

REFERENCE TITLE: condominiums; planned communities; reserve studies

State of Arizona
House of Representatives
Forty-third Legislature
Second Regular Session
1998

HB 2200

Introduced by
Representative Gardner

AN ACT

AMENDING SECTIONS 33-1260 AND 33-1806, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

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, for an exempt sale pursuant to section 32-2181.02 or for
7 condominiums with fewer than fifty units, a unit owner shall mail or deliver
8 to a purchaser within ten days after receipt of a written notice of a pending
9 sale of the unit, and for condominiums with fifty or more units, the
10 association shall mail or deliver to a purchaser within ten days after
11 receipt of a written notice of a pending sale that contains the name and
12 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.

- 1 (d) The total amount of money held by the association as reserves.
- 2 (e) If the statement is being furnished by the association, a
3 statement as to whether the records of the association reflect any
4 alterations or improvements to the unit that violate the declaration. The
5 association is not obligated to provide information regarding alterations or
6 improvements that occurred more than six years before the proposed sale.
7 Nothing in this subdivision relieves the seller of a unit from the obligation
8 to disclose alterations or improvements to the unit that violate the
9 declaration, nor precludes the association from taking action against the
10 purchaser of a unit for violations apparent at the time of purchase that are
11 not reflected in the association's records.
- 12 (f) If the statement is being furnished by the unit owner, a statement
13 as to whether the unit owner has any knowledge of any alterations or
14 improvements to the unit that violate the declaration.
- 15 (g) A statement of case names and case numbers for pending litigation
16 with respect to the unit filed by the association against the unit owner or
17 filed by the unit owner against the association. The unit owner or the
18 association shall not be required to disclose information concerning the
19 pending litigation that would violate any applicable rule of attorney-client
20 privilege under Arizona law.
- 21 4. A copy of the current operating budget of the association.
- 22 5. A copy of the most recent annual financial report of the
23 association. If the report is more than ten pages, the association may
24 provide a summary of the report in lieu of the entire report.
- 25 6. A copy of the most recent reserve study ~~of~~ **PREPARED FOR** the
26 association **THAT HAS BEEN APPROVED BY A VOTE OF THE UNIT OWNERS**, if **any AN**
27 **APPROVED STUDY EXISTS**.
- 28 B. A purchaser or seller who is damaged by the failure of the unit
29 owner or the association to disclose the information required by subsection
30 A of this section may pursue any and all remedies at law or in equity against
31 the unit owner or the association, whichever failed to comply with subsection
32 A of this section, including the recovery of reasonable attorney fees.
- 33 C. The association may charge the unit owner a reasonable fee to
34 compensate the association for the costs incurred in the preparation of a
35 statement furnished by the association pursuant to this section. The
36 association shall make available to any interested party the amount of any
37 fee established from time to time by the association.
- 38 D. For purposes of this section, unless the context otherwise
39 requires, "unit owner" means the seller of the condominium unit title and
40 excludes any real estate salesperson or real estate broker who is licensed
41 under title 32, chapter 20 and who is acting as a salesperson or broker and
42 also excludes a trustee of a deed of trust who is selling the property in a
43 trustee's sale pursuant to chapter 6.1 of this title.

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

2 33-1806. Resales of units; information required; definition

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

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

12 2. A copy of the declaration.

13 3. A dated statement containing:

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

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

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

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

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

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

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

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

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

4 6. A copy of the most recent reserve study ~~of~~ PREPARED FOR the
5 association THAT HAS BEEN APPROVED BY A VOTE OF THE MEMBERS, if ~~any~~ AN
6 APPROVED STUDY EXISTS.

7 B. A purchaser or seller who is damaged by the failure of the member
8 or the association to disclose the information required by subsection A of
9 this section may pursue any and all remedies at law or in equity against the
10 member or the association, whichever failed to comply with subsection A of
11 this section, including the recovery of reasonable attorney fees.

12 C. The association may charge the member a reasonable fee to
13 compensate the association for the costs incurred in the preparation of a
14 statement furnished by the association pursuant to this section. The
15 association shall make available to any interested party the amount of any
16 fee established from time to time by the association.

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