

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2824

AN ACT

AMENDING SECTION 10-11602, ARIZONA REVISED STATUTES; AMENDING SECTION 33-1242, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 71, SECTION 1; AMENDING SECTION 33-1803, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 71, SECTION 5; AMENDING SECTION 33-1805, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 71, SECTION 7; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, TO "ADMINISTRATIVE HEARINGS"; AMENDING SECTION 41-2198, 41-2198.01, 41-2198.02, 41-2198.03 AND 41-2198.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2198.05; RELATING TO HOMEOWNERS' ASSOCIATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 10-11602, Arizona Revised Statutes, is amended to
3 read:

4 10-11602. Inspection of records by members; applicability

5 A. Subject to subsections E and F of this section, any member who has
6 been a member of record at least six months immediately preceding its demand
7 is entitled to inspect and copy any of the records of the corporation
8 described in section 10-11601, subsection E during regular business hours at
9 the corporation's principal office, if the member gives the corporation
10 written notice of its demand as provided in section 10-3141 at least five
11 business days before the date on which the member wishes to inspect and copy.

12 B. Subject to subsections E and F of this section, a member who has
13 been a member of record at least six months immediately preceding its demand
14 is entitled to inspect and copy any of the following records of the
15 corporation during regular business hours at a reasonable location specified
16 by the corporation, if the member meets the requirements of subsection C of
17 this section and gives the corporation written notice of its demand as
18 provided in section 10-3141 at least five business days before the date on
19 which the member wishes to inspect and copy the following:

20 1. Excerpts from any records required to be maintained under section
21 10-11601, subsection A, to the extent not subject to inspection under
22 subsection A of this section.

23 2. Accounting records of the corporation.

24 3. Subject to section 10-11605, the membership list described in
25 section 10-11601, subsection C.

26 4. The corporation's most recent financial statements showing in
27 reasonable detail its assets and liabilities and the results of its
28 operations.

29 C. A member may inspect and copy the records identified in
30 subsection B of this section only if the following conditions are met:

31 1. The member's demand is made in good faith and for a proper purpose.

32 2. The member describes with reasonable particularity the member's
33 purpose and the records the member desires to inspect.

34 3. The records are directly connected with the member's purpose.

35 D. This section does not affect either:

36 1. The right of a member to inspect records under section 10-3720 or,
37 if the member is in litigation with the corporation, to the same extent as
38 any other litigant.

39 2. The power of a court, independently of chapters 24 through 40 of
40 this title, to compel the production of corporate records for examination on
41 proof by a member of proper purpose.

42 E. The articles of incorporation or bylaws of a corporation organized
43 primarily for religious purposes may limit or abolish the right of a member
44 under this section to inspect and copy any corporate record.

1 F. Unless the board of directors has provided express permission to
2 the member, a member of a corporation that is a rural electric cooperative is
3 not entitled to inspect or copy any records, documents or other materials
4 that are maintained by or in the possession of the corporation and that
5 relate to any of the following:

- 6 1. Personnel matters or a person's medical records.
- 7 2. Communications between an attorney for the corporation and the
8 corporation.
- 9 3. Pending or contemplated litigation.
- 10 4. Pending or contemplated matters relating to enforcement of the
11 corporation's documents or rules.

12 G. ~~Sections 33-1258 and 33-1805, relating to association financial and~~
13 ~~other records,~~ THIS SECTION DOES NOT apply to any corporation that is a
14 condominium as defined in section 33-1202 or a planned community as defined
15 in section 33-1802.

16 H. This section does not apply to timeshare plans or associations that
17 are subject to title 33, chapter 20.

18 Sec. 2. Section 33-1242, Arizona Revised Statutes, as amended by
19 Laws 2006, chapter 71, section 1, is amended to read:

20 33-1242. Powers of unit owners' association; notice to unit
21 owner of violation

