

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2371

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.15; AMENDING TITLE 11, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-810; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1242.01; AMENDING SECTION 33-1250, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1260.01; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1806.01; AMENDING SECTION 33-1812, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1818; AMENDING SECTION 41-2198.01, 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. Title 9, chapter 4, article 6, Arizona Revised Statutes, is
3 amended by adding section 9-461.15, to read:

4 9-461.15. Requirement of planned community prohibited

5 A. THE PLANNING AGENCY OF A MUNICIPALITY IN EXERCISING ITS AUTHORITY
6 PURSUANT TO THIS TITLE SHALL NOT REQUIRE AS PART OF A SUBDIVISION REGULATION
7 OR ZONING ORDINANCE THAT A SUBDIVIDER OR DEVELOPER CONSTRUCT OR ENACT A
8 PLANNED COMMUNITY AS DEFINED IN SECTION 33-1802. A SUBDIVIDER OR DEVELOPER
9 SHALL NOT BE PENALIZED BECAUSE OF A LACK OF A PLANNED COMMUNITY AS PART OF
10 THE PRELIMINARY PLAT OR SPECIFIC PLAN OF THE SUBDIVIDER OR DEVELOPER.

11 B. A MUNICIPALITY MAY REQUIRE A SUBDIVIDER OR DEVELOPER TO CONSTRUCT
12 OR ENACT A PLANNED COMMUNITY TO MAINTAIN PRIVATE IMPROVEMENTS THAT ARE
13 APPROVED AND INSTALLED AS PART OF A PRELIMINARY PLAT, FINAL PLAT OR SPECIFIC
14 PLAN. A PLANNED COMMUNITY THAT IS REQUIRED BY A MUNICIPALITY PURSUANT TO
15 THIS SUBSECTION SHALL BE SPECIFICALLY LIMITED TO THE MAINTENANCE OF COMMUNITY
16 OWNED PROPERTY.

17 C. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE ESTABLISHMENT OR
18 AUTHORITY OF ANY PLANNED COMMUNITY ESTABLISHED PURSUANT TO TITLE 33,
19 CHAPTER 16.

20 D. SUBSECTION B OF THIS SECTION APPLIES ONLY TO THOSE PLANNED
21 COMMUNITIES THAT ARE ESTABLISHED IN PLATS RECORDED AFTER THE EFFECTIVE DATE
22 OF THIS SECTION.

23 Sec. 2. Title 11, chapter 6, article 1, Arizona Revised Statutes, is
24 amended by adding section 11-810, to read:

25 11-810. Requirement of planned community prohibited

26 A. A COUNTY PLANNING AND ZONING COMMISSION IN EXERCISING ITS AUTHORITY
27 PURSUANT TO THIS TITLE SHALL NOT REQUIRE AS PART OF A SUBDIVISION APPROVAL OR
28 ZONING ORDINANCE THAT A SUBDIVIDER OR DEVELOPER CONSTRUCT OR ENACT A PLANNED
29 COMMUNITY AS DEFINED IN SECTION 33-1802. A SUBDIVIDER OR DEVELOPER SHALL NOT
30 BE PENALIZED BECAUSE OF A LACK OF A PLANNED COMMUNITY AS PART OF THE
31 PRELIMINARY PLAT OR SPECIFIC PLAN OF THE SUBDIVIDER OR DEVELOPER.

32 B. A COUNTY MAY REQUIRE A SUBDIVIDER OR DEVELOPER TO CONSTRUCT OR
33 ENACT A PLANNED COMMUNITY TO MAINTAIN PRIVATE IMPROVEMENTS THAT ARE APPROVED
34 AND INSTALLED AS PART OF A PRELIMINARY PLAT, FINAL PLAT OR SPECIFIC PLAN. A
35 PLANNED COMMUNITY THAT IS REQUIRED BY A COUNTY PURSUANT TO THIS SUBSECTION
36 SHALL BE SPECIFICALLY LIMITED TO THE MAINTENANCE OF COMMUNITY OWNED PROPERTY.

