

REFERENCE TITLE: **homeowner's associations; fees; related parties**

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

HB 2119

Introduced by
Representative Hendrix

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; civil
5 penalty; applicability; definition

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

14 1. A copy of the bylaws and the rules of the association.

15 2. A copy of the declaration.

16 3. A dated statement containing:

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

21 (b) The amount of the common expense assessment for the unit and
22 any unpaid common expense assessment, special assessment or other
23 assessment, fee or charge currently due and payable from the selling unit
24 owner. If the request is made by a lienholder, escrow agent, unit owner
25 or person designated by a unit owner pursuant to section 33-1256, failure
26 to provide the information pursuant to this subdivision within the time
27 provided for in this subsection shall extinguish any lien for any unpaid
28 assessment then due against that unit.

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

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

32 (e) If the statement is being furnished by the association, a
33 statement as to whether the records of the association reflect any
34 alterations or improvements to the unit that violate the declaration. The
35 association is not obligated to provide information regarding alterations
36 or improvements that occurred more than six years before the proposed
37 sale. ~~Nothing in~~ This subdivision ~~relieves~~ **DOES NOT RELIEVE** the seller of
38 a unit from the obligation to disclose alterations or improvements to the
39 unit that violate the declaration, ~~nor precludes~~ **AND DOES NOT PRECLUDE** the
40 association from taking action against the purchaser of a unit for
41 violations that are apparent at the time of purchase and that are not
42 reflected in the association's records.

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

4 (g) A statement of case names and case numbers for pending
5 litigation with respect to the unit filed by the association against the
6 unit owner or filed by the unit owner against the association. The unit
7 owner or the association shall not be required to disclose information
8 concerning the pending litigation that would violate any applicable rule
9 of attorney-client privilege under ~~Arizona~~ STATE law.

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

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

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

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

25 7. A statement summarizing any pending lawsuits, except those
26 relating to the collection of assessments owed by unit owners other than
27 the selling unit owner, in which the association is a named party,
28 including the amount of any money claimed.

29 B. A purchaser or seller who is damaged by the failure of the unit
30 owner or the association to disclose the information required by
31 subsection A of this section may pursue all remedies at law or in equity
32 against the unit owner or the association, whichever failed to comply with
33 subsection A of this section, including the recovery of reasonable
34 attorney fees.

35 C. The association may charge the unit owner a fee of not more than
36 an aggregate of ~~four hundred dollars~~ \$400 to compensate the association
37 for the costs incurred in the preparation and delivery of a statement or
38 other documents furnished by the association pursuant to this section for
39 purposes of resale disclosure, lien estoppel and any other services
40 related to the transfer or use of the property. In addition, the
41 association may charge a rush fee of not more than ~~one hundred dollars~~
42 \$100 if the rush services are required to be performed within seventy-two
43 hours after the request for rush services, and may charge a statement or
44 other documents update fee of not more than ~~fifty dollars~~ \$50 if thirty
45 days or more have passed since the date of the original disclosure

1 statement or the date the documents were delivered. The association shall
2 make available to any interested party the amount of any fee established
3 from time to time by the association. If the aggregate fee for purposes
4 of resale disclosure, lien estoppel and any other services related to the
5 transfer or use of a property is less than ~~four hundred dollars~~ \$400 on
6 January 1, 2010, the fee may increase at a rate of not more than twenty
7 percent per year based on the immediately preceding fiscal year's amount,
8 not to exceed the ~~four hundred dollar~~ \$400 aggregate fee. The association
9 may charge the same fee without regard to whether the association is
10 furnishing the statement or other documents in paper or electronic format.

11 D. The fees prescribed by this section shall be collected ~~no~~ NOT
12 earlier than at the close of escrow and may only be charged once to a unit
13 owner for that transaction between the parties specified in the notice
14 required pursuant to subsection A of this section. An association shall
15 not charge or collect a fee relating to services for resale disclosure,
16 lien estoppel and any other services related to the transfer or use of a
17 property except as specifically authorized in this section. An
18 association that charges or collects a fee in violation of this section is
19 subject to a civil penalty of not more than ~~one thousand two hundred~~
20 ~~dollars~~ \$1,200.

