

# Resale Disclosure; Transfer Fees

## 33-442. Prohibition on transfer fees; exceptions; definitions

A. A provision in a declaration, a covenant or any other document relating to real property in this state is not binding or enforceable against the real property or against any subsequent owner, purchaser, lienholder or other claimant on the property if it purports to do both of the following:

1. Bind successors in title to the specified real property.

2. Obligate the transferee or transferor of all or part of the property to pay a fee or other charge to a declarant or a third person on transfer of an interest in the property or in consideration for permitting such a transfer. Regularly scheduled fees or charges shall not be considered payable on transfer of an interest if the fees or charges will be payable by the owner of the property regardless of whether or not the property is transferred, even if the obligation to pay does not commence until the trustee, declarant, builder or developer first conveys the property to a retail purchaser.

B. A transfer fee provision prescribed by subsection A of this section is unenforceable whether or not recorded and does not create a lien right and any lien purportedly arising out of an unenforceable provision prescribed by subsection A of this section is invalid and unenforceable.

C. This section does not apply to any of the following:

1. Any provision of a purchase contract, option, mortgage, security agreement, real property listing agreement or other agreement that obligates one party to the agreement to pay the other party as full or partial consideration for the agreement or for a waiver of rights under the agreement if the amount to be paid is:

(a) A loan assumption fee or similar fee charged by a lender that holds a lien on the property.

(b) A fee or commission paid to a licensed real estate broker for brokerage services rendered in connection with the transfer of the property for which the fee or commission is paid.

2. Any provision in a deed, memorandum or other document recorded for the purpose of providing record notice of an agreement prescribed in paragraph 1, subdivision (a) of this subsection.

3. ANY FEE, CHARGE, ASSESSMENT, LIEN OR OTHER AMOUNTS PAYABLE TO A HOMEOWNERS', CONDOMINIUM, COOPERATIVE, TIME SHARE, MANUFACTURED HOME, RECREATION, OR PROPERTY OWNERS' ASSOCIATION, PURSUANT TO A DECLARATION, COVENANT, OR LAW APPLICABLE TO THE ASSOCIATION, INCLUDING BUT NOT LIMITED TO, FEES OR CHARGES FOR LIEN ESTOPPEL SERVICES OR DISCLOSURE CERTIFICATES ISSUED BY THE ASSOCIATION OR ITS AUTHORIZED AGENT. SUBJECT TO THE FOLLOWING PROVISION:

A) ANY FEE, HOWEVER DENOMINATED, BASED SOLELY ON THE TRANSFER OF PROPERTY SPECIFICALLY AUTHORIZED IN THE DECLARATION OR COVENANT MUST BE PAYABLE TO THE RESPECTIVE ASSOCIATION ONLY, AND HAVE A REASONABLE, RATIONAL AND FAIR PURPOSE TO BE CONSIDERED VALID AND ENFORCEABLE.

~~Any provision of a document that requires payment of a fee or charge to an association to be used exclusively for the purpose authorized in the document if both of the following apply:~~

~~(a) The fee being charged touches and concerns the land.~~

~~(b) No portion of the charge or fee is required to be passed through to a third party or declarant designated or identifiable by description in the document or in another document that is referenced in the document unless the third party is authorized in the document to manage real property within the association or was part of an approved development plan.~~

4. Any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, sublease, encumbrance or transfer of the lease.

5. Any consideration payable to the holder of an option to purchase an interest in the real property or to the holder of a right of first refusal or first offer to purchase an interest in real property and paid for waiving, releasing or not exercising the option or right on transfer of the property to another person.

6. Any fee, charge, assessment, dues, contribution or other amount relating to the purchase or transfer of a club membership related to the real property owner by the transferor.

~~7. Any fee or charge that is imposed by a document and that is payable to a nonprofit corporation for the sole purpose of supporting recreational activities within the association.~~

78. Any fee, tax, assessment or other charge imposed by a governmental authority pursuant to applicable laws, ordinances or regulations.

89. Any consideration payable by the transferee to the transferor for the interest in real property being transferred including any subsequent additional consideration for the property payable by the transferee based on any subsequent appreciation, development or sale of the property.

D. Notwithstanding any provision in the document or purported lien, a transfer fee covenant or other document prescribed by subsection A of this section or a lien purporting to secure payment under a transfer fee covenant or document prescribed by subsection A of this section that is executed after July 29, 2010 is not binding or enforceable. This section shall not be construed to imply that a transfer fee covenant or other document prescribed by subsection A of this section that is executed before July 29, 2010 is enforceable or valid.

