

House Engrossed

~~motor vehicle manufacturers; TPT; exemption~~
(now: condominiums; planned communities; lien; assessment)

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

HOUSE BILL 2648

AN ACT

AMENDING SECTIONS 33-1202, 33-1256, 33-1802 AND 33-1807, ARIZONA REVISED
STATUTES; RELATING TO COMMON EXPENSE ASSESSMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1202, Arizona Revised Statutes, is amended to
3 read:

4 33-1202. Definitions

5 In the condominium documents, unless specifically provided otherwise
6 or the context otherwise requires, and in this chapter:

7 1. "Affiliate of a declarant" means any person who controls, is
8 controlled by or is under common control with a declarant.

9 2. "Allocated interests" means the undivided interests in the
10 common elements, the common expense liability and votes in the association
11 allocated to each unit.

12 3. "Articles of incorporation" means the instrument by which an
13 incorporated association or unit owners' association is formed and
14 organized under this state's corporate statutes.

15 4. "ASSESSMENT" MEANS THE SHARE OF MONIES THAT IS REQUIRED FOR THE
16 PAYMENT OF COMMON EXPENSES AND THAT THE ASSOCIATION ASSESSES PERIODICALLY
17 AGAINST EACH UNIT.

18 ~~4.~~ 5. "Association" or "unit owners' association" means the unit
19 owners' association organized under section 33-1241.

20 ~~5.~~ 6. "Board of directors" means the body, regardless of its name,
21 designated in the declaration and given general management powers to act
22 on behalf of the association.

23 ~~6.~~ 7. "Bylaws" means the bylaws required by section 33-1246.

24 ~~7.~~ 8. "Common elements" means all portions of a condominium other
25 than the units.

26 ~~8.~~ 9. "Common expense liability" means the liability for common
27 expenses allocated to each unit pursuant to section 33-1217.

28 10. "COMMON EXPENSE LIEN" MEANS THE LIEN FOR ASSESSMENTS, CHARGES
29 FOR LATE PAYMENT OF ASSESSMENTS IF AUTHORIZED IN THE DECLARATION,
30 REASONABLE COLLECTION FEES AND COSTS INCURRED OR APPLIED BY THE
31 ASSOCIATION AND REASONABLE ATTORNEY FEES AND COSTS THAT ARE INCURRED WITH
32 RESPECT TO THOSE ASSESSMENTS, IF THE ATTORNEY FEES AND COSTS ARE AWARDED
33 BY A COURT.

34 ~~9.~~ 11. "Common expenses" means expenditures made by or financial
35 liabilities of the association, together with any allocations to reserves.

36 ~~10.~~ 12. "Condominium" means real estate, portions of which are
37 designated for separate ownership and the remainder of which is designated
38 for common ownership solely by the owners of the separate portions. Real
39 estate is not a condominium unless the undivided interests in the common
40 elements are vested in the unit owners.

41 ~~11.~~ 13. "Condominium documents" means the declaration, bylaws,
42 articles of incorporation, if any, and rules, if any.

43 ~~12.~~ 14. "Declarant" means any person or group of persons who
44 reserves, is granted or succeeds to any special declarant right.

