

House Engrossed Senate Bill

common expense liens; foreclosure; amount

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

CHAPTER 71
SENATE BILL 1494

AN ACT

AMENDING SECTION 33-1807, ARIZONA REVISED STATUTES; RELATING TO COMMON
EXPENSE LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1807, Arizona Revised Statutes, is amended to
3 read:

4 33-1807. Common expense liens; priority; mechanics' and
5 materialmen's liens; notice

6 A. The association has a common expense lien on a property for any
7 assessment levied against that property from the time the assessment
8 becomes due. The association's common expense lien may be foreclosed in
9 the same manner as a mortgage on real estate but may be foreclosed only if
10 the owner has been and remains delinquent in the payment of ~~assessments,~~
11 ~~ANY ASSESSMENT OR PORTION OF THE ASSESSMENT~~ for a period of ~~one year~~
12 ~~EIGHTEEN MONTHS~~ or in the amount of ~~\$1,200~~ \$10,000 or more, whichever
13 occurs first, as determined on the date the action is filed. The
14 association board of directors shall exercise reasonable efforts to
15 communicate with the member and offer a reasonable payment plan before
16 filing a foreclosure action. If an assessment is payable in installments,
17 the full amount of the assessment is a ~~COMMON EXPENSE~~ lien from the time
18 the first installment of the assessment becomes due.

19 B. Notwithstanding any provision in the community documents, member
20 expenses are not enforceable as common expense liens under this ~~subsection~~
21 ~~SECTION~~. The association has a ~~JUDGMENT~~ lien for member expenses after
22 the entry of a judgment in a civil suit for those member expenses from a
23 court of competent jurisdiction and the recording of that judgment in the
24 office of the county recorder as otherwise provided by law. The
25 association's judgment lien for member expenses may not be foreclosed and
26 is effective only on conveyance of any interest in the real property.

27 C. A common expense lien under this section is prior to all other
28 liens, interests and encumbrances on a property except:

29 1. Liens and encumbrances recorded before the recordation of the
30 declaration.

31 2. A recorded first mortgage on the property, a seller's interest
32 in a first contract for sale pursuant to chapter 6, article 3 of this
33 title on the property recorded before the ~~COMMON EXPENSE~~ lien arising
34 pursuant to subsection A of this section or a recorded first deed of trust
35 on the property.

36 3. Liens for real estate taxes and other governmental assessments
37 or charges against the property.

38 D. Subsection C of this section does not affect the priority of
39 mechanics' or materialmen's liens. The common expense lien under this
40 section is not subject to chapter 8 of this title.

41 E. Unless the declaration otherwise provides, if two or more
42 associations have common expense liens created at any time on the same
43 real estate those ~~COMMON EXPENSE~~ liens have equal priority.

44 F. Recording the declaration constitutes record notice and
45 perfection of the common expense lien. Further recordation of any claim
46 of common expense lien under this section is not required.

1 G. A common expense lien is extinguished unless proceedings to
2 enforce the **COMMON EXPENSE** lien are instituted within six years after the
3 full amount of the assessment becomes due.

4 H. This section does not prohibit:

5 1. Actions to recover amounts for which subsection A or B of this
6 section creates a lien.

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

8 I. A judgment or decree in any action brought under this section
9 may include costs and reasonable attorney fees for the prevailing party.

10 J. On written request, the association shall furnish to a
11 lienholder, escrow agent, member or person designated by a member a
12 statement setting forth the amount of any unpaid liens prescribed by
13 subsection A or B of this section against the property. The association
14 shall furnish the statement within ten days after receipt of the request.
15 The statement is binding on the association if the statement is requested
16 by an escrow agency that is licensed pursuant to title 6, chapter 7.
17 Failure to provide the statement to the escrow agent within the time
18 provided for in this subsection extinguishes any lien for any unpaid
19 assessment then due.

20 K. Notwithstanding any provision in the community documents or in
21 any contract between the association and a management company or any other
22 agent of the association, including any agreement or contract with any
23 attorney, unless the member directs otherwise, all payments received on a
24 member's account shall be applied first to any unpaid assessments, due but
25 not delinquent assessments, unpaid charges for late payment of those
26 assessments if authorized in the declaration, unpaid reasonable collection
27 fees and costs incurred or applied by the association, and unpaid attorney
28 fees and costs incurred with respect to those assessments if awarded by a
29 court, in that order, with any remaining amounts applied next to other
30 unpaid fees, charges and monetary penalties or interest and late charges
31 on any of those amounts.

32 L. For a delinquent account for unpaid common expense liens, the
33 association shall provide the following written notice to the member at
34 the member's address as provided to the association at least thirty days
35 before authorizing an attorney, or a collection agency that is not acting
36 as the association's managing agent, to begin collection activity on
37 behalf of the association:

38 Your account is delinquent. If you do not bring your account
39 current or make arrangements that are approved by the
40 association to bring your account current within thirty days
41 after the date of this notice, your account will be turned
42 over for further collection proceedings. Such collection
43 proceedings could include bringing a foreclosure action
44 against your property.

1 The notice shall be in ~~boldfaced~~ BOLD-FACED type or all capital letters
2 and shall include the contact information for the person that the member
3 may contact to discuss payment. The notice shall be sent by certified
4 mail, return receipt requested, and may be included within other
5 correspondence sent to the member regarding the member's delinquent
6 account.

7 M. Except for planned communities that have fewer than fifty lots
8 and that do not contract with a third party to perform management services
9 on behalf of the association, the association shall provide a statement of
10 account in lieu of a periodic payment book to the member with the same
11 frequency that assessments are provided for in the declaration. The
12 statement of account shall include the current account balance due and the
13 immediately preceding ledger history. If the association offers the
14 statement of account by electronic means, a member may opt to receive the
15 statement electronically. The association may stop providing any further
16 statements of account to a member if collection activity begins by an
17 attorney, or a collection agency that is not acting as the association's
18 managing agent, regarding that member's unpaid account. After collection
19 activity begins, a member may request statements of account by written
20 request to the attorney or collection agency. Any request by a member for
21 a statement of account after collection activity begins by an attorney or
22 a collection agency that is not acting as the association's managing agent
23 must be fulfilled by the attorney or the collection agency responsible for
24 the collection. The statement of account provided by the attorney or
25 collection agency responsible for the collection shall include all amounts
26 claimed to be owing to resolve the delinquency through the date set forth
27 in the statement, including attorney fees and costs, regardless of whether
28 such amounts have been reduced to judgment.

29 N. An agent for the association may collect on behalf of the
30 association directly from a member the assessments and other amounts owed
31 by cash or check, by mailed or hand-delivered bank drafts, checks,
32 cashier's checks or money orders, by credit, charge or debit card or by
33 other electronic means. For any form of payment other than for cash or
34 for mailed or hand-delivered bank drafts, checks, cashier's checks or
35 money orders, the agent may charge a convenience fee to the member that is
36 approximately the amount charged to the agent by a third-party service
37 provider. The association may not transfer ownership or control of debt
38 for common expense liens or member expenses.

APPROVED BY THE GOVERNOR APRIL 18, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2025.