- 22 A. Subject to the provisions of the declaration, the association may:
 - 23 1. Adopt and amend bylaws and rules.
 - 24 2. Adopt and amend budgets for revenues, expenditures and reserves and
25 collect assessments for common expenses from unit owners.
 - 26 3. Hire and discharge managing agents and other employees, agents and
27 independent contractors.
 - 28 4. Institute, defend or intervene in litigation or administrative
29 proceedings in its own name on behalf of itself or two or more unit owners on
30 matters affecting the condominium.
 - 31 5. Make contracts and incur liabilities.
 - 32 6. Regulate the use, maintenance, repair, replacement and modification
33 of common elements.
 - 34 7. Cause additional improvements to be made as a part of the common
35 elements.
 - 36 8. Acquire, hold, encumber and convey in its own name any right, title
37 or interest to real or personal property, except that common elements may be
38 conveyed or subjected to a security interest only pursuant to section
39 33-1252.
 - 40 9. Grant easements, leases, licenses and concessions through or over
41 the common elements.
 - 42 10. Impose and receive any payments, fees or charges for the use,
43 rental or operation of the common elements other than limited common elements

1 described in section 33-1212, paragraphs 2 and 4 and for services provided to
2 unit owners.

3 11. Impose charges for late payment of assessments and, after notice
4 and an opportunity to be heard, impose reasonable monetary penalties upon
5 unit owners for violations of the declaration, bylaws and rules of the
6 association.

7 12. Impose reasonable charges for the preparation and recordation of
8 amendments to the declaration or statements of unpaid assessments.

9 13. Provide for the indemnification of its officers and executive board
10 of directors and maintain directors' and officers' liability insurance.

11 14. Assign its right to future income, including the right to receive
12 common expense assessments, but only to the extent the declaration expressly
13 provides.

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

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

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

21 18. Exercise any other powers necessary and proper for the governance
22 and operation of the association.

23 B. ~~Before taking action to enforce the provisions of the condominium~~
24 ~~documents regarding the condition of the unit owner's property, the~~
25 ~~association shall provide the unit owner with written notice of the violation~~
26 ~~of the condominium documents and a description of the process the unit owner~~
27 ~~must follow to contest the notice.~~ A unit owner who receives a written
28 notice that the condition of the property owned by the unit owner is in
29 violation of a requirement of the condominium documents without regard to
30 whether a monetary penalty is imposed by the notice may provide the
31 association with a written response by sending the response by certified mail
32 within ten business days after the date of the notice. The response shall be
33 sent to the address contained **IN THE NOTICE OR** in the recorded notice
34 prescribed by section 33-1256, subsection J.

35 C. Within ten business days after receipt of the certified mail
36 containing the response from the unit owner, the association shall respond to
37 the unit owner with a written explanation regarding the notice. ~~The written~~
38 ~~explanation from the association~~ **THAT** shall provide at least the following
39 information **UNLESS PREVIOUSLY PROVIDED IN THE NOTICE OF VIOLATION:**

40 1. The provision of the condominium documents that has allegedly been
41 violated.

42 2. The date of the violation or the date the violation was observed.

43 3. The first and last name of the person or persons who observed the
44 violation.

1 4. THE PROCESS THE UNIT OWNER MUST FOLLOW TO CONTEST THE NOTICE.

2 ~~C.~~ D. UNLESS THE INFORMATION REQUIRED IN SUBSECTION C, PARAGRAPH 4 OF
3 THIS SECTION IS PROVIDED IN THE NOTICE OF VIOLATION, the association shall
4 not proceed with any action to enforce the condominium documents, including
5 the collection of attorney fees, before or during the time prescribed by
6 subsection ~~B~~-C of this section regarding the exchange of information between
7 the association and the unit owner. AT ANY TIME BEFORE OR AFTER COMPLETION
8 OF THE EXCHANGE OF INFORMATION PURSUANT TO THIS SECTION, THE UNIT OWNER MAY
9 PETITION FOR A HEARING PURSUANT TO SECTION 41-2198.01 IF THE DISPUTE IS
10 WITHIN THE JURISDICTION OF THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY
11 AS PRESCRIBED IN SECTION 41-2198.01, SUBSECTION B.

12 Sec. 3. Section 33-1803, Arizona Revised Statutes, as amended by
13 Laws 2006, chapter 71, section 5, is amended to read:

14 33-1803. Penalties; notice to member of violation

15 A. Unless limitations in the community documents would result in a
16 lower limit for the assessment, the association shall not impose a regular
17 assessment that is more than twenty per cent greater than the immediately
18 preceding fiscal year's assessment without the approval of the majority of
19 the members of the association. Unless reserved to the members of the
20 association, the board of directors may impose reasonable charges for the
21 late payment of assessments. A payment by a member is deemed late if it is
22 unpaid fifteen or more days after its due date, unless the community
23 documents provide for a longer period. Charges for the late payment of
24 assessments are limited to the greater of fifteen dollars or ten per cent of
25 the amount of the unpaid assessment. Any monies paid by the member for an
26 unpaid assessment shall be applied first to the principal amount unpaid and
27 then to the interest accrued.