37 C. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE ESTABLISHMENT OR
38 AUTHORITY OF ANY PLANNED COMMUNITY ESTABLISHED PURSUANT TO TITLE 33,
39 CHAPTER 16.

40 D. SUBSECTION B OF THIS SECTION APPLIES ONLY TO THOSE PLANNED
41 COMMUNITIES THAT ARE ESTABLISHED IN PLATS RECORDED AFTER THE EFFECTIVE DATE
42 OF THIS SECTION.

1 Sec. 3. Title 33, chapter 9, article 3, Arizona Revised Statutes, is
2 amended by adding section 33-1242.01, to read:

3 33-1242.01. Association authority; management company

4 FOR AN ASSOCIATION THAT IS CONTRACTED WITH A CORPORATION, LIMITED
5 LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, SOLE PROPRIETOR OR OTHER
6 LAWFULLY FORMED AND OPERATING ENTITY THAT PROVIDES MANAGEMENT SERVICES TO THE
7 ASSOCIATION, THE MANAGEMENT COMPANY AND ITS OFFICERS AND EMPLOYEES LAWFULLY
8 MAY ACT ON BEHALF OF THE ASSOCIATION AND ITS BOARD OF DIRECTORS BY:

9 1. RECORDING A NOTICE OF LIEN OR NOTICE OF CLAIM OF LIEN OF THE
10 ASSOCIATION AGAINST A UNIT OWNER'S PROPERTY IN THE CONDOMINIUM IF ALL OF THE
11 FOLLOWING APPLY:

12 (a) THE OFFICER OR EMPLOYEE OF THE MANAGEMENT COMPANY IS SPECIFICALLY
13 AUTHORIZED IN WRITING BY THE ASSOCIATION TO RECORD NOTICES OF LIEN OR NOTICES
14 OF CLAIM OF LIEN ON BEHALF OF THE ASSOCIATION AND THE OFFICER OR EMPLOYEE IS
15 A CERTIFIED LEGAL DOCUMENT PREPARER AS PRESCRIBED IN THE ARIZONA CODE OF
16 JUDICIAL ADMINISTRATION.

17 (b) THE RECORDATION OF NOTICES OF LIEN OR NOTICES OF CLAIM OF LIEN IS
18 NOT THE PRIMARY DUTY OF THE OFFICER OR EMPLOYEE WITH RESPECT TO THE
19 ASSOCIATION AND IS A SECONDARY OR INCIDENTAL DUTY TO THE ASSOCIATION.

20 (c) THE ASSOCIATION IS THE ORIGINAL PARTY TO THE LIEN AND THE LIEN
21 RIGHT IS NOT THE RESULT OF AN ASSIGNMENT OF RIGHTS.

22 (d) THE LIEN RIGHT EXISTS BY OPERATION OF LAW PURSUANT TO SECTION
23 33-1256 AND IS NOT THE RESULT OF OBTAINING A FINAL JUDGMENT IN AN ACTION TO
24 WHICH THE ASSOCIATION IS A PARTY.

25 2. APPEARING ON BEHALF OF THE ASSOCIATION IN A SMALL CLAIMS COURT
26 ACTION IF ALL OF THE FOLLOWING APPLY:

27 (a) THE OFFICER OR EMPLOYEE OF THE MANAGEMENT COMPANY IS SPECIFICALLY
28 AUTHORIZED IN WRITING BY THE ASSOCIATION TO APPEAR ON BEHALF OF THE
29 ASSOCIATION.

30 (b) APPEARING IN SMALL CLAIMS COURT ACTIONS IS NOT THE PRIMARY DUTY OF
31 THE OFFICER OR EMPLOYEE WITH RESPECT TO THE ASSOCIATION AND IS A SECONDARY OR
32 INCIDENTAL DUTY TO THE ASSOCIATION.