E. For the purposes of this section:

1. "Association" means a nonprofit organization that is qualified under section 501(c) (3) or section 501(c) (4) of the United States Internal Revenue Code or a nonprofit mandatory membership organization that is created pursuant to a declaration, covenant or other applicable law and that is composed of owners of homes, condominiums, cooperatives or manufactured homes or any other interest in real property.

2. "Transfer" means the sale, gift, conveyance, assignment, inheritance or other transfer of an interest in real property located in this state.

33-1260. Resale of units; information required; fees; civil penalty; applicability; definition

A. For ALL condominiums ~~with fewer than fifty units,~~ a unit owner shall mail or deliver to a POTENTIAL purchaser ~~or a purchaser's authorized agent within ten days~~ after receipt of an ~~written~~ OFFER TO PURCHASE CONTRACT OR ANY EARLIER REQUEST FROM THE POTENTIAL PURCHASER BUT PRIOR TO ACCEPTING THAT OFFER CONTRACT, ALL OF THE INFORMATION DESCRIBED BELOW IN PAPER OR ELECTRONIC FORMAT. THE UNIT OWNER MAY SATISFY THIS REQUIREMENT BY REQUESTING THE ASSOCIATION OR ITS MANAGING AGENT BY CERTIFIED MAIL TO PROVIDE A DATED CERTIFICATE CONTAINING ALL THE ASSOCIATION INFORMATION SPECIFIED BELOW. THE ASSOCIATION OR ITS MANAGING AGENT SHALL PROVIDE THE CERTIFICATE WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE WRITTEN REQUEST. SUCH CERTIFICATE SHALL BE INDEXED IN ACCORDANCE WITH THE SUBSECTIONS OF THIS SECTION, AND MAY BE PROVIDED IN EITHER PAPER OR ELECTRONIC FORMAT, EXCEPT AS SPECIFIED. FAILURE OF THE ASSOCIATION OR ITS MANAGING AGENT TO PROVIDE THE INFORMATION WITHIN THE TIME SPECIFIED WILL NULLIFY ANY FEES AUTHORIZED FOR THIS SERVICE IN THIS SECTION, BUT DOES NOT ELIMINATE THE RESPONSIBILITY OF THE ASSOCIATION OR ITS MANAGING AGENT TO PROVIDE THE CERTIFICATE IF REQUESTED. THE UNIT OWNER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE ASSOCIATION OR ITS MANAGING AGENT. ~~notice of a pending sale of the unit, and for condominiums with fifty or more units, the association shall mail or deliver to a purchaser or a purchaser's authorized agent within ten days after receipt of a written notice of a pending sale that contains the name and address of the purchaser all of the following in either paper or electronic format:~~

1. AN ELECTRONIC FORMAT copy of the bylaws AND ANY AMENDMENTS, and the rules of the association, ALONG WITH ANY PROPOSED CHANGES TO THOSE DOCUMENTS NOT YET AUTHORIZED OR IMPLEMENTED.

2. AN ELECTRONIC FORMAT copy of the declaration AND ANY APPROVED AMENDMENTS, ALONG WITH ANY PROPOSED BUT NOT YET AUTHORIZED OR RECORDED CHANGE TO THE DECLARATION.

3. A COPY OF THE ARTICLES OF INCORPORATION, IF ANY

4. A dated statement containing:

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

(b) The amount of the CURRENT ANNUAL common expense assessment for the unit AND THE REQUIRED PAYMENT SCHEDULE, ALONG WITH and any AUTHORIZED SUPPLEMENTAL ASSESSMENT OR SPECIAL ASSESSMENT IF ANY.

(c) A STATEMENT IDENTIFYING ANY unpaid common expense assessment, special assessment or other assessment, fee or charge currently due and payable from the selling unit owner, ALONG WITH THE INTEREST SCHEDULE, OR ANY PERIODIC ESCALATION PROVISION ON THOSE UNPAID CHARGES, IF APPLICABLE. ~~If the request is made by a lienholder, escrow agent, unit owner or person designated by a unit owner pursuant to section 33-1256, failure to provide the information pursuant to this subdivision within the time provided for in this subsection shall extinguish any lien for any unpaid assessment then due against that unit.~~

(e) ~~A statement as to whether a portion of the unit is covered by insurance maintained by the association.~~

(d) ~~The total amount of money held by the association as reserves.~~ A COPY OF THE MOST RECENT ASSOCIATION MONTHLY FINANCIAL STATEMENT AND BUDGET COMPARISON REPORT FOR BOTH OPERATING AND RESERVE ACCOUNTS FOR THE CURRENT FISCAL YEAR TO DATE.

