



2020 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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2020 SUMMARY OF ARIZONA LEGISLATION REGARDING COMMUNITY ASSOCIATIONS

2020 was an unusual year for the Arizona Legislature due to the COVID-19 pandemic. The Arizona Legislature opened the Fifty-fourth Second Regular Session on January 13, 2020. However, due to the COVID-19 pandemic, the Arizona Legislature adjourned early on March 23, 2020 after passing a “skinny budget” for the next fiscal year. The State House and Senate briefly convened again in May 2020 but adjourned shortly after re-convening.

Numerous bills impacting community associations were introduced during this year’s legislative session (summary of bills below). **However, no community association bills were signed by Governor Ducey. As such, as of the date of this publication there will be no new legislation pertaining to HOAs/condos in 2020.** I anticipate that many of these HOA/condo bills from the 2020 legislative session will be introduced again in the 2021 legislative session.

Our office will continue to monitor the Arizona Legislature if it reopens for a special session. If that happens, our office will notify our clients of any legislative developments pertaining to community associations.

Please contact Beth Mulcahy, Esq. (bmulcahy@mulcahylawfirm.com) any time with questions regarding the status of bills or the legislative process.

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020 SUMMARY OF SENATE BILL 1001- *Homeowners’ Associations; Payment Coupon Books*

This bill amends the language of A.R.S. §33-1256 and §33-1807 so if a unit owner’s address is in the US the delinquent notice that informs the owner that their account will be turned over to an attorney must be sent via certified mail but if the unit owner’s address is outside of the US the notice may be sent by regular mail.

Beginning January 1, 2021 an Association shall provide a statement of account to each owner at least annually. The statement shall include the current account balance due for assessments, late fees, fines and other costs and fees. if a unit owner has a delinquent account for unpaid assessments, late fees, fines or other costs and fees

The Association shall provide a statement of delinquent account at least monthly. The Association may stop sending the statement of delinquent account once the owner has paid in full.

A statement of delinquent account shall include the name, and telephone number of a person who is authorized to provide further information about the amount due and receive information about disputed amounts.

The Association or its managing agent may charge the unit owner for the direct cost of providing the annual statement of account or the statement of delinquent account. If the association offers the annual statement of account or the statement of delinquent account by electronic means, a unit owner may opt to receive the 1statement electronically.

The association may stop providing any further annual statements of account or statements of delinquent account to a unit owner if collection activity begins by an attorney, or a collection agency that is not acting as the association's managing agent, regarding that unit owner's unpaid account.

Applies to both condos and planned communities.

Status: House Second Read 3/11/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF SENATE BILL 1337- *Homeowners' Associations; Solar, Water Devices*

This bill would prevent an Association from prohibiting the installation of a solar energy device, water saving device or indoor or outdoor water saving practice.

Status: Majority Caucus 2/25/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF SENATE BILL 1412- *Homeowners' Associations; Political; Community Activity*

This law mandates that a Satisfaction of Judgment 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. A Judge may compel the moving party to post a bond with the court in the amount of the judgment. This law applies to small claims court, justice court and superior court judgments.

Status: House Second Read 3/10/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF SENATE BILL 1479- *Online Lodging; Regulation; Property Classification*

This bill would repeal the law preventing cities, towns and counties from placing restrictions on vacation or short-term rentals. This bill also simplifies the civil penalty process for renting a lodging without a current action privilege tax license.

Status: Second Read 2/4/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF SENATE BILL 1490- *Short-Term Rental Properties; Classification*

This bill would change property classification for class one property. For the purposes of taxation, the following description would be a subclass of class one property:

Real and personal property and improvements that are used for residential purposes, that are leased or rented to lodgers for periods of less than thirty days for a total of less than ninety days in a calendar year and that are valued at full cash value, except for:

- (a) Property that is occupied by the owner of the property as the owner's primary residence and is included in class three.
- (b) Property for residential purposes that is leased or rented and included in class four.

Status: House First Read 5/20/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2001- *Online Home Sharing; Repeal*

This bill would repeal A.R.S. §9-500.39 which would mean a city or town could restrict or prohibit vacation rentals or short-term rentals.

Status: First Read 5/19/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2027- *Homeowners' Associations; Evaporative Coolers*

This bill would prevent an Association from prohibiting the installation of an evaporative cooler that is designed primarily for use as a residential cooling device.

Status: Second Read 1/16/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2059- *Homeowners' Associations; Billing Statements; Waiver*

This bill amends the language of A.R.S. §33-1256(L) and §33-1807(L) to state that an Association does not need to provide a statement of account if there is no amount due or if the unit owner provides written notice to the Association that the owner waives the right to receive statements of account. The owner may reinstate the right to receive statements of account by providing written notice to the Association.

Applies to both condos and planned communities.

Status: Second Read 1/27/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2085- *Writs of Garnishment; Attorney Fees*

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.

