



2019 Summary of Pending Arizona Legislation regarding Community Associations

The Arizona Legislature opened the Fifty-fourth First Regular Session on Monday, January 14, 2019. Our firm anticipates that there will be numerous community association bills introduced this legislative session. Every week during the legislative session, Mulcahy Law Firm P.C. will provide this summary of proposed bills impacting community associations.

If you would like to be involved in the legislative process, please go to the Arizona Legislature website, www.azleg.gov, to find lists of legislators, phone numbers, and calendars regarding committee work. Or, please feel free to contact Beth Mulcahy, Esq. any time with questions regarding the status of bills or the legislative process.

Please stay tuned for legislative developments over the next 6 months!

BILL #	SUMMARY	STATUS
PLANNED COMMUNITIES; APPLICABILITY; RECREATIONAL CENTER		
SB1094	<p>This bill removes the applicability of the planned community act for a nonprofit corporation or unincorporated association of owners that is created or incorporated before January 1, 1974 and that does not have authority to enforce covenants, conditions and restrictions related to the use, occupancy or appearance of the separately owned lots, parcels or units in a real estate development, unless a majority of all the members of such a nonprofit corporation or unincorporated association of owners elect in writing to subject the corporation or association to this chapter by recording a notice of election pursuant to subsection d of this section.</p> <p>A nonprofit corporation or unincorporated association of owners that has the power under recorded covenants to assess members to pay the costs and expenses incurred in the performance of obligations created by recorded covenants for a real estate development that does not qualify as a planned community may elect to subject the nonprofit corporation or unincorporated association of owners to this chapter with the written approval of a majority of all the members. A notice of election to be subject to this chapter shall be recorded by the nonprofit corporation or unincorporated association of owners with the county recorder of the county or counties in which the real estate development is located. The notice is effective as of the date of the recording of the notice. Any such election may be rescinded in the same manner as an election and is effective as of the date of the recording of the notice of rescission.</p> <p>Applies to Planned Communities.</p>	Governor Signed 5/7/19
RENEWAL OF JUDGMENTS; APPLICABILITY		
SB1309	This bill specifies that a judgment may be renewed except for a judgment entered on or before August 2, 2013 that was not renewed on or before August 2, 2018	Governor Signed 3/22/2019

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HOAS; ASSESSMENTS; COSTS

SB1531	<p>The Governor signed Senate Bill 1531 on May 8, 2019. Senate Bill 1531 amends sections 33-1256 and 33-1807 and therefore applies to both condominiums and planned communities. It makes the following changes:</p> <p>This bill increases the time to enforce a lien from three to six years.</p> <p>For a delinquent account for unpaid assessments or charges related to unpaid assessments, the Association shall provide the following written notice to the owner at the owner's address as provided to the Association at least thirty days before authorizing an attorney, or a collection agency that is not acting as the Association's managing agent, to begin a collection action on behalf of the Association:</p> <p>Your account is delinquent. If you do not bring your account current or make arrangements that are approved by the association to bring your account current within thirty days after the date of this notice, your account will be turned over for further collection proceedings. Such collection proceedings could include bringing a foreclosure action against your property.</p> <p>The notice shall be in boldfaced type or all capital letters and shall include the contact information for the person that the owner may contact to discuss payment. The notice shall be sent by certified mail, return receipt requested, and may be included within other correspondence sent to the owner regarding the owner's delinquent account. Beginning January 1, 2020, except for Condominiums/Planned Communities that have less than fifty units/lots and does not contract with a third party for management services on behalf of the Association, the Association shall provide a statement of account in lieu of a periodic payment book to the member with the same frequency that assessments are provided for in the declaration. The statement of account shall include the current balance due and immediately preceding ledger history. If the Association offers the Statement of account by electronic means, an owner may opt to receive the statement electronically. The Association may stop providing any further statements to a member if a collection activity begins regarding that member's unpaid account. After the collection activity begins, an owner may request statements of account by written request to the Attorney or collection agency. Any request by an owner for a statement of account after collection activity begins by an attorney or a collection agency that is not acting as the Association's managing agent must be fulfilled by the attorney or the collection agency responsible for the collection.</p>	Governor Signed 5/8/19
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	<p>The statement of account provided by the attorney or collection agency responsible for the collection shall include all amounts claimed to be owing to resolve the delinquency through the date set forth in the statement, including attorney fees and costs, regarding of whether such amounts have been reduced to judgment.</p> <p>An agent for the Association may collect on behalf of the Association directly from a member the assessments and other amounts owed by cash or check, or credit, charge or debit card or by other electronic means. For any form of payment other than for cash or for mailed or hand-delivered bank drafts, checks, cashier's checks of money orders, the agent may charge a convenience fee to the member that is approximately the amount charged to the agent by a third-party service provider.</p>	
SATISFACTION OF JUDGMENT; JUSTICE COURTS		
HB2151	<p>This bill states that a Satisfaction of Judgment shall be filed within forty (40) days of the judgment being satisfied. If the Satisfaction is not filed in that time period the opposing party may file a motion to compel a Satisfaction of Judgment. If the motion is granted the Judgment is deemed satisfied. If the judgment is in small claims this will have to be transferred to Justice Court to file the Motion to Compel. A Judge may compel the moving party to post a bond with the court in the amount of the judgment.</p>	Governor Signed 5/10/19
WRIT OF GARNISHMENT; CERTIFIED MAIL		
HB2230	<p>The Governor signed HB2230 on March 22, 2019. This bill amends sections 12-1574 and 12-1577 relating to bank garnishments.</p> <p>This bill now allows the judgment creditor to serve a garnishment for monies (banking corporation) certified mail, return receipt requested. The certified mail, return receipt requested, may be sent to the garnishee's regular place of business, or to the garnishee's statutory agent or at a location that is designated by the garnishee. If served by certified mail, the effective date of service is the date of receipt by the garnishee or the garnishee's statutory agent.</p>	Governor Signed 3/22/2019

