including the recovery of reasonable attorney fees.

18 C. The association may charge the unit owner a ~~reasonable~~ fee OF TEN
19 CENTS PER PRINTED PAGE BUT NOT MORE THAN TWO HUNDRED FIFTY DOLLARS to
20 compensate the association for the costs incurred in the preparation of a
21 statement OR OTHER DOCUMENTS furnished by the association pursuant to this
22 section. IF AN ASSOCIATION CHARGES A FLAT FEE FOR THE PREPARATION OF THE
23 STATEMENT OR OTHER DOCUMENTS FURNISHED PURSUANT TO THIS SECTION AND THAT FEE
24 IS LESS THAN TWO HUNDRED FIFTY DOLLARS ON DECEMBER 31, 2010, THE FEE MAY
25 INCREASE AT A RATE OF NO MORE THAN TWENTY PER CENT PER YEAR BASED ON THE
26 IMMEDIATELY PRECEDING FISCAL YEAR'S AMOUNT. AN ASSOCIATION SHALL NOT CHARGE
27 A FEE IF THE STATEMENT OR DOCUMENTS FURNISHED BY THE ASSOCIATION PURSUANT TO
28 THIS SECTION MAY BE DELIVERED ELECTRONICALLY. The association shall make
29 available to any interested party the amount of any fee established from time
30 to time by the association WITHOUT REQUIRING THE PAYMENT OF A FEE.

31 D. A sale in which a public report is issued pursuant to sections
32 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
33 from this section.

34 E. AN ASSOCIATION AND ANY OF ITS REPRESENTATIVES, INCLUDING AN
35 ASSOCIATION MANAGEMENT COMPANY, SHALL NOT:

36 1. ASSESS OR COLLECT FEES RELATED TO THE TRANSFER OF AN INTEREST IN A
37 CONDOMINIUM THAT IN THE AGGREGATE TOTAL MORE THAN FIVE HUNDRED DOLLARS, IN
38 ADDITION TO ANY DOCUMENT OR STATEMENT PREPARATION FEE THAT MAY BE CHARGED
39 PURSUANT TO SUBSECTION C OF THIS SECTION.

40 2. ASSESS OR COLLECT A FEE RELATED TO THE TRANSFER OF AN INTEREST IN A
41 LOT OR UNIT IN THE CONDOMINIUM, WITHOUT REGARD TO HOW THAT FEE IS
42 DENOMINATED, UNLESS THE FEE IS SPECIFICALLY AUTHORIZED BY THIS SECTION.

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

1 (g) A statement of case names and case numbers for pending litigation
2 with respect to the unit filed by the association against the member or filed
3 by the member against the association. The member shall not be required to
4 disclose information concerning such pending litigation ~~which~~ THAT would
5 violate any applicable rule of attorney-client privilege under Arizona law.

6 (h) A statement that provides "I hereby acknowledge that the
7 declaration, bylaws and rules of the association constitute a contract
8 between the association and me (the purchaser). By signing this statement, I
9 acknowledge that I have read and understand the association's contract with
10 me (the purchaser). I also understand that as a matter of Arizona law, if I
11 fail to pay my association assessments, the association may foreclose on my
12 property." The statement shall also include a signature line for the
13 purchaser and shall be returned to the association within fourteen calendar
14 days.

15 4. A copy of the current operating budget of the association.

16 5. A copy of the most recent annual financial report of the
17 association. If the report is more than ten pages, the association may
18 provide a summary of the report in lieu of the entire report.

19 6. A copy of the most recent reserve study of the association, if any.

20 B. A purchaser or seller who is damaged by the failure of the member
21 or the association to disclose the information required by subsection A of
22 this section may pursue all remedies at law or in equity against the member
23 or the association, whichever failed to comply with subsection A of this
24 section, including the recovery of reasonable attorney fees.

25 C. The association may charge the member a ~~reasonable~~ fee OF TEN CENTS
26 PER PRINTED PAGE BUT NOT MORE THAN TWO HUNDRED FIFTY DOLLARS to compensate
27 the association for the costs incurred in the preparation of a statement OR
28 OTHER DOCUMENTS furnished by the association pursuant to this section. IF AN
29 ASSOCIATION CHARGES A FLAT FEE FOR THE PREPARATION OF THE STATEMENT OR OTHER
30 DOCUMENTS FURNISHED PURSUANT TO THIS SECTION AND THAT FEE IS LESS THAN TWO
31 HUNDRED FIFTY DOLLARS ON DECEMBER 31, 2010, THE FEE MAY INCREASE AT A RATE OF
32 NO MORE THAN TWENTY PER CENT PER YEAR BASED ON THE IMMEDIATELY PRECEDING
33 FISCAL YEAR'S AMOUNT. AN ASSOCIATION SHALL NOT CHARGE A FEE IF THE STATEMENT
34 OR DOCUMENTS FURNISHED BY THE ASSOCIATION PURSUANT TO THIS SECTION MAY BE
35 DELIVERED ELECTRONICALLY. The association shall make available to any
36 interested party the amount of any fee established from time to time by the
37 association WITHOUT REQUIRING PAYMENT OF A FEE.

38 D. A sale in which a public report is issued pursuant to sections
39 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
40 from this section.

41 E. AN ASSOCIATION AND ANY OF ITS REPRESENTATIVES, INCLUDING AN
42 ASSOCIATION MANAGEMENT COMPANY, SHALL NOT:

43 1. ASSESS OR COLLECT FEES RELATED TO THE TRANSFER OF AN INTEREST IN A
44 LOT IN THE PLANNED COMMUNITY THAT IN THE AGGREGATE TOTAL MORE THAN FIVE

1 HUNDRED DOLLARS, IN ADDITION TO ANY DOCUMENT OR STATEMENT PREPARATION FEE
2 THAT MAY BE CHARGED PURSUANT TO SUBSECTION C OF THIS SECTION.
3 2. ASSESS OR COLLECT A FEE RELATED TO THE TRANSFER OF AN INTEREST IN A
4 LOT IN THE PLANNED COMMUNITY, WITHOUT REGARD TO HOW THAT FEE IS DENOMINATED,
5 UNLESS THE FEE IS SPECIFICALLY AUTHORIZED BY THIS SECTION.
6 ~~E.~~ F. For THE purposes of this section, unless the context otherwise
7 requires, "member" means the seller of the unit title and excludes:
8 1. Any real estate salesperson or real estate broker who is licensed
9 under title 32, chapter 20 and who is acting as a salesperson or broker.
10 2. ANY ESCROW AGENT WHO IS LICENSED UNDER TITLE 6, CHAPTER 7 AND WHO
11 IS ACTING AS AN ESCROW AGENT. ~~and also excludes~~
12 3. A trustee of a deed of trust who is selling the property in a
13 trustee's sale pursuant to chapter 6.1 of this title.