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

(E) ~~If the statement is being furnished by the unit owner,~~ a statement FROM THE UNIT OWNER as to whether the unit owner has any knowledge of any alterations or improvements, MADE AT ANY TIME BY THE UNIT OWNER, to the unit that violate the declaration, IRRESPECTIVE OF WHETHER THAT VIOLATION WAS IDENTIFIED OR CITED BY THE ASSOCIATION.

(F) A STATEMENT OF ANY OUTSTANDING AND UNRESOLVED CITED VIOLATION OF THE ASSOCIATION CONDOMINIUM DOCUMENTS IF ANY.

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

5. (h) A statement that provides "I hereby acknowledge that BY PURCHASING THIS UNIT I WILL BE PROVIDING CONSENT TO AND WILL BE CONTRACTURALLY SUBJECT TO the declaration, bylaws and rules of the association. ~~constitutes a contract between the association and me (the purchaser. By signing this statement, I acknowledge that I have read and understand the association's contract with me (the purchaser).~~ I also understand that that as a matter of Arizona Law, if I fail to pay my association COMMON EXPENSE assessments, the association may foreclose on my property, WITHOUT THE PROTECTION AFFORDED BY THE HOMESTEAD ACT." The statement shall also include a signature line for the purchaser TO SIGN AT CLOSING, AND BE RETAINED IN THE RECORDS OF THE PURCHASE. ~~and shall be returned to the association within fourteen calendar days.~~

6. A copy of the current operating budget of the association.

75. A copy of the most recent YEAR END ~~annual~~ financial report of the association, ALONG WITH THE LATEST ANNUAL AUDIT, REVIEW OR COMPILATION REPORT.- ~~If the report is more than ten pages, the association may provide a summary of the report in lieu of the entire report.~~

8. A COPY OF THE MOST RECENT BANK STATEMENTS FOR ALL FINANCIAL ACCOUNTS OF THE ASSOCIATION INCLUDING ALL RESERVE AND OPERATING ACCOUNTS.

96. AN ELECTRONIC FORMAT copy of the most recent reserve study OR PLAN of the association, if any.

107. A statement summarizing any pending OR RECENTLY DISPOSITIONED OR SETTLED WITHIN SIX MONTHS lawsuits, except those relating to the collection of assessments owed by unit owners, ~~other than the selling unit owner~~, in which the association is a named party, including the GENERAL ISSUE OF CONCERN AND amount of any COST TO THE ASSOCIATION OR money claimed.

11. A STATEMENT IDENTIFYING THE ANNUAL AND SUPPLEMENTAL ASSESSMENTS, AND ANY SPECIAL ASSESSMENTS IF ANY CHARGED THE UNIT OWNER FOR THE LAST TWO FISCAL YEARS.

12. A STATEMENT DESCRIBING THE NATURE AND AMOUNT OF ALL EXPENDITURES FROM THE RESERVE FUND IN THE CURRENT AND LAST FISCAL YEAR. ALONG WITH A STATEMENT OF THE NATURE AND AMOUNT OF ALL ANTICIPATED EXPENDITURES FROM THE RESERVE FUND IN THE REMAINDER OF THE CURRENT AND SUBSEQUENT FISCAL YEAR.

13. A STATEMENT OF ANY CONTEMPLATED, BUT NOT YET AUTHORIZED SPECIAL ASSESSMENT ANTICIPATED TO BE APPLIED IN THE CURRENT OR NEXT FISCAL YEAR.

14. A STATEMENT OF ALL FEES TO BE CHARGED EITHER THE BUYER OR THE SELLER OF THIS UNIT BY THE ASSOCIATION OR ANY AGENT OF THE ASSOCIATION IN RELATION TO THIS PURCHASE, ALONG WITH THE BASIS AND AUTHORIZATION FOR THAT FEE.

15. A STATEMENT AS TO WHETHER A PORTION OF THE UNIT IS COVERED BY INSURANCE MAINTAINED BY THE ASSOCIATION, AND A COPY OF SUCH INSURANCE POLICY, ALONG WITH A COPY OF ALL OTHER INSURANCE CERTIFICATES MAINTAINED BY THE ASSOCIATION.

16. A STATEMENT AS TO WHETHER THE CONDOMINIUM IS STILL UNDER DECLARANT CONTROL AND HOW LONG THAT CONTROL WILL REMAIN IN EFFECT OR THE CONDITIONS UNDERWHICH THE DECLARANT CONTROL WILL END.

17. FOR A CONDOMINIUM OF THIRTY UNITS OR GREATER, A STATEMENT AS TO WHETHER ANY SINGLE UNIT OWNER OR ENTITY OWNS OR CONTROLS INTEREST IN MORE THAN TEN PERCENT OF THE UNITS IN THE CONDOMINIUM, AND IF SO WHAT PERCENTAGE IS OWNED BY THAT PERSON OR ENTITY.

