



2014 Legislative Update

Page 1
Senate Bill 1482

Page 2
House Bill 2477
House Bill 2141
Senate Bill 1184
House Bill 2021
House Bill 2027
Senate Bill 1278

How a Bill
Becomes a Law

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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***The following bills will become law on July 24, 2014
with exception of SB 1278 & HB 2021***

SB 1482 OMNIBUS BILL - Amending Numerous Sections

***These sections apply to planned communities and condominiums
unless otherwise indicated.***

A. Rental Property - A.R.S. Sections 33-1260.01 and 33-1806.01

1. Unless prohibited in the declaration, owners may rent their property.
 2. Owners may designate third parties to act as the owner's agent with respect to all association matters relating to the rental unit. An owner may designate in writing a third party to act as the owner's agent with respect to all association matters relating to the rental unit, except for voting in association elections and serving on the board of directors. The owner shall sign the written designation and shall provide a copy of the written designation to the association. On delivery of the written designation, the association is authorized to conduct all association business relating to the owner's rental unit through the designated agent. Any notice given by the association to an owner's designated agent on any matter relating to the owner's rental unit constitutes notice to the owner.
 3. Further, associations will be prohibited from requiring any owner to disclose any information regarding a tenant other than the following: a. the name and contact information for any adults occupying the unit; b. the time period of the lease, including the beginning and ending dates of the tenancy; and c. a description and the license plate numbers of the tenants' vehicles. If the association is an age restricted community, the owner, the owner's agent or the tenant shall show a government issued identification that bears a photograph and that confirms that the tenant meets the association's age restrictions or requirements.
 4. In respect to the information set forth above in number 3, the association may charge a fee of not more than twenty-five dollars, which shall be paid within fifteen days after the postmarked request. The fee may be charged for each new tenancy for that unit but may not be charged for a renewal of a lease. Except for the fee permitted by this subsection and fees related to the use of recreational facilities, the association or its managing agent shall not assess, levy or charge a fee or fine or otherwise impose a requirement on an owner's rental unit any differently than on an owner-occupied unit in the association.
 5. Notwithstanding any provision in the association documents, the association is prohibited from doing any of the following:
 - (a) Requiring an owner to provide the association with a copy of the tenant's rental application, credit report, lease agreement or rental contract or other personal information except as prescribed by this section. This paragraph does not prohibit the association from acquiring a credit report on a person in an attempt to collect a debt.
 - (b) Requiring the tenant to sign a waiver or other document limiting the tenant's due process rights as a condition of the tenant's occupancy of the rental unit.
 - (c) Prohibiting or otherwise restricting an owner from serving on the board of directors based on the owners not being an occupant of the unit/lot.
 - (d) Imposing on an owner or managing agent any fee, assessment, penalty or other charge in an amount greater than fifteen dollars for incomplete or late information regarding the information requested pursuant to this bill.
 - (e) Any attempt by an association to exceed the fee, authorized by this bill voids the fee.
- This proposed bill specifically allows an association to enforce a provision in the documents that restricts the residency of persons who are required to be registered as a level two or three sex offender.

An owner may use a crime free addendum as part of a lease agreement.

An owner of rental property shall abate criminal activity as authorized in section 12-991.

B. Management Company/Association Employees - A.R.S. Section 22-512

The employees of the association and the management company and its officers and employees may act on behalf of the association and its board of directors by:

1. Recording a notice of lien for the association against an owner's property if all of the following apply:
 - (a) The association employee or the management company is specifically authorized in writing by the association to record notices of lien or notices of claim of lien on behalf of the association and the officer or employee is a certified legal document preparer;
 - (b) The association is the original party to the lien; and
 - (c) The lien right exists by operation of law pursuant to section 33-1256 or 33-1807.
2. Appearing on behalf of the association in a small claims action if all of the following apply:
 - (a) The employee of the association or the management company is specifically authorized in writing by the association to appear on behalf of the association; and
 - (b) The association is an original party to the small claims action.

C. Voting - A.R.S. Sections 33-1250 and 33-1812

This section permits associations to allow for members to vote by e-mail and facsimile.

D. Nuisance - A.R.S. Section 12-991

Residential property that is regularly used in the commission of a crime is a nuisance. If there is reason to believe that a nuisance exists, the attorney general, the county attorney, the city attorney, a homeowners association, or a resident of a county or city who is affected by the nuisance may bring an action in superior court against the owner, the owner's managing agent or any other party responsible for the property to abate and prevent the criminal activity.

