

House Engrossed Senate Bill  
common expense liens; foreclosure; amount

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

# 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.