

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2648

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 33-1256, Arizona Revised Statutes, is amended to  
3 read:

4 33-1256. Lien for common expense assessments; priority;  
5 mechanics' and materialmen's liens; notice;  
6 applicability

7 A. The association has a lien on a unit for any COMMON EXPENSE  
8 assessment levied against that unit from the time the assessment becomes  
9 due. The association's lien for COMMON EXPENSE assessments, ~~for~~ MAY  
10 INCLUDE REASONABLE charges OR INTEREST for late payment of those  
11 assessments ONLY IF AUTHORIZED IN THE DECLARATION, ~~for~~ reasonable  
12 collection COSTS OR fees INCURRED OR APPLIED BY THE ASSOCIATION ONLY, and  
13 ~~for~~ THOSE reasonable attorney fees and costs incurred BUT ONLY AS AWARDED  
14 BY THE COURT IN ANY ACTION with respect to those assessments. IF A COMMON  
15 EXPENSE ASSESSMENT IS PAYABLE IN INSTALLMENTS, THE FULL AMOUNT OF THE  
16 ASSESSMENT IS A LIEN FROM THE TIME THE FIRST INSTALLMENT OF THE ASSESSMENT  
17 BECOMES DUE.

18 B. THE COMMON EXPENSE ASSESSMENT LIEN PRESCRIBED BY THIS SECTION IS  
19 NOT SUBJECT TO THE HOMESTEAD EXEMPTION PRESCRIBED BY CHAPTER 8 OF THIS  
20 TITLE AND may be foreclosed in the same manner as a mortgage on real estate  
21 but may be foreclosed only if the UNIT owner has been AND REMAINS  
22 delinquent in the payment of ~~monies secured by the lien, excluding~~  
23 ~~reasonable collection fees, reasonable attorney fees and charges for late~~

1 ~~payment of and costs incurred with respect to those assessments;~~ COMMON  
2 EXPENSE ASSESSMENTS for a period of one year or in the amount of \$1,200 or  
3 more, whichever occurs first, as determined on the date the action is  
4 filed. ~~Fees, charges, late charges, monetary penalties and interest~~  
5 ~~charged pursuant to section 33-1242, subsection A, paragraphs 10, 11 and~~  
6 ~~12, other than charges for late payment of assessments, are not enforceable~~  
7 ~~as assessments under this section. If an assessment is payable in~~  
8 ~~installments, the full amount of the assessment is a lien from the time the~~  
9 ~~first installment of the assessment becomes due. The association has a~~  
10 ~~lien for fees, charges, late charges, other than charges for late payment~~  
11 ~~of assessments, monetary penalties or interest charged pursuant to section~~  
12 ~~33-1242, subsection A, paragraphs 10, 11 and 12 after the entry of a~~  
13 ~~judgment in a civil suit for those fees, charges, late charges, monetary~~  
14 ~~penalties or interest from a court of competent jurisdiction and the~~  
15 ~~recording of that judgment in the office of the county recorder as~~  
16 ~~otherwise provided by law. The association's lien for monies other than~~  
17 ~~for assessments, for charges for late payment of those assessments, for~~  
18 ~~reasonable collection fees and for reasonable attorney fees and costs~~  
19 ~~incurred with respect to those assessments may not be foreclosed and is~~  
20 ~~effective only on conveyance of any interest in the real property. Fees,~~  
21 ~~charges, late charges, monetary penalties and interest charged pursuant to~~  
22 ~~section 33-1242, subsection A, paragraphs 10, 11 and 12, other than charges~~  
23 ~~for late payment of assessments, are not enforceable as assessments under~~  
24 ~~this section. If an assessment is payable in installments, the full amount~~  
25 ~~of the assessment is a lien from the time the first installment of the~~  
26 ~~assessment becomes due. The association has a lien for fees, charges, late~~  
27 ~~charges, other than charges for late payment of assessments, monetary~~  
28 ~~penalties or interest charged pursuant to section 33-1242, subsection A,~~  
29 ~~paragraphs 10, 11 and 12 after the entry of a judgment in a civil suit for~~  
30 ~~those fees, charges, late charges, monetary penalties or interest from a~~  
31 ~~court of competent jurisdiction and the recording of that judgment in the~~  
32 ~~office of the county recorder as otherwise provided by law. The~~

1 ~~association's lien for monies other than for assessments, for charges for~~  
2 ~~late payment of those assessments, for reasonable collection fees and for~~  
3 ~~reasonable attorney fees and costs incurred with respect to those~~  
4 ~~assessments may not be foreclosed and is effective only on conveyance of~~  
5 ~~any interest in the real property.~~

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

11 1. Liens and encumbrances recorded before the recordation of the  
12 declaration.

