

House Engrossed

homeowner's associations; unlawful enforcement; damages

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

HOUSE BILL 2866

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; enforcement; damages

6 A. Subject to the provisions of the declaration, the association
7 may:

8 1. Adopt and amend bylaws and rules.

9 2. Adopt and amend budgets for revenues, expenditures and reserves
10 and collect assessments for common expenses from unit owners.

11 3. Hire and discharge managing agents and other employees, agents
12 and independent contractors.

13 4. Institute, defend or intervene in litigation or administrative
14 proceedings in its own name on behalf of itself or two or more unit owners
15 on matters affecting the condominium.

16 5. Make contracts and incur liabilities.

17 6. Regulate the use, maintenance, repair, replacement and
18 modification of common elements.

19 7. Cause additional improvements to be made as a part of the common
20 elements.

21 8. Acquire, hold, encumber and convey in its own name any right,
22 title or interest to real or personal property, except that common
23 elements may be conveyed or subjected to a security interest only pursuant
24 to section 33-1252.

25 9. Grant easements, leases, licenses and concessions through or
26 over the common elements.

27 10. Impose and receive any payments, fees or charges for the use,
28 rental or operation of the common elements other than limited common
29 elements described in section 33-1212, paragraphs 2 and 4 and for services
30 provided to unit owners.

31 11. Impose charges for late payment of assessments after the
32 association has provided notice that the assessment is overdue or provided
33 notice that the assessment is considered overdue after a certain date and,
34 after notice and an opportunity to be heard, impose reasonable monetary
35 penalties on unit owners for violations of the declaration, bylaws and
36 rules of the association.

37 12. Impose reasonable charges for the preparation and recordation
38 of amendments to the declaration or statements of unpaid assessments.

39 13. Provide for the indemnification of its officers and executive
40 board of directors and maintain directors' and officers' liability
41 insurance.

42 14. Assign its right to future income, including the right to
43 receive common expense assessments, but only to the extent the declaration
44 expressly provides.

1 15. Be a member of a master association or other entity owning,
2 maintaining or governing in any respect any portion of the common elements
3 or other property benefitting or related to the condominium or the unit
4 owners in any respect.

5 16. Exercise any other powers conferred by the declaration or
6 bylaws.

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

9 18. Exercise any other powers necessary and proper for the
10 governance and operation of the association.

11 B. A unit owner who receives a written notice that the condition of
12 the property owned by the unit owner is in violation of a requirement of
13 the condominium documents without regard to whether a monetary penalty is
14 imposed by the notice may provide the association with a written response
15 by sending the response by certified mail within twenty-one calendar days
16 after the date of the notice. The response shall be sent to the address
17 identified in the notice.

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

23 1. The provision of the condominium documents that has allegedly
24 been violated.

25 2. The date of the violation or the date the violation was
26 observed.

27 3. The first and last name of the person or persons who observed
28 the violation.

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

30 D. Unless the information required in subsection C, paragraph 4 of
31 this section is provided in the notice of violation, the association shall
32 not proceed with any action to enforce the condominium documents,
33 including the collection of attorney fees, before or during the time
34 prescribed by subsection C of this section regarding the exchange of
35 information between the association and the unit owner and shall give the
36 unit owner written notice of the unit owner's option to petition for an
37 administrative hearing on the matter in the state real estate department
38 pursuant to section 32-2199.01. At any time before or after completion
39 of the exchange of information pursuant to this section, the unit owner
40 may petition for a hearing pursuant to section 32-2199.01 if the dispute
41 is within the jurisdiction of the state real estate department as
42 prescribed in section 32-2199.01.

43 E. IF AN ASSOCIATION ATTEMPTS TO ENFORCE ANY PROVISION OF THE
44 DECLARATION, BYLAWS OR RULES OF THE ASSOCIATION THAT IS PROHIBITED BY LAW,
45 THE ASSOCIATION IS LIABLE FOR DAMAGES TO THE UNIT OWNER AS FOLLOWS:

- 1 1. FOR A FIRST ATTEMPT TO ENFORCE, \$1,000.
- 2 2. FOR A SECOND AND ANY ADDITIONAL ATTEMPTS TO ENFORCE, \$2,500.
- 3 F. THE ASSOCIATION'S LIABILITY PRESCRIBED BY SUBSECTION E OF THIS
- 4 SECTION ACCRUES BASED ON THE NUMBER OF ATTEMPTS TO ENFORCE WITHOUT REGARD
- 5 TO WHETHER ENFORCEMENT IS ATTEMPTED AGAINST THE SAME OR DIFFERENT UNIT
- 6 OWNERS OF THE CONDOMINIUM. A UNIT OWNER HAS RECOURSE FOR DAMAGES AGAINST
- 7 THE ASSOCIATION IN ANY COURT OF COMPETENT JURISDICTION.

