

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1517
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 33-1260, Arizona Revised Statutes, is amended
3 to read:

4 33-1260. Sale of units; information required; fees; civil
5 penalty; applicability; definition

6 A. For condominiums with fewer than fifty units, a unit owner shall
7 ~~mail~~ ELECTRONICALLY TRANSMIT or deliver to a purchaser or a purchaser's
8 ~~authorized~~ DESIGNATED agent THE INFORMATION REQUIRED BY THIS SUBSECTION
9 within ten days after ~~receipt of a written notice of a pending sale of the~~
10 ~~unit, and~~ ACCEPTANCE OF THE PURCHASER'S OFFER TO PURCHASE. For
11 condominiums with fifty or more units, the association shall ~~mail~~
12 ELECTRONICALLY TRANSMIT or deliver to a purchaser or a purchaser's
13 ~~authorized~~ DESIGNATED agent within ten days after receipt of a written
14 notice of a pending sale that contains the name, EMAIL ADDRESS and MAILING
15 address of the purchaser OR THE PURCHASER'S DESIGNATED AGENT all of the
16 following in either paper or electronic format:

17 1. A copy of the CURRENT bylaws and the CURRENT rules of the
18 association.

19 2. A copy of the CURRENT RECORDED declaration AND FINAL PLAT OR AN
20 ELECTRONIC COPY OF THE FINAL PLAT, IF AVAILABLE.

21 3. A COPY OF THE BOARD OF DIRECTORS-APPROVED MINUTES OF ALL OPEN
22 MEETINGS OF THE BOARD OF DIRECTORS FOR THE PREVIOUS THREE MEETINGS.

23 ~~3.~~ 4. A dated statement containing:

24 (a) The telephone number and address of a principal contact for the
25 association, which may be an association manager, an association
26 management company, an officer of the association or any other person
27 designated by the board of directors.

28 (b) The amount of AND PAYMENT SCHEDULE FOR the ANNUAL common
29 expense assessment for the unit and THE REMAINING INSTALLMENTS AND PAYMENT
30 SCHEDULES ON ANY APPROVED AND ASSESSED SPECIAL ASSESSMENT, IF ANY.

31 (c) THE AMOUNT AND PURPOSE OF ANY SPECIAL ASSESSMENT APPROVED BY
32 THE BOARD OF DIRECTORS BUT NOT YET ASSESSED OR ANY SPECIAL ASSESSMENT
33 SUBMITTED BY THE BOARD OF DIRECTORS FOR UNIT OWNER APPROVAL WITHIN THE
34 PREVIOUS FOUR MONTHS, IF ANY.

35 (d) ANY KNOWN MATERIAL DEFICIENCY OR CONDITION OF THE LIMITED
36 COMMON ELEMENTS ASSOCIATED WITH THE UNIT OR COMMON ELEMENTS KNOWN BY THE
37 ASSOCIATION FOR WHICH THE PURCHASER WILL BE LIABLE FOR THE DIRECTLY
38 ASSESSED REPAIR COSTS WITHIN SIX MONTHS OF THE PURCHASE, IF ANY.

1 (e) THE CURRENT AMOUNT OF any unpaid common expense
2 assessment, ~~special assessment or other assessment, fee or charge~~
3 ~~currently due and payable from the selling unit owner. If the request is~~
4 ~~made by a lienholder, escrow agent, unit owner or person designated by a~~
5 ~~unit owner pursuant to section 33-1256, failure to provide the information~~
6 ~~pursuant to this subdivision within the time provided for in this~~
7 ~~subsection shall extinguish any lien for any unpaid assessment then due~~
8 ~~against that unit~~ LIEN OR JUDGMENT LIEN ON THE UNIT DUE TO THE ASSOCIATION
9 PURSUANT TO SECTION 33-1256 AND ANY LIS PENDENS RECORDED BY THE
10 ASSOCIATION AGAINST THE UNIT.