Status: Senate Second Read 3/2/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2176- *Vacation Rentals; Short-Term Rentals; Regulation*

This bill amends the limitation on short term rentals so a county cannot prohibit vacation rentals or short-term rentals but can prohibit or restrict to commercial zones investor owned properties. Investor owned properties are vacation or short-term rentals that are not the owner's primary or secondary residence as determined by the County Assessor.

Status: First Read 5/19/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2279- *Condominiums; Planned Communities; Write-in Candidates*

This bill would require the Board of Directors to provide for and accept write in candidates for election to any position on the Board of Directors, other than a Director appointed by the Declarant notwithstanding any provision of an Association's Documents.

Status: Second Read 1/27/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2483- *HOAs; Meeting Technology; Voting Rights*

This bill proposes changes to the open meeting law and voting requirements for condos and planned communities. It establishes that any communication between a quorum of the Board for the sole purpose of establishing an agenda for the meeting does not violate open meeting laws if there is no discussion or deliberation on those agenda items before the meeting.

All draft minutes of any open meeting or open portion of any Board meeting shall be made available to any unit owner upon request not later than fifteen business days after the meeting occurs.

The bill would also make it so a ballot cannot be accepted at a meeting by anyone other than the voting unit owner.

Ballots that include the election of Board members must identify the number of seats to be filled, the names of all qualified candidates for those seats, and if cumulated voting will be used, if allowed in the documents.

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2483- *HOAs; Meeting Technology; Voting Rights (continued)*

If online voting is used it must:

1. Authenticate the unit owner's identity.
2. Authenticate the validity of each electronic vote to ensure the vote is not altered in transit.
3. Transmit a receipt to each owner who casts an electronic vote.
4. Store the electronic votes for recount, inspection and review purposes.
5. The Association shall ensure the Integrity of the voting process including preventing ballot tampering, accurate ballot count.
6. Ensure that preliminary voting results are not disclosed to any unit owner, including board members who have not yet voted.

If the Association is found to have violated this chapter in conducting elections or ballot measures, the court may invalidate the election or ballot measure as deemed appropriate by the court.

Notwithstanding any provisions in the association documents, an association or Board of directors may suspend an owners voting rights or eligibility for membership on the Board only for the reason that the owner has failed to pay one or more assessments.

Status: Second Read 1/30/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2651- *HOA; Rental Information; Violation; Penalty*

This bill proposes changes to the disclosures related to rentals. If a unit owner or unit owner's agent fails to disclose to the Association the tenant information then the tenancy is presumed to be in violation and the association may impose a monetary fine in the amount of \$15 per day beginning with the first day after the unit owner or unit owner's agent receives notice of the violation from the association. In any administrative or court action regarding the monetary penalty, the prevailing party shall be awarded attorney fees.

If the Association is age-restricted the owner or owner's representative must confirm that the tenant meets the age requirements and if a minor resides in the unit, shall disclose the number of minors.

Applies to both condos and planned communities.

Status: Third Read 3/2/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2702- *Trespassing; Civil Unmanned Aircraft*

This bill would add unmanned aircraft (drones) to the definition of entry for trespassing.

Status: Second Read 2/03/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2722- *Administrative Law Judge Decisions; Review*

This bill would remove the agency's ability to reject or modify the administrative law judge's decision.

Status: First Read 5/19/20

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2875- *Regulation; Short-Term Rentals*

This bill proposes changes to the disclosures related to rentals. It would require that contact information for the owner of

INTRODUCED IN 2020, BUT, NOT PASSED INTO ARIZONA LAW IN 2020
SUMMARY OF HOUSE BILL 2875- *Regulation; Short-Term Rentals (continued)*

a vacation rental be printed in bold twenty-four-point font either on the front door or in a location that is visible and accessible to the public if there is something that restricts access to the front door such as a fence. A city or town may impose a \$50.00 fine for each day that a vacation rental or short-term rental is occupied for violation of this rule.

This bill will also:

- Restrict the maximum number of adult occupants allowed on the vacation rental or short-term rental property at any one time to 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.
- Require the installation of 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 a Civil penalty.
- Prohibit smoking outside of the vacation rental or short-term rental within one hundred feet of a residential structure.
- Prohibit occupants of a vacation rental or short-term rental from parking on public or private streets if on-property parking is available. For a verified violation of this paragraph, a city or town may impose a civil penalty of \$100 for each day that the vacation rental or short-term rental is occupied.
- Prohibit vacation rentals or short-term rentals from advertising to exceed the occupancy limit of the dwelling or for any nonresidential use such as a special event that would otherwise require a permit or license. For a verified violation of this subsection, a city or town may impose a civil penalty of \$50 per day for each day the violation occurred.
- Any online advertisement for a short-term or vacation rental must display the owner's transaction privilege tax license. For a verified violation of this subsection, a city or town may impose a civil penalty of \$50 per day for each day the violation occurred.

Status: Third Read 3/5/20