B. IT IS THE RESPONSIBILITY OF THE UNIT OWNER TO ENSURE THAT THE INFORMATION PROVIDED IN SUBSECTION A. 1 THRU 4 IS MAINTAINED CURRENT UNTIL AN OFFER CONTRACT IS ACCEPTED. A TOTAL UPDATE OF THE ENTIRE DISCLOSURE CERTIFICATE IS REQUIRED IF SIX MONTHS HAVE TRANSPIRED SINCE THE ORIGINAL CERTIFICATE OF DISCLOSURE WAS ISSUED. ANY DISCLOSURE CERTIFICATE PROVIDED TO A POTENTIAL BUYER THAT DOES NOT CONSOMATE IN AN OFFER CONTRACT MUST BE RETURNED TO THE SELLER.

C. THE PURCHASER WILL HAVE FIVE CALENDAR DAYS FROM THE DATE THE OFFER CONTRACT TO PURCHASE THE HOME IS ACCEPTED BY THE SELLER, TO WITHDRAW THAT OFFER BASED ON THE CONTENT OF THE DISCLOSURE INFORMATION OF SUBSECTION A, WITHOUT PENALTY OR LOSS OF EARNEST MONEY.

D. THE ASSOCIATION SHALL FURNISH WHEN REQUESTED IN WRITING BY A LIENHOLDER, OR ESCROW AGENT LICENSED PURSUANT TO TITLE 6, CHAPTER 7, ANY INFORMATION IDENTIFIED IN SUB-SECTION A. OR ANY OTHER COMMUNITY RECORD PERTENANT TO THE PROPERTY TRANSFER, WITHIN TEN CALENDAR DAYS OF THE RECEIPT OF THE REQUEST, SUBJECT TO THE PROVISIONS OF SECTION 1256 OF THIS CHAPTER. NO ADDITIONAL FEES WILL BE ALLOWED FOR PROVIDING THIS INFORMATION OR ANY UPDATED INFORMATION REQUESTED BY EITHER A LIENHOLDER OR LICENSED ESCROW AGENT.

EB. A purchaser or seller who is damaged by the failure of the unit owner or the association to disclose the information required by subsection A of this section may pursue all remedies at law or in equity against the unit owner or the association, OR ITS MANAGING AGENT whichever failed to comply with subsection A of this section, including the recovery of reasonable attorney fees AND COSTS.

FC. The association OR ANY AGENT OF THE ASSOCIATION may charge the unit owner a fee BASED ON THE ACTUAL AND DIRECT COST of not more than an aggregate of \$400 ~~four hundred dollars~~ to compensate the association OR ITS AGENT for the costs incurred in the preparation and delivery of a statement or other documents furnished by the



association pursuant to this section for purposes of resale disclosure, lien estoppel and any other services related to the transfer or use of the property. THE ASSOCIATION OR ITS MANAGING AGENT SHALL PROVIDE THE UNIT OWNER A DETAILED INVOICE OF THE ACTUAL AND DIRECT COST FOR THIS SERVICE. INDIRECT COST FOR EXTERNAL REVIEW OF THE DISCLOSURE CERTIFICATE OR ANY OTHER INDIRECT COST INCLUDING THE NORMAL AND ROUTINE COST ASSOCIATED WITH MAINTAINING THE RECORDS OF THE ASSOCIATION SHALL NOT BE INCLUDED IN THIS FEE. In addition, the association may charge a rush fee of not more than \$100 ~~one hundred dollars~~ if the rush services are required to be performed within ~~seventy-two~~ FORTY-EIGHT hours after the request for rush services, and may charge a statement or other documents update fee ~~BASED ON REASONABLE AND ACTUAL DIRECT COST NOT TO EXCEED~~ ~~of not more than \$50 fifty dollars~~ if ~~REQUESTED BY THE UNIT OWNER ANY TIME PRIOR TO CLOSING. thirty days or more have passed since the date of the original disclosure statement or the date the documents were delivered.~~ The association shall make available to any interested party the amount of any fee established from time to time by the association. ~~If the aggregate fee for purposes of resale disclosure, lien estoppel and any other services related to the transfer or use of a property is less than four hundred dollars on January 1, 2010, the fee may increase at a rate of not more than twenty percent per year based on the immediately preceding fiscal year's amount not to exceed the four hundred dollar aggregate fee. The association may charge the same fee without regard to whether the association is furnishing the statement or other documents in paper or electronic format.~~