11 ~~(c) A statement as to whether a portion of the unit is covered by~~
12 ~~insurance maintained by the association.~~

13 ~~(d) The total amount of money held by the association as reserves.~~

14 ~~(e) If the statement is being furnished by the association, a~~
15 ~~statement as to whether the records of the association reflect any~~
16 ~~alterations or improvements to the unit that violate the declaration. The~~
17 ~~association is not obligated to provide information regarding alterations~~
18 ~~or improvements that occurred more than six years before the proposed~~
19 ~~sale. Nothing in this subdivision relieves the seller of a unit from the~~
20 ~~obligation to disclose alterations or improvements to the unit that~~
21 ~~violate the declaration, nor precludes the association from taking action~~
22 ~~against the purchaser of a unit for violations that are apparent at the~~
23 ~~time of purchase and that are not reflected in the association's records.~~

24 ~~(f) If the statement is being furnished by the unit owner, a~~
25 ~~statement as to whether the unit owner has any knowledge of any~~
26 ~~alterations or improvements to the unit that violate the declaration.~~

27 ~~(g) A statement of case names and case numbers for pending~~
28 ~~litigation with respect to the unit filed by the association against the~~
29 ~~unit owner or filed by the unit owner against the association. The unit~~
30 ~~owner or the association shall not be required to disclose information~~
31 ~~concerning the pending litigation that would violate any applicable rule~~
32 ~~of attorney-client privilege under Arizona law.~~

33 ~~(h) A statement that provides "I hereby acknowledge that the~~
34 ~~declaration, bylaws and rules of the association constitute a contract~~
35 ~~between the association and me (the purchaser). By signing this~~
36 ~~statement, I acknowledge that I have read and understand the association's~~
37 ~~contract with me (the purchaser). I also understand that as a matter of~~
38 ~~Arizona law, if I fail to pay my association assessments, the association~~
39 ~~may foreclose on my property." The statement shall also include a~~
40 ~~signature line for the purchaser and shall be returned to the association~~
41 ~~within fourteen calendar days.~~

42 (f) THE AMOUNT AND PURPOSE OF ANY TITLE TRANSFER FEE OR OTHER
43 SIMILAR FEE, HOWEVER DENOMINATED, THAT IS AUTHORIZED IN THE DECLARATION
44 AND ESTABLISHED BY THE ASSOCIATION PURSUANT TO SECTION 33-442.

45 (g) A COPY OF THE ASSOCIATION'S MOST RECENT INCOME AND EXPENSES
46 FINANCIAL STATEMENT FOR ALL OPERATING AND RESERVE ACCOUNTS, AS APPLICABLE.

47 (h) ANY OUTSTANDING AND UNRESOLVED VIOLATION OF THE ASSOCIATION'S
48 CONDOMINIUM DOCUMENTS THAT WAS CITED AGAINST THE UNIT, IF ANY.

49 ~~4.~~ 5. A copy of the current operating budget of the association.