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

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

19 ~~C.~~ D. Subsection ~~B~~ C of this section does not affect the priority  
20 of mechanics' or materialmen's liens or the priority of JUDGMENT liens for  
21 other assessments made by the association. ~~The lien under this section is~~  
22 ~~not subject to chapter 8 of this title.~~

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

26 ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and  
27 perfection of the lien for COMMON EXPENSE assessments, ~~AND~~ for charges for  
28 late payment of those assessments, ~~for reasonable collection fees and for~~  
29 ~~reasonable attorney fees and costs incurred with respect to those~~  
30 ~~assessments~~. Further recordation of any claim of lien for COMMON EXPENSE  
31 assessments under this section is not required.

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

4            ~~G.~~ H. This section does not prohibit:  
5            1. Actions to recover sums for which subsection A of this section  
6 creates a lien.  
7            2. An association from taking a deed in lieu of foreclosure.

8            ~~H.~~ I. A judgment or decree in any action brought under this section  
9 ~~shall~~ MAY include costs and reasonable attorney fees for the prevailing  
10 party ONLY IF ORDERED BY THE COURT.

11            ~~I.~~ J. The association on written request shall furnish to a  
12 lienholder, escrow agent, unit owner or person designated by a unit owner a  
13 statement setting forth the amount of ANY unpaid ~~assessments~~ ASSESSMENT  
14 LIENS PRESCRIBED BY SUBSECTION A OF THIS SECTION against the unit. The  
15 statement shall be furnished within ten CALENDAR days after receipt of the  
16 request. ~~and~~ The statement is binding on the association, ~~the board of~~  
17 ~~directors and every unit owner~~ if the statement is requested by an escrow  
18 agency that is licensed pursuant to title 6, chapter 7. Failure to provide  
19 the statement to the escrow agent within the time provided for in this  
20 subsection extinguishes any lien for any unpaid assessment then due.

21            ~~J.~~ K. Notwithstanding any provision in the condominium documents or  
22 in any contract between the association and a management company OR ANY  
23 OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH  
24 ANY ATTORNEY, unless the unit owner directs otherwise, all payments  
25 received on a unit owner's account shall be applied first to any unpaid  
26 DELINQUENT COMMON EXPENSE assessments, UNPAID CURRENT BUT NONDELINQUENT  
27 COMMON EXPENSE ASSESSMENTS, unpaid charges OR INTEREST for late payment of  
28 those assessments, unpaid reasonable collection COSTS OR fees and unpaid  
29 COURT-ORDERED attorney fees and costs incurred with respect to those  
30 assessments, in that order, with any remaining amounts applied next to  
31 other unpaid fees, charges and monetary penalties or interest and late  
32 charges on any of those amounts.

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

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

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

20           ~~L. M. Beginning January 1, 2020,~~ Except for condominiums that have  
21 fewer than fifty units and that do not contract with a third party to  
22 perform management services on behalf of the association, the association  
23 shall provide a statement of account in lieu of a periodic payment book to  
24 the unit owner with the same frequency that assessments are provided for in  
25 the declaration. The statement of account shall include the current  
26 account balance due and the immediately preceding ledger history. If the  
27 association offers the statement of account by electronic means, a unit  
28 owner may opt to receive the statement electronically. The association may  
29 stop providing any further statements of account to a unit owner if  
30 collection activity begins by an attorney, or a collection agency that is  
31 not acting as the association's managing agent, regarding that unit owner's  
32 unpaid account. After collection activity begins, a unit owner may request

