

REFERENCE TITLE: condominiums; planned communities; resale fees

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

# SB 1211

Introduced by  
Senator Pearce R

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; applicability;  
5 definition

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

- 12 1. A copy of the bylaws and the rules of the association.
- 13 2. A copy of the declaration.
- 14 3. A dated statement containing:

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

19 (b) The amount of the common expense assessment for the unit and any  
20 unpaid common expense assessment, special assessment or other assessment, fee  
21 or charge currently due and payable from the selling unit owner.

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

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

25 (e) If the statement is being furnished by the association, a  
26 statement as to whether the records of the association reflect any  
27 alterations or improvements to the unit that violate the declaration. The  
28 association is not obligated to provide information regarding alterations or  
29 improvements that occurred more than six years before the proposed sale.  
30 Nothing in this subdivision relieves the seller of a unit from the obligation  
31 to disclose alterations or improvements to the unit that violate the  
32 declaration, nor precludes the association from taking action against the  
33 purchaser of a unit for violations that are apparent at the time of purchase  
34 and that are not reflected in the association's records.

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

38 (g) A statement of case names and case numbers for pending litigation  
39 with respect to the unit filed by the association against the unit owner or  
40 filed by the unit owner against the association. The unit owner or the  
41 association shall not be required to disclose information concerning the  
42 pending litigation that would violate any applicable rule of attorney-client  
43 privilege under Arizona law.

1 (h) A statement that provides "I hereby acknowledge that the  
2 declaration, bylaws and rules of the association constitute a contract  
3 between the association and me (the purchaser). By signing this statement, I  
4 acknowledge that I have read and understand the association's contract with  
5 me (the purchaser). I also understand that as a matter of Arizona law, if I  
6 fail to pay my association assessments, the association may foreclose on my  
7 property." The statement shall also include a signature line for the  
8 purchaser and shall be returned to the association within fourteen calendar  
9 days.

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

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

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

15 B. A purchaser or seller who is damaged by the failure of the unit  
16 owner or the association to disclose the information required by subsection A  
17 of this section may pursue all remedies at law or in equity against the unit  
18 owner or the association, whichever failed to comply with subsection A of  
19 this section, including the recovery of reasonable attorney fees.

20 C. The association may charge the unit owner a reasonable fee to  
21 compensate the association for the costs incurred in the preparation of a  
22 statement furnished by the association pursuant to this section. The  
23 association shall make available to any interested party the amount of any  
24 fee established from time to time by the association. **ALL FEES PAID BY A  
25 UNIT OWNER FOR A PROPOSED TRANSACTION SHALL BE REFUNDED TO THE UNIT OWNER IF  
26 THE TRANSACTION IS NOT COMPLETED.**

27 D. A sale in which a public report is issued pursuant to sections  
28 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt  
29 from this section.

30 E. This section does not apply to timeshare plans or associations that  
31 are subject to chapter 20 of this title.

32 F. For the purposes of this section, unless the context otherwise  
33 requires, "unit owner" means the seller of the condominium unit title and  
34 excludes any real estate salesperson or real estate broker who is licensed  
35 under title 32, chapter 20 and who is acting as a salesperson or broker and  
36 also excludes a trustee of a deed of trust who is selling the property in a  
37 trustee's sale pursuant to chapter 6.1 of this title.

38 Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to read:  
39 **33-1806. Resale of units; information required; definition**

40 A. For planned communities with fewer than fifty units, a member shall  
41 mail or deliver to a purchaser within ten days after receipt of a written  
42 notice of a pending sale of the unit, and for planned communities with fifty  
43 or more units, the association shall mail or deliver to a purchaser within  
44 ten days after receipt of a written notice of a pending sale that contains  
45 the name and address of the purchaser, all of the following:

- 1           1. A copy of the bylaws and the rules of the association.
- 2           2. A copy of the declaration.
- 3           3. A dated statement containing:
  - 4           (a) The telephone number and address of a principal contact for the
  - 5 association, which may be an association manager, an association management
  - 6 company, an officer of the association or any other person designated by the
  - 7 board of directors.
  - 8           (b) The amount of the common regular assessment and the unpaid common
  - 9 regular assessment, special assessment or other assessment, fee or charge
  - 10 currently due and payable from the selling member.
  - 11           (c) A statement as to whether a portion of the unit is covered by
  - 12 insurance maintained by the association.
  - 13           (d) The total amount of money held by the association as reserves.
  - 14           (e) If the statement is being furnished by the association, a
  - 15 statement as to whether the records of the association reflect any
  - 16 alterations or improvements to the unit that violate the declaration. The
  - 17 association is not obligated to provide information regarding alterations or
  - 18 improvements that occurred more than six years before the proposed sale.
  - 19 Nothing in this subdivision relieves the seller of a unit from the obligation
  - 20 to disclose alterations or improvements to the unit that violate the
  - 21 declaration, nor precludes the association from taking action against the
  - 22 purchaser of a unit for violations that are apparent at the time of purchase
  - 23 and that are not reflected in the association's records.
  - 24           (f) If the statement is being furnished by the member, a statement as
  - 25 to whether the member has any knowledge of any alterations or improvements to
  - 26 the unit that violate the declaration.
  - 27           (g) A statement of case names and case numbers for pending litigation
  - 28 with respect to the unit filed by the association against the member or filed
  - 29 by the member against the association. The member shall not be required to
  - 30 disclose information concerning such pending litigation which would violate
  - 31 any applicable rule of attorney-client privilege under Arizona law.
  - 32           (h) A statement that provides "I hereby acknowledge that the
  - 33 declaration, bylaws and rules of the association constitute a contract
  - 34 between the association and me (the purchaser). By signing this statement, I
  - 35 acknowledge that I have read and understand the association's contract with
  - 36 me (the purchaser). I also understand that as a matter of Arizona law, if I
  - 37 fail to pay my association assessments, the association may foreclose on my
  - 38 property." The statement shall also include a signature line for the
  - 39 purchaser and shall be returned to the association within fourteen calendar
  - 40 days.
- 41           4. A copy of the current operating budget of the association.
- 42           5. A copy of the most recent annual financial report of the
- 43 association. If the report is more than ten pages, the association may
- 44 provide a summary of the report in lieu of the entire report.
- 45           6. A copy of the most recent reserve study of the association, if any.

1           B. A purchaser or seller who is damaged by the failure of the member  
2 or the association to disclose the information required by subsection A of  
3 this section may pursue all remedies at law or in equity against the member  
4 or the association, whichever failed to comply with subsection A of this  
5 section, including the recovery of reasonable attorney fees.

6           C. The association may charge the member a reasonable fee to  
7 compensate the association for the costs incurred in the preparation of a  
8 statement furnished by the association pursuant to this section. The  
9 association shall make available to any interested party the amount of any  
10 fee established from time to time by the association. ALL FEES PAID BY A  
11 MEMBER FOR A PROPOSED TRANSACTION SHALL BE REFUNDED TO THE MEMBER IF THE  
12 TRANSACTION IS NOT COMPLETED.

13           D. A sale in which a public report is issued pursuant to sections  
14 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt  
15 from this section.

16           E. For THE purposes of this section, unless the context otherwise  
17 requires, "member" means the seller of the unit title and excludes any real  
18 estate salesperson or real estate broker who is licensed under title 32,  
19 chapter 20 and who is acting as a salesperson or broker and also excludes a  
20 trustee of a deed of trust who is selling the property in a trustee's sale  
21 pursuant to chapter 6.1 of this title.