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

10 33-1803. Assessment limitation; penalties; notice to member
11 of violation; enforcement; damages

12 A. Unless limitations in the community documents would result in a
13 lower limit for the assessment, the association shall not impose a regular
14 assessment that is more than twenty percent greater than the immediately
15 preceding fiscal year's assessment without the approval of the majority of
16 the members of the association. Unless reserved to the members of the
17 association, the board of directors may impose reasonable charges for the
18 late payment of assessments. A payment by a member is deemed late if it
19 is unpaid fifteen or more days after its due date, unless the community
20 documents provide for a longer period. Charges for the late payment of
21 assessments are limited to the greater of ~~fifteen dollars~~ \$15 or ten
22 percent of the amount of the unpaid assessment and may be imposed only
23 after the association has provided notice that the assessment is overdue
24 or provided notice that the assessment is considered overdue after a
25 certain date. Any monies paid by the member for an unpaid assessment
26 shall be applied first to the principal amount unpaid and then to the
27 interest accrued.

28 B. After notice and an opportunity to be heard, the board of
29 directors may impose reasonable monetary penalties on members for
30 violations of the declaration, bylaws and rules of the association.
31 Notwithstanding any provision in the community documents, the board of
32 directors shall not impose a charge for a late payment of a penalty that
33 exceeds the greater of ~~fifteen dollars~~ \$15 or ten percent of the amount of
34 the unpaid penalty. A payment is deemed late if it is unpaid fifteen or
35 more days after its due date, unless the declaration, bylaws or rules of
36 the association provide for a longer period. Any monies paid by a member
37 for an unpaid penalty shall be applied first to the principal amount
38 unpaid and then to the interest accrued. Notice pursuant to this
39 subsection shall include information pertaining to the manner in which the
40 penalty shall be enforced.

41 C. A member who receives a written notice that the condition of the
42 property owned by the member is in violation of the community documents
43 without regard to whether a monetary penalty is imposed by the notice may
44 provide the association with a written response by sending the response by
45 certified mail within twenty-one calendar days after the date of the

1 notice. The response shall be sent to the address identified in the
2 notice.

3 D. Within ten business days after receipt of the certified mail
4 containing the response from the member, the association shall respond to
5 the member with a written explanation regarding the notice that shall
6 provide at least the following information unless previously provided in
7 the notice of violation:

8 1. The provision of the community documents that has allegedly been
9 violated.

10 2. The date of the violation or the date the violation was
11 observed.

12 3. The first and last name of the person or persons who observed
13 the violation.

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

15 E. Unless the information required in subsection D, paragraph 4 of
16 this section is provided in the notice of violation, the association shall
17 not proceed with any action to enforce the community documents, including
18 the collection of attorney fees, before or during the time prescribed by
19 subsection D of this section regarding the exchange of information between
20 the association and the member and shall give the member written notice of
21 the member's option to petition for an administrative hearing on the
22 matter in the state real estate department pursuant to section
23 32-2199.01. At any time before or after completion of the exchange of
24 information pursuant to this section, the member may petition for a
25 hearing pursuant to section 32-2199.01 if the dispute is within the
26 jurisdiction of the state real estate department as prescribed in section
27 32-2199.01.

28 F. IF AN ASSOCIATION ATTEMPTS TO ENFORCE ANY PROVISION OF THE
29 DECLARATION, BYLAWS OR RULES OF THE ASSOCIATION THAT IS PROHIBITED BY LAW,
30 THE ASSOCIATION IS LIABLE FOR DAMAGES TO THE MEMBER AS FOLLOWS:

31 1. FOR A FIRST ATTEMPT TO ENFORCE, \$1,000.

32 2. FOR A SECOND AND ANY ADDITIONAL ATTEMPTS TO ENFORCE, \$2,500.

33 G. THE ASSOCIATION'S LIABILITY PRESCRIBED BY SUBSECTION F OF THIS
34 SECTION ACCRUES BASED ON THE NUMBER OF ATTEMPTS TO ENFORCE WITHOUT REGARD
35 TO WHETHER ENFORCEMENT IS ATTEMPTED AGAINST THE SAME OR DIFFERENT MEMBERS
36 OF THE PLANNED COMMUNITY. A MEMBER HAS RECOURSE FOR DAMAGES AGAINST THE
37 ASSOCIATION IN ANY COURT OF COMPETENT JURISDICTION.