



Mulcahy Memo – March, 2018

Published for clients and friends of the Mulcahy Law Firm, P.C.

by Beth Mulcahy, Esq.



Dear Clients and Friends,

*Happy St. Patrick's Day from everyone at
Mulcahy Law Firm, P.C.!*

As you know, the Arizona Legislature is currently considering numerous bills regarding community association law. While the legislature is in session, our firm prepares a weekly summary of these proposed bills and posts them to our website. For a listing and summary of the pending bills, please click [here](#) and scroll down to the "Legislative Updates" section.

Please join us! Our firm is offering 15 free educational classes for board members and managers around the valley in the next 90 days. We hope that you can join us at our upcoming classes! Listed below is the schedule for this month:

MARCH:

3/20- 1:00- 2:30 p.m.

Tempe HOA Academy- *How to be more inclusive and effectively work with rental properties in community associations*

3/20- 5:00- 6:30 p.m.

Glendale HOA Academy- *Financial Best Practices for Community Associations*

3/29- 12:30- 2:30 p.m.

Chandler HOA Academy- *Community Association 101: An Overview of Community Associations in Arizona AND Free Legal Q&A*

For registration information or to view a full listing of these classes, please visit our website by clicking [here](#). We hope that you can join us at our upcoming classes!

Also, please consider "liking" and following us on [Facebook](#) so you don't miss any of our important updates on Arizona community association law.

Thank you!



Sincerely,
Beth Mulcahy, Founder and Senior Partner
Mulcahy Law Firm, P.C.

BILL #	SUMMARY	STATUS
HOME-BASED BUSINESSES; REGULATION RESTRICTIONS		
SB1001	<p>This bill adds specifications as to percent of the house used for business or of the Garage/Accessory Structure being used for the business. This bill would make it illegal to restrict someone for running a business out of their house as long as they are using 50% or less of the square footage of the house for business.</p> <p>Applies to Planned Communities and Condominiums.</p>	No Action Since 1/9/2018
PRIVATE PROCESS SERVERS; AUTHORITY		
SB1012	<p>This bill allows a private process server to enter and remain on property including gated Homeowners Associations while attempting to serve someone.</p> <p>Applies to Planned Communities and Condominiums.</p>	No Action Since 1/9/2018
APPELLATE REVIEW; MUNICIPAL; JUSTICE COURTS		
SB1017	<p>This bill would allow a defendant, to appeal a final judgment of the superior court in an action that was appealed from a justice of the peace or municipal court.</p> <p>Applies to Planned Communities and Condominiums.</p>	No Action Since 1/9/2018
SERVICE ANIMALS; MISREPRESENTATION		
SB1040	<p>This bill would add a fine of \$250.00 if person misrepresents an animal as a service animal or service animal in training to a person or entity that operates a public place.</p> <p>Applies to Planned Communities and Condominiums.</p>	No Action Since 1/9/2018
RESIDENCY RESTRICTIONS; SEX OFFENDERS; VICTIMS		
SB1041	<p>This bill expands on locations a sex offender cannot live near to so that it includes the victim's family.</p> <p>Applies to Planned Communities and Condominiums.</p>	Minority Caucus 3/6/2018
BACKFLOW PREVENTION; STATE FIRE CODE		

SB1042	<p>This is a technical correction updating the language so that the law refers to the State fire code rather than individual parts of the fire code.</p> <p>Applies to Planned Communities and Condominiums.</p>	<p>Minority Caucus</p> <p>3/6/2018</p>
HOMEOWNERS' ASSOCIATIONS; FORECLOSURES; ASSESSMENTS		
SB1080	<p>This bill would reduce the time required before the association could pursue foreclosure to six months.</p> <p>Applies to Planned Communities and Condominiums.</p>	<p>No Action Since 1/10/2018</p>
CONDOMINIUM; TERMINATION; APPRAISAL DISPUTE		
SB1084	<p>This bill would increase the time for the unit owner to disapprove of the appraisal made by the independent appraiser if a condominium is terminating. It allows for the owner to then get another appraisal by a different independent appraiser within ninety days of the distribution of the original appraisal. If the owner's appraisal differs by two percent or less then the owner's appraisal is final, but if the appraisals are more than two percent the owner and the Association shall jointly select an arbitrator or mediator to make the final determination of fair market value of the property. The association shall pay the cost of the arbitrator or mediator as applicable.</p> <p>Applies to Condominiums.</p>	<p>House Second Read</p> <p>2/20/2018</p>
HOME-BASED BUSINESSES; LOCAL REGULATION.		
SB1175	<p>This bill would add limitations to what business types are allowed and states that the right to run a home business does not supersede any deed restriction, covenant or agreement restricting the use of land any master deed, bylaw or other document applicable to a common interest ownership community</p> <p>Applies to Planned Communities and Condominiums.</p>	<p>No Action Since 1/17/2018</p>
CONDOMINIUMS; PLANNED COMMUNITIES; MEETINGS		

