

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 21**  
**HOUSE BILL 2084**

AN ACT

AMENDING SECTIONS 10-11622, 33-1242, 33-1256, 33-1803 AND 33-1807, 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 10-11622, Arizona Revised Statutes, is amended to  
3 read:

4 10-11622. Annual report

5 A. Each domestic corporation and each foreign corporation authorized  
6 to conduct affairs in this state shall deliver to the commission for filing  
7 an annual report that sets forth all of the following:

8 1. The name of the corporation and the state or country under whose  
9 law it is incorporated.

10 2. The address of its known place of business and the name and address  
11 of its agent in this state.

12 3. The address of its principal office.

13 4. The names and business addresses of its directors and principal  
14 officers.

15 5. A brief description of the nature of its activities.

16 6. Whether or not it has members.

17 7. A certificate of disclosure containing the information set forth in  
18 section 10-3202, subsection D.

19 8. A statement that all corporate income tax returns required by title  
20 43 have been filed with the department of revenue.

21 B. A UNIT OWNERS' ASSOCIATION THAT IS SUBJECT TO TITLE 33, CHAPTER 9  
22 OR A PLANNED COMMUNITY ASSOCIATION THAT IS SUBJECT TO TITLE 33, CHAPTER 16  
23 SHALL ATTACH TO AND SUBMIT WITH THE ANNUAL REPORT A SEPARATE STATEMENT  
24 CONTAINING THE NAME OF THE DESIGNATED AGENT OR MANAGEMENT COMPANY FOR THE  
25 ASSOCIATION, THE ADDRESS FOR THE ASSOCIATION AND THE TELEPHONE NUMBER, E-MAIL  
26 ADDRESS AND WEBSITE IF ANY AND FAX NUMBER IF ANY OF THE ASSOCIATION OR ITS  
27 DESIGNATED AGENT OR MANAGEMENT COMPANY. UNIT OWNERS' ASSOCIATIONS AND  
28 PLANNED COMMUNITY ASSOCIATIONS SHALL FILE AN AMENDED STATEMENT REFLECTING  
29 CHANGES IN DESIGNATED AGENT OR MANAGEMENT COMPANY WITHIN THIRTY DAYS OF ANY  
30 CHANGE.

31 ~~B.~~ C. The information in the annual report AND THE SEPARATE STATEMENT  
32 THAT IS PRESCRIBED BY SUBSECTION B OF THIS SECTION shall be current as of the  
33 date the annual report ~~is~~ AND SEPARATE STATEMENT ARE executed on behalf of  
34 the corporation.

35 ~~C.~~ D. The annual report for all corporations shall be delivered to  
36 the commission for filing, and the annual fee shall be paid on or before the  
37 date assigned by the commission. The commission may stagger the annual  
38 report filing date for all corporations and adjust the annual fee on a pro  
39 rata basis. The corporation shall deliver the annual report to the  
40 commission for filing each subsequent year in the anniversary month on the  
41 date assigned by the commission. If a corporation is unable to file the  
42 annual report required by this section on or before the date prescribed by  
43 this section, the corporation may file, but only on or before this date, a  
44 written request with the commission for an extension of time, not to exceed  
45 six months, in which to file the annual report. The request for an extension  
46 of time shall be accompanied by the annual registration fee required by

1 law. After filing the request for an extension of time and on receipt of the  
2 annual registration fee, the commission shall grant the request.

3 ~~D.~~ E. If an annual report does not contain the information requested  
4 by this section, the commission shall promptly notify the reporting domestic  
5 or foreign corporation in writing and shall return the report to it for  
6 correction. If the report is corrected to contain the information required  
7 by this section and delivered to the commission within thirty days after the  
8 effective date of notice, it is deemed to be timely filed.

9 ~~E.~~ F. Any corporation that is exempt from the requirement of filing  
10 an annual report shall deliver annually a certificate of disclosure  
11 ~~containing~~ THAT CONTAINS the information set forth in section 10-3202,  
12 subsection D, ~~AND THAT IS~~ executed by any two executive officers or  
13 directors of the corporation on or before May 31. If the certificate is not  
14 delivered within ninety days after the due date of the annual report or  
15 within ninety days after May 31 in the case of any corporation that is exempt  
16 from the requirement of filing an annual report, the commission shall  
17 initiate administrative dissolution of that corporation or revoke the  
18 application for authority of that corporation ~~in accordance with~~ PURSUANT TO  
19 chapters 24 through 40 of this title.

