

House Engrossed

homeowners' associations; budget ratification; requirements

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

HOUSE BILL 2442

AN ACT

AMENDING SECTIONS 33-1202, 33-1215, 33-1243, 33-1245, 33-1802 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 33-1202, Arizona Revised Statutes, is amended to
3 read:

4 33-1202. Definitions

5 In the condominium documents, unless specifically provided otherwise
6 or the context otherwise requires, and in this chapter:

7 1. "Affiliate of a declarant" means any person who controls, is
8 controlled by or is under common control with a declarant.

9 2. "Allocated interests" means the undivided interests in the
10 common elements, the common expense liability and votes in the association
11 allocated to each unit.

12 3. "Articles of incorporation" means the instrument by which an
13 incorporated association or unit owners' association is formed and
14 organized under this state's corporate statutes.

15 4. "Assessment" means the ~~share of monies that is required for the~~
16 ~~payment of common expenses and that the association assesses periodically~~
17 ~~against each unit~~ ASSOCIATION'S CHARGES APPLIED TO EACH UNIT OWNER TO FUND
18 THE ANTICIPATED COMMON EXPENSES BASED ON THE APPROVED ANNUAL OR
19 SUPPLEMENTAL BUDGET OR APPROVED SPECIAL EXPENDITURE, AND EACH UNIT OWNER'S
20 COMMON EXPENSE LIABILITY.

21 5. "Association" or "unit owners' association" means the unit
22 owners' association organized under section 33-1241.

23 6. "Board of directors" means the body, regardless of its name,
24 designated in the declaration and given general management powers to act
25 on behalf of the association.

26 7. "Bylaws" means the bylaws required by section 33-1246.

27 8. "Common elements" means all portions of a condominium other than
28 the units.

29 9. "Common expense liability" means the liability for common
30 expenses allocated to each unit pursuant to ~~section~~ SECTIONS 33-1217 AND
31 33-1255.

32 10. "Common expense lien" means the lien for assessments, charges
33 for late payment of assessments if authorized in the declaration,
34 reasonable collection fees and costs incurred or applied by the
35 association and reasonable attorney fees and costs that are incurred with
36 respect to those assessments, if the attorney fees and costs are awarded
37 by a court.

38 11. "Common expenses" means expenditures made by or financial
39 liabilities of the association, together with any allocations to reserves.

40 12. "Condominium" means real estate, portions of which are
41 designated for separate ownership and the remainder of which is designated
42 for common ownership solely by the owners of the separate portions. Real
43 estate is not a condominium unless the undivided interests in the common
44 elements are vested in the unit owners.

1 13. "Condominium documents" means the declaration, bylaws, articles
2 of incorporation, if any, and rules, if any.

3 14. "Declarant" means any person or group of persons who reserves,
4 is granted or succeeds to any special declarant right.

5 15. "Declaration" means any instruments, however denominated, that
6 create a condominium and any amendments to those instruments.

7 16. "Development rights" means any right or combination of rights
8 reserved by or granted to a declarant in the declaration to do any of the
9 following:

10 (a) Add real estate to a condominium.

11 (b) Create easements, units, common elements or limited common
12 elements within a condominium.

13 (c) Subdivide units, convert units into common elements or convert
14 common elements into units.

15 (d) Withdraw real estate from a condominium.

16 (e) Make the condominium part of a larger condominium or planned
17 community.

18 (f) Amend the declaration during any period of declarant control,
19 pursuant to section 33-1243, subsection ~~F~~ I, to comply with applicable
20 law or to correct any error or inconsistency in the declaration, if the
21 amendment does not adversely affect the rights of any unit owner.

22 (g) Amend the declaration during any period of declarant control,
23 pursuant to section 33-1243, subsection ~~F~~ I, to comply with the rules or
24 guidelines, in effect from time to time, of any governmental or
25 quasi-governmental entity or federal corporation guaranteeing or insuring
26 mortgage loans or governing transactions involving mortgage instruments.

27 17. "Identifying number" means a symbol or address that identifies
28 one unit in a condominium.

29 18. "Leasehold condominium" means a condominium in which all or a
30 portion of the real estate is subject to a lease the expiration or
31 termination of which will terminate the condominium or reduce its size.

32 19. "Limited common element" means a portion of the common elements
33 specifically designated as a limited common element in the declaration and
34 allocated by the declaration or by operation of section 33-1212, paragraph
35 2 or 4 for the exclusive use of one or more but fewer than all of the
36 units.

37 20. "Person" means:

38 (a) A natural person, corporation, business trust, estate, trust,
39 partnership, association, joint venture, government, governmental
40 subdivision or agency, or other legal or commercial entity.

