# 2021 Summary of Pending Arizona Legislation regarding Community Associations

The Arizona Legislature opened the Fifty-fifth First Regular Session on Monday, January 11, 2021. 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!

| BILL # | SUMMARY | STATUS |
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| | **HOMEOWNERS' ASSOCIATIONS; FIRST RESPONDER FLAGS** | |
| HB2030 | This bill would add a flag that represents one or more categories of first responders to the list of flags that an Association cannot prohibit. Applies to Planned Communities and Condominiums. | COW Action 04/06/2021 |
| | **HOMEOWNERS' ASSOCIATIONS: POLITICAL; COMMUNITY ACTIVITY** | |
| HB2052 | This bill would prevent an Association from prohibiting or unreasonably restricting a unit owner's ability to peacefully assemble and use private or common elements if done in compliance with reasonable restrictions for use of the property adopted by the Board of Directors. The members may organize to discuss Association business. A Member may invite a political candidate or non-member guest to speak at the assembly.<br><br>This bill also has a technical correction to make the language defining political sign clearer.<br><br>"Political sign" would mean:<br><br>1. A sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.<br><br>2. A sign regarding any activity to elect or remove condominium directors or to circulate or oppose petitions for actions in the condominium or in support of or opposition to condominium ballot measures or other questions.<br><br>Applies to Planned Communities and Condominiums. | Senate Second Read 02/22/2021 |

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| **WRITS OF GARNISHMENT; ATTORNEY FEES** | | |
| HB2170 | This bill would allow garnishments to request accrued attorney fees including the fees for the garnishment in a garnishment action if those fees are allowed by the judgment or contract. This bill would also require that the Judgment Creditor report legal fees accrued during the reporting period. | Signed by Governor 05/3/2021 |
| **SHORT-TERM RENTALS; ENFORCEMENT; PENALTIES** | | |
| HB2481 | This bill would allow a city or town to restrict vacation rentals or short-term rentals. It would require the owner of the unit to register the unit with the city or town. It would restrict the occupancy of a vacation rental or short-term rental to the lesser of the occupancy limit of the city or town or two adults per bedroom plus two additional adults.<br><br>A vacation rental or short-term rental may not advertise to exceed the occupancy limit of the dwelling. A county may impose a civil penalty for each day the property is in violation of this subsection.<br>**Applies to Planned Communities and Condominiums.** | Second Read 01/28/2021* |
| **REGULATION; SHORT-TERM RENTALS** | | |
| HB2482 | This bill would require that rental properties list the contact information for the owner or the owner's designee who is responsible for responding to complaints be printed in bold twenty-four-point font and posted on the front door of the vacation rental or short-term rental. If the property is surrounded by a fence or other barrier that restricts access to the front door, the contact information shall be posted in a location that is visible and accessible to the public.<br><br>A city or town may impose a civil penalty of $50 for each day that the vacation rental or short-term rental is occupied and in violation of the contact information rule.<br><br>It also restricts the maximum number of adult residents allowed in the vacation rental or short-term rental at any one time to the lesser of the occupancy limit established by the city or town or not more than two adults per bedroom, up to four bedrooms, plus two additional adults per one thousand square feet of livable space in excess of three thousand square feet of livable space of the residence.<br><br>A rental unit is required to install safety and monitoring equipment that monitors and detects the level of noise on the property of the vacation rental or short-term rental. The equipment must be installed inside all vacation rentals and short-term rentals and in the outside yard or unenclosed balcony of all properties that are vacation rentals or short-term rentals. The equipment must have the capability of notifying the owner or the owner's designee if the level of noise at the property is unreasonable or in violation of the municipal noise ordinance. Safety and monitoring equipment is not required in an owner-occupied residential home offered for transient use or if the owner or the owner's designee is elsewhere on the property. For a violation of a noise restriction, the owner or the owner's designee shall notify the occupant of the noise violation. Notice may be made by telephone call or text message. If the noise violation continues for thirty minutes, the owner or the owner's designee shall notify the occupant of the noise violation in person. For a verified violation of this paragraph, a city or town may impose the civil penalty. | Second Read 01/28/2021* |

