

# ARIZONA STATE SENATE

## RESEARCH STAFF



TO: MEMBERS OF THE SENATE  
GOVERNMENT COMMITTEE

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DATE: February 14, 2019

SUBJECT: Strike everything amendment to S.B. 1531, relating to HOAs; costs; assessments

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### Purpose

Requires a planned community association or condominium unit owner's association (HOA) to provide regular account statements to homeowners and condominium unit owners (owners) and written notice to owners (notice) with delinquent accounts before commencing collection action. Outlines requirements for HOA collection and foreclosure proceedings and payment for delinquent accounts and unpaid balances.

### Background

Under current statute, an HOA has a lien on a home or condominium unit for any assessment levied against the home or condominium unit from the time the assessment becomes due. The lien includes assessments, late charges, collection fees, attorney fees and other costs incurred with respect to the assessments. The lien can be foreclosed in the same manner as a real estate mortgage if the owner has been delinquent on assessments for a period of one year or in an amount of \$1,200. Any lien for unpaid assessments is considered extinguished if proceedings to enforce the lien are not initiated by the HOA within three years of the full amount becoming due.

All payments received on an owner's account must be applied first to unpaid assessments and then to unpaid charges, late payment, collection fees, attorney fees and costs incurred regarding the assessments. Any remaining amount paid is applied to unpaid fees, charges, monetary penalties, interest and late charges on any of those amounts (A.R.S. §§ [33-1256](#) and [33-1807](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

### Provisions

1. Extends the deadline, from three years to six years, for an HOA to commence proceedings to enforce a lien on unpaid assessments after the full amount of assessments become due.
2. Requires all payments received on an owner's account to be applied in the order the debt was accrued.
3. Requires payments received on an owner's account to be applied to any interest on unpaid assessments, unpaid late charges, unpaid collection fees and unpaid attorney's fees.
4. Requires an HOA to provide notice with a delinquent account for unpaid assessments or charges at least 15 days before authorizing an attorney for the HOA to begin a collection action.
5. Requires the notice to be provided to the owner's last known address.

6. Outlines language that must be included in the notice, including that:
  - a) the owner's account is delinquent;
  - b) the owner's account will be turned over to the HOA's attorney for collection proceedings if the owner's account is not made current or arrangements to bring the owner's account current are not made within 15 days; and
  - c) collection proceedings could include bringing a foreclosure action against the owner's property.
7. Requires the notice to be in boldfaced type or capital letters and include contact information for a person that the owner can contact to discuss payment.
8. Allows the notice to be included within other correspondence sent by the HOA to the owner regarding the owner's delinquent account.
9. Requires an HOA managed by a person other than the HOA's employee to provide a statement of account, rather than a periodic payment book, to an owner at the same frequency that assessments are provided for in the HOA declaration.
10. Requires the statement of account to include the current account balance and immediately preceding ledger history of the owner.
11. Prohibits an HOA from providing further statements of account to an owner if a civil action is filed regarding the owner's unpaid account.
12. Allows an agent for an HOA to:
  - a) collect, on behalf of the HOA, assessments and other amounts owed by an owner by cash, check, credit card, charge card, debit card or other electronic means; and
  - b) charge a convenience fee to owners that consists of the amount charged to the agent by a third-party service provider.
13. Specifies that the requirement an owner be delinquent in payments for at least one year or in an amount of \$1,200 before a foreclosure can be commenced by an HOA, is determined on the date the foreclosure action is filed.
14. Makes technical and conforming changes.
15. Becomes effective on the general effective date.