1 statements of account by written request to the attorney or collection  
2 agency. Any request by a unit owner for a statement of account after  
3 collection activity begins by an attorney or a collection agency that is  
4 not acting as the association's managing agent must be fulfilled by the  
5 attorney or the collection agency responsible for the collection. The  
6 statement of account provided by the attorney or collection agency  
7 responsible for the collection shall include all amounts claimed to be  
8 owing to resolve the delinquency through the date set forth in the  
9 statement, ~~including attorney fees and costs, regardless of whether such~~  
10 ~~amounts have been reduced to judgment.~~

11 ~~M.~~ N. An agent for the association may collect on behalf of the  
12 association directly from a unit owner the assessments and other amounts  
13 owed by cash or check, by mailed or hand-delivered bank drafts, checks,  
14 cashier's checks or money orders, by credit, charge or debit card or by  
15 other electronic means. For any form of payment other than for cash or for  
16 mailed or hand-delivered bank drafts, checks, cashier's checks or money  
17 orders, the agent may charge a convenience fee to the unit owner that is  
18 approximately the amount charged to the agent by a third-party service  
19 provider.

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

22 Sec. 2. Title 33, chapter 9, article 3, Arizona Revised Statutes, is  
23 amended by adding section 33-1256.01, to read:

24 33-1256.01. Fees, charges, late charges, monetary penalties  
25 and interest; judgment lien only; exception

26 A. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS AND  
27 EXCEPT FOR CHARGES FOR LATE PAYMENT OF COMMON EXPENSE ASSESSMENTS AS  
28 PRESCRIBED BY SECTION 33-1256, A CONDOMINIUM ASSOCIATION THAT IS OWED FEES,  
29 CHARGES, LATE CHARGES AND MONETARY PENALTIES OR INTEREST CHARGED PURSUANT  
30 TO SECTION 33-1242, SUBSECTION A, PARAGRAPHS 10, 11 AND 12 DOES NOT HAVE A  
31 LIEN AGAINST THE DEBTOR'S UNIT FOR THOSE AMOUNTS AND THE UNPAID AMOUNTS ARE

1 NOT ENFORCEABLE AND COLLECTABLE AS COMMON EXPENSE ASSESSMENTS PURSUANT TO  
2 SECTION 33-1256.

3 B. THE ASSOCIATION HAS A LIEN FOR FEES, CHARGES AND LATE CHARGES,  
4 OTHER THAN CHARGES FOR LATE PAYMENT OF COMMON EXPENSE ASSESSMENTS, AND FOR  
5 MONETARY PENALTIES OR INTEREST CHARGED PURSUANT TO SECTION 33-1242,  
6 SUBSECTION A, PARAGRAPHS 10, 11 AND 12 ONLY AFTER THE ENTRY OF A JUDGMENT  
7 IN A CIVIL SUIT FOR THOSE FEES, CHARGES, LATE CHARGES, MONETARY PENALTIES  
8 OR INTEREST FROM A COURT OF COMPETENT JURISDICTION AND THE RECORDING OF  
9 THAT JUDGMENT IN THE OFFICE OF THE COUNTY RECORDER AS OTHERWISE PROVIDED BY  
10 LAW. THE ASSOCIATION'S JUDGMENT LIEN FOR MONIES PRESCRIBED BY THIS  
11 SUBSECTION MAY NOT BE FORECLOSED AND IS EFFECTIVE ONLY ON CONVEYANCE OF ANY  
12 INTEREST IN THE REAL PROPERTY.

13 C. SUBSECTION B OF THIS SECTION DOES NOT AFFECT THE PRIORITY OF  
14 MECHANICS' OR MATERIALMEN'S LIENS OR THE PRIORITY OF LIENS FOR OTHER  
15 ASSESSMENTS MADE BY THE ASSOCIATION.

16 D. THIS SECTION DOES NOT PROHIBIT ACTIONS TO RECOVER SUMS FOR WHICH  
17 SUBSECTION B OF THIS SECTION CREATES A LIEN.

18 E. A JUDGMENT OR DECREE IN ANY ACTION BROUGHT UNDER THIS SECTION MAY  
19 INCLUDE COSTS AND REASONABLE ATTORNEY FEES FOR THE PREVAILING PARTY ONLY IF  
20 ORDERED BY THE COURT.

