

Conference Engrossed

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2106

AN ACT

AMENDING SECTIONS 33-1242 AND 33-1803, 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 33-1242, Arizona Revised Statutes, is amended to
3 read:
4 33-1242. Powers of unit owners' association; notice to unit
5 owner of violation
6 A. Subject to the provisions of the declaration, the association may:
7 1. Adopt and amend bylaws and rules.
8 2. Adopt and amend budgets for revenues, expenditures and reserves and
9 collect assessments for common expenses from unit owners.
10 3. Hire and discharge managing agents and other employees, agents and
11 independent contractors.
12 4. Institute, defend or intervene in litigation or administrative
13 proceedings in its own name on behalf of itself or two or more unit owners on
14 matters affecting the condominium.
15 5. Make contracts and incur liabilities.
16 6. Regulate the use, maintenance, repair, replacement and modification
17 of common elements.
18 7. Cause additional improvements to be made as a part of the common
19 elements.
20 8. Acquire, hold, encumber and convey in its own name any right, title
21 or interest to real or personal property, except that common elements may be
22 conveyed or subjected to a security interest only pursuant to section
23 33-1252.
24 9. Grant easements, leases, licenses and concessions through or over
25 the common elements.
26 10. Impose and receive any payments, fees or charges for the use,
27 rental or operation of the common elements other than limited common elements
28 described in section 33-1212, paragraphs 2 and 4 and for services provided to
29 unit owners.
30 11. Impose charges for late payment of assessments and, after notice
31 and an opportunity to be heard, impose reasonable monetary penalties ~~upon~~ ON
32 unit owners for violations of the declaration, bylaws and rules of the
33 association.
34 12. Impose reasonable charges for the preparation and recordation of
35 amendments to the declaration or statements of unpaid assessments.
36 13. Provide for the indemnification of its officers and executive board
37 of directors and maintain directors' and officers' liability insurance.
38 14. Assign its right to future income, including the right to receive
39 common expense assessments, but only to the extent the declaration expressly
40 provides.
41 15. Be a member of a master association or other entity owning,
42 maintaining or governing in any respect any portion of the common elements or
43 other property benefitting or related to the condominium or the unit owners
44 in any respect.
45 16. Exercise any other powers conferred by the declaration or bylaws.

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

3 18. Exercise any other powers necessary and proper for the governance
4 and operation of the association.

5 B. A unit owner who receives a written notice that the condition of
6 the property owned by the unit owner is in violation of a requirement of the
7 condominium documents without regard to whether a monetary penalty is imposed
8 by the notice may provide the association with a written response by sending
9 the response by certified mail within ~~ten-business~~ TWENTY-ONE CALENDAR days
10 after the date of the notice. The response shall be sent to the address
11 identified in the notice.

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

17 1. The provision of the condominium documents that has allegedly been
18 violated.

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

20 3. The first and last name of the person or persons who observed the
21 violation.

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

23 D. Unless the information required in subsection C, paragraph 4 of
24 this section is provided in the notice of violation, the association shall
25 not proceed with any action to enforce the condominium documents, including
26 the collection of attorney fees, before or during the time prescribed by
27 subsection C of this section regarding the exchange of information between
28 the association and the unit owner. At any time before or after completion
29 of the exchange of information pursuant to this section, the unit owner may
30 petition for a hearing pursuant to section 41-2198.01 if the dispute is
31 within the jurisdiction of the department of fire, building and life safety
32 as prescribed in section 41-2198.01, subsection B.

33 Sec. 2. Section 33-1803, Arizona Revised Statutes, is amended to read:

34 33-1803. Assessment limitation; penalties; notice to member of
35 violation

36 A. Unless limitations in the community documents would result in a
37 lower limit for the assessment, the association shall not impose a regular
38 assessment that is more than twenty percent greater than the immediately
39 preceding fiscal year's assessment without the approval of the majority of
40 the members of the association. Unless reserved to the members of the
41 association, the board of directors may impose reasonable charges for the
42 late payment of assessments. A payment by a member is deemed late if it is
43 unpaid fifteen or more days after its due date, unless the community
44 documents provide for a longer period. Charges for the late payment of
45 assessments are limited to the greater of fifteen dollars or ten percent of

1 the amount of the unpaid assessment. Any monies paid by the member for an
2 unpaid assessment shall be applied first to the principal amount unpaid and
3 then to the interest accrued.

4 B. After notice and an opportunity to be heard, the board of directors
5 may impose reasonable monetary penalties on members for violations of the
6 declaration, bylaws and rules of the association. Notwithstanding any
7 provision in the community documents, the board of directors shall not impose
8 a charge for a late payment of a penalty that exceeds the greater of fifteen
9 dollars or ten percent of the amount of the unpaid penalty. A payment is
10 deemed late if it is unpaid fifteen or more days after its due date, unless
11 the declaration, bylaws or rules of the association provide for a longer
12 period. Any monies paid by a member for an unpaid penalty shall be applied
13 first to the principal amount unpaid and then to the interest
14 accrued. Notice pursuant to this subsection shall include information
15 pertaining to the manner in which the penalty shall be enforced.

16 C. A member who receives a written notice that the condition of the
17 property owned by the member is in violation of the community documents
18 without regard to whether a monetary penalty is imposed by the notice may
19 provide the association with a written response by sending the response by
20 certified mail within ~~ten business~~ TWENTY-ONE CALENDAR days after the date of
21 the notice. The response shall be sent to the address identified in the
22 notice.

23 D. Within ten business days after receipt of the certified mail
24 containing the response from the member, the association shall respond to the
25 member with a written explanation regarding the notice that shall provide at
26 least the following information unless previously provided in the notice of
27 violation:

28 1. The provision of the community documents that has allegedly been
29 violated.

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

31 3. The first and last name of the person or persons who observed the
32 violation.

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

34 E. Unless the information required in subsection D, paragraph 4 of
35 this section is provided in the notice of violation, the association shall
36 not proceed with any action to enforce the community documents, including the
37 collection of attorney fees, before or during the time prescribed by
38 subsection D of this section regarding the exchange of information between
39 the association and the member. At any time before or after completion of
40 the exchange of information pursuant to this section, the member may petition
41 for a hearing pursuant to section 41-2198.01 if the dispute is within the
42 jurisdiction of the department of fire, building and life safety as
43 prescribed in section 41-2198.01, subsection B.