- 1 ~~5.~~ 6. A copy of the most recent annual ~~financial~~ AUDIT, REVIEW OR
2 COMPILATION report of the association PRESCRIBED BY SECTION 33-1243,
3 SUBSECTION J. If the report is more than ten pages, the association may
4 provide a summary of the report in lieu of the entire report.
- 5 ~~6.~~ 7. A copy of the most recent reserve study of the association,
6 if any. IF THE REPORT IS MORE THAN TEN PAGES, THE ASSOCIATION MAY PROVIDE
7 A SUMMARY OF THE REPORT IN LIEU OF THE ENTIRE REPORT.
- 8 ~~7.~~ 8. A statement summarizing any pending lawsuits, except those
9 relating to the collection of assessments owed by unit owners other than
10 the selling unit owner, in which the association is a named party,
11 including the amount of any money claimed.
- 12 9. A STATEMENT AS TO WHETHER A PORTION OF THE UNIT IS COVERED BY
13 INSURANCE MAINTAINED BY THE ASSOCIATION AND A COPY OF ALL INSURANCE
14 CERTIFICATES IDENTIFYING THE COVERAGE LIMITS AND DEDUCTIBLES MAINTAINED BY
15 THE ASSOCIATION PURSUANT TO SECTION 33-1253.
- 16 10. A STATEMENT AS TO WHETHER THE CONDOMINIUM IS UNDER DECLARANT
17 CONTROL AND THE APPROXIMATE PERCENTAGE OF UNITS IDENTIFIED ON THE RECORDED
18 PLAT THAT ARE CURRENTLY OWNED BY THE DECLARANT.
- 19 11. A STATEMENT IDENTIFYING WHETHER ANY CORPORATION OR LIMITED
20 LIABILITY COMPANY OWNS AND LEASES THIRTY-FIVE PERCENT OR MORE OF THE
21 UNITS.
- 22 12. A STATEMENT THAT, FOR ANY REPORT PROVIDED IN SUMMARY FORMAT
23 PURSUANT TO THIS SUBSECTION, THE PURCHASER MAY REQUEST TO VIEW THE ENTIRE
24 REPORT FROM THE ASSOCIATION DIRECTLY, AND THE ASSOCIATION SHALL PROVIDE
25 ACCESS TO THAT REPORT WITHIN TEN DAYS AFTER A WRITTEN REQUEST.
- 26 13. A STATEMENT TO BE SIGNED BY THE PURCHASER AT THE CLOSE OF
27 ESCROW THAT PROVIDES "I HEREBY ACKNOWLEDGE THAT WITH THE PURCHASE OF THIS
28 HOME OR PROPERTY, I WILL BE CONTRACTUALLY BOUND TO THE VALID COVENANTS,
29 CONDITIONS AND RESTRICTIONS OF THE RECORDED DECLARATION, AND WILL BE
30 CONTRACTUALLY BOUND TO PAY ALL COMMON EXPENSE ASSESSMENTS APPLIED TO MY
31 HOME OR PROPERTY AS AUTHORIZED IN THE DECLARATION AND TITLE 33, CHAPTER 9
32 OR 16, ARIZONA REVISED STATUTES, AS APPLICABLE. IF I FAIL TO PAY COMMON
33 EXPENSE ASSESSMENTS, I MAY BE SUBJECT TO COLLECTION ACTIVITY BY THE
34 ASSOCIATION UP TO AND INCLUDING FORECLOSURE ACTION, WITHOUT THE EQUITY
35 PROTECTION OF THE HOMESTEAD ACT PURSUANT TO TITLE 33, CHAPTER 8, ARIZONA
36 REVISED STATUTES."
- 37 14. IF THE UNIT IS GOVERNED BY MULTIPLE ASSOCIATIONS, A STATEMENT
38 NOTIFYING THE PURCHASER THAT THE UNIT IS SUBJECT TO EACH ASSOCIATION'S
39 RESALE DISCLOSURE FEE AUTHORIZED UNDER SUBSECTION D OF THIS SECTION.
- 40 B. ALL INFORMATION THAT IS PROVIDED UNDER SUBSECTION A OF THIS
41 SECTION SHALL BE BASED ON THE GOOD FAITH RELIANCE ON ASSOCIATION RECORDS
42 OR INFORMATION, WITHOUT THE NEED FOR INDEPENDENT INVESTIGATION OR
43 VALIDATION.
- 44 ~~B.~~ C. A purchaser or seller who is damaged by ~~the failure of~~ the
45 unit owner or the association KNOWINGLY OR RECKLESSLY FAILING to disclose
46 the information required by subsection A of this section OR KNOWINGLY OR
47 RECKLESSLY PROVIDING MATERIALLY FALSE OR MISLEADING STATEMENTS IN THE
48 DISCLOSURE may pursue all remedies at law or in equity against the unit
49 owner or the association, whichever failed to comply with subsection A of

1 this section, including the recovery of reasonable attorney fees AS
2 AWARDED BY THE COURT.

3 ~~C.~~ D. The association may charge the unit owner a fee of not more
4 than an aggregate of ~~four hundred dollars~~ \$400 to compensate the
5 association for the costs incurred in the preparation and delivery of a
6 ~~statement~~ REPORT or other documents furnished by the association pursuant
7 to this section for purposes of resale disclosure, lien estoppel and any
8 other services related to the transfer or use of the property. In
9 addition, the association may charge a rush fee of not more than ~~one~~
10 ~~hundred dollars~~ \$100 if the rush services are required to be performed
11 within seventy-two hours after the request for rush services. ~~, and THE~~
12 UNIT OWNER may REQUEST THE ASSOCIATION TO UPDATE THE REPORT IF THIRTY DAYS
13 OR MORE HAVE PASSED SINCE THE DATE OF THE ORIGINAL DISCLOSURE REPORT. THE
14 ASSOCIATION MAY charge a ~~statement or other documents~~ DOCUMENT update fee
15 of not more than ~~fifty dollars if thirty days or more have passed since~~
16 ~~the date of the original disclosure statement or the date the documents~~
17 ~~were delivered~~ \$50. The association shall make available to any
18 interested party the amount of any fee established from time to time by
19 the association. ~~if the aggregate fee for purposes of resale disclosure,~~
20 ~~lien estoppel and any other services related to the transfer or use of a~~
21 ~~property is less than four hundred dollars on January 1, 2010, the fee may~~
22 ~~increase at a rate of not more than twenty percent per year based on the~~
23 ~~immediately preceding fiscal year's amount not to exceed the four hundred~~
24 ~~dollar aggregate fee.~~ The association may charge the same fee without
25 regard to whether the association is furnishing the statement or other
26 documents in paper or electronic format.

