

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 245

HOUSE BILL 2380

AN ACT

AMENDING SECTIONS 33-1260 AND 33-1806, 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 33-1260, Arizona Revised Statutes, is amended to
3 read:

4 33-1260. Resale of units; information required; definition

5 A. Except for a sale in which a public report shall be issued pursuant
6 to section 32-2183 AND SECTION 32-2197.02, for an exempt sale pursuant to
7 section 32-2181.02 or for condominiums with fewer than fifty units, a unit
8 owner shall mail or deliver to a purchaser within ten days after receipt of
9 a written notice of a pending sale of the unit, and for condominiums with
10 fifty or more units, the association shall mail or deliver to a purchaser
11 within ten days after receipt of a written notice of a pending sale that
12 contains the name and address of the purchaser, all of the following:

13 1. A copy of the bylaws and the rules of the association.

14 2. A copy of the declaration.

15 3. A dated statement containing:

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

20 (b) The amount of the common expense assessment for the unit and any
21 unpaid common expense assessment, special assessment or other assessment, fee
22 or charge currently due and payable from the selling unit owner.

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

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

26 (e) If the statement is being furnished by the association, a
27 statement as to whether the records of the association reflect any
28 alterations or improvements to the unit that violate the declaration. The
29 association is not obligated to provide information regarding alterations or
30 improvements that occurred more than six years before the proposed sale.
31 Nothing in this subdivision relieves the seller of a unit from the obligation
32 to disclose alterations or improvements to the unit that violate the
33 declaration, nor precludes the association from taking action against the
34 purchaser of a unit for violations THAT ARE apparent at the time of purchase
35 AND that are not reflected in the association's records.

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

39 (g) A statement of case names and case numbers for pending litigation
40 with respect to the unit filed by the association against the unit owner or
41 filed by the unit owner against the association. The unit owner or the
42 association shall not be required to disclose information concerning the
43 pending litigation that would violate any applicable rule of attorney-client
44 privilege under Arizona law.

1 (h) A STATEMENT THAT PROVIDES "I HEREBY ACKNOWLEDGE THAT THE
2 DECLARATION, BYLAWS AND RULES OF THE ASSOCIATION CONSTITUTE A CONTRACT
3 BETWEEN THE ASSOCIATION AND ME (THE PURCHASER). BY SIGNING THIS STATEMENT,
4 I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE ASSOCIATION'S CONTRACT WITH
5 ME (THE PURCHASER). I ALSO UNDERSTAND THAT BY ACCEPTING THIS CONTRACT, I MAY
6 BE GIVING UP MY RIGHTS TO THE HOMESTEAD EXEMPTION PROTECTION REGARDING A LIEN
7 OF THE ASSOCIATION." THE STATEMENT SHALL ALSO INCLUDE A SIGNATURE LINE FOR
8 THE PURCHASER AND SHALL BE RETURNED TO THE ASSOCIATION WITHIN FOURTEEN
9 CALENDAR DAYS.

10 4. A copy of the current operating budget of the association.

11 5. A copy of the most recent annual financial report of the
12 association. If the report is more than ten pages, the association may
13 provide a summary of the report in lieu of the entire report.

14 6. A copy of the most recent reserve study of the association, if any.

15 B. A purchaser or seller who is damaged by the failure of the unit
16 owner or the association to disclose the information required by subsection
17 A of this section may pursue any and all remedies at law or in equity against
18 the unit owner or the association, whichever failed to comply with subsection
19 A of this section, including the recovery of reasonable attorney fees.

20 C. The association may charge the unit owner a reasonable fee to
21 compensate the association for the costs incurred in the preparation of a
22 statement furnished by the association pursuant to this section. The
23 association shall make available to any interested party the amount of any
24 fee established from time to time by the association.

25 D. For purposes of this section, unless the context otherwise
26 requires, "unit owner" means the seller of the condominium unit title and
27 excludes any real estate salesperson or real estate broker who is licensed
28 under title 32, chapter 20 and who is acting as a salesperson or broker and
29 also excludes a trustee of a deed of trust who is selling the property in a
30 trustee's sale pursuant to chapter 6.1 of this title.