1 ~~13.~~ 15. "Declaration" means any instruments, however denominated,
2 that create a condominium and any amendments to those instruments.
3 ~~14.~~ 16. "Development rights" means any right or combination of
4 rights reserved by or granted to a declarant in the declaration to do any
5 of the following:
6 (a) Add real estate to a condominium.
7 (b) Create easements, units, common elements or limited common
8 elements within a condominium.
9 (c) Subdivide units, convert units into common elements or convert
10 common elements into units.
11 (d) Withdraw real estate from a condominium.
12 (e) Make the condominium part of a larger condominium or planned
13 community.
14 (f) Amend the declaration during any period of declarant control,
15 pursuant to section 33-1243, subsection E, to comply with applicable law
16 or to correct any error or inconsistency in the declaration, if the
17 amendment does not adversely affect the rights of any unit owner.
18 (g) Amend the declaration during any period of declarant control,
19 pursuant to section 33-1243, subsection E, to comply with the rules or
20 guidelines, in effect from time to time, of any governmental or
21 quasi-governmental entity or federal corporation guaranteeing or insuring
22 mortgage loans or governing transactions involving mortgage instruments.
23 ~~15.~~ 17. "Identifying number" means a symbol or address that
24 identifies one unit in a condominium.
25 ~~16.~~ 18. "Leasehold condominium" means a condominium in which all
26 or a portion of the real estate is subject to a lease the expiration or
27 termination of which will terminate the condominium or reduce its size.
28 ~~17.~~ 19. "Limited common element" means a portion of the common
29 elements specifically designated as a limited common element in the
30 declaration and allocated by the declaration or by operation of section
31 33-1212, paragraph 2 or 4 for the exclusive use of one or more but fewer
32 than all of the units.
33 20. "MEMBER EXPENSES":
34 (a) MEANS FEES, CHARGES, LATE CHARGES AND MONETARY PENALTIES OR
35 INTEREST THAT ARE IMPOSED PURSUANT TO SECTION 33-1242, SUBSECTION A,
36 PARAGRAPHS 10, 11 AND 12.
37 (b) DOES NOT INCLUDE ANY AMOUNT THAT IS INCLUDED IN A COMMON
38 EXPENSE LIEN.
39 ~~18.~~ 21. "Person" means:
40 (a) A natural person, corporation, business trust, estate, trust,
41 partnership, association, joint venture, government, governmental
42 subdivision or agency, or other legal or commercial entity.
43 (b) In the case of a subdivision trust, as defined in section
44 6-801, ~~person means~~ the beneficiary of the trust who holds the right to

1 subdivide, develop or sell the real estate rather than the trust or
2 trustee.

3 ~~19.~~ 22. "Real estate":

4 (a) Means any legal, equitable, leasehold or other estate or
5 interest in, over or under land, including structures, fixtures and other
6 improvements and interests which by custom, usage or law pass with a
7 conveyance of land though not described in the contract of sale or
8 instrument of conveyance. ~~Real estate~~

9 (b) Includes parcels with or without upper or lower boundaries and
10 spaces that may be filled with air or water.

11 ~~20.~~ 23. "Rules" means the provisions, if any, adopted pursuant to
12 the declaration or bylaws governing maintenance and use of the units and
13 common elements.

14 ~~21.~~ 24. "Special declarant rights" means any right or combination
15 of rights reserved by or granted to a declarant in the declaration to do
16 any of the following:

17 (a) Construct improvements provided for in the declaration.

18 (b) Exercise any development right.

19 (c) Maintain sales offices, management offices, signs advertising
20 the condominium, and models.

21 (d) Use easements through the common elements for the purpose of
22 making improvements within the condominium or within real estate ~~which~~
23 ~~THAT~~ may be added to the condominium.

24 (e) Appoint or remove any officer of the association or any board
25 member during any period of declarant control.

26 ~~22.~~ 25. "Unit" means a portion of the condominium designated for
27 separate ownership or occupancy.

28 ~~23.~~ 26. "Unit owner" means:

29 (a) A declarant or other person who owns a unit or, unless
30 otherwise provided in the lease, a lessee of a unit in a leasehold
31 condominium whose lease expires simultaneously with any lease the
32 expiration or termination of which will remove the unit from the
33 condominium but does not include a person having an interest in a unit
34 solely as security for an obligation.

35 (b) In the case of a contract for conveyance, as defined in section
36 33-741, of real property, ~~unit owner means~~ the purchaser of the unit.

37 Sec. 2. Section 33-1256, Arizona Revised Statutes, is amended to
38 read:

39 33-1256. Common expense liens; priority; mechanics' and
40 materialmen's liens; notice; applicability

41 A. The association has a COMMON EXPENSE lien on a unit for any
42 assessment levied against that unit from the time the assessment becomes
43 due. The association's COMMON EXPENSE lien ~~for assessments, for charges~~
44 ~~for late payment of those assessments, for reasonable collection fees and~~
45 ~~for reasonable attorney fees and costs incurred with respect to those~~