33 (c) THE ASSOCIATION IS AN ORIGINAL PARTY TO THE SMALL CLAIMS COURT
34 ACTION.

35 Sec. 4. Section 33-1250, Arizona Revised Statutes, is amended to read:

36 33-1250. Voting; proxies; absentee ballots; applicability;
37 definition

38 A. If only one of the multiple owners of a unit is present at a
39 meeting of the association, the owner is entitled to cast all the votes
40 allocated to that unit. If more than one of the multiple owners are present,
41 the votes allocated to that unit may be cast only in accordance with the
42 agreement of a majority in interest of the multiple owners unless the
43 declaration expressly provides otherwise. There is majority agreement if any
44 one of the multiple owners casts the votes allocated to that unit without

1 protest being made promptly to the person presiding over the meeting by any
2 of the other owners of the unit.

3 B. During the period of declarant control, votes allocated to a unit
4 may be cast pursuant to a proxy duly executed by a unit owner. If a unit is
5 owned by more than one person, each owner of the unit may vote or register
6 protest to the casting of votes by the other owners of the unit through a
7 duly executed proxy. A unit owner may not revoke a proxy given pursuant to
8 this section except by actual notice of revocation to the person presiding
9 over a meeting of the association. A proxy is void if it is not dated or
10 purports to be revocable without notice. The proxy is revoked on
11 presentation of a later dated proxy executed by the same unit owner. A proxy
12 terminates one year after its date, unless it specifies a shorter term or
13 unless it states that it is coupled with an interest and is irrevocable.

14 C. Notwithstanding any provision in the condominium documents, after
15 termination of the period of declarant control, votes allocated to a unit may
16 not be cast pursuant to a proxy. The association shall provide for votes to
17 be cast in person and by absentee ballot and IN ADDITION, THE ASSOCIATION may
18 provide for voting by some other form of delivery, INCLUDING THE USE OF
19 ELECTRONIC MAIL AND FACSIMILE DELIVERY. Notwithstanding section 10-3708 or
20 the provisions of the condominium documents, any action taken at an annual,
21 regular or special meeting of the members shall comply with all of the
22 following if absentee ballots OR BALLOTS PROVIDED BY SOME OTHER FORM OF
23 DELIVERY are used:

- 24 1. The absentee ballot shall set forth each proposed action.
- 25 2. The absentee ballot shall provide an opportunity to vote for or
26 against each proposed action.
- 27 3. The absentee ballot is valid for only one specified election or
28 meeting of the members and expires automatically after the completion of the
29 election or meeting.
- 30 4. The absentee ballot specifies the time and date by which the ballot
31 must be delivered to the board of directors in order to be counted, which
32 shall be at least seven days after the date that the board delivers the
33 unvoted absentee ballot to the member.
- 34 5. The absentee ballot does not authorize another person to cast votes
35 on behalf of the member.

36 D. Votes cast by absentee ballot or other form of DELIVERY, INCLUDING
37 THE USE OF ELECTRONIC MAIL AND FACSIMILE delivery, are valid for the purpose
38 of establishing a quorum.

39 E. Notwithstanding subsection C of this section, an association for a
40 timeshare plan as defined in section 32-2197 may permit votes by a proxy that
41 is duly executed by a unit owner.

42 F. If the declaration requires that votes on specified matters
43 affecting the condominium be cast by lessees rather than unit owners of
44 leased units all of the following apply:

1 1. The provisions of subsections A and B of this section apply to
2 lessees as if they were unit owners.

3 2. Unit owners who have leased their units to other persons shall not
4 cast votes on those specified matters.

5 3. Lessees are entitled to notice of meetings, access to records and
6 other rights respecting those matters as if they were unit owners. Unit
7 owners shall also be given notice, in the manner prescribed in section
8 33-1248, of all meetings at which lessees may be entitled to vote.