E. Planned Community Requirement - A.R.S. Sections 9-461.15 and A.R.S. Section 11-810

The planning agency of a municipality shall not require as part of a subdivision regulation or zoning ordinance that a subdivider or developer establish a planned community. A subdivider or developer shall not be penalized because a real estate subdivision or development does not constitute or include a planned community.

A municipality may require a subdivider or developer to establish an association to maintain private, common or community owned improvements that are approved and installed as part of a preliminary plat, final plat or specific plan. A municipality shall not require that an association be formed or operated other than for the maintenance of common areas or community owned property. This subsection applies only to planned communities that are established in plats recorded after July 24, 2014.

F. Political Signs - A.R.S. Section 33-1261

This provision only applies to condos and expands slightly on legislative changes made in 2013. Notwithstanding any provision in the condominium documents, a condominium association shall not prohibit the indoor or outdoor display of a political sign by a unit owner by placement of a sign on that unit owner's property, including any limited common elements for that unit that are doors, walls, patios or other limited common elements that touch the unit, other than the roof. An association may prohibit the display of political signs earlier than seventy-one days before the day of an election and later than three days after an election day. An association may regulate the size and number of political signs that may be placed in the common element ground, on a unit owner's property or on a limited common element for that unit if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall not limit the number of political signs, except that the maximum aggregate total dimensions of all political signs on a unit owner's property shall not exceed nine square feet.

G. Filing Fee - Department of Fire Building and Life Safety - A.R.S Section 41-2198.01

If an action is filed with the Department of Fire, Building, and Life Safety, the filing fee shall be refunded to the petitioner if the action is dismissed on the request of the petitioner (or by stipulation of the parties) before a hearing is scheduled.

HB 2477 RESALE DISCLOSURE FEES - Amending A.R.S. Sections 33-1260 and 33-1806

This bill impacts both planned communities and condominiums and sets forth the resale/disclosure fee requirements set forth by statute at the close of escrow does NOT apply when the recorded deed bears an exemption pursuant to A.R.S. 11-1134, Subsection B, Paragraph 3 or 7 (these sections relate to nominal consideration between relatives, as well as corporate entities as well as Trusts). A.R.S. 11-1134, Subsection B, Paragraph 3 and 7 are set forth below:

Section 3. When the transfer of title has only nominal actual consideration for the transfer of residential property between:

- (a) Husband and wife or ancestor of the husband and wife.
- (b) Parent and child, including natural or adopted children and their descendants.
- (c) Grandparent and grandchild.
- (d) Natural or adopted siblings.

Section 7. For no consideration or nominal consideration:

- (a) By a subsidiary to its parent or from a parent to a subsidiary.
- (b) Among commonly controlled entities.
- (c) From a member to its limited liability company or from a limited liability company to a member.
- (d) From a partner to its partnership.
- (e) From a partnership to a partner.
- (f) From a joint venturer to its joint venture.
- (g) From a joint venture to a joint venturer.
- (h) From a trust beneficiary to its trustee.
- (i) From a trustee to its trust beneficiary.
- (j) From any of the entities in subdivisions (a) through (i) of this paragraph to a single purpose entity in order to obtain financing.

HB 2141 CONSOLIDATION - Amending A.R.S. Section 42-13404

This bill impacts planned communities only and sets forth that upon commencement of improvements to a common area, the county assessor shall automatically consolidate parcel combinations within the same taxing district. Planned communities are eligible to have common areas consolidated and valued at \$500 which results in considerable tax savings to planned communities.

SB 1184 PLANNED COMMUNITY DEFINITION - Amending A.R.S. Section 33-1802

In addition to the other requirements of a planned community set forth by statute, this proposed bill expands the definition of planned community to include real estate on which an easement to maintain roadways or a covenant to maintain roadways is held by a nonprofit corporation or unincorporated association of owners. This bill only impacts planned communities.