1 ~~assessments~~ may be foreclosed in the same manner as a mortgage on real
2 estate but may be foreclosed only if the UNIT owner has been delinquent in
3 the payment of monies secured by the COMMON EXPENSE lien, excluding
4 CHARGES FOR LATE PAYMENT OF ASSESSMENTS IF AUTHORIZED IN THE DECLARATION,
5 reasonable collection fees, ~~AND COSTS INCURRED OR APPLIED BY THE~~
6 ASSOCIATION AND reasonable attorney fees ~~and charges for late payment of~~
7 and costs incurred with respect to those assessments IF AWARDED BY A
8 COURT, for a period of one year or in the amount of \$1,200 or more,
9 whichever occurs first, as determined on the date the action is filed.
10 ~~Fees, charges, late charges, monetary penalties and interest charged~~
11 ~~pursuant to section 33-1242, subsection A, paragraphs 10, 11 and 12, other~~
12 ~~than charges for late payment of assessments,~~ THE ASSOCIATION BOARD OF
13 DIRECTORS SHALL EXERCISE ALL REASONABLE EFFORTS TO COMMUNICATE WITH THE
14 UNIT OWNER, NEGOTIATE REASONABLE PAYMENT PLANS OR APPLY ANY RELEVANT AND
15 APPLICABLE COLLECTION REMEDIES AVAILABLE PURSUANT TO TITLE 12, CHAPTER 9
16 BEFORE FILING A FORECLOSURE ACTION. MEMBER EXPENSES are not enforceable
17 as ~~assessments~~ COMMON EXPENSE LIENS under this ~~section~~ SUBSECTION. If an
18 assessment is payable in installments, the full amount of the assessment
19 is a lien from the time the first installment of the assessment becomes
20 due.

21 B. The association has a lien for ~~fees, charges, late charges,~~
22 ~~other than charges for late payment of assessments, monetary penalties or~~
23 ~~interest charged pursuant to section 33-1242, subsection A, paragraphs 10,~~
24 ~~11 and 12~~ MEMBER EXPENSES after the entry of a judgment in a civil suit
25 for those ~~fees, charges, late charges, monetary penalties or interest~~
26 MEMBER EXPENSES from a court of competent jurisdiction and the recording
27 of that judgment in the office of the county recorder as otherwise
28 provided by law. The association's lien for ~~monies other than for~~
29 ~~assessments, for charges for late payment of those assessments, for~~
30 ~~reasonable collection fees and for reasonable attorney fees and costs~~
31 ~~incurred with respect to those assessments~~ MEMBER EXPENSES may not be
32 foreclosed and is effective only on conveyance of any interest in the real
33 property.

34 ~~B.~~ C. A COMMON EXPENSE lien ~~for assessments, for charges for late~~
35 ~~payment of those assessments, for reasonable collection fees and for~~
36 ~~reasonable attorney fees and costs incurred with respect to those~~
37 ~~assessments~~ under this section is prior to all other liens, interests and
38 encumbrances on a unit except:

39 1. Liens and encumbrances recorded before the recordation of the
40 declaration.

41 2. A recorded first mortgage on the unit, a seller's interest in a
42 first contract for sale pursuant to chapter 6, article 3 of this title on
43 the unit recorded ~~prior to~~ BEFORE the lien arising pursuant to subsection
44 A of this section or a recorded first deed of trust on the unit.

1 3. Liens for real estate taxes and other governmental assessments
2 or charges against the unit.

3 ~~C.~~ D. Subsection ~~B~~ C of this section does not affect the priority
4 of mechanics' or materialmen's liens ~~or the priority of liens for other~~
5 ~~assessments made by the association.~~ The COMMON EXPENSE lien under this
6 section is not subject to chapter 8 of this title.

7 ~~D.~~ E. Unless the declaration otherwise provides, if two or more
8 associations have COMMON EXPENSE liens ~~for assessments~~ created at any time
9 on the same real estate, those liens have equal priority.

10 ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and
11 perfection of the COMMON EXPENSE lien ~~for assessments, for charges for~~
12 ~~late payment of those assessments, for reasonable collection fees and for~~
13 ~~reasonable attorney fees and costs incurred with respect to those~~
14 ~~assessments.~~ Further recordation of any claim of COMMON EXPENSE lien ~~for~~
15 ~~assessments~~ under this section is not required.

16 ~~F.~~ G. A COMMON EXPENSE lien ~~for unpaid assessments~~ is extinguished
17 unless proceedings to enforce the lien are instituted within six years
18 after the full amount of the assessments becomes due.

19 ~~G.~~ H. This section does not prohibit:

20 1. Actions to recover sums for which subsection A OR B of this
21 section creates a lien.

22 2. An association from taking a deed in lieu of foreclosure.

23 ~~H.~~ I. A judgment or decree in any action brought under this
24 section ~~shall~~ MAY include costs and reasonable attorney fees for the
25 prevailing party.