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

32 33-1806. Resale of units; information required; definition

33 A. Except for a sale in which a public report shall be issued pursuant
34 to section 32-2183 AND SECTION 32-2197.02, for a sale which is exempt
35 pursuant to section 32-2181.02 or for planned communities with fewer than
36 fifty units, a member shall mail or deliver to a purchaser within ten days
37 after receipt of a written notice of a pending sale of the unit, and for
38 planned communities with fifty or more units, the association shall mail or
39 deliver to a purchaser within ten days after receipt of a written notice of
40 a pending sale that contains the name and address of the purchaser, all of
41 the following:

42 1. A copy of the bylaws and the rules of the association.

43 2. A copy of the declaration.

44 3. A dated statement containing:

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

5 (b) The amount of the common regular assessment and the unpaid common
6 regular assessment, special assessment or other assessment, fee or charge
7 currently due and payable from the selling member.

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 or
15 improvements that occurred more than six years before the proposed sale.
16 Nothing in this subdivision relieves the seller of a unit from the obligation
17 to disclose alterations or improvements to the unit that violate the
18 declaration, nor precludes the association from taking action against the
19 purchaser of a unit for violations THAT ARE apparent at the time of purchase
20 AND that are not reflected in the association's records.

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

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

29 (h) A STATEMENT THAT PROVIDES "I HEREBY ACKNOWLEDGE THAT THE
30 DECLARATION, BYLAWS AND RULES OF THE ASSOCIATION CONSTITUTE A CONTRACT
31 BETWEEN THE ASSOCIATION AND ME (THE PURCHASER). BY SIGNING THIS STATEMENT,
32 I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE ASSOCIATION'S CONTRACT WITH
33 ME (THE PURCHASER). I ALSO UNDERSTAND THAT BY ACCEPTING THIS CONTRACT, I MAY
34 BE GIVING UP MY RIGHTS TO THE HOMESTEAD EXEMPTION PROTECTION REGARDING A LIEN
35 OF THE ASSOCIATION." THE STATEMENT SHALL ALSO INCLUDE A SIGNATURE LINE FOR
36 THE PURCHASER AND SHALL BE RETURNED TO THE ASSOCIATION WITHIN FOURTEEN
37 CALENDAR DAYS.

38 4. A copy of the current operating budget of the association.

39 5. A copy of the most recent annual financial report of the
40 association. If the report is more than ten pages, the association may
41 provide a summary of the report in lieu of the entire report.

42 6. A copy of the most recent reserve study of the association, if any.

43 B. A purchaser or seller who is damaged by the failure of the member
44 or the association to disclose the information required by subsection A of
45 this section may pursue ~~any~~ and all remedies at law or in equity against the

1 member or the association, whichever failed to comply with subsection A of
2 this section, including the recovery of reasonable attorney fees.

3 C. The association may charge the member a reasonable fee to
4 compensate the association for the costs incurred in the preparation of a
5 statement furnished by the association pursuant to this section. The
6 association shall make available to any interested party the amount of any
7 fee established from time to time by the association.

8 D. For purposes of this section, unless the context otherwise
9 requires, "member" means the seller of the unit title and excludes any real
10 estate salesperson or real estate broker who is licensed under title 32,
11 chapter 20, and who is acting as a salesperson or broker and also excludes
12 a trustee of a deed of trust who is selling the property in a trustee's sale
13 pursuant to chapter 6.1 of this title.

APPROVED BY THE GOVERNOR MAY 18, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2004.

Passed the House February 16, 2004

Passed the Senate April 1, 2004

by the following vote: 52 Ayes,
5 Nays, 3 Not Voting

by the following vote: 28 Ayes,
0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Thomas L. Moore
Chief Clerk of the House

Charmine Ballinger
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,
at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of
_____, 20____,
at _____ o'clock _____ M.

Governor of Arizona

H.B. 2380

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,
at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 10, 2004,

by the following vote: 47 Ayes,

3 Nays, 10 Not Voting

Jake Flake
Speaker of the House

Spencer L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 11, 2004,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Klu Plunett
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 12th day of May, 2004,

at 12:36 o'clock P. M.

Jennifer Uparra
Secretary to the Governor

Approved this 18 day of

May, 2004,

at 2:45 o'clock P. M.

Jan Nagel
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of May, 2004,

at 3:36 o'clock P. M.

Janice L. Brewer
Secretary of State

H.B. 2380