9 G. Unless the declaration provides otherwise, votes allocated to a
10 unit owned by the association shall not be cast.

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

13 I. For the purposes of this section, "period of declarant control"
14 means the time during which the declarant or persons designated by the
15 declarant may elect or appoint the members of the board of directors pursuant
16 to the condominium documents or by virtue of superior voting power.

17 Sec. 5. Title 33, chapter 9, article 3, Arizona Revised Statutes, is
18 amended by adding section 33-1260.01, to read:

19 33-1260.01. Rental property; unit owner and agent information;
20 fee; disclosure

21 A. A UNIT OWNER MAY USE THE UNIT OWNER'S UNIT AS A RENTAL PROPERTY
22 UNLESS PROHIBITED IN THE DECLARATION AND SHALL USE IT IN ACCORDANCE WITH THE
23 DECLARATION'S RENTAL TIME PERIOD RESTRICTIONS.

24 B. A UNIT OWNER MAY MAKE A WRITTEN DESIGNATION OF A THIRD PARTY TO ACT
25 AS THE UNIT OWNER'S AGENT WITH RESPECT TO ALL ASSOCIATION MATTERS RELATING TO
26 THE RENTAL UNIT. THE UNIT OWNER SHALL PROVIDE THE ASSOCIATION A COPY OF THE
27 WRITTEN DESIGNATION OF THE AGENT THAT SHALL BE SIGNED BY THE UNIT OWNER OF
28 RECORD FOR THE RENTAL UNIT. ON DELIVERY OF THE WRITTEN DESIGNATION, THE
29 ASSOCIATION IS AUTHORIZED TO CONDUCT ALL ASSOCIATION BUSINESS RELATING TO THE
30 UNIT OWNER'S RENTAL UNIT THROUGH THE DESIGNATED AGENT. NOTICE BY THE
31 ASSOCIATION TO A UNIT OWNER'S DESIGNATED AGENT ON ANY MATTER RELATING TO THE
32 UNIT OWNER'S RENTAL UNIT CONSTITUTES NOTICE TO THE OWNER.

33 C. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, ON
34 RENTAL OF A UNIT AN ASSOCIATION SHALL NOT REQUIRE A UNIT OWNER OR A UNIT
35 OWNER'S AGENT TO DISCLOSE ANY INFORMATION REGARDING A TENANT OTHER THAN THE
36 NAME AND CONTACT INFORMATION FOR ANY ADULTS OCCUPYING THE UNIT, THE TIME
37 PERIOD OF THE LEASE, WHICH INCLUDES THE BEGINNING AND ENDING DATES OF THE
38 TENANCY, AND A DESCRIPTION AND THE LICENSE PLATE NUMBER OF THE TENANTS'
39 VEHICLES. IF THE CONDOMINIUM IS AN AGE RESTRICTED CONDOMINIUM, THE UNIT
40 OWNER, THE UNIT OWNER'S AGENT OR THE TENANT SHALL SHOW A GOVERNMENT ISSUED
41 IDENTIFICATION THAT BEARS A PHOTOGRAPH AND THAT CONFIRMS THAT THE TENANT
42 MEETS THE CONDOMINIUM'S AGE RESTRICTIONS OR REQUIREMENTS.

1 D. ON REQUEST OF AN ASSOCIATION OR ITS MANAGING AGENT FOR THE
2 DISCLOSURES PRESCRIBED IN SUBSECTION C OF THIS SECTION, THE ASSOCIATION OR
3 ITS MANAGING AGENT MAY CHARGE A FEE THAT IS LIMITED TO NO MORE THAN
4 TWENTY-FIVE DOLLARS. THE ADMINISTRATIVE FEE MAY BE CHARGED FOR EACH NEW
5 TENANCY FOR THAT UNIT BUT MAY NOT BE CHARGED FOR A RENEWAL OF A LEASE.
6 EXCEPT FOR THE FEE PERMITTED BY THIS SUBSECTION, THE ASSOCIATION OR ITS
7 MANAGING AGENT SHALL NOT ASSESS, LEVY OR CHARGE A FEE OR FINE OR OTHERWISE
8 IMPOSE A REQUIREMENT ON A UNIT OWNER'S RENTAL UNIT ANY DIFFERENTLY THAN ON AN
9 OWNER-OCCUPIED UNIT IN THE ASSOCIATION.

