

Senate Engrossed House Bill

~~motor vehicle manufacturers; TPT; exemption~~
(now: condominiums; planned communities; lien; assessment)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

CHAPTER 151
HOUSE BILL 2648

AN ACT

AMENDING SECTIONS 33-1202, 33-1256, 33-1802 AND 33-1807, ARIZONA REVISED
STATUTES; RELATING TO COMMON EXPENSE ASSESSMENTS.

(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.

18 ~~4.~~ 5. "Association" or "unit owners' association" means the unit
19 owners' association organized under section 33-1241.

20 ~~5.~~ 6. "Board of directors" means the body, regardless of its name,
21 designated in the declaration and given general management powers to act
22 on behalf of the association.

23 ~~6.~~ 7. "Bylaws" means the bylaws required by section 33-1246.

24 ~~7.~~ 8. "Common elements" means all portions of a condominium other
25 than the units.

26 ~~8.~~ 9. "Common expense liability" means the liability for common
27 expenses allocated to each unit pursuant to section 33-1217.

28 10. "COMMON EXPENSE LIEN" MEANS THE LIEN FOR ASSESSMENTS, CHARGES
29 FOR LATE PAYMENT OF ASSESSMENTS IF AUTHORIZED IN THE DECLARATION,
30 REASONABLE COLLECTION FEES AND COSTS INCURRED OR APPLIED BY THE
31 ASSOCIATION AND REASONABLE ATTORNEY FEES AND COSTS THAT ARE INCURRED WITH
32 RESPECT TO THOSE ASSESSMENTS, IF THE ATTORNEY FEES AND COSTS ARE AWARDED
33 BY A COURT.

34 ~~9.~~ 11. "Common expenses" means expenditures made by or financial
35 liabilities of the association, together with any allocations to reserves.

36 ~~10.~~ 12. "Condominium" means real estate, portions of which are
37 designated for separate ownership and the remainder of which is designated
38 for common ownership solely by the owners of the separate portions. Real
39 estate is not a condominium unless the undivided interests in the common
40 elements are vested in the unit owners.

41 ~~11.~~ 13. "Condominium documents" means the declaration, bylaws,
42 articles of incorporation, if any, and rules, if any.

43 ~~12.~~ 14. "Declarant" means any person or group of persons who
44 reserves, is granted or succeeds to any special declarant right.

1 ~~13.~~ 15. "Declaration" means any instruments, however denominated,
2 that create a condominium and any amendments to those instruments.
3 ~~14.~~ 16. "Development rights" means any right or combination of
4 rights reserved by or granted to a declarant in the declaration to do any
5 of the following:
6 (a) Add real estate to a condominium.
7 (b) Create easements, units, common elements or limited common
8 elements within a condominium.
9 (c) Subdivide units, convert units into common elements or convert
10 common elements into units.
11 (d) Withdraw real estate from a condominium.
12 (e) Make the condominium part of a larger condominium or planned
13 community.
14 (f) Amend the declaration during any period of declarant control,
15 pursuant to section 33-1243, subsection E, to comply with applicable law
16 or to correct any error or inconsistency in the declaration, if the
17 amendment does not adversely affect the rights of any unit owner.
18 (g) Amend the declaration during any period of declarant control,
19 pursuant to section 33-1243, subsection E, to comply with the rules or
20 guidelines, in effect from time to time, of any governmental or
21 quasi-governmental entity or federal corporation guaranteeing or insuring
22 mortgage loans or governing transactions involving mortgage instruments.
23 ~~15.~~ 17. "Identifying number" means a symbol or address that
24 identifies one unit in a condominium.
25 ~~16.~~ 18. "Leasehold condominium" means a condominium in which all
26 or a portion of the real estate is subject to a lease the expiration or
27 termination of which will terminate the condominium or reduce its size.
28 ~~17.~~ 19. "Limited common element" means a portion of the common
29 elements specifically designated as a limited common element in the
30 declaration and allocated by the declaration or by operation of section
31 33-1212, paragraph 2 or 4 for the exclusive use of one or more but fewer
32 than all of the units.
33 ~~18.~~ 20. "Person" means:
34 (a) A natural person, corporation, business trust, estate, trust,
35 partnership, association, joint venture, government, governmental
36 subdivision or agency, or other legal or commercial entity.
37 (b) In the case of a subdivision trust, as defined in section
38 6-801, ~~person means~~ the beneficiary of the trust who holds the right to
39 subdivide, develop or sell the real estate rather than the trust or
40 trustee.
41 ~~19.~~ 21. "Real estate":
42 (a) Means any legal, equitable, leasehold or other estate or
43 interest in, over or under land, including structures, fixtures and other
44 improvements and interests which by custom, usage or law pass with a