21 F. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS OR IN  
22 ANY CONTRACT BETWEEN THE ASSOCIATION AND A MANAGEMENT COMPANY OR ANY OTHER  
23 AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH ANY  
24 ATTORNEY, UNLESS THE UNIT OWNER DIRECTS OTHERWISE, ALL PAYMENTS RECEIVED ON  
25 A UNIT OWNER'S ACCOUNT SHALL BE APPLIED FIRST TO ANY UNPAID DELINQUENT  
26 COMMON EXPENSE ASSESSMENTS, UNPAID CURRENT BUT NONDELINQUENT COMMON EXPENSE  
27 ASSESSMENTS, UNPAID CHARGES OR INTEREST FOR LATE PAYMENT OF THOSE  
28 ASSESSMENTS, UNPAID REASONABLE COLLECTION COSTS OR FEES AND UNPAID  
29 COURT-ORDERED ATTORNEY FEES AND COSTS INCURRED WITH RESPECT TO THOSE  
30 ASSESSMENTS, IN THAT ORDER, WITH ANY REMAINING AMOUNTS APPLIED NEXT TO  
31 OTHER UNPAID FEES, CHARGES AND MONETARY PENALTIES OR INTEREST AND LATE  
32 CHARGES ON ANY OF THOSE AMOUNTS.

1 G. THIS SECTION DOES NOT APPLY TO TIMESHARE PLANS OR ASSOCIATIONS  
2 THAT ARE SUBJECT TO CHAPTER 20 OF THIS TITLE.

3 Sec. 3. Section 33-1807, Arizona Revised Statutes, is amended to  
4 read:

5 33-1807. Lien for common expense assessments; priority;  
6 mechanics' and materialmen's liens; notice

7 A. The association has a lien on a unit PROPERTY for any COMMON  
8 EXPENSE assessment levied against that unit PROPERTY from the time the  
9 assessment becomes due. The association's lien for COMMON EXPENSE  
10 assessments, ~~for~~ MAY INCLUDE REASONABLE charges OR INTEREST for late  
11 payment of those assessments ONLY IF AUTHORIZED IN THE DECLARATION, ~~for~~  
12 reasonable collection COSTS OR fees INCURRED OR APPLIED BY THE ASSOCIATION  
13 ONLY, and ~~for~~ THOSE reasonable attorney fees and costs incurred BUT ONLY AS  
14 AWARDED BY THE COURT IN ANY ACTION with respect to those assessments. IF A  
15 COMMON EXPENSE ASSESSMENT IS PAYABLE IN INSTALLMENTS, THE FULL AMOUNT OF  
16 THE ASSESSMENT IS A LIEN FROM THE TIME THE FIRST INSTALLMENT OF THE  
17 ASSESSMENT BECOMES DUE.

18 B. THE COMMON EXPENSE ASSESSMENT LIEN PRESCRIBED BY THIS SECTION IS  
19 NOT SUBJECT TO THE HOMESTEAD EXEMPTION PRESCRIBED BY CHAPTER 8 OF THIS  
20 TITLE AND may be foreclosed in the same manner as a mortgage on real estate  
21 but may be foreclosed only if the owner has been AND REMAINS delinquent in  
22 the payment of ~~monies secured by the lien, excluding reasonable collection~~  
23 ~~fees, reasonable attorney fees and charges for late payment of and costs~~  
24 ~~incurred with respect to those assessments,~~ COMMON EXPENSE ASSESSMENTS for  
25 a period of one year or in the amount of \$1,200 or more, whichever occurs  
26 first, as determined on the date the action is filed. ~~fees, charges, late~~  
27 ~~charges, monetary penalties and interest charged pursuant to section~~  
28 ~~33-1803, other than charges for late payment of assessments are not~~  
29 ~~enforceable as assessments under this section. If an assessment is payable~~  
30 ~~in installments, the full amount of the assessment is a lien from the time~~  
31 ~~the first installment of the assessment becomes due. The association has a~~  
32 ~~lien for fees, charges, late charges, other than charges for late payment~~



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

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

16 1. Liens and encumbrances recorded before the recordation of the  
17 declaration.

