

REFERENCE TITLE: condominiums; commercial structures; residential structures

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2322

Introduced by
Representative Weninger

AN ACT

AMENDING SECTION 33-1255, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 33-1255, Arizona Revised Statutes, is amended to
3 read:

4 33-1255. Assessments for common expenses; commercial
5 structures; applicability; definitions

6 A. Until the association makes a common expense assessment, the
7 declarant shall pay all common expenses. After any assessment has been
8 made by the association, assessments shall be made at least annually,
9 based on a budget adopted at least annually by the association.

10 B. Except for assessments under subsections C, D, E, ~~and~~ F AND H of
11 this section, all common expenses shall be assessed against all the units
12 in accordance with the allocations set forth in the declaration pursuant
13 to section 33-1217, subsection A. Any past due common expense assessment
14 or installment bears interest at the rate established by the board subject
15 to the condominium documents.

16 C. Unless otherwise provided for in the declaration, all of the
17 following apply:

18 1. Any common expense associated with the maintenance, repair or
19 replacement of a limited common element shall be equally assessed against
20 the units to which the limited common element is assigned.

21 2. Any common expense or portion of a common expense benefitting
22 fewer than all of the units shall be assessed exclusively against the
23 units benefitted.

24 D. Assessments to pay a judgment against the association may be
25 made only against the units in the condominium at the time the judgment
26 was entered, in proportion to their common expense liabilities.

27 E. If any common expense is caused by the misconduct of any unit
28 owner, the association may assess that expense exclusively against that
29 unit.

30 F. If the declaration so provides, the common expense assessment
31 for any unit on which construction has not been substantially completed
32 may be an amount ~~which~~ THAT is ~~not less than~~ AT LEAST twenty-five ~~percent~~
33 PERCENT of the common expense assessment for units ~~which~~ THAT have been
34 substantially completed. However, this reduced common expense assessment
35 shall not be ~~permitted;~~ ALLOWED unless the declarant is obligated under
36 the declaration to pay to the association any deficiency in monies due to
37 the declarant having paid a reduced common assessment and necessary for
38 the association to be able to timely pay all common expenses.

39 G. If common expense liabilities are reallocated, common expense
40 assessments and any installment on the assessments not yet due shall be
41 recalculated in accordance with the reallocated common expense
42 liabilities.

43 H. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, IF A
44 CONDOMINIUM INCLUDES A COMMERCIAL STRUCTURE THAT IS SEPARATE FROM A
45 RESIDENTIAL STRUCTURE, ALL OF THE FOLLOWING APPLY:

1 1. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT
2 EXCLUSIVELY BENEFITS THE COMMERCIAL STRUCTURE SHALL BE ASSESSED
3 EXCLUSIVELY AGAINST THE UNITS IN THE COMMERCIAL STRUCTURE, WHETHER
4 ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR OTHERWISE.

5 2. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT
6 EXCLUSIVELY BENEFITS THE RESIDENTIAL STRUCTURE SHALL BE ASSESSED
7 EXCLUSIVELY AGAINST THE UNITS IN THE RESIDENTIAL STRUCTURE, WHETHER
8 ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR OTHERWISE.

9 3. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT BENEFITS
10 BOTH THE COMMERCIAL STRUCTURE AND THE RESIDENTIAL STRUCTURE SHALL BE
11 ASSESSED IN PROPORTION TO THE STRUCTURES BENEFITTED, WHETHER ASSESSED IN A
12 GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR OTHERWISE. THE PROPORTIONAL
13 SHARE OF THE COMMON EXPENSES THAT BENEFIT THE COMMERCIAL STRUCTURE SHALL
14 THEREAFTER BE ASSESSED AGAINST THE UNITS IN THE COMMERCIAL STRUCTURE ON A
15 PRO RATA BASIS, AND THE PROPORTIONAL SHARE OF THE COMMON EXPENSES THAT
16 BENEFIT THE RESIDENTIAL STRUCTURE SHALL THEREAFTER BE ASSESSED AGAINST THE
17 UNITS IN THE RESIDENTIAL STRUCTURE ON A PRO RATA BASIS.

18 4. IN ANY DISPUTE OVER THE ALLOCATION OF A COMMON EXPENSE OR
19 PORTION OF A COMMON EXPENSE, THE ASSOCIATION BEARS THE BURDEN OF PROVING
20 BY CLEAR AND CONVINCING EVIDENCE THAT IT HAS ALLOCATED THE COMMON EXPENSE
21 OR PORTION OF A COMMON EXPENSE IN COMPLIANCE WITH THIS SECTION.

22 ~~H.~~ I. This section does not apply to timeshare plans or
23 associations that are subject to chapter 20 of this title.

24 J. FOR PURPOSES OF THIS SECTION:

25 1. "COMMERCIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF
26 THE UNITS ARE DESIGNATED FOR COMMERCIAL OR WORK PURPOSES AND IS SEPARATE
27 FROM A RESIDENTIAL STRUCTURE IF NO RESIDENTIAL UNITS ARE LOCATED ON TOP OF
28 OR BELOW THE COMMERCIAL STRUCTURE.

29 2. "COMMON EXPENSES" HAS THE SAME MEANING PRESCRIBED IN SECTION
30 33-1202.

31 3. "RESIDENTIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF
32 THE UNITS ARE DESIGNATED FOR RESIDENTIAL PURPOSES.

33 Sec. 2. Applicability

34 Section 33-1255, Arizona Revised Statutes, as amended by this act,
35 applies to any condominium existing on or after the effective date of this
36 act.