

REFERENCE TITLE: homeowners' associations; assessments

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2083

Introduced by
Representatives Hendrix: Parker B

AN ACT

AMENDING SECTIONS 33-1242 AND 33-1803, 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 33-1242, Arizona Revised Statutes, is amended to
3 read:
4 33-1242. Powers of unit owners' association; notice to unit
5 owner of violation
6 A. Subject to the provisions of the declaration, the association
7 may:
8 1. Adopt and amend bylaws and rules.
9 2. Adopt and amend budgets for revenues, expenditures and reserves
10 and collect assessments for common expenses from unit owners.
11 NOTWITHSTANDING ANY MAXIMUM ANNUAL ASSESSMENT PROVISION OR ANY OTHER
12 PROVISION IN THE CONDOMINIUM DOCUMENTS, UNLESS THE CONDOMINIUM DOCUMENTS
13 DO NOT REQUIRE MEMBER APPROVAL FOR OR OTHERWISE DO NOT LIMIT INCREASES IN
14 THE ANNUAL ASSESSMENT, THE BOARD MAY INCREASE THE ANNUAL ASSESSMENT BY NOT
15 MORE THAN TWENTY PERCENT GREATER THAN THE IMMEDIATELY PRECEDING YEAR'S
16 ANNUAL ASSESSMENT, OR ANY GREATER PERCENTAGE PROVIDED IN THE CONDOMINIUM
17 DOCUMENTS, WITHOUT A VOTE OF THE MEMBERS.
18 3. Hire and discharge managing agents and other employees, agents
19 and independent contractors.
20 4. Institute, defend or intervene in litigation or administrative
21 proceedings in its own name on behalf of itself or two or more unit owners
22 on matters affecting the condominium.
23 5. Make contracts and incur liabilities.
24 6. Regulate the use, maintenance, repair, replacement and
25 modification of common elements.
26 7. Cause additional improvements to be made as a part of the common
27 elements.
28 8. Acquire, hold, encumber and convey in its own name any right,
29 title or interest to real or personal property, except that common
30 elements may be conveyed or subjected to a security interest only pursuant
31 to section 33-1252.
32 9. Grant easements, leases, licenses and concessions through or
33 over the common elements.
34 10. Impose and receive any payments, fees or charges for the use,
35 rental or operation of the common elements other than limited common
36 elements described in section 33-1212, paragraphs 2 and 4 and for services
37 provided to unit owners.
38 11. Impose charges for late payment of assessments after the
39 association has provided notice that the assessment is overdue or provided
40 notice that the assessment is considered overdue after a certain date and,
41 after notice and an opportunity to be heard, impose reasonable monetary
42 penalties on unit owners for violations of the declaration, bylaws and
43 rules of the association.
44 12. Impose reasonable charges for the preparation and recordation
45 of amendments to the declaration or statements of unpaid assessments.

1 13. Provide for the indemnification of its officers and executive
2 board of directors and maintain directors' and officers' liability
3 insurance.

4 14. Assign its right to future income, including the right to
5 receive common expense assessments, but only to the extent the declaration
6 expressly provides.

7 15. Be a member of a master association or other entity owning,
8 maintaining or governing in any respect any portion of the common elements
9 or other property benefitting or related to the condominium or the unit
10 owners in any respect.

11 16. Exercise any other powers conferred by the declaration or
12 bylaws.

13 17. Exercise all other powers that may be exercised in this state
14 by legal entities of the same type as the association.

15 18. Exercise any other powers necessary and proper for the
16 governance and operation of the association.

17 B. A unit owner who receives a written notice that the condition of
18 the property owned by the unit owner is in violation of a requirement of
19 the condominium documents without regard to whether a monetary penalty is
20 imposed by the notice may provide the association with a written response
21 by sending the response by certified mail within twenty-one calendar days
22 after the date of the notice. The response shall be sent to the address
23 identified in the notice.

24 C. Within ten business days after receipt of the certified mail
25 containing the response from the unit owner, the association shall respond
26 to the unit owner with a written explanation regarding the notice that
27 shall provide at least the following information unless previously
28 provided in the notice of violation:

29 1. The provision of the condominium documents that has allegedly
30 been violated.

31 2. The date of the violation or the date the violation was
32 observed.

33 3. The first and last name of the person or persons who observed
34 the violation.

35 4. The process the unit owner must follow to contest the notice.

36 D. Unless the information required in subsection C, paragraph 4 of
37 this section is provided in the notice of violation, the association shall
38 not proceed with any action to enforce the condominium documents,
39 including the collection of attorney fees, before or during the time
40 prescribed by subsection C of this section regarding the exchange of
41 information between the association and the unit owner and shall give the
42 unit owner written notice of the unit owner's option to petition for an
43 administrative hearing on the matter in the state real estate department
44 pursuant to section 32-2199.01. At any time before or after completion
45 of the exchange of information pursuant to this section, the unit owner

1 may petition for a hearing pursuant to section 32-2199.01 if the dispute
2 is within the jurisdiction of the state real estate department as
3 prescribed in section 32-2199.01.