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TIMESHARES; DISCLOSURES		
HB2639	<p>This bill has many proposed changes and therefore if it is of interest, please check out the following link to see all of the proposed changes https://apps.azsos.gov/apps/publicservices/LegislativeFilings/PDFs/2019/54th Legislature 1st Regular Session/CH 245.pdf</p> <p>A purchaser of a timeshare may rescind the purchase agreement without cause in a written notice by midnight of the tenth day after the day the purchaser executed the purchase agreement. This extends it from seven to ten days.</p> <p>Before entering into an agreement or contract for the sale of a timeshare interest, the seller must provide the purchaser a separate document that discloses a number of things, including: the duration of the timeshare, if there is no set duration it must state that the agreement may extend through the course of the purchasers lifetime; A good faith estimate of the total potential financial obligation during the first year of ownership, including all potential assessments. If the amount of the assessments is unknown it must disclose that the purchaser will be required to pay assessments in addition to the disclosed purchase payment and that the amount of those assessment is unknown; it should include a statement of the assessments levied for the previous three years if available and a good faith estimate based on the highest assessment listed during those three years; and a statement that there is no limit on the assessments that the purchaser may be charged in the first year of ownership and; a list of all fees including estimated taxes, utility fees, special assessments and regular assessments shall also be included.</p> <p>The purchaser must sign the separate disclosure and verify that the purchaser has read and understand the separate disclosure. Both the seller and the purchaser shall have a copy of the separate disclosure.</p>	Governor Signed 5/22/2019
VACATION RENTALS; SHORT-TERM RENTALS; REGULATION		
HB2672	<p>This bill expands on the reasons a city or town may regulate short term rentals. It adds a requirement for the owner of a short term rental property to provide the city or town with contact information for the owner or owner's designee who is responsible for responding to complaints in a timely manner before offering to rent the property.</p> <p>It also states that a short term rental may not be used for nonresidential uses including for special events or for a retail, restaurant, banquet space, even center or other similar use.</p>	Governor Signed 5/21/2019

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CONDOMINIUMS; TERMINATIONS; APPRAISALS		
HB2687	<p>This bill applies to the termination of a condominium pursuant to 33-1228.</p> <p>At least thirty days before recording a termination agreement, the board of directors of the association shall convene a regular or special meeting of the board of directors at which a person or entity that purports to have the agreement of at least eighty percent of the votes in the association, or any larger percentage if required, shall produce and make available to the unit owners copies of a signed notarized statement that the owner of a unit has executed a termination agreement. The person or entity shall produce copies of a statement for each unit owner who has agreed to the termination, or may produce the signed termination agreement that includes a sufficient number of unit owners. Any meeting called pursuant to this subsection shall be noticed as otherwise provided by law, except that the board may not take action by written consent or any other method that does not provide for an actual meeting that is open to all the unit owners. Any termination agreement that is recorded without full compliance with this subsection is invalid.</p> <p>The respective interests of unit owners are the fair market values of their units, limited common elements and common element interests immediately before the termination, as determined by their pro rata share of any monies in the association's reserve fund and the operating account and an additional five percent of that total amount for relocation costs.</p> <p>In order to determine total fair market values, the bill also allows a unit owner to obtain a second independent appraisal at the unit owner's expense and, if the unit owner's independent appraisal amount differs from the association's independent appraisal amount by five percent or less, the higher appraisal is final. If the total amount of compensation owed as determined by the second appraiser is more than five percent higher than the amount determined by the association's appraiser, the unit owner shall submit to arbitration by an arbitrator affiliated with a national arbitration association and under the rules of that association at the association's expense and the arbitration amount is the final sale amount. As part of the arbitration process, the appraisers shall fully disclose their appraisal methodologies and shall disclose any other transaction occurring between the buyer and the sellers. An additional five percent of the final sale amount shall be added for relocation costs.</p> <p>Applies to Condominiums</p>	Governor Signed 5/14/2019

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