

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2322
(Reference to printed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 33-1255, Arizona Revised Statutes, is amended to
3 read:

4 33-1255. Assessments for common expenses: commercial
5 structures; applicability; definitions

6 A. Until the association makes a common expense assessment, the
7 declarant shall pay all common expenses. After any assessment has been
8 made by the association, assessments shall be made at least annually,
9 based on a budget adopted at least annually by the association.

10 B. Except for assessments under subsections C, D, E, ~~and~~ F AND H of
11 this section, all common expenses shall be assessed against all the units
12 in accordance with the allocations set forth in the declaration pursuant
13 to section 33-1217, subsection A. Any past due common expense assessment
14 or installment bears interest at the rate established by the board subject
15 to the condominium documents.

16 C. Unless otherwise provided for in the declaration, all of the
17 following apply:

18 1. Any common expense associated with the maintenance, repair or
19 replacement of a limited common element shall be equally assessed against
20 the units to which the limited common element is assigned.

21 2. Any common expense or portion of a common expense benefitting
22 fewer than all of the units shall be assessed exclusively against the
23 units benefitted.

24 D. Assessments to pay a judgment against the association may be
25 made only against the units in the condominium at the time the judgment
26 was entered, in proportion to their common expense liabilities.

1 E. If any common expense is caused by the misconduct of any unit
2 owner, the association may assess that expense exclusively against that
3 unit.

4 F. If the declaration so provides, the common expense assessment
5 for any unit on which construction has not been substantially completed
6 may be an amount ~~which~~ THAT is ~~not less than~~ AT LEAST twenty-five ~~per cent~~
7 PERCENT of the common expense assessment for units ~~which~~ THAT have been
8 substantially completed. However, this reduced common expense assessment
9 shall not be ~~permitted~~; ALLOWED unless the declarant is obligated under
10 the declaration to pay to the association any deficiency in monies due to
11 the declarant having paid a reduced common assessment and necessary for
12 the association to be able to timely pay all common expenses.

13 G. If common expense liabilities are reallocated, common expense
14 assessments and any installment on the assessments not yet due shall be
15 recalculated in accordance with the reallocated common expense
16 liabilities.

17 H. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, IF A
18 CONDOMINIUM INCLUDES [★] [ONE OR MORE] COMMERCIAL [STRUCTURE] [STRUCTURES]
19 THAT [~~IS~~] [ARE] SEPARATE FROM [★] [ONE OR MORE] RESIDENTIAL [STRUCTURE]
20 [STRUCTURES], ALL OF THE FOLLOWING APPLY:

21 1. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT
22 EXCLUSIVELY BENEFITS THE COMMERCIAL [STRUCTURE] [STRUCTURES] SHALL BE
23 ASSESSED EXCLUSIVELY AGAINST THE UNITS IN THE COMMERCIAL [STRUCTURE]
24 [STRUCTURES], WHETHER ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL
25 ASSESSMENT OR OTHERWISE.

26 2. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT
27 EXCLUSIVELY BENEFITS THE RESIDENTIAL [STRUCTURE] [STRUCTURES] SHALL BE
28 ASSESSED EXCLUSIVELY AGAINST THE UNITS IN THE RESIDENTIAL [STRUCTURE]
29 [STRUCTURES], WHETHER ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL
30 ASSESSMENT OR OTHERWISE.

31 3. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT BENEFITS
32 BOTH THE COMMERCIAL [STRUCTURE] [STRUCTURES] AND THE RESIDENTIAL
33 [STRUCTURE] [STRUCTURES] SHALL BE ASSESSED IN PROPORTION TO THE [CATEGORY
34 OF THE] STRUCTURES BENEFITTED, WHETHER ASSESSED IN A GENERAL ASSESSMENT OR
35 SPECIAL ASSESSMENT OR OTHERWISE. THE PROPORTIONAL SHARE OF THE COMMON
36 EXPENSES THAT BENEFIT THE COMMERCIAL [STRUCTURE] [STRUCTURES] SHALL
37 THEREAFTER BE ASSESSED AGAINST THE UNITS IN THE COMMERCIAL [STRUCTURE]
38 [STRUCTURES] ON A PRO RATA BASIS, AND THE PROPORTIONAL SHARE OF THE COMMON
39 EXPENSES THAT BENEFIT THE RESIDENTIAL [STRUCTURE] [STRUCTURES] SHALL
40 THEREAFTER BE ASSESSED AGAINST THE UNITS IN THE RESIDENTIAL [STRUCTURE]
41 [STRUCTURES] ON A PRO RATA BASIS.

42 4. IN ANY DISPUTE OVER THE ALLOCATION OF A COMMON EXPENSE OR
43 PORTION OF A COMMON EXPENSE, THE ASSOCIATION [~~BEARS THE BURDEN OF PROVING~~
44 ~~BY CLEAR AND CONVINCING EVIDENCE THAT IT HAS ALLOCATED THE COMMON EXPENSE~~
45 ~~OR PORTION OF A COMMON EXPENSE IN COMPLIANCE WITH THIS SECTION~~] [SHALL
46 MAKE AVAILABLE AS PRESCRIBED BY SECTION 33-1258 ALL RECORDS RELATING TO
47 THE ASSOCIATION'S ALLOCATION OF A COMMON EXPENSE OR PORTION OF A COMMON

1 EXPENSE. THE ASSOCIATION MAY NOT WITHHOLD A RECORD BASED ON THE PENDENCY
2 OF LITIGATION RELATING TO THE ALLOCATION OF A COMMON EXPENSE OR PORTION OF
3 A COMMON EXPENSE IF THE RECORD WOULD OTHERWISE BE AVAILABLE TO A UNIT
4 OWNER UNDER SECTION 33-1258].

5 ~~H.~~ I. This section does not apply to timeshare plans or
6 associations that are subject to chapter 20 of this title.

7 J. FOR PURPOSES OF THIS SECTION:

8 1. "COMMERCIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF
9 THE UNITS ARE DESIGNATED FOR COMMERCIAL OR WORK PURPOSES AND IS SEPARATE
10 FROM A RESIDENTIAL STRUCTURE IF NO RESIDENTIAL UNITS ARE LOCATED ON TOP OF
11 OR BELOW THE COMMERCIAL STRUCTURE.

12 2. "COMMON EXPENSES" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 33-1202.

14 3. "RESIDENTIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF
15 THE UNITS ARE DESIGNATED FOR RESIDENTIAL PURPOSES.

16 Sec. 2. Applicability

17 Section 33-1255, Arizona Revised Statutes, as amended by this act,
18 applies to any condominium existing on or after the effective date of this
19 act.

20 Enroll and engross to conform

21 Amend title to conform

And, as so amended, it do pass

JEFF WENINGER
CHAIRMAN

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02/04/2025

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C: MR