41 (b) In the case of a subdivision trust, as defined in section
42 6-801, the beneficiary of the trust who holds the right to subdivide,
43 develop or sell the real estate rather than the trust or trustee.

1 21. "Real estate":

2 (a) Means any legal, equitable, leasehold or other estate or
3 interest in, over or under land, including structures, fixtures and other
4 improvements and interests which by custom, usage or law pass with a
5 conveyance of land though not described in the contract of sale or
6 instrument of conveyance.

7 (b) Includes parcels with or without upper or lower boundaries and
8 spaces that may be filled with air or water.

9 22. "Rules" means the provisions, if any, adopted pursuant to the
10 declaration or bylaws governing maintenance and use of the units and
11 common elements.

12 23. "Special declarant rights" means any right or combination of
13 rights reserved by or granted to a declarant in the declaration to do any
14 of the following:

15 (a) Construct improvements provided for in the declaration.

16 (b) Exercise any development right.

17 (c) Maintain sales offices, management offices, signs advertising
18 the condominium, and models.

19 (d) Use easements through the common elements for the purpose of
20 making improvements within the condominium or within real estate that may
21 be added to the condominium.

22 (e) Appoint or remove any officer of the association or any board
23 member during any period of declarant control.

24 24. "Unit" means a portion of the condominium designated for
25 separate ownership or occupancy.

26 25. "Unit owner" means:

27 (a) A declarant or other person who owns a unit or, unless
28 otherwise provided in the lease, a lessee of a unit in a leasehold
29 condominium whose lease expires simultaneously with any lease the
30 expiration or termination of which will remove the unit from the
31 condominium but does not include a person having an interest in a unit
32 solely as security for an obligation.

33 (b) In the case of a contract for conveyance, as defined in section
34 33-741, of real property, the purchaser of the unit.

35 26. "Unit owner expenses":

36 (a) Means fees, charges, ~~late charges~~ and monetary penalties ~~or~~
37 ~~interest~~ that ~~is~~ ARE imposed pursuant to ~~section 33-1242, subsection A,~~
38 ~~paragraphs 10, 11 and 12~~ THE CONDOMINIUM DOCUMENTS.

39 (b) Does not include any amount that is included in a common
40 expense lien.

1 Sec. 2. Section 33-1215, Arizona Revised Statutes, is amended to
2 read:

3 33-1215. Contents of declaration

4 A. The declaration shall contain:

5 1. The name of the condominium, which shall include the word
6 "condominium" or be followed by the words "a condominium", and the name of
7 the association.

8 2. The name of every county in which any portion of the condominium
9 is located.

10 3. A legal description of the real estate included in the
11 condominium.

12 4. A description of the boundaries of each unit created by the
13 declaration, including each unit's identifying number.

14 5. A description of any limited common elements, other than those
15 specified in section 33-1212, paragraphs 2 and 4, but the declaration
16 shall contain a description of any porches, balconies, patios and
17 entryways, if any, as provided in section 33-1219, subsection B, paragraph
18 11.

19 6. A description of any development rights and other special
20 declarant rights, together with a legal description of the real estate to
21 which each of those rights applies, any time limit within which each of
22 those rights must be exercised and any other conditions or limitations
23 under which the rights described in this paragraph may be exercised or
24 will lapse.

25 7. An allocation to each unit of the allocated interests in the
26 manner described in section 33-1217.

27 8. Any restrictions on use, occupancy and alienation of the units.

28 9. All matters required by sections 33-1216, 33-1217, 33-1218,
29 33-1219 and 33-1226 and section 33-1243, subsection ~~F~~ I.

30 10. A statement that the assessment obligation of the unit owner
31 under section 33-1255 is secured by a lien on the owner's unit in favor of
32 the association pursuant to section 33-1256.

33 11. If the condominium is a conversion from multifamily rental to
34 condominiums, a statement containing all of the following:

35 (a) A statement that the property is a conversion from multifamily
36 rental to condominiums.

37 (b) The date original construction was completed.

38 (c) The name and address of the original owner, builder, developer
39 and general contractor as shown on the applicable city, town or county
40 building permit.

41 (d) The name and address of each subsequent owner as determined by
42 a search of the county recorder's records in the county in which the
43 property is located.

44 (e) The subdivider's agreement to provide the following information
45 on request:

1 (i) The name and address of any builder, developer, general
2 contractor, subcontractor, architect and engineer who designed or made
3 improvements to the property immediately before the first condominium was
4 sold.

5 (ii) A specific description of all improvements made.

6 B. If a city, town or county is unable to produce a building permit
7 as required in subsection A, paragraph 11, subdivision (c) of this
8 section, the subdivider shall submit a letter from the applicable city,
9 town or county stating that the information required by subsection A,
10 paragraph 11, subdivision (c) of this section is not available.