21 E. THE ASSOCIATION SHALL NOT CHARGE A FEE PRESCRIBED BY SUBSECTIONS
22 C AND D OF THIS SECTION FOR ANY CONVEYANCE BETWEEN PARTIES PRESCRIBED BY
23 SECTION 11-1134, SUBSECTION B, PARAGRAPH 3 OR 7.

24 ~~F.~~ F. This section applies to a managing agent for an association
25 that is acting on behalf of the association.

26 ~~F.~~ G. The following are exempt from THE DISCLOSURE REQUIREMENTS OF
27 this section:

28 1. A sale in which a public report is issued pursuant to section
29 32-2183 or 32-2197.02.

30 2. A sale pursuant to section 32-2181.02.

31 3. A conveyance by recorded deed that bears an exemption listed in
32 section 11-1134, subsection B, paragraph 3 or 7. On recordation of the
33 deed and for no additional charge, the unit owner shall provide the
34 association with the changes in ownership, including the unit owner's
35 name, billing address and phone number. Failure to provide the
36 information shall not prevent the unit owner from qualifying for the
37 exemption pursuant to this section.

38 ~~G.~~ H. This section does not apply to timeshare plans or
39 associations that are subject to chapter 20 of this title.

40 ~~H.~~ I. For the purposes of this section, ~~unless the context~~
41 ~~otherwise requires~~, "unit owner":

42 1. Means the seller of the condominium unit title. ~~and excludes~~

1 2. DOES NOT INCLUDE:

2 (a) Any real estate salesperson or real estate broker who is
3 licensed under title 32, chapter 20 and who is acting as a salesperson or
4 broker. ~~;~~

5 (b) Any escrow agent who is licensed under title 6, chapter 7 and
6 who is acting as an escrow agent. ~~and also excludes~~

7 (c) A trustee of a deed of trust who is selling the property in a
8 trustee's sale pursuant to chapter 6.1 of this title.

9 Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to
10 read:

11 33-1806. Resale of units; information required; fees; civil
12 penalty; definition

13 A. For planned communities with fewer than fifty units, a member
14 shall mail or deliver to a purchaser or a purchaser's authorized agent
15 within ten days after receipt of a written notice of a pending sale of the
16 unit, and for planned communities with fifty or more units, the
17 association shall mail or deliver to a purchaser or a purchaser's
18 authorized agent within ten days after receipt of a written notice of a
19 pending sale that contains the name and address of the purchaser all of
20 the following in either paper or electronic format:

- 21 1. A copy of the bylaws and the rules of the association.
22 2. A copy of the declaration.
23 3. A dated statement containing:

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

28 (b) The amount of the common regular assessment and the unpaid
29 common regular assessment, special assessment or other assessment, fee or
30 charge currently due and payable from the selling member. If the request
31 is made by a lienholder, escrow agent, member or person designated by a
32 member pursuant to section 33-1807, failure to provide the information
33 pursuant to this subdivision within the time provided for in this
34 subsection shall extinguish any lien for any unpaid assessment then due
35 against that property.

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

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

39 (e) If the statement is being furnished by the association, a
40 statement as to whether the records of the association reflect any
41 alterations or improvements to the unit that violate the declaration. The
42 association is not obligated to provide information regarding alterations
43 or improvements that occurred more than six years before the proposed
44 sale. ~~Nothing in~~ This subdivision ~~relieves~~ DOES NOT RELIEVE the seller of
45 a unit from the obligation to disclose alterations or improvements to the

1 unit that violate the declaration, ~~nor precludes~~ AND DOES NOT PRECLUDE the
2 association from taking action against the purchaser of a unit for
3 violations that are apparent at the time of purchase and that are not
4 reflected in the association's records.

5 (f) If the statement is being furnished by the member, a statement
6 as to whether the member has any knowledge of any alterations or
7 improvements to the unit that violate the declaration.

8 (g) A statement of case names and case numbers for pending
9 litigation with respect to the unit filed by the association against the
10 member or filed by the member against the association. The member shall
11 not be required to disclose information concerning such pending litigation
12 that would violate any applicable rule of attorney-client privilege under
13 ~~Arizona~~ STATE law.

14 (h) A statement that provides "I hereby acknowledge that the
15 declaration, bylaws and rules of the association constitute a contract
16 between the association and me (the purchaser). By signing this
17 statement, I acknowledge that I have read and understand the association's
18 contract with me (the purchaser). I also understand that as a matter of
19 Arizona law, if I fail to pay my association assessments, the association
20 may foreclose on my property." The statement shall also include a
21 signature line for the purchaser and shall be returned to the association
22 within fourteen calendar days.