27 ~~D.~~ E. The fees prescribed by this section shall be collected ~~no~~
28 NOT earlier than at the close of escrow and may only be charged once to a
29 unit owner OR PURCHASER for that transaction between the parties ~~specified~~
30 ~~in the notice required pursuant to subsection A of this section.~~ An
31 association shall not charge or collect a fee relating to services for
32 resale disclosure, lien estoppel and any other services related to the
33 transfer or use of a property except as specifically authorized in this
34 section. An association that charges or collects a fee in violation of
35 this section is subject to a civil penalty of not more than ~~one thousand~~
36 ~~two hundred dollars~~ \$1,200.

37 ~~E.~~ F. This section applies to a managing agent for an association
38 that is acting on behalf of the association.

39 ~~F.~~ G. The following are exempt from this section:

40 1. A sale in which a public report is issued pursuant to section
41 32-2183 or 32-2197.02.

42 2. A sale pursuant to section 32-2181.02.

43 3. A conveyance by recorded deed that bears an exemption listed in
44 section 11-1134, subsection B, paragraph 3 or 7. On recordation of the
45 deed ~~and for no additional charge~~, the ~~unit owner~~ PURCHASER shall provide
46 the association with the changes in ownership, including the unit owner's
47 name, billing address and phone number. Failure to provide the
48 information shall not prevent the unit owner from qualifying for the
49 exemption pursuant to this section.

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

3 ~~H.~~ I. For the purposes of this section, unless the context
4 otherwise requires, "unit owner":

5 1. Means the seller of the condominium unit title. ~~and excludes~~

6 2. DOES NOT INCLUDE:

7 (a) Any real estate salesperson or real estate broker who is
8 licensed under title 32, chapter 20 and who is acting as a salesperson or
9 broker. ~~,~~

10 (b) Any escrow agent who is licensed under title 6, chapter 7 and
11 who is acting as an escrow agent. ~~and also excludes~~

12 (c) A trustee of a deed of trust who is selling the property in a
13 trustee's sale pursuant to chapter 6.1 of this title.

14 Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to
15 read:

16 33-1806. Sale of properties; information required; fees;
17 civil penalty; definition

18 A. For planned communities with fewer than fifty ~~units~~ PROPERTIES,
19 a member shall ~~mail~~ ELECTRONICALLY TRANSMIT or deliver to a purchaser or a
20 purchaser's ~~authorized~~ DESIGNATED agent THE INFORMATION REQUIRED BY THIS
21 SUBSECTION within ten days after ~~receipt of a written notice of a pending~~
22 ~~sale of the unit, and~~ ACCEPTANCE OF THE PURCHASER'S OFFER TO PURCHASE.

23 For planned communities with fifty or more ~~units~~ PROPERTIES, the
24 association shall ~~mail~~ ELECTRONICALLY TRANSMIT or deliver to a purchaser
25 or a purchaser's ~~authorized~~ DESIGNATED agent within ten days after receipt
26 of a written notice of a pending sale that contains the name, EMAIL
27 ADDRESS and MAILING address of the purchaser OR THE PURCHASER'S DESIGNATED
28 AGENT all of the following in either paper or electronic format:

29 1. A copy of the CURRENT bylaws and the CURRENT rules of the
30 association.

31 2. A copy of the CURRENT declaration AND FINAL PLAT OR AN
32 ELECTRONIC COPY OF THE FINAL PLAT, IF AVAILABLE.