<p>SB1495</p>	<p>This bill would expand the requirements for the open meeting laws. It states the annual meeting must include the election of board members and any other business of the Association and shall provide the owners with an opportunity to address the board under individual time limits as determined only by the unit owners present at the meeting. The Board shall also provide a financial summary report of the previous annual expenses and income and a projection of operating and capital expenses for the coming year.</p> <p>For meetings of the Board, the agenda must include background or other information related to each item on the agenda. The Board shall also make available draft minutes of previous meetings and financial reports to any owner who request them before the meeting is held. Alternatively, the Association may make the information available to unit owners by posting it on the association website at least twenty-four hours before the meeting is held. A special meeting may be called by a majority of the Board of Directors or by unit owners having at least twenty-five percent of the votes in the association for an association with one thousand or fewer owners, or for an association with more than one thousand owners, ten percent of the votes in the Association.</p> <p>During declarant control the declaration may not be amended to change the duration or conditions for declarant control without written consent of sixty-six percent on the non-Declarant owners.</p> <p>It adds that unit owners may initiate or take action only while at an annual, regular or special meeting of the unit owner's association. Written consent as prescribed in section 10-3704 may be used for actions of the unit owners only if a petition for written consent is presented and approved by the vote of the unit owners at an annual, regular or special meeting of the association. If the petition for written consent fails at the meeting, the petition may be circulated for signature to the unit owners who did not appear and vote at the meeting, along with draft minutes of the meeting at which the petition for written consent was considered and that contain a description of the arguments for and against the proposal. If the sum of the number of votes cast in person at the meeting in favor of the petition for written consent, the number of votes cast by absentee ballot to approve the petition for written consent and the number of petition signatures is sufficient for approval to take action by written consent, the action by written consent may proceed.</p> <p>An association that violates the opening meeting law or the law regarding absentee ballots is liable for damages of \$500.00 for each violation.</p> <p>Applies to Planned Communities and Condominiums.</p>	<p>No Action Since 2/1/2018</p>
<p>ELDERLY HOMEOWNERS; CLASS SIX PROPERTY</p>		
<p>HB2010</p>	<p>This bill adds language restricting qualification to people who own no other real property except indirectly such as a mutual fund.</p>	<p>No Action Since 1/10/2018</p>

JUDGMENT RENEWAL; TIME PERIOD		
HB2240	This bill would increase the amount of time before a judgment was required to be renewed from five years to ten years.	Minority and Majority caucus 3/13/18
CONDOMINIUMS; TERMINATION; APPRAISALS		
HB2262	This bill would allow an owner to get an appraisal by a different independent appraiser at the owner's expense if a condominium is terminating. If the second appraisal is higher than the Association's appraisal, the unit owner would be paid the average of both appraisal amount plus five percent of the average amount for relocation costs. Applies to Condominiums.	Senate Second Read 2/21/2018
HOMEOWNERS' ASSOCIATIONS; IMPROVEMENT DISTRICTS; ZONING		
HB2308	This bill would increase the percent of votes required to dissolve an improvement area from fifty percent of the owners to seventy-five percent of the owners. It also sets forth that a single family residential development that does not include property held in common ownership shall in an improvement district established purpose of owning, operating and maintaining any detention and retention basins, landscaping, open spaces, parks, entryways, street rights-of-way, recreational facilities and other improvements for the benefit of the private property owners within the development. Applies to Planned Communities.	No Action Since 1/22/2018
HOME-BASED BUSINESSES; LOCAL REGULATION		
HB2333	This bill would add limitations to what business types are allowed and state that the right to run a home business does not supersede any deed restriction, covenant or agreement restricting the use of land any master deed, bylaw or other document applicable to a common interest ownership community Applies to Planned Communities and Condominiums.	Senate Second Read 2/28/2018
HOMEOWNERS' ASSOCIATIONS; DECLARANT CONTROL; CONFLICTS		
HB2530	This bill would add limitations to who can be a board member after a planned community leaves developer control so that the developer or its agents cannot serve on the Board. It also would restrict a person with the appearance of a conflict of interest from serving on the Board including real estate brokers who represent a seller or buyer of a home. Applies to Planned Communities.	No Action Since 2/7/2018
HOMEOWNERS' ASSOCIATIONS; RADAR GUNS; CERTIFICATION		

HB2540	This bill would add requirements for an association to use a Doppler radar or other speed enforcement tool. It would require that the tool be calibrated by a licensed facility and the results are submitted to the Arizona peace officer standards and training board. The person operating the tool would require ten hours of training. The speed detected would have to be at least ten miles per hour above the posted speed limit and association shall provide at least as much notice and opportunity to be heard as is provided in section 33-1803.	No Action Since 2/7/2018
HOMEOWNERS' ASSOCIATIONS; ASSESSMENTS; FORECLOSURES		
HB2609	This bill would add limitations to when an association can foreclose. It would require that a civil judgment is obtained and garnishment is attempted before a foreclosure lawsuit can be initiated. It also prohibits the association from refusing partial payments for the lien. Applies to Planned Communities and Condominiums.	No Action Since 2/8/2018

If you have any questions and need answers on this topic, please contact
Beth Mulcahy, Esq. at 602.241.1093 or bmulcahy@mulcahylaw.net.