11 C. The declaration may contain any other matters the declarant
12 deems appropriate.

13 Sec. 3. Section 33-1243, Arizona Revised Statutes, is amended to
14 read:

15 33-1243. Board of directors and officers; conflict; powers;
16 annual budget; limitations; removal; annual audit;
17 applicability

18 A. Except as provided in the declaration, the bylaws, subsection B
19 of this section or other provisions of this chapter, the board of
20 directors may act in all instances on behalf of the association.

21 B. The board of directors shall not act on behalf of the
22 association to amend the declaration, terminate the condominium, elect
23 members of the board of directors or determine the qualifications, powers
24 and duties or terms of office of board of directors members. Except as
25 provided in subsection ~~H~~ L of this section, the board of directors may
26 fill vacancies in its membership for the unexpired portion of any term.

27 C. If any contract, decision or other action for compensation taken
28 by or on behalf of the board of directors would benefit any member of the
29 board of directors or any person who is a parent, grandparent, spouse,
30 child or sibling of a member of the board of directors or a parent or
31 spouse of any of those persons, that member of the board of directors
32 shall declare a conflict of interest for that issue. The member shall
33 declare the conflict in an open meeting of the board before the board
34 discusses or takes action on that issue and that member may then vote on
35 that issue. Any contract entered into in violation of this subsection is
36 void and unenforceable.

37 ~~D. Except as provided in the declaration, within thirty days after~~
38 ~~adoption of any proposed budget for the condominium, the board of~~
39 ~~directors shall provide a summary of the budget to all the unit owners.~~
40 ~~Unless the board of directors is expressly authorized in the declaration~~
41 ~~to adopt and amend budgets from time to time, any budget or amendment~~
42 ~~shall be ratified by the unit owners in accordance with the procedures set~~
43 ~~forth in this subsection. If ratification is required, the board of~~
44 ~~directors shall set a date for a meeting of the unit owners to consider~~
45 ~~ratification of the budget not fewer than fourteen or more than thirty~~

~~1 days after mailing of the summary. Unless at that meeting a majority of
2 all the unit owners or any larger vote specified in the declaration
3 rejects the budget, the budget is ratified, whether or not a quorum is
4 present. If the proposed budget is rejected, the periodic budget last
5 ratified by the unit owners shall be continued until such time as the unit
6 owners ratify a subsequent budget proposed by the board of directors.~~

7 D. AFTER THE TERMINATION OF THE PERIOD OF DECLARANT CONTROL, THE
8 BOARD OF DIRECTORS HAS A DUTY TO DEVELOP AN ANNUAL OPERATING BUDGET FOR
9 THE FISCAL YEAR BASED ON A REASONABLY PRUDENT AND GOOD FAITH ESTIMATE OF
10 THE COMMON EXPENSES NECESSARY TO SATISFY THE BOARD OF DIRECTORS'
11 OBLIGATIONS TO THE UNIT OWNERS TO MANAGE COSTS AND TO PROVIDE FOR THE
12 ANNUAL MAINTENANCE AND OPERATION OF THE COMMON ELEMENTS AND THE
13 ADMINISTRATIVE AND OPERATING EXPENSES OF THE ASSOCIATION, ALONG WITH ANY
14 ALLOCATIONS TO RESERVE ACCOUNTS. A COPY OF ANY PROPOSED BUDGET SHALL BE
15 MADE REASONABLY AVAILABLE FOR UNIT OWNER REVIEW AT LEAST FORTY-EIGHT HOURS
16 BEFORE THE BOARD MEETING AT WHICH THE BOARD OF DIRECTORS WILL CONSIDER THE
17 APPROVAL OF THAT BUDGET.

18 E. BEFORE IMPLEMENTATION AND ASSESSMENT OF THE BOARD-APPROVED
19 BUDGET, THE BOARD OF DIRECTORS SHALL CALL AND NOTICE SEVENTY-TWO HOURS IN
20 ADVANCE AN INFORMAL SPECIAL MEETING OF THE UNIT OWNERS TO EXPLAIN THE
21 APPROVED BUDGET TO THE UNIT OWNERS AND TO ANSWER AND ADDRESS ANY QUESTIONS
22 OR CONCERNS RAISED BY THE UNIT OWNERS. THE BOARD OF DIRECTORS SHALL AMEND
23 THE BUDGET AS APPROPRIATE BEFORE IMPLEMENTATION. IF THE BOARD OF
24 DIRECTORS REFUSES TO CORRECT OR ADEQUATELY ADDRESS THE EXPRESSED CONCERNS
25 OF THE CONSENSUS OF UNIT OWNERS PRESENT, ALL OR ANY OF THE BOARD OF
26 DIRECTORS MAY BE SUBJECT TO A RECALL PETITION AND VOTE PURSUANT TO SECTION
27 33-1243 WITHOUT REGARD TO ANY PRIOR FAILED RECALL EFFORT.

