

REFERENCE TITLE: HOAs; condominiums; enforcement; due process

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1440

Introduced by
Senators Kavanagh: Rogers

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

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.

45 15. Be a member of a master association or other entity owning,
46 maintaining or governing in any respect any portion of the common elements

1 or other property benefitting or related to the condominium or the unit
2 owners in any respect.

3 16. Exercise any other powers conferred by the declaration or
4 bylaws.

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

7 18. Exercise any other powers necessary and proper for the
8 governance and operation of the association.

9 B. A unit owner who receives a written notice that the condition of
10 the property owned by the unit owner is in violation of a requirement of
11 the condominium documents without regard to whether a monetary penalty is
12 imposed by the notice may ~~provide the association with a written response~~
13 ~~by sending the response by certified mail~~ EITHER TAKE THE ACTIONS
14 NECESSARY TO COMPLY WITH THE CONDOMINIUM DOCUMENTS, ELIMINATE ANY
15 IDENTIFIED IMMINENT PERSONAL SAFETY THREAT OR REQUEST TO APPEAL THE NOTICE
16 OF VIOLATION within ~~twenty-one~~ TEN calendar days after ~~the date~~ of
17 RECEIVING the notice. IF THE NOTICE OF VIOLATION WAS SENT BY THE UNITED
18 STATES POSTAL SERVICE, THE NOTICE OF VIOLATION IS CONSIDERED RECEIVED TWO
19 CALENDAR DAYS AFTER THE NOTICE OF VIOLATION IS POSTMARKED. ON EXPIRATION
20 OF THE OPPORTUNITY TO APPEAL, IF THE NOTICE OF VIOLATION IMPOSED PENALTIES
21 AND WAS NOT CURED OR APPEALED, THE ASSOCIATION MAY TAKE THE AUTHORIZED
22 ACTION NECESSARY TO ENFORCE THE CONDOMINIUM DOCUMENTS UNTIL CURED. The
23 ~~response~~ REQUEST TO APPEAL THE ALLEGED VIOLATION shall be sent to the
24 address, EMAIL ADDRESS OR ONLINE PORTAL OR BY ANY OTHER AVAILABLE MEANS
25 identified in the notice OF VIOLATION. THE UNIT OWNER MAY REQUEST THAT
26 THE HEARING BE HELD IN EITHER AN OPEN OR CLOSED SESSION OF THE BOARD OF
27 DIRECTORS PURSUANT TO SECTION 33-1248.

28 C. IF THE ALLEGED VIOLATION IS APPEALED, THE ASSOCIATION SHALL:

29 1. SCHEDULE A HEARING BEFORE THE BOARD OF DIRECTORS.

30 2. AT LEAST FORTY-EIGHT HOURS BEFORE THE HEARING, PROVIDE DIRECTLY
31 TO THE UNIT OWNER BY EMAIL, TEXT OR OTHER DOCUMENTED MEANS NOTICE OF THE
32 LOCATION, DATE AND TIME OF THE HEARING.

33 3. PROVIDE THE UNIT OWNER OR THE UNIT OWNER'S DESIGNATED
34 REPRESENTATIVE WITH A REASONABLE ALLOTMENT OF TIME NECESSARY TO PRESENT
35 THE APPEAL.

36 D. THE BOARD OF DIRECTORS MAY APPLY DISCRETION IN ITS ENFORCEMENT
37 POWER BUT SHALL TREAT ALL UNIT OWNERS FAIRLY, REASONABLY AND CONSISTENTLY
38 IN THE ENFORCEMENT ACTIONS. IF THE UNIT OWNER OR THE UNIT OWNER'S
39 DESIGNATED REPRESENTATIVE FAILS TO APPEAR AT THE SCHEDULED HEARING, THE
40 OPPORTUNITY TO BE HEARD IS SATISFIED AND THE ASSOCIATION MAY ACT TO
41 ENFORCE THE ACTION UNTIL THE VIOLATION IS CURED. IF A VIOLATION APPEAL IS
42 REJECTED BY THE BOARD OF DIRECTORS, THE ASSOCIATION MAY ACT TO ENFORCE THE
43 ACTION UNTIL THE VIOLATION IS CURED.

