



## 2008 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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#### EFFECTIVE DATE OF 2008 COMMUNITY ASSOCIATION LEGISLATION

In 2008, the Arizona Legislature considered a number of bills pertaining to community associations. Set forth below is a brief summary of the 2008 Arizona legislation pertaining to community associations and the bills that will become law.

**These bills will go into effect on  
September 26, 2008 unless otherwise stated.**

#### POLITICAL PETITIONS HB2440

##### **Quick Summary:**

Regardless of what an associations' documents state, a condominium association or a planned community cannot prohibit, but may reasonably regulate, the circulation of political petitions on property dedicated to the public (i.e., public streets, parks) located within an association. A gated community (one that restricts vehicular or pedestrian access) is not required to comply with this law. Nothing in this law requires an association to make its common areas available for the circulation of political petitions to anyone who is not an owner or resident of the community.

##### **Text of Bill:**

Amending A.R.S. Sections 33-1261 (D) AND 33-1808 (G):

D. Notwithstanding any provision in the condominium or planned community documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of our opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A condominium or planned community is not required to comply with this section if the condominium or planned community restricts vehicular or pedestrian access to the condominium or planned community. Nothing in this section requires a condominium to make its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

#### APPLICABILITY OF CONDOMINIUM ACT HB2726

##### **Quick Summary:**

This bill applies the Condominium Act uniformly to all condominiums regardless of the date the condominium was created. Previously, statutes applied differently to condo associations formed prior to January 1, 1986. This bill is effective from and after December 31, 2008.

##### **Text of Bill:**

Amending A.R.S. Section 33-1201: Relating to Condominium Act. This chapter applies to all condominiums created within this state without regard to the date the condominium was created.

##### **Impact of Bill:**

All condominium associations created prior to January 1, 1986 need to become familiar with the new condominium act and its requirements. For example use of proxies will no longer be allowed for condominiums created before January 1, 1986 from and after December 31, 2008.

**RELATING TO DELINQUENT PROPERTY TAX LIENS HB2523**

**Quick Summary:**

This bill allows a community association to purchase property and the contiguous property offered for sale when certain criteria are met.

**Text of the Bill:**

HB2523 amending A.R.S. Section 42-18303 (E):

The Board of Supervisors may sell real property in the county held by the state by tax deed to the owner of contiguous real property that is used for residential purposes, and the board may accept an offer by the contiguous owner to purchase the property, if both of the following conditions apply:

1. Both the property offered for sale and the contiguous property were at one time under common ownership, or the property offered for sale is part of a common area maintained by a homeowners' association as determined by the county assessor.
2. The property offered for sale cannot be separately used for residential purposes pursuant to applicable building codes and ordinances of the jurisdiction in which the property is located due to its size, configuration or recorded common area restrictions.

**ARIZONA REVISED STATUTES REGARDING COMMUNITY ASSOCIATIONS**

[www.azleg.state.az.us](http://www.azleg.state.az.us) – To access Arizona Revised Statutes (A.R.S.) online.

When you have reached the home page, select “Statutes” at the top of the page then click on “Arizona Revised Statutes”. Scroll down the new page to the title you want to search, select and click on the actual title (i.e. title 33) to have the title open. The chapters, articles and sections follow, each listed respectively in numerical order. Alternately, you can choose to do a phrase search by following the instructions on the page. You can also find A.R.S. information on the MULCAHY website located at [www.mulcahylawfirm.net](http://www.mulcahylawfirm.net).

*The following Arizona state statues may govern your community association:*

**Title: 10 Corporations and Associations**

Chapter: 24 General Provisions – Non Profit Corporations, A.R.S. Sections 10-3101 - 10-11635

Operation and governance of non-profit corporations are detailed in this Act. The provisions of the Non-Profit Act apply only if the articles of incorporation or bylaws of the association are silent.

**Title: 33 Property**

Chapter: 9 Condominiums, A.R.S. Sections 33-1201 - 33-1270

Defines the creation, management and termination of the condominium, monetary penalties, resale disclosure, liens and open meetings, etc.

Chapter: 16 Planned Communities, A.R.S. Sections 33-1801 - 33-1814

Defines a planned community association, assessments, open meetings, disclosure of association records, and penalties, etc.

**Title: 41 Executive Officers**

Chapter: 16 Department of Fire, Building and Life Safety, Article 5: Administrative Hearings A.R.S. Sections 41-2198 - 41-2198.05

Defines procedures for administrative law judges to adjudicate complaints regarding condominiums and planned communities.

**Not on-line?**

Most libraries have computers and will help you with a search or they may have the Arizona Revised Statutes in bound editions. If you want to research the bound editions, please call the library you want to use to be sure that they are available. The Phoenix Public Library, located on Central Avenue has the current Arizona Revised Statutes.