26 ~~I.~~ J. The association on written request shall furnish to a
27 lienholder, escrow agent, unit owner or person designated by a unit owner
28 a statement setting forth the amount of ANY unpaid ~~assessments~~ COMMON
29 EXPENSE LIEN AND MEMBER EXPENSES against the unit. The statement shall be
30 furnished within ten days after receipt of the request. ~~and~~ The statement
31 is binding on the association, the board of directors and every unit owner
32 if the statement is requested by an escrow agency that is licensed
33 pursuant to title 6, chapter 7. Failure to provide the statement to the
34 escrow agent within the time provided for in this subsection extinguishes
35 any COMMON EXPENSE lien ~~for any unpaid assessment~~ then due.

36 ~~J.~~ K. Notwithstanding any provision in the condominium documents
37 or in any contract between the association and a management company OR ANY
38 OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH
39 ANY ATTORNEY, unless the unit owner directs otherwise, all payments
40 received on a unit owner's account shall be applied first to any unpaid
41 assessments, DUE BUT NOT DELINQUENT ASSESSMENTS, unpaid charges for late
42 payment of those assessments IF AUTHORIZED IN THE DECLARATION, unpaid
43 reasonable collection fees AND COSTS INCURRED OR APPLIED BY THE
44 ASSOCIATION and unpaid attorney fees and costs incurred with respect to
45 those assessments IF AWARDED BY A COURT, in that order, with any remaining

1 amounts applied next to other unpaid fees, charges and monetary penalties
2 or interest and late charges on any of those amounts.

3 ~~K.~~ L. For a delinquent account for unpaid COMMON EXPENSE
4 ~~assessments or for charges related to unpaid assessments~~ LIENS, the
5 association shall provide the following written notice to the unit owner
6 at the unit owner's address as provided to the association at least thirty
7 days before authorizing an attorney, or a collection agency that is not
8 acting as the association's managing agent, to begin collection activity
9 on behalf of the association:

10 Your account is delinquent. If you do not bring your account
11 current or make arrangements that are approved by the
12 association to bring your account current within thirty days
13 after the date of this notice, your account will be turned
14 over for further collection proceedings. Such collection
15 proceedings could include bringing a foreclosure action
16 against your property.

17 The notice shall be in boldfaced type or all capital letters and shall
18 include the contact information for the person that the unit owner may
19 contact to discuss payment. The notice shall be sent by certified mail,
20 return receipt requested, and may be included within other correspondence
21 sent to the unit owner regarding the unit owner's delinquent account.

22 ~~L.~~ M. ~~Beginning January 1, 2020,~~ Except for condominiums that have
23 fewer than fifty units and that do not contract with a third party to
24 perform management services on behalf of the association, the association
25 shall provide a statement of account in lieu of a periodic payment book to
26 the unit owner with the same frequency that assessments are provided for
27 in the declaration. The statement of account shall include the current
28 account balance due and the immediately preceding ledger history. If the
29 association offers the statement of account by electronic means, a unit
30 owner may opt to receive the statement electronically. The association
31 may stop providing any further statements of account to a unit owner if
32 collection activity begins by an attorney, or a collection agency that is
33 not acting as the association's managing agent, regarding that unit
34 owner's unpaid account. After collection activity begins, a unit owner
35 may request statements of account by written request to the attorney or
36 collection agency. Any request by a unit owner for a statement of account
37 after collection activity begins by an attorney or a collection agency
38 that is not acting as the association's managing agent must be fulfilled
39 by the attorney or the collection agency responsible for the collection.
40 The statement of account provided by the attorney or collection agency
41 responsible for the collection shall include all amounts claimed to be
42 owing to resolve the delinquency through the date set forth in the
43 statement, including attorney fees and costs, regardless of whether such
44 amounts have been reduced to judgment.

1 ~~M.~~ N. An agent for the association may collect on behalf of the
2 association directly from a unit owner the assessments and other amounts
3 owed by cash or check, by mailed or hand-delivered bank drafts, checks,
4 cashier's checks or money orders, by credit, charge or debit card or by
5 other electronic means. For any form of payment other than for cash or
6 for mailed or hand-delivered bank drafts, checks, cashier's checks or
7 money orders, the agent may charge a convenience fee to the unit owner
8 that is approximately the amount charged to the agent by a third-party
9 service provider. **THE ASSOCIATION MAY NOT TRANSFER OWNERSHIP OR CONTROL**
10 **OF DEBT FOR COMMON EXPENSE LIENS OR MEMBER EXPENSES.**

11 ~~N.~~ O. This section does not apply to timeshare plans or
12 associations that are subject to chapter 20 of this title.