33 3. A COPY OF THE BOARD-APPROVED MINUTES OF ALL OPEN MEETINGS OF THE
34 BOARD OF DIRECTORS FOR THE PREVIOUS THREE MEETINGS.

35 ~~S.~~ 4. A dated statement containing:

36 (a) The telephone number and address of a principal contact for the
37 association, which may be an association manager, an association
38 management company, an officer of the association or any other person
39 designated by the board of directors.

40 (b) The amount of AND PAYMENT SCHEDULE FOR the ANNUAL common
41 regular assessment and the REMAINING INSTALLMENTS AND PAYMENT SCHEDULES ON
42 ANY APPROVED AND ASSESSED SPECIAL ASSESSMENT, IF ANY.

43 (c) THE AMOUNT AND PURPOSE OF ANY SPECIAL ASSESSMENT APPROVED BY
44 THE BOARD OF DIRECTORS BUT NOT YET ASSESSED OR ANY SPECIAL ASSESSMENT
45 SUBMITTED BY THE BOARD FOR MEMBER APPROVAL WITHIN THE PREVIOUS FOUR
46 MONTHS, IF ANY.

47 (d) THE CURRENT AMOUNT OF ANY unpaid common regular
48 assessment, ~~special assessment or other assessment, fee or charge~~
49 ~~currently due and payable from the selling member. If the request is made~~

1 ~~by a lienholder, escrow agent, member or person designated by a member~~
2 ~~pursuant to section 33-1807, failure to provide the information pursuant~~
3 ~~to this subdivision within the time provided for in this subsection shall~~
4 ~~extinguish any lien for any unpaid assessment then due against that~~
5 ~~property~~ LIEN OR JUDGMENT LIEN ON THE PROPERTY DUE TO THE ASSOCIATION
6 PURSUANT TO SECTION 33-1807 AND ANY LIS PENDENS RECORDED BY THE
7 ASSOCIATION AGAINST THE PROPERTY.

8 ~~(c) A statement as to whether a portion of the unit is covered by~~
9 ~~insurance maintained by the association.~~

10 ~~(d) The total amount of money held by the association as reserves.~~

11 ~~(e) If the statement is being furnished by the association, a~~
12 ~~statement as to whether the records of the association reflect any~~
13 ~~alterations or improvements to the unit that violate the declaration. The~~
14 ~~association is not obligated to provide information regarding alterations~~
15 ~~or improvements that occurred more than six years before the proposed~~
16 ~~sale. Nothing in this subdivision relieves the seller of a unit from the~~
17 ~~obligation to disclose alterations or improvements to the unit that~~
18 ~~violate the declaration, nor precludes the association from taking action~~
19 ~~against the purchaser of a unit for violations that are apparent at the~~
20 ~~time of purchase and that are not reflected in the association's records.~~

21 ~~(f) If the statement is being furnished by the member, a statement~~
22 ~~as to whether the member has any knowledge of any alterations or~~
23 ~~improvements to the unit that violate the declaration.~~

24 ~~(g) A statement of case names and case numbers for pending~~
25 ~~litigation with respect to the unit filed by the association against the~~
26 ~~member or filed by the member against the association. The member shall~~
27 ~~not be required to disclose information concerning such pending litigation~~
28 ~~that would violate any applicable rule of attorney-client privilege under~~
29 ~~Arizona law.~~

30 ~~(h) A statement that provides "I hereby acknowledge that the~~
31 ~~declaration, bylaws and rules of the association constitute a contract~~
32 ~~between the association and me (the purchaser). By signing this~~
33 ~~statement, I acknowledge that I have read and understand the association's~~
34 ~~contract with me (the purchaser). I also understand that as a matter of~~
35 ~~Arizona law, if I fail to pay my association assessments, the association~~
36 ~~may foreclose on my property." The statement shall also include a~~
37 ~~signature line for the purchaser and shall be returned to the association~~
38 ~~within fourteen calendar days.~~

39 (e) THE AMOUNT AND PURPOSE OF ANY TITLE TRANSFER FEE OR OTHER
40 SIMILAR FEE, HOWEVER DENOMINATED, THAT IS AUTHORIZED IN THE DECLARATION
41 AND ESTABLISHED BY THE ASSOCIATION PURSUANT TO SECTION 33-442.