GD. The fees prescribed by this section shall be collected no earlier than at the close of escrow and may only be charged once to a unit owner for that transaction between the ~~UNIT OWNER AND THE ASSOCIATION parties specified in the notice required~~ pursuant to subsection A of this section. An association ~~OR ANY AGENT OF THE ASSOCIATION~~ shall not charge or collect a fee relating to services for resale disclosure, lien estoppel and any other services related to the transfer or use of a property except as specifically authorized in this section. ~~ALL FEES PAID UNDER THIS SECTION WILL BE PAID AT CLOSE OF ESCROW DIRECTLY TO THE ASSOCIATION. IF ANY SUCH FEE OR PORTION OF THE FEE IS CONTRACTUALLY OBLIGATED TO AN AGENT, THE ASSOCIATION WILL PAY THE AGENT INDEPENDENT OF THIS TRANSACTION. ANY CONTRACT IN EFFECT BETWEEN THE ASSOCIATION AND ANY AGENT OF THE ASSOCIATION SPECIFYING THE PAYMENT OF FEES CONTRARY TO THIS SECTION MUST BE MADE CONSISTENT WITH THIS SECTION AT THE FIRST ANNUAL RENEWAL DATE OF THAT CONTRACT FOLLOWING THE EFFECTIVE DATE OF THIS STATUTE.~~ An association ~~OR AN AGENT OF THE ASSOCIATION~~ that charges or collects a fee in violation of this section is subject to a civil penalty of not more than \$1,200 ~~one thousand two hundred dollars~~.

HE. This section applies to a managing agent for an association that is acting on behalf of the association.

IF. The following are exempt from this section:

1. A sale in which a public report is issued pursuant to section 32-2183 or 32-2197.02.
2. A sale pursuant to section 32-2181.02.
3. A conveyance by recorded deed that bears an exemption listed in section 11-1134, subsection B, paragraph 3 or 7. On recordation of the deed and for no additional charge, the unit owner shall provide the association with the changes in ownership including the unit owner's name, billing address and phone number. Failure to provide the information shall not prevent the unit owner from qualifying for the exemption pursuant to this section.

JG. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

KH. For the purposes of this section, unless the context otherwise requires, "unit owner" means the seller of the condominium unit title and excludes any real estate salesperson or real estate broker who is licensed under title 32, chapter 20 and who is acting as a salesperson or broker, any escrow agent who is licensed under title 6, chapter 7 and who is acting as an escrow agent and also excludes a trustee of a deed of trust who is selling the property in a trustee's sale pursuant to chapter 6.1 of this title.

33-1806. Resale of units; information required; fees; civil penalty; definition

A. For ALL planned communities ~~with fewer than fifty units,~~ a member shall mail or deliver to a POTENTIAL purchaser ~~or a purchaser's authorized agent within ten days~~ after receipt of an ~~written~~ OFFER TO PURCHASE CONTRACT OR ANY EARLIER REQUEST FROM THE POTENTIAL PURCHASER BUT PRIOR TO ACCEPTING THAT OFFER CONTRACT, ALL OF THE INFORMATION DESCRIBED BELOW IN PAPER OR ELECTRONIC FORMAT. THE MEMBER MAY SATISFY THIS REQUIREMENT BY REQUESTING THE ASSOCIATION OR ITS MANAGING AGENT BY CERTIFIED MAIL, TO PROVIDE A DATED CERTIFICATE CONTAINING ALL THE ASSOCIATION INFORMATION SPECIFIED BELOW. THE ASSOCIATION OR ITS MANAGING AGENT SHALL PROVIDE THE CERTIFICATE WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE WRITTEN REQUEST. SUCH CERTIFICATE SHALL BE INDEXED IN ACCORDANCE WITH THE SUBSECTIONS OF THIS SECTION AND MAY BE PROVIDED IN EITHER PAPER OR ELECTRONIC FORMAT EXCEPT AS SPECIFIED. FAILURE OF THE ASSOCIATION OR ITS MANAGING AGENT TO PROVIDE THE INFORMATION WITHIN THE TIME SPECIFIED WILL NULLIFY ANY FEES AUTHORIZED FOR THIS SERVICE IN THIS SECTION, BUT DOES NOT ELIMINATE THE RESPONSIBILITY OF THE ASSOCIATION OR ITS MANAGING AGENT TO PROVIDE THE CERTIFICATE IF REQUESTED. THE MEMBER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE ASSOCIATION OR ITS MANAGING AGENT. ~~notice of a pending sale of the unit, and for condominiums with fifty or more units, the association shall mail or deliver to a purchaser or a purchaser's authorized agent within ten days after receipt of a written notice of a pending sale that contains the name and address of the purchaser all of the following in either paper or electronic format:~~

1. AN ELECTRONIC FORMAT copy of the MOST CURRENT bylaws AND ANY AMENDMENTS, and the rules of the association, ALONG WITH ANY PROPOSED CHANGES TO THOSE DOCUMENTS NOT YET IMPLEMENTED.