28 B. After notice and an opportunity to be heard, the board of directors
29 may impose reasonable monetary penalties on members for violations of the
30 declaration, bylaws and rules of the association. Notwithstanding any
31 provision in the community documents, the board of directors shall not impose
32 a charge for a late payment of a penalty that exceeds the greater of fifteen
33 dollars or ten per cent of the amount of the unpaid penalty. A payment is
34 deemed late if it is unpaid fifteen or more days after its due date, unless
35 the declaration, bylaws or rules of the association provide for a longer
36 period. Any monies paid by a member for an unpaid penalty shall be applied
37 first to the principal amount unpaid and then to the interest
38 accrued. Notice pursuant to this subsection shall include information
39 pertaining to the manner in which the penalty shall be enforced.

40 C. ~~Before taking action to enforce the provisions of the community~~
41 ~~documents regarding the condition of the member's property, the association~~
42 ~~shall provide the member with written notice of the violation of the~~
43 ~~community documents and a description of the process the member must follow~~
44 ~~to contest the notice.~~ A member who receives a written notice that the

1 condition of the property owned by the member is in violation of the
2 community documents without regard to whether a monetary penalty is imposed
3 by the notice may provide the association with a written response by sending
4 the response by certified mail within ten business days after the date of the
5 notice. The response shall be sent to the address contained IN THE NOTICE OR
6 in the recorded notice prescribed by section 33-1807, subsection J.

7 D. Within ten business days after receipt of the certified mail
8 containing the response from the member, the association shall respond to the
9 member with a written explanation regarding the notice. ~~The written~~
10 ~~explanation from the association~~ THAT shall provide at least the following
11 information UNLESS PREVIOUSLY PROVIDED IN THE NOTICE OF VIOLATION:

12 1. The provision of the community documents that has allegedly been
13 violated.

14 2. The date of the violation or the date the violation was observed.

15 3. The first and last name of the person or persons who observed the
16 violation.

17 4. THE PROCESS THE MEMBER MUST FOLLOW TO CONTEST THE NOTICE.

18 ~~D~~ E. UNLESS THE INFORMATION REQUIRED IN SUBSECTION D, PARAGRAPH 4 OF
19 THIS SECTION IS PROVIDED IN THE NOTICE OF VIOLATION, the association shall
20 not proceed with any action to enforce the community documents, including the
21 collection of attorney fees, before or during the time prescribed by
22 subsection ~~C~~ D of this section regarding the exchange of information between
23 the association and the member. AT ANY TIME BEFORE OR AFTER COMPLETION OF
24 THE EXCHANGE OF INFORMATION PURSUANT TO THIS SECTION, THE MEMBER MAY PETITION
25 FOR A HEARING PURSUANT TO SECTION 41-2198.01 IF THE DISPUTE IS WITHIN THE
26 JURISDICTION OF THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY AS
27 PRESCRIBED IN SECTION 41-2198.01, SUBSECTION B.

28 Sec. 4. Section 33-1805, Arizona Revised Statutes, as amended by
29 Laws 2006, chapter 71, section 7, is amended to read:

30 33-1805. Association financial and other records

31 A. Except as provided in subsection B of this section, all financial
32 and other records of the association shall be made reasonably available for
33 examination by any member or any person designated by the member in writing
34 as the member's representative. The association shall not charge a member or
35 any person designated by the member in writing for making material available
36 for review. The association shall have ten business days to fulfill a
37 request for examination. On request for purchase of copies of records by any
38 member or any person designated by the member in writing as the member's
39 representative, the association shall have ten business days to provide
40 copies of the requested records. An association may charge a fee for making
41 copies of not more than fifteen cents per page.