10 E. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, THE
11 ASSOCIATION IS PROHIBITED FROM EITHER OF THE FOLLOWING:

12 1. REQUIRING A UNIT OWNER TO PROVIDE THE ASSOCIATION WITH A COPY OF
13 THE TENANT'S RENTAL APPLICATION, CREDIT REPORT, LEASE AGREEMENT OR RENTAL
14 CONTRACT OR OTHER PERSONAL INFORMATION REGARDING THE TENANT EXCEPT AS
15 PRESCRIBED BY THIS SECTION. THIS PARAGRAPH DOES NOT PROHIBIT THE ASSOCIATION
16 FROM ACQUIRING A CREDIT REPORT ON A PERSON IN AN ATTEMPT TO COLLECT A DEBT.

17 2. REQUIRING THE TENANT TO SIGN A WAIVER OR OTHER DOCUMENT LIMITING
18 THE TENANT'S CIVIL RIGHTS OF DUE PROCESS AS A CONDITION OF THE TENANT'S
19 OCCUPANCY OF THE RENTAL UNIT.

20 Sec. 6. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
21 amended by adding section 33-1806.01, to read:

22 33-1806.01. Rental property; member and agent information; fee;
23 disclosure

24 A. A MEMBER MAY USE THE MEMBER'S PROPERTY AS A RENTAL PROPERTY UNLESS
25 PROHIBITED IN THE DECLARATION AND SHALL USE IT IN ACCORDANCE WITH THE
26 DECLARATION'S RENTAL TIME PERIOD RESTRICTIONS.

27 B. A MEMBER MAY MAKE A WRITTEN DESIGNATION OF A THIRD PARTY TO ACT AS
28 THE MEMBER'S AGENT WITH RESPECT TO ALL ASSOCIATION MATTERS RELATING TO THE
29 RENTAL PROPERTY. THE MEMBER SHALL PROVIDE THE ASSOCIATION A COPY OF THE
30 WRITTEN DESIGNATION OF THE AGENT THAT SHALL BE SIGNED BY THE MEMBER OF RECORD
31 FOR THE RENTAL PROPERTY. ON DELIVERY OF THE WRITTEN DESIGNATION, THE
32 ASSOCIATION IS AUTHORIZED TO CONDUCT ALL ASSOCIATION BUSINESS RELATING TO THE
33 MEMBER'S RENTAL PROPERTY THROUGH THE DESIGNATED AGENT. NOTICE BY THE
34 ASSOCIATION TO A MEMBER'S DESIGNATED AGENT ON ANY MATTER RELATING TO THE
35 MEMBER'S RENTAL PROPERTY CONSTITUTES NOTICE TO THE MEMBER.

36 C. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, ON RENTAL
37 OF A MEMBER'S PROPERTY AN ASSOCIATION SHALL NOT REQUIRE A MEMBER OR A
38 MEMBER'S AGENT TO DISCLOSE ANY INFORMATION REGARDING A TENANT OTHER THAN THE
39 NAME AND CONTACT INFORMATION FOR ANY ADULTS OCCUPYING THE PROPERTY, THE TIME
40 PERIOD OF THE LEASE, WHICH INCLUDES THE BEGINNING AND ENDING DATES OF THE
41 TENANCY, AND A DESCRIPTION AND THE LICENSE PLATE NUMBER OF THE TENANTS'
42 VEHICLES. IF THE PLANNED COMMUNITY IS AN AGE RESTRICTED COMMUNITY, THE
43 MEMBER, THE MEMBER'S AGENT OR THE TENANT SHALL SHOW A GOVERNMENT ISSUED
44 IDENTIFICATION THAT BEARS A PHOTOGRAPH AND THAT CONFIRMS THAT THE TENANT
45 MEETS THE COMMUNITY'S AGE RESTRICTIONS OR REQUIREMENTS.