28 F. IF AUTHORIZED IN THE DECLARATION, THE ASSOCIATION MAY ESTABLISH
29 AND FUND RESERVE ACCOUNTS, HOWEVER DENOMINATED, AS NECESSARY TO ADDRESS
30 ANTICIPATED LONG-TERM OR MAJOR MAINTENANCE AND UPGRADE OF THE COMMON
31 ELEMENTS OR FOR ANY OTHER PURPOSE AUTHORIZED IN THE DECLARATION. EXCEPT
32 FOR TEMPORARY CASH FLOW CONSIDERATIONS FOR BUDGETED EXPENSES, THE BOARD OF
33 DIRECTORS OR THE BOARD OF DIRECTORS' MANAGING AGENT SHALL NOT SPEND OR
34 TRANSFER ANY MONIES FROM THE ASSOCIATION'S RESERVE ACCOUNTS FOR ANY
35 PURPOSE THAT IS NOT INCLUDED IN THE DECLARATION'S AUTHORIZED USE OF THAT
36 RESERVE ACCOUNT WITHOUT THE PRIOR AUTHORIZATION OF THE UNIT OWNERS.

37 G. IF UNANTICIPATED AND UNBUDGETED OPERATING EXPENSES BECOME
38 NECESSARY, THE ASSOCIATION SHALL DEVELOP AND APPROVE A SUPPLEMENTAL
39 AMENDMENT TO THE ANNUAL BUDGET PURSUANT TO SUBSECTIONS D AND E OF THIS
40 SECTION BEFORE INCURRING THE EXPENSES. THE ASSOCIATION'S BUDGET ALLOCATION
41 TO RESERVE ACCOUNTS SHALL BE CONSIDERED COMMITTED EXPENSES AND SHALL NOT
42 BE REDUCED TO ADDRESS UNBUDGETED EXPENSES WITHOUT THE PRIOR APPROVAL OF
43 THE UNIT OWNERS.

1 H. IF THE BOARD OF DIRECTORS VOTES TO APPROVE A SPECIAL ASSESSMENT
2 OR TO SECURE FINANCING FOR ANY REASON, THAT SPECIAL ASSESSMENT OR
3 FINANCING MUST BE RATIFIED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF ALL
4 ALLOCATED VOTES IN THE CONDOMINIUM OR ANY LARGER PERCENTAGE SPECIFIED IN
5 THE DECLARATION FOR SPECIAL ASSESSMENTS BEFORE THE APPLICATION OF THAT
6 ASSESSMENT OR FINANCING COMMITMENT.

7 ~~F.~~ I. The declaration may provide for a period of declarant
8 control of the association, during which period a declarant or persons
9 designated by the declarant may appoint and remove the officers and
10 members of the board of directors. Regardless of the period provided in
11 the declaration, a period of declarant control terminates not later than
12 the earlier of:

13 1. Ninety days after conveyance of seventy-five percent of the
14 units that may be created to unit owners other than a declarant.

15 2. Four years after all declarants have ceased to offer units for
16 sale in the ordinary course of business.

17 ~~F.~~ J. A declarant may voluntarily surrender the right to appoint
18 and remove officers and members of the board of directors before
19 termination of the period prescribed in subsection ~~F.~~ I of this section,
20 but in that event the declarant may require, for the duration of the
21 period of declarant control, that specified actions of the association or
22 board of directors, as described in a recorded instrument executed by the
23 declarant, be approved by the declarant before they become effective.

24 ~~G.~~ K. Not later than the termination of any period of declarant
25 control the unit owners shall elect a board of directors of at least three
26 members, at least a majority of whom must be unit owners. The board of
27 directors shall elect the officers. The board members and officers shall
28 take office on election.

29 ~~H.~~ L. Notwithstanding any provision of the declaration or bylaws
30 to the contrary, all of the following apply to a meeting at which a member
31 of the board of directors, other than a member appointed by the declarant,
32 is proposed to be removed from the board of directors:

33 1. The unit owners who are eligible to vote at the time of the
34 meeting may remove any member of the board of directors, other than a
35 member appointed by the declarant, by a majority vote of those voting on
36 the matter at a meeting of the unit owners.

37 2. The meeting of the unit owners shall be called pursuant to this
38 section and action may be taken only if a quorum is present.

39 3. The unit owners may remove any member of the board of directors
40 with or without cause, other than a member appointed by the declarant.