42 B. Books and records kept by or on behalf of the association and the
43 board may be withheld from disclosure to the extent that the portion withheld
44 relates to any of the following:

- 1 1. Privileged communication between an attorney for the association
2 and the association.
- 3 2. Pending litigation.
- 4 3. Meeting minutes or other records of a session of a board meeting
5 that is not required to be open to all members pursuant to section 33-1804.
- 6 4. Personal, health or financial records of an individual member of
7 the association, an individual employee of the association or an individual
8 employee of a contractor for the association, including records of the
9 association directly related to the personal, health or financial information
10 ABOUT AN INDIVIDUAL MEMBER OF THE ASSOCIATION, AN INDIVIDUAL EMPLOYEE OF THE
11 ASSOCIATION OR AN INDIVIDUAL EMPLOYEE OF A CONTRACTOR FOR THE ASSOCIATION.
- 12 5. Records relating to the job performance of, compensation of, health
13 records of or specific complaints against an individual employee of the
14 association or an individual employee of a contractor of the association who
15 works under the direction of the association.
- 16 C. The association shall not be required to disclose financial and
17 other records of the association if disclosure would violate any state or
18 federal law.
- 19 Sec. 5. Heading change
- 20 The article heading of title 41, chapter 16, article 5, Arizona Revised
21 Statutes, is changed from "MOBILE HOME PARKS HEARING OFFICER FUNCTION" to
22 "ADMINISTRATIVE HEARINGS".
- 23 Sec. 6. Section 41-2198, Arizona Revised Statutes, is amended to read:
24 41-2198. Administrative adjudication of complaints
25 PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE, an administrative law
26 judge shall adjudicate complaints regarding and ensure compliance with:
27 1. The Arizona mobile home parks residential landlord and tenant act
28 ~~pursuant to title 41, chapter 6, article 10.~~
- 29 2. TITLE 33, CHAPTER 9 AND CONDOMINIUM DOCUMENTS.
- 30 3. TITLE 33, CHAPTER 16 AND PLANNED COMMUNITY DOCUMENTS.
- 31 Sec. 7. Section 41-2198.01, Arizona Revised Statutes, is amended to
32 read:
33 41-2198.01. Hearing; rights and procedures
- 34 A. A person who is subject to title 33, chapter 11 or a party to a
35 rental agreement entered into pursuant to title 33, chapter 11 may petition
36 the department for a hearing concerning violations of the Arizona mobile home
37 parks residential landlord and tenant act by filing a petition with the
38 department and paying a ~~fifty-dollar~~ NONREFUNDABLE filing fee IN AN AMOUNT TO
39 BE ESTABLISHED BY THE DIRECTOR. All monies collected shall be deposited in
40 the state general fund and are not refundable.
- 41 B. FOR A DISPUTE BETWEEN AN OWNER AND A CONDOMINIUM ASSOCIATION OR
42 PLANNED COMMUNITY ASSOCIATION THAT IS REGULATED PURSUANT TO TITLE 33, CHAPTER
43 9 OR 16, THE OWNER OR ASSOCIATION MAY PETITION THE DEPARTMENT FOR A HEARING
44 CONCERNING VIOLATIONS OF CONDOMINIUM DOCUMENTS OR PLANNED COMMUNITY DOCUMENTS

1 OR VIOLATIONS OF THE STATUTES THAT REGULATE CONDOMINIUMS OR PLANNED
2 COMMUNITIES. THE PETITIONER SHALL FILE A PETITION WITH THE DEPARTMENT AND
3 PAY A NONREFUNDABLE FILING FEE IN AN AMOUNT TO BE ESTABLISHED BY THE
4 DIRECTOR. THE FILING FEE SHALL BE DEPOSITED IN THE CONDOMINIUM AND PLANNED
5 COMMUNITY HEARING OFFICE FUND ESTABLISHED BY SECTION 41-2198.05. THE
6 DEPARTMENT DOES NOT HAVE JURISDICTION TO HEAR:

7 1. ANY DISPUTE AMONG OR BETWEEN OWNERS TO WHICH THE ASSOCIATION IS NOT
8 A PARTY.