42 (f) A COPY OF THE ASSOCIATION'S MOST RECENT INCOME AND EXPENSES
43 FINANCIAL STATEMENT FOR ALL OPERATING AND RESERVE ACCOUNTS, AS APPLICABLE.

44 (g) ANY OUTSTANDING AND UNRESOLVED VIOLATION OF THE ASSOCIATION'S
45 COMMUNITY DOCUMENTS THAT WAS CITED AGAINST THE PROPERTY, IF ANY.

46 ~~4.~~ 5. A copy of the current operating budget of the association.

47 ~~5.~~ 6. A copy of the most recent annual ~~financia~~ AUDIT, REVIEW OR
48 COMPILATION report of the association PURSUANT TO SECTION 33-1810. If the

1 report is more than ten pages, ~~the association may provide~~ a summary of
2 the report ~~in lieu~~ MAY BE PROVIDED IN PLACE of the entire report.

3 ~~6.~~ 7. A copy of the most recent reserve study of the association,
4 if any. IF THE REPORT IS MORE THAN TEN PAGES, THE ASSOCIATION MAY PROVIDE
5 A SUMMARY OF THE REPORT IN PLACE OF THE ENTIRE REPORT.

6 ~~7.~~ 8. A statement summarizing any pending lawsuits, except those
7 relating to the collection of assessments owed by members other than the
8 selling member, in which the association is a named party, including the
9 amount of any money claimed.

10 9. A STATEMENT AS TO WHETHER THE PLANNED COMMUNITY IS UNDER
11 DECLARANT CONTROL AND THE APPROXIMATE PERCENTAGE OF LOTS IDENTIFIED ON THE
12 RECORDED PLAT THAT ARE CURRENTLY OWNED BY THE DECLARANT.

13 10. A STATEMENT THAT, FOR ANY REPORT PROVIDED IN SUMMARY FORMAT
14 PURSUANT TO THIS SUBSECTION, THE PURCHASER MAY REQUEST TO VIEW THE ENTIRE
15 REPORT FROM THE ASSOCIATION DIRECTLY, AND THE ASSOCIATION SHALL PROVIDE
16 ACCESS TO THAT REPORT WITHIN TEN DAYS AFTER A WRITTEN REQUEST.

17 11. A STATEMENT TO BE SIGNED BY THE PURCHASER AT THE CLOSE OF
18 ESCROW THAT PROVIDES "I HEREBY ACKNOWLEDGE THAT WITH THE PURCHASE OF THIS
19 HOME OR PROPERTY, I WILL BE CONTRACTUALLY BOUND TO THE VALID COVENANTS,
20 CONDITIONS AND RESTRICTIONS OF THE RECORDED DECLARATION, AND WILL BE
21 CONTRACTUALLY BOUND TO PAY ALL COMMON EXPENSE ASSESSMENTS APPLIED TO MY
22 HOME OR PROPERTY AS AUTHORIZED IN THE DECLARATION AND TITLE 33, CHAPTER 9
23 OR 16, ARIZONA REVISED STATUTES, AS APPLICABLE. IF I FAIL TO PAY COMMON
24 EXPENSE ASSESSMENTS, I MAY BE SUBJECT TO COLLECTION ACTIVITY BY THE
25 ASSOCIATION UP TO AND INCLUDING FORECLOSURE ACTION, WITHOUT THE EQUITY
26 PROTECTION OF THE HOMESTEAD ACT PURSUANT TO TITLE 33, CHAPTER 8, ARIZONA
27 REVISED STATUTES."

28 12. IF THE PROPERTY IS GOVERNED BY MULTIPLE ASSOCIATIONS, A
29 STATEMENT NOTIFYING THE PURCHASER THAT THE PROPERTY IS SUBJECT TO EACH
30 ASSOCIATION'S RESALE DISCLOSURE FEE AUTHORIZED UNDER SUBSECTION D OF THIS
31 SECTION.

32 B. ALL INFORMATION THAT IS PROVIDED UNDER SUBSECTION A OF THIS
33 SECTION SHALL BE BASED ON THE GOOD FAITH RELIANCE ON ASSOCIATION RECORDS
34 OR INFORMATION, WITHOUT THE NEED FOR INDEPENDENT INVESTIGATION OR
35 VALIDATION.