20 Sec. 2. Section 33-1242, Arizona Revised Statutes, is amended to read:

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

23 A. Subject to the provisions of the declaration, the association may:

24 1. Adopt and amend bylaws and rules.

25 2. Adopt and amend budgets for revenues, expenditures and reserves and  
26 collect assessments for common expenses from unit owners.

27 3. Hire and discharge managing agents and other employees, agents and  
28 independent contractors.

29 4. Institute, defend or intervene in litigation or administrative  
30 proceedings in its own name on behalf of itself or two or more unit owners on  
31 matters affecting the condominium.

32 5. Make contracts and incur liabilities.

33 6. Regulate the use, maintenance, repair, replacement and modification  
34 of common elements.

35 7. Cause additional improvements to be made as a part of the common  
36 elements.

37 8. Acquire, hold, encumber and convey in its own name any right, title  
38 or interest to real or personal property, except that common elements may be  
39 conveyed or subjected to a security interest only pursuant to section  
40 33-1252.

41 9. Grant easements, leases, licenses and concessions through or over  
42 the common elements.

43 10. Impose and receive any payments, fees or charges for the use,  
44 rental or operation of the common elements other than limited common elements  
45 described in section 33-1212, paragraphs 2 and 4 and for services provided to  
46 unit owners.

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

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

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

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

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

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

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

19           18. Exercise any other powers necessary and proper for the governance  
20 and operation of the association.

21           B. A unit owner who receives a written notice that the condition of  
22 the property owned by the unit owner is in violation of a requirement of the  
23 condominium documents without regard to whether a monetary penalty is imposed  
24 by the notice may provide the association with a written response by sending  
25 the response by certified mail within ten business days after the date of the  
26 notice. The response shall be sent to the address ~~contained in the notice or~~  
27 **IDENTIFIED** in the **NOTICE**. ~~recorded notice prescribed by section 33-1256,~~  
28 ~~subsection J.~~

29           C. Within ten business days after receipt of the certified mail  
30 containing the response from the unit owner, the association shall respond to  
31 the unit owner with a written explanation regarding the notice that shall  
32 provide at least the following information unless previously provided in the  
33 notice of violation:

34           1. The provision of the condominium documents that has allegedly been  
35 violated.

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

37           3. The first and last name of the person or persons who observed the  
38 violation.

39           4. The process the unit owner must follow to contest the notice.

40           D. Unless the information required in subsection C, paragraph 4 of  
41 this section is provided in the notice of violation, the association shall  
42 not proceed with any action to enforce the condominium documents, including  
43 the collection of attorney fees, before or during the time prescribed by  
44 subsection C of this section regarding the exchange of information between  
45 the association and the unit owner. At any time before or after completion  
46 of the exchange of information pursuant to this section, the unit owner may

1 petition for a hearing pursuant to section 41-2198.01 if the dispute is  
2 within the jurisdiction of the department of fire, building and life safety  
3 as prescribed in section 41-2198.01, subsection B.

4 Sec. 3. Section 33-1256, Arizona Revised Statutes, is amended to read:  
5 33-1256. Lien for assessments: priority: mechanics' and  
6 materialmen's liens: applicability

7 A. The association has a lien on a unit for any assessment levied  
8 against that unit from the time the assessment becomes due. The  
9 association's lien for assessments, for charges for late payment of those  
10 assessments, for reasonable collection fees and for reasonable attorney fees  
11 and costs incurred with respect to those assessments may be foreclosed in the  
12 same manner as a mortgage on real estate but may be foreclosed only if the  
13 owner has been delinquent in the payment of monies secured by the lien,  
14 excluding reasonable collection fees, reasonable attorney fees and charges  
15 for late payment of and costs incurred with respect to those assessments, for  
16 a period of one year or in the amount of one thousand two hundred dollars or  
17 more, whichever occurs first. Fees, charges, late charges, monetary  
18 penalties and interest charged pursuant to section 33-1242, subsection A,  
19 paragraphs 10, 11 and 12, other than charges for late payment of assessments,  
20 are not enforceable as assessments under this section. If an assessment is  
21 payable in installments, the full amount of the assessment is a lien from the  
22 time the first installment of the assessment becomes due. The association  
23 has a lien for fees, charges, late charges, other than charges for late  
24 payment of assessments, monetary penalties or interest charged pursuant to  
25 section 33-1242, subsection A, paragraphs 10, 11 and 12 after the entry of a  
26 judgment in a civil suit for those fees, charges, late charges, monetary  
27 penalties or interest from a court of competent jurisdiction and the  
28 recording of that judgment in the office of the county recorder as otherwise  
29 provided by law. The association's lien for monies other than for  
30 assessments, for charges for late payment of those assessments, for  
31 reasonable collection fees and for reasonable attorney fees and costs  
32 incurred with respect to those assessments may not be foreclosed and is  
33 effective only on conveyance of any interest in the real property.