4 Sec. 2. Section 33-1803, Arizona Revised Statutes, is amended to
5 read:

6 33-1803. Assessment limitation; penalties; notice to member
7 of violation

8 ~~A. Unless limitations in the community documents would result in a~~
9 ~~lower limit for the assessment, the association shall not impose a regular~~
10 ~~assessment that is more than twenty percent greater than the immediately~~
11 ~~preceding fiscal year's assessment without the approval of the majority of~~
12 ~~the members of the association.~~

13 A. NOTWITHSTANDING ANY MAXIMUM ANNUAL ASSESSMENT PROVISION OR ANY
14 OTHER PROVISION IN THE COMMUNITY DOCUMENTS, UNLESS THE COMMUNITY DOCUMENTS
15 DO NOT REQUIRE MEMBER APPROVAL FOR OR OTHERWISE DO NOT LIMIT INCREASES IN
16 THE ANNUAL ASSESSMENT:

17 1. THE BOARD MAY INCREASE THE ANNUAL ASSESSMENT BY NOT MORE THAN
18 TWENTY PERCENT GREATER THAN THE IMMEDIATELY PRECEDING YEAR'S ANNUAL
19 ASSESSMENT, OR ANY GREATER PERCENTAGE PROVIDED IN THE COMMUNITY DOCUMENTS,
20 WITHOUT A VOTE OF THE MEMBERS.

21 2. THE ANNUAL ASSESSMENT MAY BE INCREASED BY MORE THAN TWENTY
22 PERCENT GREATER THAN THE IMMEDIATELY PRECEDING YEAR'S ANNUAL ASSESSMENT,
23 OR ANY GREATER PERCENTAGE PROVIDED IN THE COMMUNITY DOCUMENTS, WITH THE
24 APPROVAL OF SIXTY-SEVEN PERCENT OF EACH CLASS OF MEMBERS VOTING AT A DULY
25 HELD MEETING CALLED FOR THAT PURPOSE.

26 B. Unless reserved to the members of the association, the board of
27 directors may impose reasonable charges for the late payment of
28 assessments. A payment by a member is deemed late if it is unpaid fifteen
29 or more days after its due date, unless the community documents provide
30 for a longer period. Charges for the late payment of assessments are
31 limited to the greater of ~~fifteen dollars~~ \$15 or ten percent of the amount
32 of the unpaid assessment and may be imposed only after the association has
33 provided notice that the assessment is overdue or provided notice that the
34 assessment is considered overdue after a certain date. Any monies paid by
35 the member for an unpaid assessment shall be applied first to the
36 principal amount unpaid and then to the interest accrued.

37 ~~B.~~ C. After notice and an opportunity to be heard, the board of
38 directors may impose reasonable monetary penalties on members for
39 violations of the declaration, bylaws and rules of the association.
40 Notwithstanding any provision in the community documents, the board of
41 directors shall not impose a charge for a late payment of a penalty that
42 exceeds the greater of ~~fifteen dollars~~ \$15 or ten percent of the amount of
43 the unpaid penalty. A payment is deemed late if it is unpaid fifteen or
44 more days after its due date, unless the declaration, bylaws or rules of
45 the association provide for a longer period. Any monies paid by a member

1 for an unpaid penalty shall be applied first to the principal amount
2 unpaid and then to the interest accrued. Notice pursuant to this
3 subsection shall include information pertaining to the manner in which the
4 penalty shall be enforced.

5 ~~E.~~ D. A member who receives a written notice that the condition of
6 the property owned by the member is in violation of the community
7 documents without regard to whether a monetary penalty is imposed by the
8 notice may provide the association with a written response by sending the
9 response by certified mail within twenty-one calendar days after the date
10 of the notice. The response shall be sent to the address identified in
11 the notice.

12 ~~D.~~ E. Within ten business days after receipt of the certified mail
13 containing the response from the member, the association shall respond to
14 the member with a written explanation regarding the notice that shall
15 provide at least the following information unless previously provided in
16 the notice of violation:

17 1. The provision of the community documents that has allegedly been
18 violated.

19 2. The date of the violation or the date the violation was
20 observed.

21 3. The first and last name of the person or persons who observed
22 the violation.

23 4. The process the member must follow to contest the notice.

24 ~~E.~~ F. Unless the information required in subsection ~~D.~~ E,
25 paragraph 4 of this section is provided in the notice of violation, the
26 association shall not proceed with any action to enforce the community
27 documents, including the collection of attorney fees, before or during the
28 time prescribed by subsection ~~D.~~ E of this section regarding the exchange
29 of information between the association and the member and shall give the
30 member written notice of the member's option to petition for an
31 administrative hearing on the matter in the state real estate department
32 pursuant to section 32-2199.01. At any time before or after completion of
33 the exchange of information pursuant to this section, the member may
34 petition for a hearing pursuant to section 32-2199.01 if the dispute is
35 within the jurisdiction of the state real estate department as prescribed
36 in section 32-2199.01.