36 ~~B.~~ C. A purchaser or seller who is damaged by ~~the failure of~~ the
37 member or the association KNOWINGLY OR RECKLESSLY FAILING to disclose the
38 information required by subsection A of this section OR KNOWINGLY OR
39 RECKLESSLY PROVIDING MATERIALLY FALSE OR MISLEADING STATEMENTS IN THE
40 DISCLOSURE may pursue all remedies at law or in equity against the member
41 or the association, whichever failed to comply with subsection A of this
42 section, including the recovery of reasonable attorney fees AS AWARDED BY
43 THE COURT.

44 ~~C.~~ D. The association may charge the member a fee of not more than
45 an aggregate of ~~four hundred dollars~~ \$400 to compensate the association
46 for the costs incurred in the preparation and delivery of a ~~statement~~
47 REPORT or other documents furnished by the association pursuant to this
48 section for purposes of resale disclosure, lien estoppel and any other
49 services related to the transfer or use of the property. In addition, the

1 association may charge a rush fee of not more than ~~one hundred dollars~~
2 \$100 if the rush services are required to be performed within seventy-two
3 hours after the request for rush services. ~~, and~~ THE MEMBER may REQUEST
4 THE ASSOCIATION TO UPDATE THE REPORT IF THIRTY DAYS OR MORE HAVE PASSED
5 SINCE THE DATE OF THE ORIGINAL DISCLOSURE REPORT. THE ASSOCIATION MAY
6 charge a ~~statement or other documents~~ DOCUMENT update fee of not more than
7 ~~fifty dollars if thirty days or more have passed since the date of the~~
8 ~~original disclosure statement or the date the documents were delivered~~
9 \$50. The association shall make available to any interested party the
10 amount of any fee established from time to time by the association. ~~if~~
11 ~~the aggregate fee for purposes of resale disclosure, lien estoppel and any~~
12 ~~other services related to the transfer or use of a property is less than~~
13 ~~four hundred dollars on January 1, 2010, the fee may increase at a rate of~~
14 ~~not more than twenty percent per year based on the immediately preceding~~
15 ~~fiscal year's amount not to exceed the four hundred dollar aggregate fee.~~
16 The association may charge the same fee without regard to whether the
17 association is furnishing the statement or other documents in paper or
18 electronic format.

19 ~~D.~~ E. The fees prescribed by this section shall be collected ~~no~~
20 NOT earlier than at the close of escrow and may only be charged once to a
21 member OR PURCHASER for that transaction between the parties ~~specified in~~
22 ~~the notice required pursuant to subsection A of this section.~~ An
23 association shall not charge or collect a fee relating to services for
24 resale disclosure, lien estoppel and any other services related to the
25 transfer or use of a property except as specifically authorized in this
26 section. An association that charges or collects a fee in violation of
27 this section is subject to a civil penalty of not more than ~~one thousand~~
28 ~~two hundred dollars~~ \$1,200.

29 ~~E.~~ F. This section applies to a managing agent for an association
30 that is acting on behalf of the association.

31 ~~F.~~ G. The following are exempt from this section:

32 1. A sale in which a public report is issued pursuant to section
33 32-2183 or 32-2197.02.

34 2. A sale pursuant to section 32-2181.02.

35 3. A conveyance by recorded deed that bears an exemption listed in
36 section 11-1134, subsection B, paragraph 3 or 7. On recordation of the
37 deed ~~and for no additional charge~~, the member PURCHASER shall provide the
38 association with the changes in ownership, including the member's name,
39 billing address and phone number. Failure to provide the information
40 shall not prevent the member from qualifying for the exemption pursuant to
41 this section.

42 ~~G.~~ H. For the purposes of this section, unless the context
43 otherwise requires, "member":

44 1. Means the seller of the ~~unit~~ PROPERTY title. ~~and excludes~~

45 2. DOES NOT INCLUDE:

46 (a) Any real estate salesperson or real estate broker who is
47 licensed under title 32, chapter 20 and who is acting as a salesperson or
48 broker. ~~,~~

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1 (b) Any escrow agent who is licensed under title 6, chapter 7 and
2 who is acting as an escrow agent. ~~and also excludes~~
3 (c) A trustee of a deed of trust who is selling the property in a
4 trustee's sale pursuant to chapter 6.1 of this title."
5 Amend title to conform

DAVID LIVINGSTON

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