1 conveyance of land though not described in the contract of sale or
2 instrument of conveyance. ~~Real estate~~

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

5 ~~20.~~ 22. "Rules" means the provisions, if any, adopted pursuant to
6 the declaration or bylaws governing maintenance and use of the units and
7 common elements.

8 ~~21.~~ 23. "Special declarant rights" means any right or combination
9 of rights reserved by or granted to a declarant in the declaration to do
10 any of the following:

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

12 (b) Exercise any development right.

13 (c) Maintain sales offices, management offices, signs advertising
14 the condominium, and models.

15 (d) Use easements through the common elements for the purpose of
16 making improvements within the condominium or within real estate ~~which~~
17 ~~THAT~~ may be added to the condominium.

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

20 ~~22.~~ 24. "Unit" means a portion of the condominium designated for
21 separate ownership or occupancy.

22 ~~23.~~ 25. "Unit owner" means:

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

29 (b) In the case of a contract for conveyance, as defined in section
30 33-741, of real property, ~~unit owner means~~ the purchaser of the unit.

31 26. "UNIT OWNER EXPENSES":

32 (a) MEANS FEES, CHARGES, LATE CHARGES AND MONETARY PENALTIES OR
33 INTEREST THAT IS IMPOSED PURSUANT TO SECTION 33-1242, SUBSECTION A,
34 PARAGRAPHS 10, 11 AND 12.

35 (b) DOES NOT INCLUDE ANY AMOUNT THAT IS INCLUDED IN A COMMON
36 EXPENSE LIEN.

37 Sec. 2. Section 33-1256, Arizona Revised Statutes, is amended to
38 read:

39 33-1256. Common expense liens; priority; mechanics' and
40 materialmen's liens; notice; applicability

41 A. The association has a COMMON EXPENSE lien on a unit for any
42 assessment levied against that unit from the time the assessment becomes
43 due. The association's COMMON EXPENSE lien ~~for assessments, for charges~~
44 ~~for late payment of those assessments, for reasonable collection fees and~~
45 ~~for reasonable attorney fees and costs incurred with respect to those~~

1 ~~assessments~~ may be foreclosed in the same manner as a mortgage on real
2 estate but may be foreclosed only if the UNIT owner has been AND REMAINS
3 delinquent in the payment of ~~monies secured by the lien, excluding~~
4 ~~reasonable collection fees, reasonable attorney fees and charges for late~~
5 ~~payment of and costs incurred with respect to those~~ assessments, for a
6 period of one year or in the amount of \$1,200 or more, whichever occurs
7 first, as determined on the date the action is filed. ~~fees, charges, late~~
8 ~~charges, monetary penalties and interest charged pursuant to section~~
9 ~~33-1242, subsection A, paragraphs 10, 11 and 12, other than charges for~~
10 ~~late payment of assessments, are not enforceable as assessments under this~~
11 ~~section.~~ THE ASSOCIATION BOARD OF DIRECTORS SHALL EXERCISE REASONABLE
12 EFFORTS TO COMMUNICATE WITH THE UNIT OWNER AND OFFER A REASONABLE PAYMENT
13 PLAN BEFORE FILING A FORECLOSURE ACTION. If an assessment is payable in
14 installments, the full amount of the assessment is a lien from the time
15 the first installment of the assessment becomes due.