9 2. ANY DISPUTE BETWEEN AN OWNER AND ANY PERSON, FIRM, PARTNERSHIP,
10 CORPORATION, ASSOCIATION OR OTHER ORGANIZATION THAT IS ENGAGED IN THE
11 BUSINESS OF DESIGNING, CONSTRUCTING OR SELLING A CONDOMINIUM AS DEFINED IN
12 SECTION 33-1202 OR ANY PROPERTY OR IMPROVEMENTS WITHIN A PLANNED COMMUNITY AS
13 DEFINED IN SECTION 33-1802, INCLUDING ANY PERSON, FIRM, PARTNERSHIP,
14 CORPORATION, ASSOCIATION OR OTHER ORGANIZATION LICENSED PURSUANT TO TITLE 32,
15 CHAPTER 20, ARISING OUT OF OR RELATED TO THE DESIGN, CONSTRUCTION, CONDITION
16 OR SALE OF THE CONDOMINIUM OR ANY PROPERTY OR IMPROVEMENTS WITHIN A PLANNED
17 COMMUNITY.

18 ~~B.~~ C. The petition shall be in writing on a form approved by the
19 department, shall list the complaints and shall be signed by or on behalf of
20 the persons filing and include their addresses, stating that a hearing is
21 desired, and shall be filed with the department.

22 ~~C.~~ D. On receipt of the petition and the filing fee the department
23 shall mail by certified mail a copy of the petition along with notice to the
24 named respondent that a response is required within ~~ten~~ TWENTY days of
25 mailing of the petition showing cause, if any, why the petition should be
26 dismissed.

27 ~~D.~~ E. After receiving the response, the director or ~~his~~ THE
28 DIRECTOR'S designee shall promptly review the petition for hearing and, if
29 justified, refer the petition to the office of administrative ~~appeals~~
30 HEARINGS. The director may dismiss a petition for hearing if it appears to
31 ~~his~~ THE DIRECTOR'S satisfaction that the disputed issue or issues have been
32 resolved by the parties.

33 ~~E.~~ F. Failure of the respondent to answer is deemed an admission of
34 the allegations made in the petition, and the ~~administrative law judge may~~
35 ~~proceed with a default hearing~~ DIRECTOR SHALL ISSUE A DEFAULT DECISION.

36 ~~F.~~ G. Informal disposition may be made of any contested case.

37 ~~G.~~ H. Either party or ~~his~~ THE PARTY'S authorized agent may inspect
38 any file of the department that pertains to the hearing, if such
39 authorization is filed in writing with the department.

40 ~~H.~~ I. At a hearing conducted pursuant to this section, a corporation
41 may be represented by a corporate officer, ~~or~~ employee OR CONTRACTOR OF THE
42 CORPORATION who is not a member of the state bar if:

43 1. The corporation has specifically authorized the officer ~~or~~,
44 employee OR CONTRACTOR OF THE CORPORATION to represent it.

1 2. The representation is not the officer's ~~or~~, employee's OR
2 CONTRACTOR OF THE CORPORATION'S primary duty to the corporation but is
3 secondary or incidental to the officer's or employee's duties relating to the
4 management or operation of the corporation.

5 Sec. 8. Section 41-2198.02, Arizona Revised Statutes, is amended to
6 read:

7 41-2198.02. Orders; penalties; disposition

8 A. The administrative law judge may order any party to abide by the
9 statute, CONDOMINIUM DOCUMENTS, COMMUNITY DOCUMENTS or contract provision at
10 issue and may levy a civil penalty on the basis of each violation. FOR
11 PURPOSES OF ACTIONS BROUGHT UNDER THE ARIZONA MOBILE HOME PARKS RESIDENTIAL
12 LANDLORD AND TENANT ACT, THE CIVIL PENALTY SHALL NOT EXCEED FIVE HUNDRED
13 DOLLARS. All monies collected pursuant to this article shall be deposited in
14 the state general fund to be used to offset the cost of administering the
15 administrative law judge function, EXCEPT THAT MONIES COLLECTED FROM DISPUTES
16 INVOLVING CONDOMINIUMS OR PLANNED COMMUNITIES AS PRESCRIBED IN SECTION
17 41-2198.01, SUBSECTION B SHALL BE DEPOSITED IN THE CONDOMINIUM AND PLANNED
18 COMMUNITY HEARING OFFICE FUND ESTABLISHED BY SECTION 41-2198.05. If the
19 petitioner prevails, the administrative law judge shall order the respondent
20 to pay to the petitioner the filing fee required by section 41-2198.01.