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

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

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

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

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

5 D. Unless the declaration otherwise provides, if two or more  
6 associations have liens for assessments created at any time on the same real  
7 estate, those liens have equal priority.

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

13 F. A lien for unpaid assessments is extinguished unless proceedings to  
14 enforce the lien are instituted within three years after the full amount of  
15 the assessments becomes due.

16 G. This section does not prohibit actions to recover sums for which  
17 subsection A of this section creates a lien or does not prohibit an  
18 association from taking a deed in lieu of foreclosure.

19 H. A judgment or decree in any action brought under this section shall  
20 include costs and reasonable attorney fees for the prevailing party.

21 I. The association on written request shall furnish to a lienholder,  
22 escrow agent, unit owner or person designated by a unit owner a statement  
23 setting forth the amount of unpaid assessments against the unit. The  
24 statement shall be furnished within ten days after receipt of the request and  
25 the statement is binding on the association, the board of directors and every  
26 unit owner if the statement is requested by an escrow agency that is licensed  
27 pursuant to title 6, chapter 7. Failure to provide the statement to the  
28 escrow agent within the time provided for in this subsection shall extinguish  
29 any lien for any unpaid assessment then due.

30 ~~J. The association shall record in the office of the county recorder  
31 in the county in which the condominium is located a notice stating the name  
32 of the association or designated agent or management company for the  
33 association, the address for the association and the telephone number of the  
34 association or its designated agent or management company. The notice shall  
35 include the name of the condominium community, the date of the recording and  
36 the recorded instrument number or book and page for the main document that  
37 constitutes the declaration. If an association's address, designated agent  
38 or management company changes, the association shall amend its notice or  
39 record a new notice within ninety days after the change.~~

40 ~~K.~~ J. Notwithstanding any provision in the condominium documents or  
41 in any contract between the association and a management company, unless the  
42 member directs otherwise, all payments received on a member's account shall  
43 be applied first to any unpaid assessments, for unpaid charges for late  
44 payment of those assessments, for reasonable collection fees and for unpaid  
45 attorney fees and costs incurred with respect to those assessments, in that

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

3 ~~K.~~ K. This section does not apply to timeshare plans or associations  
4 that are subject to chapter 20 of this title.

5 Sec. 4. Section 33-1803, Arizona Revised Statutes, is amended to read:  
6 33-1803. Penalties; notice to member of violation

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

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

32 C. A member who receives a written notice that the condition of the  
33 property owned by the member is in violation of the community documents  
34 without regard to whether a monetary penalty is imposed by the notice may  
35 provide the association with a written response by sending the response by  
36 certified mail within ten business days after the date of the notice. The  
37 response shall be sent to the address ~~contained~~ IDENTIFIED in the notice. ~~or~~  
38 ~~in the recorded notice prescribed by section 33-1807, subsection J.~~

39 D. Within ten business days after receipt of the certified mail  
40 containing the response from the member, the association shall respond to the  
41 member with a written explanation regarding the notice that shall provide at  
42 least the following information unless previously provided in the notice of  
43 violation:

44 1. The provision of the community documents that has allegedly been  
45 violated.

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

1           3. The first and last name of the person or persons who observed the  
2 violation.

3           4. The process the member must follow to contest the notice.

4           E. Unless the information required in subsection D, paragraph 4 of  
5 this section is provided in the notice of violation, the association shall  
6 not proceed with any action to enforce the community documents, including the  
7 collection of attorney fees, before or during the time prescribed by  
8 subsection D of this section regarding the exchange of information between  
9 the association and the member. At any time before or after completion of  
10 the exchange of information pursuant to this section, the member may petition  
11 for a hearing pursuant to section 41-2198.01 if the dispute is within the  
12 jurisdiction of the department of fire, building and life safety as  
13 prescribed in section 41-2198.01, subsection B.