13 Sec. 3. Section 33-1802, Arizona Revised Statutes, is amended to
14 read:

15 33-1802. Definitions

16 In this chapter and in the community documents, unless the context
17 otherwise requires:

18 1. "Association":

19 (a) Means a nonprofit corporation or unincorporated association of
20 owners that is created pursuant to a declaration to own and operate
21 portions of a planned community and that has the power under the
22 declaration to assess association members to pay the costs and expenses
23 incurred in the performance of the association's obligations under the
24 declaration. ~~Association~~

25 (b) Does not include a nonprofit corporation or unincorporated
26 association of owners that is created or incorporated before January 1,
27 1974 and that does not have authority to enforce covenants, conditions or
28 restrictions related to the use, occupancy or appearance of the separately
29 owned lots, parcels or units in a real estate development, unless the
30 nonprofit corporation or unincorporated association of owners elects to be
31 subject to this chapter pursuant to section 33-1801, subsection D.

32 2. "COMMON EXPENSE LIEN" MEANS ASSESSMENTS, CHARGES FOR LATE
33 PAYMENT OF ASSESSMENTS IF AUTHORIZED IN THE DECLARATION, REASONABLE
34 COLLECTION FEES AND COSTS INCURRED OR APPLIED BY THE ASSOCIATION AND
35 REASONABLE ATTORNEY FEES AND COSTS THAT ARE INCURRED WITH RESPECT TO THOSE
36 ASSESSMENTS, IF THE ATTORNEY FEES AND COSTS ARE AWARDED BY A COURT.

37 ~~2.~~ 3. "Community documents" means the declaration, bylaws,
38 articles of incorporation, if any, and rules, if any.

39 ~~3.~~ 4. "Declaration" means any instruments, however denominated,
40 that establish a planned community and any amendment to those instruments.

41 5. "MEMBER EXPENSES":

42 (a) MEANS FEES, CHARGES, LATE CHARGES AND MONETARY PENALTIES OR
43 INTEREST.

44 (b) DOES NOT INCLUDE ANY AMOUNT THAT IS INCLUDED IN A COMMON
45 EXPENSE LIEN.

1 ~~4.~~ 6. "Planned community":
2 (a) Means a real estate development that includes real estate owned
3 and operated by or real estate on which an easement to maintain roadways
4 or a covenant to maintain roadways is held by a nonprofit corporation or
5 unincorporated association of owners, that is created for the purpose of
6 managing, maintaining or improving the property and in which the
7 declaration expressly states both that the owners of separately owned
8 lots, parcels or units are mandatory members and that the owners are
9 required to pay assessments to the association for these purposes.

10 ~~Planned community~~

11 (b) Does not include any of the following:
12 ~~(a)~~ (i) A timeshare plan or a timeshare association that is
13 governed by chapter 20 of this title.
14 ~~(b)~~ (ii) A condominium that is governed by chapter 9 of this
15 title.
16 ~~(c)~~ (iii) A real estate development that is not managed or
17 maintained by an association.

18 Sec. 4. Section 33-1807, Arizona Revised Statutes, is amended to
19 read:

20 33-1807. Common expense liens; priority; mechanics' and
21 materialmen's liens; notice

22 A. The association has a COMMON EXPENSE lien on a ~~unit~~ PROPERTY for
23 any assessment levied against that ~~unit~~ PROPERTY from the time the
24 assessment becomes due. The association's COMMON EXPENSE lien ~~for~~
25 ~~assessments, for charges for late payment of those assessments, for~~
26 ~~reasonable collection fees and for reasonable attorney fees and costs~~
27 ~~incurred with respect to those assessments~~ may be foreclosed in the same
28 manner as a mortgage on real estate but may be foreclosed only if the
29 owner has been delinquent in the payment of monies secured by the COMMON
30 EXPENSE lien, excluding CHARGES FOR LATE PAYMENT OF ASSESSMENTS IF
31 AUTHORIZED IN THE DECLARATION, reasonable collection fees, ~~AND COSTS~~
32 ~~INCURRED OR APPLIED BY THE ASSOCIATION AND~~ reasonable attorney fees ~~and~~
33 ~~charges for late payment of~~ and costs incurred with respect to those
34 assessments IF AWARDED BY A COURT, for a period of one year or in the
35 amount of \$1,200 or more, whichever occurs first, as determined on the
36 date the action is filed. ~~Fees, charges, late charges, monetary penalties~~
37 ~~and interest charged pursuant to section 33-1803, other than charges for~~
38 ~~late payment of assessments~~ THE ASSOCIATION BOARD OF DIRECTORS SHALL
39 EXERCISE ALL REASONABLE EFFORTS TO COMMUNICATE WITH THE MEMBER, NEGOTIATE
40 REASONABLE PAYMENT PLANS OR APPLY ANY RELEVANT AND APPLICABLE COLLECTION
41 REMEDIES AVAILABLE PURSUANT TO TITLE 12, CHAPTER 9 BEFORE FILING A
42 FORECLOSURE ACTION. MEMBER EXPENSES are not enforceable as ~~assessments~~
43 COMMON EXPENSE LIENS under this ~~section~~ SUBSECTION. If an assessment is
44 payable in installments, the full amount of the assessment is a lien from
45 the time the first installment of the assessment becomes due.