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| | A city or town may prohibit smoking outside of the vacation rental or short-term rental within one hundred feet of a residential structure.<br><br>A city or town may prohibit occupants of a vacation rental or short-term rental from parking on public or private streets if on-property parking is available.<br><br>For a verified violation a city or town may impose a civil penalty of $100 for each day that the vacation rental or short-term rental is occupied.<br><br>Applies to Planned Communities and Condominiums. | |
| **HOMEOWNERS' ASSOCIATIONS; DECLARATION AMENDMENT; MAJORITY** | | |
| HB2619 | This bill would change the required number of votes to amend the declaration from at least sixty-seven percent to more than fifty percent notwithstanding any restrictions in the association's documents.<br><br>Applies to Planned Communities and Condominiums. | Second Read 02/01/2021* |
| **MASK MANDATES; BUSINESS EXCEPTION** | | |
| HB2770 | Notwithstanding any other law, a business in this state is not required to enforce on its premises a mask mandate that is established by this State, a city, town or county or any other jurisdiction of this State. | Governor Signed 4/9/2021 |
| **CIVIL LIABILITY; PUBLIC HEALTH PANDEMIC** | | |
| SB1377 | This bill would limit liability in civil actions for civil injuries form the pandemic<br><br>If the Governor declares a state of emergency for a public health pandemic pursuant to Title 26, Chapter 2, a person or provider that acts in good faith to protect a customer, student, tenant, volunteer, patient, guest or neighbor or the public from injury from the public health pandemic is not liable for damages in any civil action for any injury, death or loss to person or property that is based on a claim that the person or provider failed to protect the customer, student, tenant, volunteer, patient, guest, neighbor or public from the effects of the public health pandemic unless it is proven by clear and convincing evidence that the person or provider failed to act or acted and the failure to act or action was due to that person's or provider's wilful misconduct or gross negligence.<br><br>A person or provider is presumed to have acted in good faith if the person or provider adopted and implemented reasonable policies related to the public health pandemic. | Governor Signed 4/5/2021 |
| **VACATION RENTALS; SHORT-TERM RENTALS; ENFORCEMENT** | | |

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| SB1379 | This bill would allow a city or town may impose a civil penalty against the owner for every thirty days the owner fails to provide contact information. A city or town shall provide thirty days' notice to the owner before imposing the initial civil penalty.<br><br>A city or town may require the owner of a vacation rental or short-term rental to maintain liability insurance appropriate to cover the vacation rental or short-term rental.<br><br>A city or town may impose a civil penalty against the owner of a vacation rental or short-term rental of up to an amount equal to one night's rent for the lodging accommodation as advertised on an online lodging marketplace for the first verified violation, an amount equal to two nights' rent for the lodging accommodation as advertised on an online lodging marketplace for the second verified violation and an amount equal to three nights' rent for the lodging accommodation as advertised on an online lodging marketplace for the third and any subsequent verified violation received by the same vacation rental or short-term rental property within the same twelve-month period.<br><br>Applies to Planned Communities and Condominiums. | House Third Read 04/1/2021* |