41 4. For purposes of calling for removal of a member of the board of
42 directors, other than a member appointed by the declarant, the following
43 apply:

44 (a) In an association with one thousand or fewer members, on
45 receipt of a petition that calls for removal of a member of the board of

1 directors and that is signed by the number of persons who are eligible to
2 vote in the association at the time the person signs the petition equal to
3 at least twenty-five percent of the votes in the association or by the
4 number of persons who are eligible to vote in the association at the time
5 the person signs the petition equal to at least one hundred votes in the
6 association, whichever is less, the board shall call and provide written
7 notice of a special meeting of the association as prescribed by section
8 33-1248, subsection B.

9 (b) Notwithstanding section 33-1248, subsection B, in an
10 association with more than one thousand members, on receipt of a petition
11 that calls for removal of a member of the board of directors and that is
12 signed by the number of persons who are eligible to vote in the
13 association at the time the person signs the petition equal to at least
14 ten percent of the votes in the association or by the number of persons
15 who are eligible to vote in the association at the time the person signs
16 the petition equal to at least one thousand votes in the association,
17 whichever is less, the board shall call and provide written notice of a
18 special meeting of the association. The board shall provide written
19 notice of a special meeting as prescribed by section 33-1248,
20 subsection B.

21 (c) The special meeting shall be called, noticed and held within
22 thirty days after receipt of the petition.

23 (d) If all of the requirements of this subsection for calling a
24 special meeting are met and the board of directors fails to call, notice
25 and hold a special meeting within thirty days after receipt of the
26 petition, the members of the board of directors are deemed removed from
27 office effective at midnight of the thirty-first day.

28 (e) For purposes of a special meeting called pursuant to this
29 subsection, a quorum is present if the number of owners who are eligible
30 to vote in the association at the time the person attends the meeting
31 equal to at least twenty percent of the votes of the association or the
32 number of persons who are eligible to vote in the association at the time
33 the person attends the meeting equal to at least one thousand votes,
34 whichever is less, is present at the meeting in person or as otherwise
35 allowed by law.

36 (f) If a civil action is filed regarding the removal of a board
37 member, the prevailing party in the civil action shall be awarded its
38 reasonable attorney fees and costs.

39 (g) The board of directors shall retain all documents and other
40 records relating to the proposed removal of the member of the board of
41 directors and any election or other action taken for that director's
42 replacement for at least one year after the date of the special meeting
43 and shall allow members to inspect those documents and records pursuant to
44 section 33-1258.

1 (h) A petition that calls for the removal of the same member of the
2 board of directors shall not be submitted more than once during each term
3 of office for that member.

4 5. On removal of at least one but fewer than a majority of the
5 members of the board of directors at a special meeting of the membership
6 called pursuant to this subsection, the vacancies shall be filled as
7 provided in the condominium documents.

8 6. On removal of a majority of the members of the board of
9 directors at a special meeting of the membership called pursuant to this
10 subsection, or if the condominium documents do not provide a method for
11 filling board vacancies, the association shall hold an election for the
12 replacement of the removed directors at a separate meeting of the members
13 of the association that is held not later than thirty days after the
14 meeting at which the members of the board of directors were removed.

15 7. A member of the board of directors who is removed pursuant to
16 this subsection is not eligible to serve on the board of directors again
17 until after the expiration of the removed board member's term of office,
18 unless the condominium documents specifically provide for a longer period
19 of ineligibility.

20 ~~I.~~ M. For an association in which board members are elected from
21 separately designated voting districts, a member of the board of
22 directors, other than a member appointed by the declarant, may be removed
23 only by a vote of the members from that voting district, and only the
24 members from that voting district are eligible to vote on the matter or be
25 counted for purposes of determining a quorum.

26 ~~J.~~ N. Unless any provision in the condominium documents requires
27 an annual audit by a certified public accountant, the board of directors
28 shall provide for an annual financial audit, review or compilation of the
29 association. The audit, review or compilation shall be completed no later
30 than one hundred eighty days after the end of the association's fiscal
31 year and shall be made available on request to the unit owners within
32 thirty days after its completion.

33 ~~K.~~ O. This section does not apply to timeshare plans or
34 associations, or the period of declarant control under timeshare
35 instruments, that are subject to chapter 20 of this title.

36 Sec. 4. Section 33-1245, Arizona Revised Statutes, is amended to
37 read:

38 33-1245. Termination of contracts and leases of declarant;
39 applicability

40 A. A contract for any of the following, if entered into before the
41 board of directors elected by the unit owners pursuant to section 33-1243,
42 subsection ~~G.~~ K takes office, shall contain a provision in the contract
43 that the contract may be terminated without penalty by the association at
44 any time after the board of directors elected by the unit owners takes
45 office:

1 1. Any management contract or employment contract.
2 2. Any other contract or lease between the association and a
3 declarant or an affiliate of a declarant.
4 3. Any contract or lease that is not bona fide or was
5 unconscionable to the unit owners at the time entered into under the
6 circumstances then prevailing.
7 B. The board of directors shall notify the appropriate contractual
8 party of the termination at least thirty days before termination.
9 C. This section does not apply to any lease if the termination of
10 the lease would terminate the condominium or reduce its size.
11 D. If a contract covered by this section fails to contain the
12 provisions required by subsection A of this section, the contract is
13 voidable at the option of the association.
14 E. This section does not apply to timeshare plans or associations
15 that are subject to chapter 20 of this title.
16 Sec. 5. Section 33-1802, Arizona Revised Statutes, is amended to
17 read:
18 33-1802. Definitions
19 In this chapter and in the community documents, unless the context
20 otherwise requires:
21 1. "ASSESSMENT" MEANS THE ASSOCIATION'S CHARGES APPLIED TO EACH
22 MEMBER TO FUND THE ANTICIPATED COMMON EXPENSES BASED ON THE APPROVED
23 ANNUAL OR SUPPLEMENTAL BUDGET OR APPROVED SPECIAL EXPENDITURE, AND EACH
24 MEMBER'S COMMON EXPENSE LIABILITY.
25 ~~1.~~ 2. "Association":
26 (a) Means a nonprofit corporation or unincorporated association of
27 owners that is created pursuant to a declaration to own and operate
28 portions of a planned community and that has the power under the
29 declaration to assess association members to pay the costs and expenses
30 incurred in the performance of the association's obligations under the
31 declaration.
32 (b) Does not include a nonprofit corporation or unincorporated
33 association of owners that is created or incorporated before January 1,
34 1974 and that does not have authority to enforce covenants, conditions or
35 restrictions related to the use, occupancy or appearance of the separately
36 owned lots, parcels or units in a real estate development, unless the
37 nonprofit corporation or unincorporated association of owners elects to be
38 subject to this chapter pursuant to section 33-1801, subsection D.
39 3. "COMMON EXPENSE LIABILITY" MEANS THE SHARE OR ASSIGNMENT OF
40 COMMON EXPENSES ALLOCATED TO EACH MEMBER BY THE DECLARATION.
41 ~~2.~~ 4. "Common expense lien" means the lien for assessments,
42 charges for late payment of assessments if authorized in the declaration,
43 reasonable collection fees and costs incurred or applied by the
44 association and reasonable attorney fees and costs that are incurred with

1 respect to those assessments, if the attorney fees and costs are awarded
2 by a court.

3 5. "COMMON EXPENSES" MEANS EXPENDITURES MADE BY OR FINANCIAL
4 LIABILITIES OF THE ASSOCIATION FOR THE MAINTENANCE, OPERATION, UPGRADE AND
5 REPLACEMENT OF COMMON PROPERTY AND THE ASSOCIATION'S ADMINISTRATIVE AND
6 OPERATING EXPENSES, TOGETHER WITH ANY ALLOCATIONS TO RESERVES.

7 ~~3.~~ 6. "Community documents" means the declaration, bylaws,
8 articles of incorporation, if any, and rules, if any.

9 ~~4.~~ 7. "Declaration" means any instruments, however denominated,
10 that establish a planned community and any amendment to those instruments.

11 ~~5.~~ 8. "Member expenses":

12 (a) Means fees, charges, ~~late charges~~ and monetary penalties ~~or~~
13 ~~interest~~ THAT ARE IMPOSED PURSUANT TO THE COMMUNITY DOCUMENTS.

14 (b) Does not include any amount that is included in a common
15 expense lien.

16 ~~6.~~ 9. "Planned community":

17 (a) Means a real estate development that includes real estate owned
18 and operated by or real estate on which an easement to maintain roadways
19 or a covenant to maintain roadways is held by a nonprofit corporation or
20 unincorporated association of owners, that is created for the purpose of
21 managing, maintaining or improving the property and in which the
22 declaration expressly states both that the owners of separately owned
23 lots, parcels or units are mandatory members and that the owners are
24 required to pay assessments to the association for these purposes.

25 (b) Does not include any of the following:

26 (i) A timeshare plan or a timeshare association that is governed by
27 chapter 20 of this title.

28 (ii) A condominium that is governed by chapter 9 of this title.

29 (iii) A real estate development that is not managed or maintained
30 by an association.