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

23 3. Liens for real estate taxes and other governmental assessments or  
24 charges against the unit PROPERTY.

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

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

4           ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and  
5 perfection of the lien for COMMON EXPENSE assessments, ~~AND~~ for charges for  
6 late payment of THOSE assessments, ~~for reasonable collection fees and for~~  
7 ~~reasonable attorney fees and costs incurred with respect to those~~  
8 ~~assessments~~. Further recordation of any claim of lien for COMMON EXPENSE  
9 assessments under this section is not required.

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

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

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

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

17           ~~H.~~ I. A judgment or decree in any action brought under this section  
18 ~~shall~~ MAY include costs and reasonable attorney fees for the prevailing  
19 party ONLY IF ORDERED BY THE COURT.

20           ~~I.~~ J. On written request, the association shall furnish to a  
21 lienholder, escrow agent, ~~unit owner~~ MEMBER or person designated by a ~~unit~~  
22 ~~owner~~ MEMBER a statement setting forth the amount of any unpaid assessment  
23 LIENS PRESCRIBED BY SUBSECTION A OF THIS SECTION against the ~~unit~~  
24 PROPERTY. The association shall furnish the statement within ten CALENDAR  
25 days after receipt of the request. ~~, and~~ The statement is binding on the  
26 association, ~~the board of directors and every unit owner~~ if the statement  
27 is requested by an escrow agency that is licensed pursuant to title 6,  
28 chapter 7. Failure to provide the statement to the escrow agent within the  
29 time provided for in this subsection extinguishes any lien for any unpaid  
30 assessment then due.

1           ~~K.~~ K. Notwithstanding any provision in the community documents or  
2 in any contract between the association and a management company OR ANY  
3 OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH  
4 ANY ATTORNEY, unless the member directs otherwise, all payments received on  
5 a member's account shall be applied first to any unpaid DELINQUENT COMMON  
6 EXPENSE assessments, UNPAID CURRENT BUT NONDELINQUENT COMMON EXPENSE  
7 ASSESSMENTS, unpaid charges OR INTEREST for late payment of those  
8 assessments, unpaid reasonable collection COSTS OR fees and unpaid  
9 COURT-ORDERED attorney fees and costs incurred with respect to those  
10 assessments, in that order, with any remaining amounts applied next to  
11 other unpaid fees, charges and monetary penalties or interest and late  
12 charges on any of those amounts.

13           ~~L.~~ L. For a delinquent account for unpaid COMMON EXPENSE  
14 assessments or for charges related to unpaid COMMON EXPENSE assessments,  
15 the association shall provide the following written notice to the member at  
16 the member's address as provided to the association at least thirty days  
17 before authorizing an attorney, or a collection agency that is not acting  
18 as the association's managing agent, to begin collection activity on behalf  
19 of the association:

20           Your account is delinquent. If you do not bring your account  
21 current or make arrangements that are approved by the  
22 association to bring your account current within thirty days  
23 after the date of this notice, your account will be turned over  
24 for further collection proceedings. Such collection  
25 proceedings could include bringing a foreclosure action against  
26 your property.

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

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

24           ~~M. N.~~ An agent for the association may collect on behalf of the  
25 association directly from a member the assessments and other amounts owed  
26 by cash or check, by mailed or hand-delivered bank drafts, checks,  
27 cashier's checks or money orders, by credit, charge or debit card or by  
28 other electronic means. For any form of payment other than for cash or for  
29 mailed or hand-delivered bank drafts, checks, cashier's checks or money  
30 orders, the agent may charge a convenience fee to the member that is  
31 approximately the amount charged to the agent by a third-party service  
32 provider.