16 B. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, UNIT
17 OWNER EXPENSES ARE NOT ENFORCEABLE AS COMMON EXPENSE LIENS UNDER THIS
18 SECTION. The association has a lien for ~~fees, charges, late charges,~~
19 ~~other than charges for late payment of assessments, monetary penalties or~~
20 ~~interest charged pursuant to section 33-1242, subsection A, paragraphs 10,~~
21 ~~11 and 12~~ UNIT OWNER EXPENSES after the entry of a judgment in a civil
22 suit for those ~~fees, charges, late charges, monetary penalties or interest~~
23 UNIT OWNER EXPENSES from a court of competent jurisdiction and the
24 recording of that judgment in the office of the county recorder as
25 otherwise provided by law. The association's JUDGMENT lien for ~~monies~~
26 ~~other than for assessments, for charges for late payment of those~~
27 ~~assessments, for reasonable collection fees and for reasonable attorney~~
28 ~~fees and costs incurred with respect to those assessments~~ UNIT OWNER
29 EXPENSES may not be foreclosed and is effective only on conveyance of any
30 interest in the real property.

31 ~~B.~~ C. A COMMON EXPENSE lien ~~for assessments, for charges for late~~
32 ~~payment of those assessments, for reasonable collection fees and for~~
33 ~~reasonable attorney fees and costs incurred with respect to those~~
34 ~~assessments~~ under this section is prior to all other liens, interests and
35 encumbrances on a unit except:

36 1. Liens and encumbrances recorded before the recordation of the
37 declaration.

38 2. A recorded first mortgage on the unit, a seller's interest in a
39 first contract for sale pursuant to chapter 6, article 3 of this title on
40 the unit recorded ~~prior to~~ BEFORE the lien arising pursuant to subsection
41 A of this section or a recorded first deed of trust on the unit.

42 3. Liens for real estate taxes and other governmental assessments
43 or charges against the unit.

1 ~~C.~~ D. Subsection ~~B~~ C of this section does not affect the priority
2 of mechanics' or materialmen's liens ~~or the priority of liens for other~~
3 ~~assessments made by the association.~~ The COMMON EXPENSE lien under this
4 section is not subject to chapter 8 of this title.

5 ~~D.~~ E. Unless the declaration otherwise provides, if two or more
6 associations have COMMON EXPENSE liens ~~for assessments~~ created at any time
7 on the same real estate, those liens have equal priority.

8 ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and
9 perfection of the COMMON EXPENSE lien ~~for assessments, for charges for~~
10 ~~late payment of those assessments, for reasonable collection fees and for~~
11 ~~reasonable attorney fees and costs incurred with respect to those~~
12 ~~assessments.~~ Further recordation of any claim of COMMON EXPENSE lien ~~for~~
13 ~~assessments~~ under this section is not required.

14 ~~F.~~ G. A COMMON EXPENSE lien ~~for unpaid assessments~~ is extinguished
15 unless proceedings to enforce the lien are instituted within six years
16 after the full amount of the assessments becomes due.

17 ~~G.~~ H. This section does not prohibit:

18 1. Actions to recover sums for which subsection A OR B of this
19 section creates a lien.

20 2. An association from taking a deed in lieu of foreclosure.

21 ~~H.~~ I. A judgment or decree in any action brought under this
22 section ~~shall~~ MAY include costs and reasonable attorney fees for the
23 prevailing party.

24 ~~I.~~ J. The association on written request shall furnish to a
25 lienholder, escrow agent, unit owner or person designated by a unit owner
26 a statement setting forth the amount of ANY unpaid ~~assessments~~ LIENS
27 PRESCRIBED BY SUBSECTION A OR B OF THIS SECTION against the unit. The
28 statement shall be furnished within ten days after receipt of the request.
29 ~~and~~ The statement is binding on the association, ~~the board of directors~~
30 ~~and every unit owner~~ if the statement is requested by an escrow agency
31 that is licensed pursuant to title 6, chapter 7. Failure to provide the
32 statement to the escrow agent within the time provided for in this
33 subsection extinguishes any lien for any unpaid assessment then due.

