



2017 Legislative Update

MULCAHY Community Association Cheat Sheet®

BRINGING ANSWERS
TO COMMUNITY
ASSOCIATIONS

This publication discusses significant points of law as they apply to community associations and is not intended to offer specific legal advice or responses to individual circumstances or problems.

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2017 ARIZONA LEGISLATIVE UPDATE REGARDING COMMUNITY ASSOCIATIONS

The 2017 Arizona legislature adjourned on May 11, 2017.
The effective (or start) date for all bills signed by Governor Ducey is August 9, 2017, unless otherwise specified. Please note that all laws apply to both Planned Communities and Condominiums.

SUMMARY OF SENATE BILL 1060– HOA/ Condo Dispute Process

This is a technical correction bill that formally moves the administrative hearing dispute process between members of a community association and condominiums and planned communities from the dissolved Department of Fire, Building and Life Safety (DFBLS) to the Arizona Department of Real Estate Department (ADRE). Note: Effective last Summer, hearings were being held at the ADRE, this is just to formalize this change.

SUMMARY OF SENATE BILL 1175– Transfer Fees

Technical correction to bill on transfer fees.

SUMMARY OF HOUSE BILL 2411– Homeowners’ Association; Open Meetings

This bill has changes to the Planned Communities Act and the Condominium Act regarding meetings, absentee/mail-in ballots and resale disclosure fees:

- 1) Boards can no longer require advance notice of audio or videotaping open board meetings.
- 2) The board can pass a rule precluding those attending from audiotaping or videotaping an open board meeting if the board audio or videotapes an open board meeting, and makes the unedited audiotapes or videotapes available to members on request without restrictions on its use as evidence in any dispute resolution process.
- 3) The notice of any meeting of the unit owners shall state the date, time and place of the meeting.
- 4) The notice of any annual, regular or special meeting of the unit owners shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer. A conservative reading of this new law indicates that the meeting notice of a regular board meeting, a special meeting of the membership and an annual meeting of the membership must state the purpose for which the meeting is called. One way to comply with this addition to the law would be to provide a detailed agenda with the notice of the meeting (with some open ended topics such as “new business” or “old business” in case items need to be added to the meeting agenda at the last minute).

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SUMMARY OF HOUSE BILL 2411– *Homeowners’ Association; Open Meetings*
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5) Before entering executive session, the board shall identify the section that authorized the board to close the meeting. As a reminder, the five topics a board can discuss during executive session are the following:

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.
2. Pending or contemplated litigation.
3. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association.
4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.
5. Discussion of a member’s appeal of any violation cited or penalty imposed by the association except on request of the affected member that the meeting be held in an open session.

6) An emergency meeting of the board of directors may be called to discuss business or take action that cannot be delayed for the 48 hours required for notice. At any emergency meeting called by the board of directors, the board of directors may act only on emergency matters.

7) It is the policy of this state as reflected in this section that all meetings of a condominium or planned community, whether meetings of the unit owners' association or meetings of the board of directors of the association, be conducted openly and that notices and agendas be provided for those meetings that contain the information that is reasonably necessary to inform the unit owners of the matters to be discussed or decided and to ensure that unit owners have the ability to speak after discussion of agenda items, but before a vote of the board of directors or members is taken. Toward this end, any person or entity that is charged with the interpretation of these provisions, including members of the board of directors and any community manager, shall take into account this declaration of policy and shall construe any provision of this section in favor of open meetings (this is just a technical change adding the words “and any community manager”).

8) The requirement passed by last year’s legislature (2016) to have the envelope used for returning an absentee or mail-in ballot contain the name, address and signature of the voter is repealed.

9) For resale disclosure statements, the association may charge the unit owner a fee of not more than an aggregate of four hundred dollars to compensate the association 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 (this is just a technical change adding the words “and delivery”).