44 ~~C. E. Within ten business days after receipt of the certified mail~~
45 ~~containing the response from the unit owner, the association shall respond~~
46 ~~to the unit owner with a written explanation regarding the notice that~~

1 ~~shall provide at least the following information unless previously~~
2 ~~provided in~~ The notice of violation SHALL IDENTIFY THE FOLLOWING
3 INFORMATION:

4 1. The provision of the condominium documents that has allegedly
5 been violated.

6 2. The date of the violation or the date the violation was
7 observed.

8 ~~3. The first and last name of the person or persons who observed~~
9 ~~the violation.~~

10 3. THE ACTIONS NECESSARY TO CORRECT THE ALLEGED VIOLATION, THE
11 PROVISIONS OF THE PUBLISHED ENFORCEMENT POLICY AND THE MONETARY PENALTY
12 SCHEDULE THAT MAY BE APPLIED.

13 4. The process the unit owner must follow to ~~contest~~ APPEAL the
14 notice PURSUANT TO SUBSECTIONS B AND C OF THIS SECTION, INCLUDING THE
15 HEARING OPTIONS.

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

29 F. AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD PURSUANT TO THIS
30 SECTION, THE BOARD OF DIRECTORS MAY IMPOSE REASONABLE MONETARY OR OTHER
31 PENALTIES BASED ON THE PUBLISHED ENFORCEMENT POLICY AND SCHEDULE OF
32 MONETARY PENALTIES COMMENSURATE WITH THE SIGNIFICANCE OF THE VIOLATION
33 UNTIL THE VIOLATION IS CURED. NOTWITHSTANDING ANY PROVISION OF THE
34 CONDOMINIUM DOCUMENTS TO THE CONTRARY, THE ASSOCIATION OR THE
35 ASSOCIATION'S AGENT MAY NOT IMPOSE A CHARGE OR MONETARY OR OTHER PENALTY
36 THAT DOES ANY OF THE FOLLOWING:

37 1. RESTRICTS THE RIGHT TO VOTE, SIGN A PETITION OR RUN FOR OFFICE
38 OTHER THAN FOR FAILURE TO PAY COMMON EXPENSE ASSESSMENTS.

39 2. BASED ON ANY UNRELATED VIOLATION, RESTRICTS ACCESS TO THE
40 COMMUNITY SECURITY GATE, RESIDENTIAL BUILDINGS, PARKING STRUCTURES,
41 UTILITIES OR OTHER VITAL SERVICES.

42 3. EXCEPT FOR IMMINENT PERSONAL SAFETY ISSUES, REPEATS THE MONETARY
43 PENALTY MORE FREQUENTLY THAN EVERY FIFTEEN DAYS OR ESCALATES THE PENALTY
44 MORE FREQUENTLY THAN EVERY TWO MONTHS FOR THE UNIT OWNER FAILING TO CURE
45 THE VIOLATION.

1 4. APPLIES INTEREST TO ANY UNPAID MONETARY PENALTY THAT COMPOUNDS
2 AT AN ANNUAL RATE GREATER THAN TWENTY PERCENT.

3 5. EXCEPT FOR COSTS OF BILLING STATEMENTS, APPLIES ANY COLLECTION
4 COSTS ON MONETARY PENALTIES OTHER THAN AS AUTHORIZED UNDER SECTION
5 33-1256.

6 6. APPLIES A FEE TO THE UNIT OWNER FOR THE EXECUTION OF THE DUE
7 PROCESS OF THIS SECTION, INCLUDING ANY NOTICE OF VIOLATION.

8 G. THE ASSOCIATION'S FAILURE TO COMPLY WITH THIS SECTION
9 INVALIDATES AND MAKES UNENFORCEABLE ANY PENALTY THAT IS IMPOSED ON A UNIT
10 OWNER FOR A VIOLATION OF A REQUIREMENT IN THE CONDOMINIUM DOCUMENTS.

11 H. THE ASSOCIATION SHALL PROVIDE NOTICE IN THE PUBLISHED
12 ENFORCEMENT POLICY THAT THE UNIT OWNER HAS THE RIGHT TO FILE A PETITION
13 WITH THE STATE REAL ESTATE DEPARTMENT FOR AN ADMINISTRATIVE HEARING
14 PURSUANT TO SECTION 32-2199.01 ON ANY ALLEGED VIOLATION OF THIS SECTION,
15 THIS CHAPTER OR THE CONDOMINIUM DOCUMENTS.