HB 2021 VEXATIOUS LITIGANTS CREATING A.R.S. Section 12-3201 (EFFECTIVE 1/1/15)

In a noncriminal case, at the request of a party or on the court's own motion, the presiding judge of the superior court or a judge designated by the presiding judge of the superior court may designate a *pro se litigant a **vexatious litigant. A pro se litigant who is designated a vexatious litigant may not file a new pleading, motion or other document without prior leave of the court. (*pro se litigant: representing oneself before a court) (**The Statute specifically defines vexatious litigant as follows: 1. Repeated filing of court actions solely or primarily for the purpose of harassment; 2. Unreasonably expanding or delaying court; 3. Court actions brought or defended without substantial justification; 4. Engaging in abuse of discovery or conduct in discovery that has resulted in the imposition of sanctions against the pro se litigant; 5 A pattern of making unreasonable, repetitive and excessive requests for information; and 6. Repeated filing of documents or request for relief that have been the subject of previous ruling by the court in the same litigation.)

HB 2027 GOLF CARTS AMENDING A.R.S. Section 28-721

In an age restricted community that is located in an unincorporated area of a county with a population of more than three million persons, a person may drive a golf cart or a neighborhood electric vehicle on a paved shoulder that is adjacent to a roadway or as close as practicable to the right-hand curb or edge of a paved roadway if there is no delineated paved shoulder.

SB1278 PARKING CREATING A.R.S. Section 33-1818

This bill impacts planned communities and would set forth that after the period of declarant/developer control, an association has no authority over, and shall not regulate any roadway for which the ownership has been dedicated to or is otherwise held by a governmental entity. However, this proposed bill would only impact planned communities for which the Declaration was recorded after December 31, 2014. This bill will trump the association's governing documents.

***This was passed in the 2013 legislative session but it has an effective date of December 31, 2014*

How a Bill Becomes a Law

Information taken from www.azleg.gov, Bill to Law.

A bill is introduced in the House by a Member, a group of Members, a Standing Committee or a Majority of a Committee, after being written in proper form by the Legislative Council.

The bill is assigned a number, First Read and referred by the Speaker to the appropriate Standing Committees and to the Chief Clerk for printing and distribution.

Committees consider the bill, which may include hearings, expert testimony and statements from the citizenry, and report recommendations to the Whole House. The Committee on Rules determines if the bill is constitutional and in proper form.

The Committee on Rules places the bill on the Active Calendar and the Speaker sets the order in which measures will be considered.

The Committee of the Whole, the informal session of entire House membership acting as one committee, debate, amend and recommend on the calendared bills.

Third Reading House-Roll Call. Every Member present must vote (unless excused) and no Member may vote for another Member. If passed by the House, the bill goes on to the Senate.

The House Bill is First Read in the Senate and laid over one day.

The bill receives its Second Reading and the President refers it to appropriate Standing Committees.

Standing Committees consider the bill, which may include hearings, expert testimony, and statements from the citizenry and the Committee reports its recommendations to the entire Senate.

The Committee on Rules' agenda becomes the calendar for Committee of the Whole and after 5 days the President designates which measures are to be placed on the Active Calendar of the Committee of the Whole.

The Committee of the Whole, the entire membership of the Senate acting as one committee, debates the amendments and recommendations on the calendared bill.

Third Reading Senate - Names are called alphabetically and unless excused, each Senator present must vote on each measure. If passed by the Senate (either in identical form or amended) the bill is sent back to the house. If the bill is identical to the measure passed by the house, the bill goes to the Governor.

If the bill comes back to the house amended, in a different form, the bill may be accepted in its new form and sent to the Governor, or the bill may be rejected and sent to a Conference Committee.

A Conference Committee is made up of Representatives appointed by the Speaker of the House and Senators appointed by the President of the Senate. In Conference committee the bill is discussed and "mended" to come to a compromise.

The committee creates a Conference Committee Report that is sent back to each House for adoption and after Final Passage, the bill is sent to the Governor.

When the bill reaches the Governor, the bill has been passed by both the House and the Senate and may now be signed by the Governor. The Governor may allow the bill to become law without a signature if he/she takes no action within five days, or ten days after adjournment. If this happens the bill becomes effective ninety days after adjournment of the legislature.

If the Governor vetoes the bill, it is returned to the House stating the reasons for the veto. The House and Senate may then override the Governor's veto by a two thirds vote or three-fourths in the case of an emergency measure.

Arizona's State Government website is filled with information to include the Arizona Revised Statutes, go to azleg.gov to access the information.