31 Sec. 6. Section 33-1803, Arizona Revised Statutes, is amended to
32 read:

33 33-1803. Annual budget; assessment limitation; penalties;
34 notice to member of violation

35 ~~A. Unless limitations in the community documents would result in a~~
36 ~~lower limit for the assessment, the association shall not impose a regular~~
37 ~~assessment that is more than twenty percent greater than the immediately~~
38 ~~preceding fiscal year's assessment without the approval of the majority of~~
39 ~~the members of the association.~~

40 A. AFTER THE TERMINATION OF THE PERIOD OF DECLARANT CONTROL, THE
41 ASSOCIATION'S BOARD OF DIRECTORS HAS A DUTY TO DEVELOP AN ANNUAL OPERATING
42 BUDGET FOR THE FISCAL YEAR BASED ON A REASONABLY PRUDENT AND GOOD FAITH
43 ESTIMATE OF THE COMMON EXPENSES NECESSARY TO SATISFY THE BOARD OF
44 DIRECTORS' OBLIGATIONS TO THE MEMBERS TO MANAGE COSTS AND TO PROVIDE FOR
45 THE ANNUAL MAINTENANCE AND OPERATION OF THE COMMON PROPERTY AND THE

1 ADMINISTRATIVE AND OPERATING EXPENSES OF THE ASSOCIATION, ALONG WITH ANY
2 ALLOCATIONS TO RESERVE ACCOUNTS. A COPY OF ANY PROPOSED BUDGET SHALL BE
3 MADE REASONABLY AVAILABLE FOR MEMBER REVIEW AT LEAST FORTY-EIGHT HOURS
4 BEFORE THE BOARD MEETING AT WHICH THE BOARD OF DIRECTORS WILL CONSIDER THE
5 APPROVAL OF THAT BUDGET.

6 B. BEFORE IMPLEMENTATION AND ASSESSMENT OF THE BOARD-APPROVED
7 BUDGET, THE BOARD OF DIRECTORS SHALL CALL AND NOTICE SEVENTY-TWO HOURS IN
8 ADVANCE AN INFORMAL SPECIAL MEETING OF THE MEMBERS TO EXPLAIN THE APPROVED
9 BUDGET TO THE MEMBERS AND TO ANSWER AND ADDRESS ANY QUESTIONS OR CONCERNS
10 RAISED BY THE MEMBERS. THE BOARD OF DIRECTORS SHALL AMEND THE BUDGET AS
11 APPROPRIATE BEFORE IMPLEMENTATION. IF THE BOARD OF DIRECTORS REFUSES TO
12 CORRECT OR ADEQUATELY ADDRESS THE EXPRESSED CONCERNS OF THE CONSENSUS OF
13 MEMBERS PRESENT, ALL OR ANY OF THE BOARD OF DIRECTORS MAY BE SUBJECT TO A
14 RECALL PETITION AND VOTE PURSUANT TO SECTION 33-1813 WITHOUT REGARD TO ANY
15 PRIOR FAILED RECALL EFFORT.

16 C. PURSUANT TO THE DECLARATION, THE ASSOCIATION MAY ESTABLISH AND
17 FUND RESERVE ACCOUNTS, HOWEVER DENOMINATED, AS NECESSARY TO ADDRESS
18 ANTICIPATED LONG-TERM OR MAJOR MAINTENANCE AND UPGRADE OF THE COMMON
19 PROPERTY OR FOR ANY OTHER PURPOSE AUTHORIZED IN THE DECLARATION. EXCEPT
20 FOR TEMPORARY CASH FLOW CONSIDERATIONS FOR BUDGETED EXPENSES, THE
21 ASSOCIATION'S BOARD OF DIRECTORS OR THE BOARD'S MANAGING AGENT SHALL NOT
22 SPEND OR TRANSFER ANY MONIES FROM THE ASSOCIATION'S RESERVE ACCOUNTS FOR
23 ANY PURPOSE THAT IS NOT INCLUDED IN THE DECLARATION'S AUTHORIZED USE OF
24 THAT RESERVE ACCOUNT WITHOUT THE PRIOR AUTHORIZATION OF THE MEMBERS.

25 D. IF UNANTICIPATED AND UNBUDGETED OPERATING EXPENSES BECOME
26 NECESSARY, THE ASSOCIATION SHALL DEVELOP AND APPROVE A SUPPLEMENTAL
27 AMENDMENT TO THE ANNUAL BUDGET PURSUANT TO SUBSECTIONS A AND B OF THIS
28 SECTION BEFORE INCURRING THE EXPENSES. THE ASSOCIATION'S BUDGET ALLOCATION
29 TO RESERVE ACCOUNTS SHALL BE CONSIDERED COMMITTED EXPENSES AND SHALL NOT
30 BE REDUCED TO ADDRESS UNBUDGETED EXPENSES WITHOUT THE PRIOR APPROVAL OF
31 THE MEMBERS.

32 E. IF THE ASSOCIATION OWNS AND OPERATES A COMMERCIAL FACILITY THAT
33 IS OPEN TO THE GENERAL PUBLIC THAT FAILS OR HAS FAILED TO GENERATE A
34 PROFIT FOR THREE SUCCESSIVE FISCAL YEARS AND THAT CREATES A BURDEN ON THE
35 MEMBERS TO SUBSIDIZE THE EXPENSES OF THAT COMMERCIAL FACILITY, THE
36 ASSOCIATION SHALL SEND THE QUESTION OF THE CONTINUED OPERATION OF THAT
37 FACILITY TO A VOTE OF THE MEMBERS.

