



**ARIZONA STATE SENATE**  
*Fifty-Sixth Legislature, Second Regular Session*

**AMENDED**  
FACT SHEET FOR H.B. 2119

homeowner's associations; fees; related parties  
(NOW: real property)

Purpose

Prohibits an association from charging certain fees for a transfer of property between familial, business or trust parties when the transfer has nominal or no consideration.

Background

A provision in a declaration, covenant or other document relating to real property is not binding or enforceable against the real property or any subsequent owner, purchaser, lienholder or claimant, if the provision: 1) binds successors in title to the real property; and 2) obligates the transferee or transferor to pay a fee or other charge to a declarant or third party on transfer of an interest in the property or in consideration for allowing such a transfer. A transfer fee provision is unenforceable whether recorded or not and does not create a lien right. A *transfer* is the sale, gift, conveyance, assignment, inheritance or other transfer of an interest in real property located in Arizona.

Statute outlines exceptions to transfer fee prohibition, including: 1) provisions requiring payment of a fee or charge to an association if the fee being charged touches and concerns the land and no portion of the fee passes to an unauthorized third party; 2) brokers' commissions or loan assumption fees charged by a lender; 3) fees paid to a nonprofit corporation for the sole purpose of supporting recreational activities within the association; and 4) fees relating to the purchase or transfer of a club membership.

An *association* is a qualified 501(c)(3) or 501(c)(4) nonprofit organization or a nonprofit mandatory membership organization that is created pursuant to a declaration, covenant or other applicable law and that is composed of the owners of homes, condominiums, cooperatives or manufactured homes or any other interest in real property ([A.R.S. § 33-442](#)).

The county recorder must collect a real estate transfer affidavit and fee before recording a deed or contract for the sale or transfer of real property. Statute outlines exemptions from the requirement to submit the affidavit and pay the fee when a transfer of title has only nominal actual consideration for the transfer of residential property between familial parties, including: 1) husband and wife or ancestor of the husband and wife; 2) parent and child; 3) grandparent and grandchild; and 4) natural or adopted siblings. A transfer of title with no consideration or nominal consideration is also exempt from the requirement to submit the affidavit and pay the fee if the transfer is between specified business or trust entities (A.R.S. §§ [11-1132](#) and [11-1134](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits an association from charging a fee that is excluded from the transfer fee prohibition for any conveyance between familial, business or trust parties when the transfer has nominal or no consideration, except for service fees for the purpose of administering association records authorized in a managing contract with the association.
2. Makes conforming changes.
3. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Modifies the exception to the prohibition on association transfer fees to exclude service fees for the purpose of administering association records authorized in a managing contract, rather than service fees authorized in any document to manage real property within the association.

House Action

Senate Action

RA	1/31/24	DPA/SE	5-1-0-0	FICO	3/11/24	DP	6-0-1
3 <sup>rd</sup> Read	2/22/24		50-7-2-0-1				

Prepared by Senate Research

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MG/cs