1 D. ON REQUEST OF AN ASSOCIATION OR ITS MANAGING AGENT FOR THE
2 DISCLOSURES PRESCRIBED IN SUBSECTION C OF THIS SECTION, THE ASSOCIATION OR
3 ITS MANAGING AGENT MAY CHARGE A FEE THAT IS LIMITED TO NO MORE THAN
4 TWENTY-FIVE DOLLARS. THE FEE MAY BE CHARGED FOR EACH NEW TENANCY FOR THAT
5 PROPERTY BUT MAY NOT BE CHARGED FOR A RENEWAL OF A LEASE. EXCEPT FOR THE FEE
6 PERMITTED BY THIS SUBSECTION, THE ASSOCIATION OR ITS MANAGING AGENT SHALL NOT
7 ASSESS, LEVY OR CHARGE A FEE OR FINE OR OTHERWISE IMPOSE A REQUIREMENT ON A
8 MEMBER'S RENTAL PROPERTY ANY DIFFERENTLY THAN ON AN OWNER-OCCUPIED PROPERTY
9 IN THE ASSOCIATION.

10 E. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, THE
11 ASSOCIATION IS PROHIBITED FROM EITHER OF THE FOLLOWING:

12 1. REQUIRING A MEMBER TO PROVIDE THE ASSOCIATION WITH A COPY OF THE
13 TENANT'S RENTAL APPLICATION, CREDIT REPORT, LEASE AGREEMENT OR RENTAL
14 CONTRACT OR OTHER PERSONAL INFORMATION REGARDING THE TENANT EXCEPT AS
15 PRESCRIBED BY THIS SECTION. THIS PARAGRAPH DOES NOT PROHIBIT THE ASSOCIATION
16 FROM ACQUIRING A CREDIT REPORT ON A PERSON IN AN ATTEMPT TO COLLECT A DEBT.

17 2. REQUIRING THE TENANT TO SIGN A WAIVER OR OTHER DOCUMENT LIMITING
18 THE TENANT'S CIVIL RIGHTS OF DUE PROCESS AS A CONDITION OF THE TENANT'S
19 OCCUPANCY OF THE RENTAL PROPERTY.

20 Sec. 7. Section 33-1812, Arizona Revised Statutes, is amended to read:

21 33-1812. Proxies; absentee ballots; definition

22 A. Notwithstanding any provision in the community documents, after
23 termination of the period of declarant control, votes allocated to a unit may
24 not be cast pursuant to a proxy. The association shall provide for votes to
25 be cast in person and by absentee ballot and IN ADDITION, THE ASSOCIATION may
26 provide for voting by some other form of delivery, INCLUDING THE USE OF
27 ELECTRONIC MAIL AND BY FACSIMILE DELIVERY. Notwithstanding section 10-3708
28 or the provisions of the community documents, any action taken at an annual,
29 regular or special meeting of the members shall comply with all of the
30 following if absentee ballots OR BALLOTS PROVIDED BY SOME OTHER FORM OF
31 DELIVERY are used:

32 1. The absentee ballot shall set forth each proposed action.

33 2. The absentee ballot shall provide an opportunity to vote for or
34 against each proposed action.

35 3. The absentee ballot is valid for only one specified election or
36 meeting of the members and expires automatically after the completion of the
37 election or meeting.

38 4. The absentee ballot specifies the time and date by which the ballot
39 must be delivered to the board of directors in order to be counted, which
40 shall be at least seven days after the date that the board delivers the
41 unvoted absentee ballot to the member.

42 5. The absentee ballot does not authorize another person to cast votes
43 on behalf of the member.