14           Sec. 5. Section 33-1807, Arizona Revised Statutes, is amended to read:

15           33-1807. Lien for assessments; priority; mechanics' and  
16 materialmen's liens

17           A. The association has a lien on a unit for any assessment levied  
18 against that unit from the time the assessment becomes due. The  
19 association's lien for assessments, for charges for late payment of those  
20 assessments, for reasonable collection fees and for reasonable attorney fees  
21 and costs incurred with respect to those assessments may be foreclosed in the  
22 same manner as a mortgage on real estate but may be foreclosed only if the  
23 owner has been delinquent in the payment of monies secured by the lien,  
24 excluding reasonable collection fees, reasonable attorney fees and charges  
25 for late payment of and costs incurred with respect to those assessments, for  
26 a period of one year or in the amount of one thousand two hundred dollars or  
27 more, whichever occurs first. Fees, charges, late charges, monetary  
28 penalties and interest charged pursuant to section 33-1803, other than  
29 charges for late payment of assessments are not enforceable as assessments  
30 under this section. If an assessment is payable in installments, the full  
31 amount of the assessment is a lien from the time the first installment of the  
32 assessment becomes due. The association has a lien for fees, charges, late  
33 charges, other than charges for late payment of assessments, monetary  
34 penalties or interest charged pursuant to section 33-1803 after the entry of  
35 a judgment in a civil suit for those fees, charges, late charges, monetary  
36 penalties or interest from a court of competent jurisdiction and the  
37 recording of that judgment in the office of the county recorder as otherwise  
38 provided by law. The association's lien for monies other than for  
39 assessments, for charges for late payment of those assessments, for  
40 reasonable collection fees and for reasonable attorney fees and costs  
41 incurred with respect to those assessments may not be foreclosed and is  
42 effective only on conveyance of any interest in the real property.

43           B. A lien for assessments, for charges for late payment of those  
44 assessments, for reasonable collection fees and for reasonable attorney fees  
45 and costs incurred with respect to those assessments under this section is  
46 prior to all other liens, interests and encumbrances on a unit except:

1           1. Liens and encumbrances recorded before the recordation of the  
2 declaration.

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

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

9           C. Subsection B of this section does not affect the priority of  
10 mechanics' or materialmen's liens or the priority of liens for other  
11 assessments made by the association. The lien under this section is not  
12 subject to chapter 8 of this title.

13           D. Unless the declaration otherwise provides, if two or more  
14 associations have liens for assessments created at any time on the same real  
15 estate those liens have equal priority.

16           E. Recording of the declaration constitutes record notice and  
17 perfection of the lien for assessments, for charges for late payment of  
18 assessments, for reasonable collection fees and for reasonable attorney fees  
19 and costs incurred with respect to those assessments. Further recordation of  
20 any claim of lien for assessments under this section is not required.

21           F. A lien for an unpaid assessment is extinguished unless proceedings  
22 to enforce the lien are instituted within three years after the full amount  
23 of the assessment becomes due.

24           G. This section does not prohibit:

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

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

28           H. A judgment or decree in any action brought under this section shall  
29 include costs and reasonable attorney fees for the prevailing party.

30           I. On written request, the association shall furnish to a lienholder,  
31 escrow agent, unit owner or person designated by a unit owner a statement  
32 setting forth the amount of any unpaid assessment against the unit. The  
33 association shall furnish the statement within ten days after receipt of the  
34 request, and the statement is binding on the association, the board of  
35 directors and every unit owner if the statement is requested by an escrow  
36 agency that is licensed pursuant to title 6, chapter 7. Failure to provide  
37 the statement to the escrow agent within the time provided for in this  
38 subsection shall extinguish any lien for any unpaid assessment then due.

39           ~~J. The association shall record in the office of the county recorder  
40 in the county in which the planned community is located a notice stating the  
41 name of the association or designated agent or management company for the  
42 association, the address for the association and the telephone number of the  
43 association or its designated agent or management company. The notice shall  
44 include the name of the planned community, the date of the recording and the  
45 recorded instrument number or book and page for the main document that  
46 constitutes the declaration. If an association's address, designated agent~~

1 ~~or management company changes, the association shall amend its notice or~~  
2 ~~record a new notice within ninety days after the change.~~

3 ~~K.~~ J. Notwithstanding any provision in the community documents or in  
4 any contract between the association and a management company, unless the  
5 member directs otherwise, all payments received on a member's account shall  
6 be applied first to any unpaid assessments, for unpaid charges for late  
7 payment of those assessments, for reasonable collection fees and for unpaid  
8 attorney fees and costs incurred with respect to those assessments, in that  
9 order, with any remaining amounts applied next to other unpaid fees, charges  
10 and monetary penalties or interest and late charges on any of those amounts.

APPROVED BY THE GOVERNOR MARCH 17, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 17, 2015.