34 ~~J.~~ K. Notwithstanding any provision in the condominium documents
35 or in any contract between the association and a management company OR ANY
36 OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH
37 ANY ATTORNEY, unless the unit owner directs otherwise, all payments
38 received on a unit owner's account shall be applied first to any unpaid
39 assessments, DUE BUT NOT DELINQUENT ASSESSMENTS, unpaid charges for late
40 payment of those assessments IF AUTHORIZED IN THE DECLARATION, unpaid
41 reasonable collection fees AND COSTS INCURRED OR APPLIED BY THE
42 ASSOCIATION and unpaid attorney fees and costs incurred with respect to
43 those assessments IF AWARDED BY A COURT, in that order, with any remaining
44 amounts applied next to other unpaid fees, charges and monetary penalties
45 or interest and late charges on any of those amounts.

1 ~~K.~~ L. For a delinquent account for unpaid COMMON EXPENSE
2 ~~assessments or for charges related to unpaid assessments~~ LIENS, the
3 association shall provide the following written notice to the unit owner
4 at the unit owner's address as provided to the association at least thirty
5 days before authorizing an attorney, or a collection agency that is not
6 acting as the association's managing agent, to begin collection activity
7 on behalf of the association:

8 Your account is delinquent. If you do not bring your account
9 current or make arrangements that are approved by the
10 association to bring your account current within thirty days
11 after the date of this notice, your account will be turned
12 over for further collection proceedings. Such collection
13 proceedings could include bringing a foreclosure action
14 against your property.

15 The notice shall be in boldfaced type or all capital letters and shall
16 include the contact information for the person that the unit owner may
17 contact to discuss payment. The notice shall be sent by certified mail,
18 return receipt requested, and may be included within other correspondence
19 sent to the unit owner regarding the unit owner's delinquent account.

20 ~~L.~~ M. ~~Beginning January 1, 2020,~~ Except for condominiums that have
21 fewer than fifty units and that do not contract with a third party to
22 perform management services on behalf of the association, the association
23 shall provide a statement of account in lieu of a periodic payment book to
24 the unit owner with the same frequency that assessments are provided for
25 in the declaration. The statement of account shall include the current
26 account balance due and the immediately preceding ledger history. If the
27 association offers the statement of account by electronic means, a unit
28 owner may opt to receive the statement electronically. The association
29 may stop providing any further statements of account to a unit owner if
30 collection activity begins by an attorney, or a collection agency that is
31 not acting as the association's managing agent, regarding that unit
32 owner's unpaid account. After collection activity begins, a unit owner
33 may request statements of account by written request to the attorney or
34 collection agency. Any request by a unit owner for a statement of account
35 after collection activity begins by an attorney or a collection agency
36 that is not acting as the association's managing agent must be fulfilled
37 by the attorney or the collection agency responsible for the collection.
38 The statement of account provided by the attorney or collection agency
39 responsible for the collection shall include all amounts claimed to be
40 owing to resolve the delinquency through the date set forth in the
41 statement, including attorney fees and costs, regardless of whether such
42 amounts have been reduced to judgment.

43 ~~M.~~ N. An agent for the association may collect on behalf of the
44 association directly from a unit owner the assessments and other amounts
45 owed by cash or check, by mailed or hand-delivered bank drafts, checks,

1 cashier's checks or money orders, by credit, charge or debit card or by
2 other electronic means. For any form of payment other than for cash or
3 for mailed or hand-delivered bank drafts, checks, cashier's checks or
4 money orders, the agent may charge a convenience fee to the unit owner
5 that is approximately the amount charged to the agent by a third-party
6 service provider. **THE ASSOCIATION MAY NOT TRANSFER OWNERSHIP OR CONTROL**
7 **OF DEBT FOR COMMON EXPENSE LIENS OR UNIT OWNER EXPENSES.**

8 ~~4.~~ 0. This section does not apply to timeshare plans or
9 associations that are subject to chapter 20 of this title.

10 Sec. 3. Section 33-1802, Arizona Revised Statutes, is amended to
11 read:

12 **33-1802. Definitions**

13 In this chapter and in the community documents, unless the context
14 otherwise requires:

15 1. "Association":

16 (a) Means a nonprofit corporation or unincorporated association of
17 owners that is created pursuant to a declaration to own and operate
18 portions of a planned community and that has the power under the
19 declaration to assess association members to pay the costs and expenses
20 incurred in the performance of the association's obligations under the
21 declaration. ~~Association~~

22 (b) Does not include a nonprofit corporation or unincorporated
23 association of owners that is created or incorporated before January 1,
24 1974 and that does not have authority to enforce covenants, conditions or
25 restrictions related to the use, occupancy or appearance of the separately
26 owned lots, parcels or units in a real estate development, unless the
27 nonprofit corporation or unincorporated association of owners elects to be
28 subject to this chapter pursuant to section 33-1801, subsection D.