1 B. Votes cast by absentee ballot or other form of DELIVERY, INCLUDING
2 THE USE OF ELECTRONIC MAIL AND FACSIMILE delivery, are valid for the purpose
3 of establishing a quorum.

4 C. Notwithstanding subsection A of this section, an association for a
5 timeshare plan as defined in section 32-2197 may permit votes by a proxy that
6 is duly executed by a unit owner.

7 D. For the purposes of this section, "period of declarant control"
8 means the time during which the declarant or persons designated by the
9 declarant may elect or appoint the members of the board of directors pursuant
10 to the community documents or by virtue of superior voting power.

11 Sec. 8. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
12 amended by adding section 33-1818, to read:

13 33-1818. Association authority; management company

14 FOR AN ASSOCIATION THAT IS CONTRACTED WITH A CORPORATION, LIMITED
15 LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, SOLE PROPRIETOR OR OTHER
16 LAWFULLY FORMED AND OPERATING ENTITY THAT PROVIDES MANAGEMENT SERVICES TO THE
17 ASSOCIATION, THE MANAGEMENT COMPANY AND ITS OFFICERS AND EMPLOYEES LAWFULLY
18 MAY ACT ON BEHALF OF THE ASSOCIATION AND ITS BOARD OF DIRECTORS BY:

19 1. RECORDING A NOTICE OF LIEN OR NOTICE OF CLAIM OF LIEN OF THE
20 ASSOCIATION AGAINST A MEMBER'S PROPERTY IN THE PLANNED COMMUNITY IF ALL OF
21 THE FOLLOWING APPLY:

22 (a) THE OFFICER OR EMPLOYEE OF THE MANAGEMENT COMPANY IS SPECIFICALLY
23 AUTHORIZED IN WRITING BY THE ASSOCIATION TO RECORD NOTICES OF LIEN OR NOTICES
24 OF CLAIM OF LIEN ON BEHALF OF THE ASSOCIATION AND THE OFFICER OR EMPLOYEE IS
25 A CERTIFIED LEGAL DOCUMENT PREPARER AS PRESCRIBED IN THE ARIZONA CODE OF
26 JUDICIAL ADMINISTRATION.

27 (b) THE RECORDATION OF NOTICES OF LIEN OR NOTICES OF CLAIM OF LIEN IS
28 NOT THE PRIMARY DUTY OF THE OFFICER OR EMPLOYEE WITH RESPECT TO THE
29 ASSOCIATION AND IS A SECONDARY OR INCIDENTAL DUTY TO THE ASSOCIATION.

30 (c) THE ASSOCIATION IS THE ORIGINAL PARTY TO THE LIEN AND THE LIEN
31 RIGHT IS NOT THE RESULT OF AN ASSIGNMENT OF RIGHTS.

32 (d) THE LIEN RIGHT EXISTS BY OPERATION OF LAW PURSUANT TO SECTION
33 33-1807 AND IS NOT THE RESULT OF OBTAINING A FINAL JUDGMENT IN AN ACTION TO
34 WHICH THE ASSOCIATION IS A PARTY.

35 2. APPEARING ON BEHALF OF THE ASSOCIATION IN A SMALL CLAIMS COURT
36 ACTION IF ALL OF THE FOLLOWING APPLY:

37 (a) THE OFFICER OR EMPLOYEE OF THE MANAGEMENT COMPANY IS SPECIFICALLY
38 AUTHORIZED IN WRITING BY THE ASSOCIATION TO APPEAR ON BEHALF OF THE
39 ASSOCIATION.

40 (b) APPEARING IN SMALL CLAIMS COURT ACTIONS IS NOT THE PRIMARY DUTY OF
41 THE OFFICER OR EMPLOYEE WITH RESPECT TO THE ASSOCIATION AND IS A SECONDARY OR
42 INCIDENTAL DUTY TO THE ASSOCIATION.

43 (c) THE ASSOCIATION IS AN ORIGINAL PARTY TO THE SMALL CLAIMS COURT
44 ACTION.