2. AN ELECTRONIC FORMAT copy of the MOST CURRENT declaration AND ANY APPROVED AMENDMENTS, ALONG WITH ANY PROPOSED BUT NOT YET AUTHORIZED OR RECORDED CHANGE TO THE DECLARATION.

3. A COPY OF THE ARTICLES OF INCORPORATION, IF ANY

4. A dated statement containing:

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

(b) The amount of the CURRENT ANNUAL common expense assessment for the unit AND THE REQUIRED PAYMENT SCHEDULE, ALONG WITH ~~and~~ any SUPPLEMENTAL ASSESSMENT OR SPECIAL ASSESSMENT IF ANY.

(c) A STATEMENT IDENTIFYING ANY unpaid common expense assessment, special assessment or other assessment, fee or charge currently due and payable from the selling member, ALONG WITH THE INTEREST SCHEDULE, OR ANY PERIODIC ESCALATION PROVISION ON THOSE UNPAID CHARGES, IF APPLICABLE. ~~If the request is made by a lienholder, escrow agent, member or person designated by a member pursuant to section 33-1256, failure to provide the information pursuant to this subdivision within the time provided for in this subsection shall extinguish any lien for any unpaid assessment then due against that unit.~~

(e) ~~A statement as to whether a portion of the unit is covered by insurance maintained by the association.~~

(d) ~~The total amount of money held by the association as reserves.~~ A COPY OF THE MOST RECENT ASSOCIATION MONTHLY FINANCIAL STATEMENT AND BUDGET COMPARISON REPORT FOR BOTH THE OPERATING AND RESERVE ACCOUNT FOR THE CURRENT FISCAL YEAR TO DATE.

(e) ~~If the statement is being furnished by the association, a statement as to whether the records of the association reflect any alterations or improvements to the unit that violate the declaration. The association is not obligated to provide information regarding alterations or improvements that occurred more than six years before the proposed sale. Nothing in this subdivision relieves the seller of a unit from the obligation to disclose alterations or improvements to the unit that violate the declaration, nor precludes the association from taking action against the purchaser~~

~~of a unit for violations that are apparent at the time of purchase and that are not reflected in the association's records.~~

~~(E)~~ If the statement is being furnished by the member, a statement FROM THE MEMBER as to whether the member has any knowledge of any alterations or improvements, MADE AT ANY TIME BY THE MEMBER, to the unit that violate the declaration, IRRESPECTIVE WHETHER THAT VIOLATION WAS IDENTIFIED OR CITED BY THE ASSOCIATION.

(F) A STATEMENT OF ANY OUTSTANDING AND UNRESOLVED CITED VIOLATION OF THE ASSOCIATION COMMUNITY DOCUMENTS IF ANY.

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

5. ~~(h)~~ A statement that provides "I hereby acknowledge that BY PURCHASING THIS LOT, OR HOME I WILL BE PROVIDING CONSENT TO, AND WILL BE CONTRACTURALLY SUBJECT TO the declaration, bylaws and rules of the association. ~~constitutes a contract between the association and me (the purchaser. By signing this statement, I acknowledge that I have read and understand the association's contract with me (the purchaser).~~ I also understand that that as a matter of Arizona Law, if I fail to pay my association COMMON EXPENSE assessments, the association may foreclose on my property, WITHOUT THE PROTECTION AFFORDED BY THE HOMESTEAD ACT." The statement shall also include a signature line for the purchaser TO SIGN AT CLOSING, AND BE RETAINED IN THE RECORDS OF THE PURCHASE. ~~7. and shall be returned to the association within fourteen calendar days.~~

64. A copy of the current operating budget of the association.

75. A copy of the most recent YEAR END ~~annual~~ financial report of the association, ALONG WITH THE LATEST ANNUAL AUDIT, REVIEW OR COMPILATION REPORT. ~~If the report is more than ten pages, the association may provide a summary of the report in lieu of the entire report.~~

86. AN ELECTRONIC FORMAT copy of the most recent reserve study OR PLAN of the association, if any.

97. A statement summarizing any pending OR RECENTLY DISPOSITIONED OR SETTLED WITHIN SIX MONTHS lawsuits, except those relating to the collection of assessments owed by members, ~~other than the selling member,~~ in which the association is a named party, including the GENERAL ISSUE OF CONCERN AND amount of any COST TO THE ASSOCIATION OR money claimed.

10. A COPY OF THE MOST RECENT BANK STATEMENTS FOR ALL FINANCIAL ACCOUNTS OF THE ASSOCIATION INCLUDING ALL RESERVE AND OPERATING ACCOUNTS.