29 2. "COMMON EXPENSE LIEN" MEANS THE LIEN FOR ASSESSMENTS, CHARGES
30 FOR LATE PAYMENT OF ASSESSMENTS IF AUTHORIZED IN THE DECLARATION,
31 REASONABLE COLLECTION FEES AND COSTS INCURRED OR APPLIED BY THE
32 ASSOCIATION AND REASONABLE ATTORNEY FEES AND COSTS THAT ARE INCURRED WITH
33 RESPECT TO THOSE ASSESSMENTS, IF THE ATTORNEY FEES AND COSTS ARE AWARDED
34 BY A COURT.

35 ~~3.~~ 3. "Community documents" means the declaration, bylaws,
36 articles of incorporation, if any, and rules, if any.

37 ~~4.~~ 4. "Declaration" means any instruments, however denominated,
38 that establish a planned community and any amendment to those instruments.

39 5. "MEMBER EXPENSES":

40 (a) MEANS FEES, CHARGES, LATE CHARGES AND MONETARY PENALTIES OR
41 INTEREST.

42 (b) DOES NOT INCLUDE ANY AMOUNT THAT IS INCLUDED IN A COMMON
43 EXPENSE LIEN.

44 ~~6.~~ 6. "Planned community":

1 (a) Means a real estate development that includes real estate owned
2 and operated by or real estate on which an easement to maintain roadways
3 or a covenant to maintain roadways is held by a nonprofit corporation or
4 unincorporated association of owners, that is created for the purpose of
5 managing, maintaining or improving the property and in which the
6 declaration expressly states both that the owners of separately owned
7 lots, parcels or units are mandatory members and that the owners are
8 required to pay assessments to the association for these purposes.

9 ~~Planned community~~

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

11 ~~(a)~~ (i) A timeshare plan or a timeshare association that is
12 governed by chapter 20 of this title.

13 ~~(b)~~ (ii) A condominium that is governed by chapter 9 of this
14 title.

15 ~~(c)~~ (iii) A real estate development that is not managed or
16 maintained by an association.

17 Sec. 4. Section 33-1807, Arizona Revised Statutes, is amended to
18 read:

19 33-1807. Common expense liens; priority; mechanics' and
20 materialmen's liens; notice

21 A. The association has a COMMON EXPENSE lien on a ~~unit~~ PROPERTY for
22 any assessment levied against that ~~unit~~ PROPERTY from the time the
23 assessment becomes due. The association's COMMON EXPENSE lien ~~for~~
24 ~~assessments, for charges for late payment of those assessments, for~~
25 ~~reasonable collection fees and for reasonable attorney fees and costs~~
26 ~~incurred with respect to those assessments~~ may be foreclosed in the same
27 manner as a mortgage on real estate but may be foreclosed only if the
28 owner has been AND REMAINS delinquent in the payment of ~~monies secured by~~
29 ~~the lien, excluding reasonable collection fees, reasonable attorney fees~~
30 ~~and charges for late payment of and costs incurred with respect to those~~
31 assessments, for a period of one year or in the amount of \$1,200 or more,
32 whichever occurs first, as determined on the date the action is
33 filed. ~~Fees, charges, late charges, monetary penalties and interest~~
34 ~~charged pursuant to section 33-1803, other than charges for late payment~~
35 ~~of assessments are not enforceable as assessments under this section. THE~~
36 ~~ASSOCIATION BOARD OF DIRECTORS SHALL EXERCISE REASONABLE EFFORTS TO~~
37 ~~COMMUNICATE WITH THE MEMBER AND OFFER A REASONABLE PAYMENT PLAN BEFORE~~
38 ~~FILING A FORECLOSURE ACTION.~~ If an assessment is payable in installments,
39 the full amount of the assessment is a lien from the time the first
40 installment of the assessment becomes due.