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

18 33-1803. Assessment limitation; penalties; notice to member
19 of violation

20 A. Unless limitations in the community documents would result in a
21 lower limit for the assessment, the association shall not impose a regular
22 assessment that is more than twenty percent greater than the immediately
23 preceding fiscal year's assessment without the approval of the majority of
24 the members of the association. Unless reserved to the members of the
25 association, the board of directors may impose reasonable charges for the
26 late payment of assessments. A payment by a member is deemed late if it
27 is unpaid fifteen or more days after its due date, unless the community
28 documents provide for a longer period. Charges for the late payment of
29 assessments are limited to the greater of ~~fifteen dollars~~ \$15 or ten
30 percent of the amount of the unpaid assessment and may be imposed only
31 after the association has provided notice that the assessment is overdue
32 or provided notice that the assessment is considered overdue after a
33 certain date. Any monies paid by the member for an unpaid assessment
34 shall be applied ~~first to the principal amount unpaid and then to the~~
35 ~~interest accrued~~ PURSUANT TO SECTION 33-1807.

36 B. After notice and an opportunity to be heard PURSUANT TO THIS
37 SECTION, the board of directors may impose reasonable monetary ~~penalties~~
38 ~~on members for violations of the declaration, bylaws and rules of the~~
39 ~~association~~ OR OTHER PENALTIES BASED ON THE PUBLISHED ENFORCEMENT POLICY
40 AND SCHEDULE OF MONETARY PENALTIES COMMENSURATE WITH THE SIGNIFICANCE OF
41 THE VIOLATION UNTIL THE VIOLATION IS CURED. Notwithstanding any provision
42 in the community documents, the board of directors ~~OR THE BOARD'S AGENT~~
43 shall not impose a charge ~~for a late payment of a penalty that exceeds the~~
44 ~~greater of fifteen dollars or ten percent of the amount of the unpaid~~
45 ~~penalty. A payment is deemed late if it is unpaid fifteen or more days~~
46 ~~after its due date, unless the declaration, bylaws or rules of the~~

1 ~~association provide for a longer period. Any monies paid by a member for~~
2 ~~an unpaid penalty shall be applied first to the principal amount unpaid~~
3 ~~and then to the interest accrued. Notice pursuant to this subsection~~
4 ~~shall include information pertaining to the manner in which the penalty~~
5 ~~shall be enforced.~~ OR MONETARY OR OTHER PENALTY THAT DOES ANY OF THE
6 FOLLOWING:

7 1. RESTRICTS THE RIGHT TO VOTE, SIGN A PETITION OR RUN FOR OFFICE
8 OTHER THAN FOR FAILURE TO PAY COMMON EXPENSE ASSESSMENTS.

9 2. BASED ON ANY UNRELATED VIOLATION, RESTRICTS ACCESS TO THE
10 COMMUNITY SECURITY GATE, UTILITIES OR OTHER VITAL SERVICES.

11 3. EXCEPT FOR IMMINENT PERSONAL SAFETY ISSUES, REPEATS THE MONETARY
12 PENALTY MORE FREQUENTLY THAN EVERY FIFTEEN DAYS OR ESCALATES THE PENALTY
13 MORE FREQUENTLY THAN EVERY TWO MONTHS FOR THE MEMBER FAILING TO CURE THE
14 VIOLATION.

15 4. APPLIES INTEREST TO ANY MONETARY PENALTY THAT COMPOUNDS AT AN
16 ANNUAL RATE GREATER THAN TWENTY PERCENT.

17 5. EXCEPT FOR COSTS OF BILLING STATEMENTS, APPLIES ANY COLLECTION
18 COSTS ON MONETARY PENALTIES OTHER THAN AS AUTHORIZED UNDER SECTION
19 33-1807.

20 6. APPLIES A FEE TO THE MEMBER FOR THE EXECUTION OF DUE PROCESS
21 PURSUANT TO THIS SECTION, INCLUDING ANY NOTICE OF VIOLATION.