1 Sec. 9. Section 41-2198.01, Arizona Revised Statutes, is amended to
2 read:

3 41-2198.01. Hearing; rights and procedures

4 A. A person who is subject to title 33, chapter 11 or a party to a
5 rental agreement entered into pursuant to title 33, chapter 11 may petition
6 the department for a hearing concerning violations of the Arizona mobile home
7 parks residential landlord and tenant act by filing a petition with the
8 department and paying a nonrefundable filing fee in an amount to be
9 established by the director. All monies collected shall be deposited in the
10 state general fund and are not refundable.

11 B. For a dispute between an owner and a condominium association or
12 planned community association that is regulated pursuant to title 33, chapter
13 9 or 16, the owner or association may petition the department for a hearing
14 concerning violations of condominium documents or planned community documents
15 or violations of the statutes that regulate condominiums or planned
16 communities. The petitioner shall file a petition with the department and
17 pay a ~~nonrefundable~~ filing fee in an amount to be established by the
18 director. The filing fee shall be deposited in the condominium and planned
19 community hearing office fund established by section 41-2198.05. ON
20 DISMISSAL OF A PETITION AT THE REQUEST OF THE PETITIONER BEFORE A HEARING IS
21 SCHEDULED OR BY STIPULATION OF THE PARTIES BEFORE A HEARING IS SCHEDULED, THE
22 FILING FEE SHALL BE REFUNDED TO THE PETITIONER. The department does not have
23 jurisdiction to hear:

24 1. Any dispute among or between owners to which the association is not
25 a party.

26 2. Any dispute between an owner and any person, firm, partnership,
27 corporation, association or other organization that is engaged in the
28 business of designing, constructing or selling a condominium as defined in
29 section 33-1202 or any property or improvements within a planned community as
30 defined in section 33-1802, including any person, firm, partnership,
31 corporation, association or other organization licensed pursuant to title 32,
32 chapter 20, arising out of or related to the design, construction, condition
33 or sale of the condominium or any property or improvements within a planned
34 community.

35 C. The petition shall be in writing on a form approved by the
36 department, shall list the complaints and shall be signed by or on behalf of
37 the persons filing and include their addresses, stating that a hearing is
38 desired, and shall be filed with the department.

39 D. On receipt of the petition and the filing fee the department shall
40 mail by certified mail a copy of the petition along with notice to the named
41 respondent that a response is required within twenty days of mailing of the
42 petition showing cause, if any, why the petition should be dismissed.

43 E. After receiving the response, the director or the director's
44 designee shall promptly review the petition for hearing and, if justified,
45 refer the petition to the office of administrative hearings. The director

1 may dismiss a petition for hearing if it appears to the director's
2 satisfaction that the disputed issue or issues have been resolved by the
3 parties.

4 F. Failure of the respondent to answer is deemed an admission of the
5 allegations made in the petition, and the director shall issue a default
6 decision.

7 G. Informal disposition may be made of any contested case.

8 H. Either party or the party's authorized agent may inspect any file
9 of the department that pertains to the hearing, if ~~such~~ THE authorization is
10 filed in writing with the department.

11 I. At a hearing conducted pursuant to this section, a corporation may
12 be represented by a corporate officer, employee or contractor of the
13 corporation who is not a member of the state bar if:

14 1. The corporation has specifically authorized the officer, employee
15 or contractor of the corporation to represent it.

16 2. The representation is not the officer's, employee's or contractor
17 of the corporation's primary duty to the corporation but is secondary or
18 incidental to the officer's, ~~or~~ employee's OR CONTRACTOR OF THE
19 CORPORATION'S, LIMITED LIABILITY COMPANY'S, LIMITED LIABILITY PARTNERSHIP'S,
20 SOLE PROPRIETOR'S OR OTHER LAWFULLY FORMED AND OPERATING ENTITY'S duties
21 relating to the management or operation of the corporation.