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| HOMEOWNERS' ASSOCIATIONS; DECLARATION; BYLAWS; AMENDMENTS | | |
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| SB1644 | This bill would change the requirements to the declaration to be a majority or units. The declaration may specify a lesser approval requirement only if all of the units are exclusively nonresidential use.<br><br>Not withstanding any provision in the declaration, the signatures of any of the approving members, whether acknowledged or not, shall not be required on the instrument setting forth the amendment.<br><br>**The following apply to an amendment to the declaration:**<br><br>1. For an amendment that does any of the following, the amendment provision prescribed in the declaration applies, or if none exists, approval of owners of seventy-five percent of all lots applies:<br>(a) requires the exclusive use of one or more builders, developers<br>Or contractors for the condominium as identified in the declaration.<br>(b) regulates the transition from declarant control to nondeclarant owner control, including any transition-related documents or requirements.<br>(c) changes the use of and access to the common elements or other areas over which the association controls use or access for the guests and invitees of the declarant, its affiliates, successors or assigns or of the members as provided in the declaration, including use and access for business or marketing purposes, use of and access to easements and common elements by the declarant, its affiliates, successors and assigns and use of and access to any areas over which the association controls use or access.<br>(d) changes the use of and access to easements or any maintenance obligations of the association for those easements.<br>(e) changes the use, operation, maintenance or disposition of common elements.<br>(f) adds a new restriction on the use or occupancy of the interior of a lot that did not previously exist in the declaration in any form.<br>(g) changes the amount or level of assessments on lots owned by the declarant.<br>(h) prescribes, modifies or deletes a minimum age for ownership or occupancy of the condominium in compliance with federal and state law.<br>(i) changes any procedures or practices that are reasonably required for compliance with federal, state or local laws or regulatory requirements.<br>(j) requires membership in a separate master association in addition to requiring membership in the condominium association.<br>(k) applies nonuniformly to similar lots.<br>(l) changes the basis for allocating voting rights or assessments among lot owners.<br>(m) amends the plat or amends the requirements of the plat.<br>(n) amends provisions of the declaration that provide for waivers of liability or indemnification in the event of personal injuries occurring on the common areas. | Second Read 02/04/2021* |

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| | 2. The vote to approve any amendment may take place at a meeting or without a meeting. If the vote to approve an amendment will take place at a meeting, the association shall deliver to the members at least thirty but not more than fifty days before the meeting written notice of a meeting called for the purpose of amending the declaration and the text of the proposed amendment. If the vote to approve an amendment will take place without a meeting, the association may deliver to the members a written ballot in accordance with section 10-3708 and the text of the proposed amendment at least thirty days before the deadline set for return of the written ballots. This paragraph does not prohibit using electronic voting methods in accordance with section 10-3708. As an alternative method, a vote to approve an amendment under this section may occur by written consent of the lot owners sufficient to satisfy the necessary approvals required for the amendment.<br><br>**The following apply to an amendment to the Bylaws:**<br><br>G. Unless the articles of incorporation or the bylaws allow the board of directors to amend the bylaws without a vote of the members of the association, the bylaws may be amended at any time by the approval of two-thirds of the members present in person or participating in the vote as otherwise allowed by law, or a majority of the total eligible votes in the association, whichever is less. The vote to approve an amendment may take place at a meeting or without a meeting. If the vote to approve an amendment will take place at a meeting, the association shall deliver to the members at least thirty but not more than fifty days before the meeting written notice of a meeting called for the purpose of amending the Bylaws and the text of the proposed amendment. If the vote to approve an amendment will take place without a meeting, the association may deliver to the members a written ballot in accordance with section 10-3708 and the text of the proposed amendment at least thirty days before the deadline set for return of the written ballots. This subsection does not prohibit using electronic voting methods in accordance with section 10-3708 or written consent as prescribed by section 10-3704.<br><br>H. This section does not affect a court's ability to determine that a specific provision of the community documents is invalid, unenforceable or in violation of the law.<br><br>Applies to Planned Communities and Condominiums. | |
| **POLITICAL SIGNS; CONDOMINIUMS; PLANNED COMMUNITIES** | | |
| SB1722 | This bill would extend the time a sign could be left up to fifteen days after the general election or if the sign is for a candidate in a primary election who does not advance to the general election, fifteen days after the primary election.<br><br>Applies to Planned Communities and Condominiums. | Governor Signed 04/09/2021 |
| Bills that have miss deadlines of failed votes *. | | |

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