22 C. A member who receives a written notice that the condition of the
23 property owned by the member is in violation of the community documents
24 without regard to whether a monetary penalty is imposed by the notice may
25 ~~provide the association with a written response by sending the response by~~
26 ~~certified mail~~ EITHER TAKE THE ACTIONS NECESSARY TO COMPLY WITH THE
27 COMMUNITY DOCUMENTS, ELIMINATE ANY IDENTIFIED IMMINENT PERSONAL SAFETY
28 THREAT OR REQUEST TO APPEAL THE NOTICE OF VIOLATION within ~~twenty-one~~ TEN
29 calendar days after ~~the date of~~ RECEIVING the notice. IF THE NOTICE OF
30 VIOLATION WAS SENT BY THE UNITED STATES POSTAL SERVICE, THE NOTICE OF
31 VIOLATION IS DEEMED RECEIVED TWO CALENDAR DAYS AFTER THE NOTICE OF
32 VIOLATION WAS POSTMARKED. The ~~response~~ REQUEST APPEAL THE ALLEGED
33 VIOLATION shall be sent to the address, EMAIL ADDRESS OR ONLINE PORTAL OR
34 BY ANY OTHER AVAILABLE MEANS identified in the notice OF VIOLATION.

35 D. IF THE ALLEGED VIOLATION IS APPEALED, THE ASSOCIATION SHALL:

36 1. SCHEDULE A HEARING BEFORE THE BOARD OF DIRECTORS.

37 2. AT LEAST FORTY-EIGHT HOURS BEFORE THE HEARING, PROVIDE DIRECTLY
38 TO THE MEMBER BY EMAIL, TEXT OR OTHER DOCUMENTED MEANS NOTICE OF THE
39 LOCATION, DATE AND TIME OF THE HEARING.

40 3. PROVIDE THE MEMBER OR THE MEMBER'S DESIGNATED REPRESENTATIVE
41 WITH A REASONABLE ALLOTMENT OF TIME NECESSARY TO PRESENT THE APPEAL.

42 E. THE BOARD OF DIRECTORS MAY APPLY DISCRETION IN ITS ENFORCEMENT
43 POWER BUT SHALL TREAT ALL MEMBERS FAIRLY, REASONABLY AND CONSISTENTLY IN
44 THE ENFORCEMENT ACTIONS. IF THE MEMBER OR THE MEMBER'S DESIGNATED
45 REPRESENTATIVE FAILS TO APPEAR AT THE SCHEDULED HEARING, THE OPPORTUNITY
46 TO BE HEARD IS SATISFIED AND THE ASSOCIATION MAY ACT TO ENFORCE THE ACTION

1 UNTIL THE VIOLATION IS CURED. IF A VIOLATION APPEAL IS REJECTED BY THE
2 BOARD OF DIRECTORS, THE ASSOCIATION MAY ACT TO ENFORCE THE ACTION UNTIL
3 THE VIOLATION IS CURED.

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

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

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

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

15 3. THE ACTIONS NECESSARY TO CORRECT THE ALLEGED VIOLATION, THE
16 PROVISIONS OF THE PUBLISHED ENFORCEMENT POLICY AND THE PENALTY SCHEDULE
17 THAT MAY BE APPLIED.

18 4. The process the member must follow to ~~contest~~ APPEAL the notice
19 DESCRIBED IN SUBSECTIONS C AND D OF THIS SECTION, INCLUDING HEARING
20 OPTIONS.

21 ~~E. Unless the information required in subsection D, paragraph 4 of
22 this section is provided in the notice of violation, the association shall
23 not proceed with any action to enforce the community documents, including
24 the collection of attorney fees, before or during the time prescribed by
25 subsection D of this section regarding the exchange of information between
26 the association and the member and shall give the member written notice of
27 the member's option to petition for an administrative hearing on the
28 matter in the state real estate department pursuant to section
29 32-2199.01. At any time before or after completion of the exchange of
30 information pursuant to this section, the member may petition for a
31 hearing pursuant to section 32-2199.01 if the dispute is within the
32 jurisdiction of the state real estate department as prescribed in section
33 32-2199.01.~~

34 G. THE ASSOCIATION'S FAILURE TO COMPLY WITH THIS SECTION
35 INVALIDATES AND MAKES UNENFORCEABLE ANY PENALTY THAT IS IMPOSED ON A
36 MEMBER FOR A VIOLATION OF COMMUNITY DOCUMENTS.

37 H. THE ASSOCIATION SHALL PROVIDE NOTICE IN THE PUBLISHED
38 ENFORCEMENT POLICY THAT THE MEMBER HAS THE RIGHT TO FILE A PETITION WITH
39 THE STATE REAL ESTATE DEPARTMENT FOR AN ADMINISTRATIVE HEARING PURSUANT TO
40 SECTION 32-2199.01 ON ANY ALLEGED VIOLATION OF THIS SECTION, THIS CHAPTER
41 OR THE COMMUNITY DOCUMENTS.