38 F. IF THE BOARD OF DIRECTORS VOTES TO APPROVE A SPECIAL ASSESSMENT
39 OR TO SECURE FINANCING FOR ANY REASON, THAT SPECIAL ASSESSMENT OR
40 FINANCING MUST BE RATIFIED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF ALL
41 ALLOCATED VOTES IN THE PLANNED COMMUNITY OR ANY LARGER PERCENTAGE
42 SPECIFIED IN THE DECLARATION FOR SPECIAL ASSESSMENTS BEFORE THE
43 APPLICATION OF THAT ASSESSMENT OR FINANCING COMMITMENT.

1 G. UNLESS LIMITATIONS IN THE COMMUNITY DOCUMENTS WOULD RESULT IN A
2 LOWER LIMIT FOR ASSESSMENTS, THE ASSOCIATION SHALL NOT IMPOSE A REGULAR
3 ASSESSMENT THAT IS MORE THAN TEN PERCENT GREATER THAN THE IMMEDIATELY
4 PRECEDING FISCAL YEAR'S ASSESSMENT WITHOUT THE PRIOR APPROVAL OF THE
5 MAJORITY OF THE MEMBERS VOTING ON THE ISSUE AT A MEETING OF THE MEMBERS
6 CALLED FOR THAT PURPOSE.

7 H. Unless reserved to the members of the association, the board of
8 directors may impose reasonable charges for the late payment of
9 assessments. A payment by a member is deemed late if it is unpaid fifteen
10 or more days after its due date, unless the community documents provide
11 for a longer period. Charges for the late payment of assessments are
12 limited to the greater of ~~fifteen dollars~~ \$15 or ten percent of the amount
13 of the unpaid assessment **INSTALLMENT** and may be imposed only after the
14 association has provided notice that the assessment **INSTALLMENT** is overdue
15 or provided notice that the assessment **INSTALLMENT** is considered overdue
16 after a certain date. Any monies paid by the member for an unpaid
17 assessment shall be applied ~~first to the principal amount unpaid and then~~
18 ~~to the interest accrued~~ **AS PRESCRIBED BY SECTION 33-1807.**

19 ~~B.~~ I. After notice and an opportunity to be heard, the board of
20 directors may impose reasonable monetary penalties on members for
21 violations of the declaration, bylaws and rules of the association.
22 Notwithstanding any provision in the community documents, the board of
23 directors shall not impose a charge for a late payment of a penalty that
24 exceeds the greater of ~~fifteen dollars~~ \$15 or ten percent of the amount of
25 the unpaid penalty. A payment is deemed late if it is unpaid fifteen or
26 more days after its due date, unless the declaration, bylaws or rules of
27 the association provide for a longer period. Any monies paid by a member
28 for an unpaid penalty shall be applied ~~first to the principal amount~~
29 ~~unpaid and then to the interest accrued~~ **AS PRESCRIBED BY SECTION 33-1807.**
30 Notice pursuant to this subsection shall include information pertaining to
31 the manner in which the penalty shall be enforced.

32 ~~C.~~ J. A member who receives a written notice that the condition of
33 the property owned by the member is in violation of the community
34 documents without regard to whether a monetary penalty is imposed by the
35 notice may provide the association with a written response by sending the
36 response by certified mail within twenty-one calendar days after the date
37 of the notice. The response shall be sent to the address identified in
38 the notice.

39 ~~D.~~ K. Within ten business days after receipt of the certified mail
40 containing the response from the member, the association shall respond to
41 the member with a written explanation regarding the notice that shall
42 provide at least the following information unless previously provided in
43 the notice of violation:

44 1. The provision of the community documents that has allegedly been
45 violated.

1 2. The date of the violation or the date the violation was
2 observed.

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

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

6 ~~E.~~ L. Unless the information required in subsection ~~K~~,
7 paragraph 4 of this section is provided in the notice of violation, the
8 association shall not proceed with any action to enforce the community
9 documents, including the collection of attorney fees, before or during the
10 time prescribed by subsection ~~K~~ of this section regarding the exchange
11 of information between the association and the member and shall give the
12 member written notice of the member's option to petition for an
13 administrative hearing on the matter in the state real estate department
14 pursuant to section 32-2199.01. At any time before or after completion of
15 the exchange of information pursuant to this section, the member may
16 petition for a hearing pursuant to section 32-2199.01 if the dispute is
17 within the jurisdiction of the state real estate department as prescribed
18 in section 32-2199.01.