1 B. The association has a lien for ~~fees, charges, late charges,~~
2 ~~other than charges for late payment of assessments, monetary penalties or~~
3 ~~interest charged pursuant to section 33-1803~~ MEMBER EXPENSES after the
4 entry of a judgment in a civil suit for those ~~fees, charges, late charges,~~
5 ~~monetary penalties or interest~~ MEMBER EXPENSES from a court of competent
6 jurisdiction and the recording of that judgment in the office of the
7 county recorder as otherwise provided by law. The association's lien for
8 ~~monies other than for assessments, for charges for late payment of those~~
9 ~~assessments, for reasonable collection fees and for reasonable attorney~~
10 ~~fees and costs incurred with respect to those assessments~~ MEMBER EXPENSES
11 may not be foreclosed and is effective only on conveyance of any interest
12 in the real property.

13 ~~B.~~ C. A COMMON EXPENSE lien ~~for assessments, for charges for late~~
14 ~~payment of those assessments, for reasonable collection fees and for~~
15 ~~reasonable attorney fees and costs incurred with respect to those~~
16 ~~assessments~~ under this section is prior to all other liens, interests and
17 encumbrances on a ~~unit~~ PROPERTY except:

18 1. Liens and encumbrances recorded before the recordation of the
19 declaration.

20 2. A recorded first mortgage on the ~~unit~~ PROPERTY, a seller's
21 interest in a first contract for sale pursuant to chapter 6, article 3 of
22 this title on the ~~unit~~ PROPERTY recorded ~~prior to~~ BEFORE the lien arising
23 pursuant to subsection A of this section or a recorded first deed of trust
24 on the ~~unit~~ PROPERTY.

25 3. Liens for real estate taxes and other governmental assessments
26 or charges against the ~~unit~~ PROPERTY.

27 ~~C.~~ D. Subsection ~~B~~ C of this section does not affect the priority
28 of mechanics' or materialmen's liens ~~or the priority of liens for other~~
29 ~~assessments made by the association.~~ The COMMON EXPENSE lien under this
30 section is not subject to chapter 8 of this title.

31 ~~D.~~ E. Unless the declaration otherwise provides, if two or more
32 associations have COMMON EXPENSE liens ~~for assessments~~ created at any time
33 on the same real estate those liens have equal priority.

34 ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and
35 perfection of the COMMON EXPENSE lien ~~for assessments, for charges for~~
36 ~~late payment of assessments, for reasonable collection fees and for~~
37 ~~reasonable attorney fees and costs incurred with respect to those~~
38 ~~assessments.~~ Further recordation of any claim of COMMON EXPENSE lien ~~for~~
39 ~~assessments~~ under this section is not required.

40 ~~F.~~ G. A COMMON EXPENSE lien ~~for an unpaid assessment~~ is
41 extinguished unless proceedings to enforce the lien are instituted within
42 six years after the full amount of the assessment becomes due.

1 ~~G.~~ H. This section does not prohibit:

2 1. Actions to recover amounts for which subsection A of this
3 section creates a lien.

4 2. An association from taking a deed in lieu of foreclosure.

5 ~~H.~~ I. A judgment or decree in any action brought under this
6 section ~~shall~~ MAY include costs and reasonable attorney fees for the
7 prevailing party.