21 B. The order issued by the administrative law judge is binding on the
22 parties unless a rehearing is granted pursuant to section 41-2198.04 based on
23 a petition setting forth the reasons for the request for rehearing, in which
24 case the order issued at the conclusion of the rehearing is binding on the
25 parties. NOTWITHSTANDING SECTIONS 41-1092.08, SUBSECTION B AND 41-1092.09,
26 AN ORDER ISSUED BY THE ADMINISTRATIVE LAW JUDGE IN AN ACTION REGARDING A
27 CONDOMINIUM OR PLANNED COMMUNITY IS THE FINAL ADMINISTRATIVE DECISION AND IS
28 NOT SUBJECT TO A REQUEST FOR REHEARING. The order issued by the
29 administrative law judge is enforceable through contempt of court
30 proceedings.

31 Sec. 9. Section 41-2198.03, Arizona Revised Statutes, is amended to
32 read:

33 41-2198.03. Scope of hearing

34 A. The administrative law judge may hear and adjudicate all matters
35 relating to the Arizona mobile home parks residential landlord and tenant act
36 and rules adopted pursuant to this article, except that the administrative
37 law judge shall not hear matters pertaining to rental increases pursuant to
38 section 33-1413, subsection G or I. ~~and does not have the authority to~~
39 ~~impose civil penalties.~~

40 B. This section shall not be construed to limit the jurisdiction of
41 the courts of this state to hear and decide matters pursuant to the Arizona
42 mobile home parks residential landlord and tenant act, THE STATUTES OR
43 CONDOMINIUM DOCUMENTS THAT REGULATE CONDOMINIUMS OR THE STATUTES OR COMMUNITY
44 DOCUMENTS THAT REGULATE PLANNED COMMUNITIES.

1 Sec. 10. Section 41-2198.04, Arizona Revised Statutes, is amended to
2 read:

3 41-2198.04. Rehearing; appeal

4 A. EXCEPT FOR AN ACTION RELATING TO CONDOMINIUM DOCUMENTS OR PLANNED
5 COMMUNITY DOCUMENTS OR THE STATUTES REGULATING CONDOMINIUMS OR PLANNED
6 COMMUNITIES, a person aggrieved by a decision of the administrative law judge
7 may apply for a rehearing by filing with the director a petition in writing
8 pursuant to section 41-1092.09. Within ten days after filing such petition,
9 the director shall serve notice of the request on the other party by mailing
10 a copy of the petition in the manner prescribed in section 41-2198.01 for
11 notice of hearing.

12 B. The filing of a petition for rehearing temporarily suspends the
13 operation of the administrative law judge's action. If the petition is
14 granted, the administrative law judge's action is suspended pending the
15 decision on the rehearing.

16 C. In the order granting or denying a rehearing, the director shall
17 include a statement of the particular grounds and reasons for the director's
18 action on the petition and shall promptly mail a copy of the order to the
19 parties who have appeared in support of or in opposition to the petition for
20 rehearing.

21 D. In a rehearing conducted pursuant to this section, a corporation
22 may be represented by a corporate officer or employee who is not a member of
23 the state bar if:

24 1. The corporation has specifically authorized such officer or
25 employee to represent it.

26 2. Such representation is not the officer's or employee's primary duty
27 to the corporation but is secondary or incidental to such officer's or
28 employee's duties relating to the management or operation of the corporation.

29 Sec. 11. Title 41, chapter 16, article 5, Arizona Revised Statutes, is
30 amended by adding section 41-2198.05, to read:

31 41-2198.05. Condominium and planned community hearing office
32 fund

33 A. THE CONDOMINIUM AND PLANNED COMMUNITY HEARING OFFICE FUND IS
34 ESTABLISHED IN THE DEPARTMENT TO BE ADMINISTERED BY THE DIRECTOR. MONIES IN
35 THE FUND ARE CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE DIRECTOR, THE
36 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
37 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
38 FUND.

39 B. MONIES IN THE CONDOMINIUM AND PLANNED COMMUNITY HEARING OFFICE FUND
40 SHALL BE USED TO REIMBURSE THE ACTUAL COSTS OF THE OFFICE OF ADMINISTRATIVE
41 HEARINGS IN CONDUCTING HEARINGS PURSUANT TO SECTION 41-2198.01, SUBSECTION B,
42 MONIES REMAINING IN THE FUND MAY BE USED BY THE DEPARTMENT TO OFFSET THE
43 COSTS OF ADMINISTERING CASES FILED PURSUANT TO SECTION 41-2198.01,
44 SUBSECTION B.