11. A STATEMENT IDENTIFYING THE ANNUAL AND SUPPLEMENTAL ASSESSMENTS, AND ANY SPECIAL ASSESSMENTS IF ANY CHARGED THE UNIT OWNER FOR THE LAST TWO FISCAL YEARS.

12. A STATEMENT DESCRIBING THE NATURE AND AMOUNT OF ALL EXPENDITURES FROM THE RESERVE FUND IN THE CURRENT AND LAST FISCAL YEAR. ALONG WITH A STATEMENT OF THE NATURE AND AMOUNT OF ALL ANTICIPATED EXPENDITURES FROM THE RESERVE FUND IN THE REMAINDER OF THE CURRENT AND SUBSEQUENT FISCAL YEAR.

13. A STATEMENT OF ANY CONTEMPLATED, BUT NOT YET AUTHORIZED SPECIAL ASSESSMENT ANTICIPATED TO BE APPLIED IN THE CURRENT OR NEXT FISCAL YEAR.

14. A STATEMENT OF ALL FEES TO BE CHARGED EITHER THE BUYER OR THE SELLER OF THIS UNIT BY THE ASSOCIATION OR ANY AGENT OF THE ASSOCIATION IN RELATION TO THIS PURCHASE, ALONG WITH THE BASIS AND AUTHORIZATION FOR THAT FEE.

15. A STATEMENT AS TO WHETHER A PORTION OF THE PROPERTY IS COVERED BY INSURANCE MAINTAINED BY THE ASSOCIATION, AND A COPY OF SUCH INSURANCE POLICY, ALONG WITH A COPY OF ALL OTHER INSURANCE CERTIFICATES MAINTAINED BY THE ASSOCIATION.

16. A STATEMENT AS TO WHETHER THE PLANNED COMMUNITY IS STILL UNDER DECLARANT CONTROL AND HOW LONG THAT CONTROL WILL REMAIN IN EFFECT OR THE CONDITIONS UNDERWHICH THE DECLARANT CONTROL WILL END.

17. FOR A PLANNED COMMUNITY OF THIRTY UNITS OR GREATER, A STATEMENT AS TO WHETHER ANY SINGLE MEMBER OR ENTITY OWNS OR CONTROLS INTEREST IN MORE THAN TEN PERCENT OF THE PROPERTIES IN THE PLANNED COMMUNITY, AND IF SO WHAT PERCENTAGE IS OWNED BY THAT PERSON OR ENTITY.

B. IT IS THE RESPONSIBILITY OF THE MEMBER TO ENSURE THAT THE INFORMATION PROVIDED IN SUBSECTION A. 1 THRU 4 IS MAINTAINED CURRENT UNTIL AN OFFER CONTRACT IS ACCEPTED. A TOTAL UPDATE OF THE ENTIRE DISCLOSURE CERTIFICATE IS REQUIRED IF SIX MONTHS HAVE TRANSPIRED SINCE THE ORIGINAL CERTIFICATE OF DISCLOSURE WAS ISSUED. ANY DISCLOSURE CERTIFICATE PROVIDED TO A POTENTIAL BUYER THAT DOES NOT CONSOMATE IN AN OFFER CONTRACT MUST BE RETURNED TO THE SELLER.

C. THE PURCHASER WILL HAVE FIVE CALENDAR DAYS FROM THE DATE THE OFFER CONTRACT TO PURCHASE THE HOME IS ACCEPTED BY THE SELLER, TO WITHDRAW THAT OFFER BASED ON THE CONTENT OF THE DISCLOSURE INFORMATION OF SUBSECTION A, WITHOUT PENALTY OR LOSS OF EARNEST MONEY.

D. THE ASSOCIATION SHALL FURNISH WHEN REQUESTED IN WRITING BY A LIENHOLDER, OR ESCROW AGENT LICENSED PURSUANT TO TITLE 6, CHAPTER 7, ANY INFORMATION IDENTIFIED IN SUB-SECTION A. OR ANY OTHER COMMUNITY RECORD PERTENANT TO THE PROPERTY TRANSFER, WITHIN TEN CALENDAR DAYS OF THE RECEIPT OF THE REQUEST, SUBJECT TO THE PROVISIONS OF SECTION 1807 OF THIS CHAPTER. NO ADDITIONAL FEES WILL BE ALLOWED FOR PROVIDING THIS INFORMATION OR ANY UPDATED INFORMATION REQUESTED BY EITHER A LIENHOLDER OR LICENSED ESCROW AGENT.