1           Sec. 4. Title 33, chapter 16, article 1, Arizona Revised Statutes,  
2 is amended by adding section 33-1807.01, to read:

3           33-1807.01. Fees, charges, late charges, monetary penalties  
4                               and interest; judgment lien only; exception

5           A. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS AND  
6 EXCEPT FOR CHARGES FOR LATE PAYMENT OF COMMON EXPENSE ASSESSMENTS AS  
7 PRESCRIBED BY SECTION 33-1803, AN ASSOCIATION THAT IS OWED FEES, CHARGES,  
8 LATE CHARGES AND MONETARY PENALTIES OR INTEREST CHARGED PURSUANT TO SECTION  
9 33-1803 DOES NOT HAVE A LIEN AGAINST THE DEBTOR'S PROPERTY FOR THOSE  
10 AMOUNTS AND THE UNPAID AMOUNTS ARE NOT ENFORCEABLE AND COLLECTABLE AS  
11 COMMON EXPENSE ASSESSMENTS PURSUANT TO SECTION 33-1807.

12           B. THE ASSOCIATION HAS A LIEN FOR FEES, CHARGES AND LATE CHARGES,  
13 OTHER THAN CHARGES FOR LATE PAYMENT OF COMMON EXPENSE ASSESSMENTS, AND FOR  
14 MONETARY PENALTIES OR INTEREST CHARGED PURSUANT TO SECTION 33-1803 ONLY  
15 AFTER THE ENTRY OF A JUDGMENT IN A CIVIL SUIT FOR THOSE FEES, CHARGES, LATE  
16 CHARGES, MONETARY PENALTIES OR INTEREST FROM A COURT OF COMPETENT  
17 JURISDICTION AND THE RECORDING OF THAT JUDGMENT IN THE OFFICE OF THE COUNTY  
18 RECORDER AS OTHERWISE PROVIDED BY LAW. THE ASSOCIATION'S JUDGMENT LIEN FOR  
19 MONIES PRESCRIBED BY THIS SUBSECTION MAY NOT BE FORECLOSED AND IS EFFECTIVE  
20 ONLY ON CONVEYANCE OF ANY INTEREST IN THE REAL PROPERTY.

21           C. SUBSECTION B OF THIS SECTION DOES NOT AFFECT THE PRIORITY OF  
22 MECHANICS' OR MATERIALMEN'S LIENS OR THE PRIORITY OF JUDGEMENT LIENS FOR  
23 OTHER ASSESSMENTS MADE BY THE ASSOCIATION.

24           D. THIS SECTION DOES NOT PROHIBIT ACTIONS TO RECOVER SUMS FOR WHICH  
25 SUBSECTION B OF THIS SECTION CREATES A LIEN.

26           E. A JUDGMENT OR DECREE IN ANY ACTION BROUGHT UNDER THIS SECTION MAY  
27 INCLUDE COSTS AND REASONABLE ATTORNEY FEES FOR THE PREVAILING PARTY ONLY IF  
28 ORDERED BY THE COURT.

29           F. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS OR IN  
30 ANY CONTRACT BETWEEN THE ASSOCIATION AND A MANAGEMENT COMPANY OR ANY OTHER  
31 AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH ANY  
32 ATTORNEY, UNLESS THE MEMBER DIRECTS OTHERWISE, ALL PAYMENTS RECEIVED ON A

1 MEMBER'S ACCOUNT SHALL BE APPLIED FIRST TO ANY UNPAID DELINQUENT COMMON  
2 EXPENSE ASSESSMENTS, UNPAID CURRENT BUT NONDELINQUENT COMMON EXPENSE  
3 ASSESSMENTS, UNPAID CHARGES OR INTEREST FOR LATE PAYMENT OF THOSE  
4 ASSESSMENTS, UNPAID REASONABLE COLLECTION COSTS OR FEES AND UNPAID  
5 COURT-ORDERED ATTORNEY FEES AND COSTS INCURRED WITH RESPECT TO THOSE  
6 ASSESSMENTS, IN THAT ORDER, WITH ANY REMAINING AMOUNTS APPLIED NEXT TO  
7 OTHER UNPAID FEES, CHARGES AND MONETARY PENALTIES OR INTEREST AND LATE  
8 CHARGES ON ANY OF THOSE AMOUNTS."

9 Amend title to conform

NEAL CARTER

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02/09/2024  
11:15 PM  
C: MR