41 B. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, MEMBER
42 EXPENSES ARE NOT ENFORCEABLE AS COMMON EXPENSE LIENS UNDER THIS
43 SUBSECTION. The association has a lien for ~~fees, charges, late charges,~~
44 ~~other than charges for late payment of assessments, monetary penalties or~~
45 ~~interest charged pursuant to section 33-1803~~ MEMBER EXPENSES after the

1 entry of a judgment in a civil suit for those ~~fees, charges, late charges,~~
2 ~~monetary penalties or interest~~ MEMBER EXPENSES from a court of competent
3 jurisdiction and the recording of that judgment in the office of the
4 county recorder as otherwise provided by law. The association's JUDGMENT
5 lien for ~~monies other than for assessments, for charges for late payment~~
6 ~~of those assessments, for reasonable collection fees and for reasonable~~
7 ~~attorney fees and costs incurred with respect to those assessments~~ MEMBER
8 EXPENSES may not be foreclosed and is effective only on conveyance of any
9 interest in the real property.

10 ~~B.~~ C. A COMMON EXPENSE lien ~~for assessments, for charges for late~~
11 ~~payment of those assessments, for reasonable collection fees and for~~
12 ~~reasonable attorney fees and costs incurred with respect to those~~
13 ~~assessments~~ under this section is prior to all other liens, interests and
14 encumbrances on a ~~unit~~ PROPERTY except:

15 1. Liens and encumbrances recorded before the recordation of the
16 declaration.

17 2. A recorded first mortgage on the ~~unit~~ PROPERTY, a seller's
18 interest in a first contract for sale pursuant to chapter 6, article 3 of
19 this title on the ~~unit~~ PROPERTY recorded ~~prior to~~ BEFORE the lien arising
20 pursuant to subsection A of this section or a recorded first deed of trust
21 on the ~~unit~~ PROPERTY.

22 3. Liens for real estate taxes and other governmental assessments
23 or charges against the ~~unit~~ PROPERTY.

24 ~~C.~~ D. Subsection ~~B~~ C of this section does not affect the priority
25 of mechanics' or materialmen's liens ~~or the priority of liens for other~~
26 ~~assessments made by the association.~~ The COMMON EXPENSE lien under this
27 section is not subject to chapter 8 of this title.

28 ~~D.~~ E. Unless the declaration otherwise provides, if two or more
29 associations have COMMON EXPENSE liens ~~for assessments~~ created at any time
30 on the same real estate those liens have equal priority.

31 ~~E.~~ F. Recording ~~of~~ the declaration constitutes record notice and
32 perfection of the COMMON EXPENSE lien ~~for assessments, for charges for~~
33 ~~late payment of assessments, for reasonable collection fees and for~~
34 ~~reasonable attorney fees and costs incurred with respect to those~~
35 ~~assessments.~~ Further recordation of any claim of COMMON EXPENSE lien ~~for~~
36 ~~assessments~~ under this section is not required.

37 ~~F.~~ G. A COMMON EXPENSE lien ~~for an unpaid assessment~~ is
38 extinguished unless proceedings to enforce the lien are instituted within
39 six years after the full amount of the assessment becomes due.

40 ~~G.~~ H. This section does not prohibit:

41 1. Actions to recover amounts for which subsection A OR B of this
42 section creates a lien.

43 2. An association from taking a deed in lieu of foreclosure.

1 ~~H.~~ I. A judgment or decree in any action brought under this
2 section ~~shall~~ MAY include costs and reasonable attorney fees for the
3 prevailing party.

4 ~~I.~~ J. On written request, the association shall furnish to a
5 lienholder, escrow agent, ~~unit owner~~ MEMBER or person designated by a ~~unit~~
6 ~~owner~~ MEMBER a statement setting forth the amount of any unpaid ~~assessment~~
7 LIENS PRESCRIBED BY SUBSECTION A OR B OF THIS SECTION against the ~~unit~~
8 PROPERTY. The association shall furnish the statement within ten days
9 after receipt of the request. ~~, and~~ The statement is binding on the
10 association, ~~the board of directors and every unit owner~~ if the statement
11 is requested by an escrow agency that is licensed pursuant to title 6,
12 chapter 7. Failure to provide the statement to the escrow agent within
13 the time provided for in this subsection extinguishes any lien for any
14 unpaid assessment then due.