EB. A purchaser or seller who is damaged by the failure of the member or the association to disclose the information required by subsection A of this section may pursue all remedies at law or in equity against the member or the association, OR ITS MANAGING AGENT whichever failed to comply with subsection A of this section, including the recovery of reasonable attorney fees AND COST.

FC. The association OR ANY AGENT OF THE ASSOCIATION may charge the member a fee BASED ON THE ACTUAL DIRECT COST of not more than an aggregate of \$400 ~~four hundred dollars~~ to compensate the association OR ITS AGENT for the costs incurred in the preparation and delivery of a statement or other documents furnished by the association pursuant to this section for purposes of resale disclosure, lien estoppel and any other services related to the transfer or use of the property. THE ASSOCIATION OR ITS MANAGING AGENT SHALL PROVIDE THE MEMBER A DETAILED INVOICE OF THE ACTUAL AND DIRECT COST FOR THIS SERVICE. INDIRECT COST FOR EXTERNAL REVIEW OF THE DISCLOSURE CERTIFICATE OR ANY OTHER INDIRECT COST INCLUDING THE NORMAL AND ROUTINE COST FOR MAINTAINING THE ASSOCIATION RECORDS SHALL NOT BE INCLUDED IN THIS FEE. In addition, the association may charge a rush fee of not more than \$100 ~~one hundred dollars~~ if the rush services are required to be performed within ~~seventy-two~~ FORTY-EIGHT hours after the request for rush services, and may charge a statement or other documents update fee BASED ON REASONABLE AND ACTUAL DIRECT COST NOT TO EXCEED ~~of not more than \$50 fifty dollars~~ if REQUESTED BY THE MEMBER AT ANY TIME PRIOR TO CLOSING ~~thirty days or more have passed since the date of the original disclosure statement or the date the documents were delivered.~~ The association shall make available to any interested party the amount of any fee established from time to time by the association. ~~If the aggregate fee for purposes of resale disclosure, lien estoppel and any other services related to the transfer or use of a property is less than four hundred dollars on January 1, 2010, the fee may increase at a rate of not more than twenty percent per year based on the immediately preceding fiscal year's amount not to exceed the four hundred dollar aggregate fee. The association may charge the same fee without regard to whether the association is furnishing the statement or other documents in paper or electronic format.~~

GD. The fees prescribed by this section shall be collected no earlier than at the close of escrow and may only be charged once to a member for that transaction between THE MEMBER AND THE ASSOCIATION ~~the parties specified in the notice required~~ pursuant to subsection A of this section. An association OR ANY AGENT OF THE ASSOCIATION shall not charge or collect a fee relating to services for resale disclosure, lien estoppel and any other services related to the transfer or use of a property except as specifically authorized in this section. ALL FEES PAID UNDER THIS SECTION WILL BE PAID AT CLOSE OF ESCROW DIRECTLY TO THE ASSOCIATION. IF ANY SUCH FEE OR PORTION OF THE FEE IS CONTRACTUALLY OBLIGATED TO AN AGENT, THE ASSOCIATION WILL PAY THE AGENT INDEPENDENT OF THIS TRANSACTION. ANY CONTRACT IN EFFECT BETWEEN THE ASSOCIATION AND ANY AGENT OF THE ASSOCIATION SPECIFYING THE PAYMENT OF FEES CONTRARY TO THIS SECTION MUST BE MADE CONSISTENT WITH THIS SECTION AT THE FIRST ANNUAL RENEWAL DATE OF THAT CONTRACT FOLLOWING THE EFFECTIVE DATE OF THIS STATUTE. An association OR ANY AGENT OF THE ASSOCIATION that



charges or collects a fee in violation of this section is subject to a civil penalty of not more than one thousand two hundred dollars.

**HE.** This section applies to a managing agent for an association that is acting on behalf of the association.

**IF.** The following are exempt from this section:

1. A sale in which a public report is issued pursuant to section 32-2183 or 32-2197.02.

2. A sale pursuant to section 32-2181.02.

3. A conveyance by recorded deed that bears an exemption listed in section 11-1134, subsection B, paragraph 3 or 7. On recordation of the deed and for no additional charge, the unit owner shall provide the association with the changes in ownership including the unit owner's name, billing address and phone number. Failure to provide the information shall not prevent the unit owner from qualifying for the exemption pursuant to this section.

**JG.** For the purposes of this section, unless the context otherwise requires, "member" means the seller of the unit title and excludes any real estate salesperson or real estate broker who is licensed under title 32, chapter 20 and who is acting as a salesperson or broker, any escrow agent who is licensed under title 6, chapter 7 and who is acting as an escrow agent and also excludes a trustee of a deed of trust who is selling the property in a trustee's sale pursuant to chapter 6.1 of this title.