8 ~~I.~~ J. On written request, the association shall furnish to a
9 lienholder, escrow agent, ~~unit owner~~ MEMBER or person designated by a ~~unit~~
10 ~~owner~~ MEMBER a statement setting forth the amount of any unpaid ~~assessment~~
11 ~~COMMON EXPENSE LIEN AND MEMBER EXPENSES~~ against the ~~unit~~ PROPERTY. The
12 association shall furnish the statement within ten days after receipt of
13 the request. ~~, and~~ The statement is binding on the association, the board
14 of directors and every unit owner if the statement is requested by an
15 escrow agency that is licensed pursuant to title 6, chapter 7. Failure to
16 provide the statement to the escrow agent within the time provided for in
17 this subsection extinguishes any ~~COMMON EXPENSE~~ lien ~~for any unpaid~~
18 ~~assessment~~ then due.

19 ~~J.~~ K. Notwithstanding any provision in the community documents or
20 in any contract between the association and a management company ~~OR ANY~~
21 ~~OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH~~
22 ~~ANY ATTORNEY~~, unless the member directs otherwise, all payments received
23 on a member's account shall be applied first to any unpaid assessments,
24 ~~DUE BUT NOT DELINQUENT ASSESSMENTS~~, unpaid charges for late payment of
25 those assessments ~~IF AUTHORIZED IN THE DECLARATION~~, unpaid reasonable
26 collection fees ~~AND COSTS INCURRED OR APPLIED BY THE ASSOCIATION~~, and
27 unpaid attorney fees and costs incurred with respect to those assessments
28 ~~IF AWARDED BY A COURT~~, in that order, with any remaining amounts applied
29 next to other unpaid fees, charges and monetary penalties or interest and
30 late charges on any of those amounts.

31 ~~K.~~ L. For a delinquent account for unpaid ~~assessments or for~~
32 ~~charges related to unpaid assessments~~ ~~COMMON EXPENSE LIENS~~, the
33 association shall provide the following written notice to the member at
34 the member's address as provided to the association at least thirty days
35 before authorizing an attorney, or a collection agency that is not acting
36 as the association's managing agent, to begin collection activity on
37 behalf of the association:

38 Your account is delinquent. If you do not bring your account
39 current or make arrangements that are approved by the
40 association to bring your account current within thirty days
41 after the date of this notice, your account will be turned
42 over for further collection proceedings. Such collection
43 proceedings could include bringing a foreclosure action
44 against your property.

1 The notice shall be in boldfaced type or all capital letters and shall
2 include the contact information for the person that the member may contact
3 to discuss payment. The notice shall be sent by certified mail, return
4 receipt requested, and may be included within other correspondence sent to
5 the member regarding the member's delinquent account.

6 ~~L. M. Beginning January 1, 2020,~~ Except for planned communities
7 that have fewer than fifty lots and that do not contract with a third
8 party to perform management services on behalf of the association, the
9 association shall provide a statement of account in lieu of a periodic
10 payment book to the member with the same frequency that assessments are
11 provided for in the declaration. The statement of account shall include
12 the current account balance due and the immediately preceding ledger
13 history. If the association offers the statement of account by electronic
14 means, a member may opt to receive the statement electronically. The
15 association may stop providing any further statements of account to a
16 member if collection activity begins by an attorney, or a collection
17 agency that is not acting as the association's managing agent, regarding
18 that member's unpaid account. After collection activity begins, a member
19 may request statements of account by written request to the attorney or
20 collection agency. Any request by a member for a statement of account
21 after collection activity begins by an attorney or a collection agency
22 that is not acting as the association's managing agent must be fulfilled
23 by the attorney or the collection agency responsible for the collection.
24 The statement of account provided by the attorney or collection agency
25 responsible for the collection shall include all amounts claimed to be
26 owing to resolve the delinquency through the date set forth in the
27 statement, including attorney fees and costs, regardless of whether such
28 amounts have been reduced to judgment.

29 ~~M. N.~~ An agent for the association may collect on behalf of the
30 association directly from a member the assessments and other amounts owed
31 by cash or check, by mailed or hand-delivered bank drafts, checks,
32 cashier's checks or money orders, by credit, charge or debit card or by
33 other electronic means. For any form of payment other than for cash or
34 for mailed or hand-delivered bank drafts, checks, cashier's checks or
35 money orders, the agent may charge a convenience fee to the member that is
36 approximately the amount charged to the agent by a third-party service
37 provider. **THE ASSOCIATION MAY NOT TRANSFER OWNERSHIP OR CONTROL OF DEBT**
38 **FOR COMMON EXPENSE LIENS OR MEMBER EXPENSES.**