15 ~~J.~~ K. Notwithstanding any provision in the community documents or
16 in any contract between the association and a management company OR ANY
17 OTHER AGENT OF THE ASSOCIATION, INCLUDING ANY AGREEMENT OR CONTRACT WITH
18 ANY ATTORNEY, unless the member directs otherwise, all payments received
19 on a member's account shall be applied first to any unpaid assessments,
20 DUE BUT NOT DELINQUENT ASSESSMENTS, unpaid charges for late payment of
21 those assessments IF AUTHORIZED IN THE DECLARATION, unpaid reasonable
22 collection fees AND COSTS INCURRED OR APPLIED BY THE ASSOCIATION, and
23 unpaid attorney fees and costs incurred with respect to those assessments
24 IF AWARDED BY A COURT, in that order, with any remaining amounts applied
25 next to other unpaid fees, charges and monetary penalties or interest and
26 late charges on any of those amounts.

27 ~~K.~~ L. For a delinquent account for unpaid ~~assessments or for~~
28 ~~charges related to unpaid assessments~~ COMMON EXPENSE LIENS, the
29 association shall provide the following written notice to the member at
30 the member's address as provided to the association at least thirty days
31 before authorizing an attorney, or a collection agency that is not acting
32 as the association's managing agent, to begin collection activity on
33 behalf of the association:

34 Your account is delinquent. If you do not bring your account
35 current or make arrangements that are approved by the
36 association to bring your account current within thirty days
37 after the date of this notice, your account will be turned
38 over for further collection proceedings. Such collection
39 proceedings could include bringing a foreclosure action
40 against your property.

41 The notice shall be in boldfaced type or all capital letters and shall
42 include the contact information for the person that the member may contact
43 to discuss payment. The notice shall be sent by certified mail, return
44 receipt requested, and may be included within other correspondence sent to
45 the member regarding the member's delinquent account.

1 ~~L. M. Beginning January 1, 2020,~~ Except for planned communities
2 that have fewer than fifty lots and that do not contract with a third
3 party to perform management services on behalf of the association, the
4 association shall provide a statement of account in lieu of a periodic
5 payment book to the member with the same frequency that assessments are
6 provided for in the declaration. The statement of account shall include
7 the current account balance due and the immediately preceding ledger
8 history. If the association offers the statement of account by electronic
9 means, a member may opt to receive the statement electronically. The
10 association may stop providing any further statements of account to a
11 member if collection activity begins by an attorney, or a collection
12 agency that is not acting as the association's managing agent, regarding
13 that member's unpaid account. After collection activity begins, a member
14 may request statements of account by written request to the attorney or
15 collection agency. Any request by a member for a statement of account
16 after collection activity begins by an attorney or a collection agency
17 that is not acting as the association's managing agent must be fulfilled
18 by the attorney or the collection agency responsible for the collection.
19 The statement of account provided by the attorney or collection agency
20 responsible for the collection shall include all amounts claimed to be
21 owing to resolve the delinquency through the date set forth in the
22 statement, including attorney fees and costs, regardless of whether such
23 amounts have been reduced to judgment.

24 ~~M. N.~~ N. An agent for the association may collect on behalf of the
25 association directly from a member the assessments and other amounts owed
26 by cash or check, by mailed or hand-delivered bank drafts, checks,
27 cashier's checks or money orders, by credit, charge or debit card or by
28 other electronic means. For any form of payment other than for cash or
29 for mailed or hand-delivered bank drafts, checks, cashier's checks or
30 money orders, the agent may charge a convenience fee to the member that is
31 approximately the amount charged to the agent by a third-party service
32 provider. **THE ASSOCIATION MAY NOT TRANSFER OWNERSHIP OR CONTROL OF DEBT
33 FOR COMMON EXPENSE LIENS OR MEMBER EXPENSES.**

APPROVED BY THE GOVERNOR APRIL 10, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2024.