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

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

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

29 7. A statement summarizing any pending lawsuits, except those
30 relating to the collection of assessments owed by members other than the
31 selling member, in which the association is a named party, including the
32 amount of any money claimed.

33 B. A purchaser or seller who is damaged by the failure of the
34 member or the association to disclose the information required by
35 subsection A of this section may pursue all remedies at law or in equity
36 against the member or the association, whichever failed to comply with
37 subsection A of this section, including the recovery of reasonable
38 attorney fees.

39 C. The association may charge the member a fee of not more than an
40 aggregate of ~~four hundred dollars~~ \$400 to compensate the association for
41 the costs incurred in the preparation and delivery of a statement or other
42 documents furnished by the association pursuant to this section for
43 purposes of resale disclosure, lien estoppel and any other services
44 related to the transfer or use of the property. In addition, the
45 association may charge a rush fee of not more than ~~one hundred dollars~~

1 \$100 if the rush services are required to be performed within seventy-two
2 hours after the request for rush services, and may charge a statement or
3 other documents update fee of not more than ~~fifty dollars~~ \$50 if thirty
4 days or more have passed since the date of the original disclosure
5 statement or the date the documents were delivered. The association shall
6 make available to any interested party the amount of any fee established
7 from time to time by the association. If the aggregate fee for purposes
8 of resale disclosure, lien estoppel and any other services related to the
9 transfer or use of a property is less than ~~four hundred dollars~~ \$400 on
10 January 1, 2010, the fee may increase at a rate of not more than twenty
11 percent per year based on the immediately preceding fiscal year's amount
12 not to exceed the ~~four hundred dollar~~ \$400 aggregate fee. The association
13 may charge the same fee without regard to whether the association is
14 furnishing the statement or other documents in paper or electronic format.

15 D. The fees prescribed by this section shall be collected ~~no~~ NOT
16 earlier than at the close of escrow and may only be charged once to a
17 member for that transaction between the parties specified in the notice
18 required pursuant to subsection A of this section. An association shall
19 not charge or collect a fee relating to services for resale disclosure,
20 lien estoppel and any other services related to the transfer or use of a
21 property except as specifically authorized in this section. An
22 association that charges or collects a fee in violation of this section is
23 subject to a civil penalty of not more than ~~one thousand two hundred~~
24 ~~dollars~~ \$1,200.

25 E. THE ASSOCIATION SHALL NOT CHARGE A FEE PRESCRIBED BY SUBSECTIONS
26 C AND D OF THIS SECTION FOR ANY CONVEYANCE BETWEEN PARTIES PRESCRIBED BY
27 SECTION 11-1134, SUBSECTION B, PARAGRAPH 3 OR 7.

28 ~~F.~~ F. This section applies to a managing agent for an association
29 that is acting on behalf of the association.

30 ~~F.~~ G. The following are exempt from THE DISCLOSURE REQUIREMENTS OF
31 this section:

32 1. A sale in which a public report is issued pursuant to section
33 32-2183 or 32-2197.02.

34 2. A sale pursuant to section 32-2181.02.

35 3. A conveyance by recorded deed that bears an exemption listed in
36 section 11-1134, subsection B, paragraph 3 or 7. On recordation of the
37 deed and for no additional charge, the member shall provide the
38 association with the changes in ownership including the member's name,
39 billing address and phone number. Failure to provide the information
40 shall not prevent the member from qualifying for the exemption pursuant to
41 this section.

- 1 ~~G.~~ H. For the purposes of this section, ~~unless the context~~
2 ~~otherwise requires,~~ "member":
3 1. Means the seller of the unit title. ~~and excludes~~
4 2. DOES NOT INCLUDE:
5 (a) Any real estate salesperson or real estate broker who is
6 licensed under title 32, chapter 20 and who is acting as a salesperson or
7 broker. ~~,~~
8 (b) Any escrow agent who is licensed under title 6, chapter 7 and
9 who is acting as an escrow agent. ~~and also excludes~~
10 (c) A trustee of a deed of trust who is selling the property in a
11 trustee's sale pursuant to chapter 6.1 of this title.