



2023 Arizona Legislative Update Regarding Community Associations

The Arizona Legislature began the 2023 session on January 9, 2023, and ran for the longest session in history, adjourning on July 31, 2023. Governor Hobbs signed five (5) bills into law that directly impact HOAs/condos. These five (5) new laws became effective as of Monday, October 30, 2023.

Summary of Senate Bill 1049 – PROTECTED FLAGS

- Applies to both Planned Communities and Condominiums.
- This new law prohibits community associations from prohibiting “[a]ny historic version of the American Flag, including the Betsy Ross Flag, without regard to how the stars and stripes are arranged on the Flag.”
- Amends A.R.S. Section 33-1808 of the Planned Communities Act and A.R.S. Section 33-1261 of the Condominium Act.
- These sections already state types of flags that shall not be prohibited by community associations.
- This new law clarifies the types of American Flag that a community association may prohibit.

Protected Flags

- American Flag
 - Flags of the Uniformed Services of the U.S.
 - The POW/MIA Flag
 - The Arizona State Flag
 - The Gadsden Flag
 - A First Responder Flag
 - A Blue Star Service Flag or Gold Star Service Flag
- *Any Historic Version of the American Flag (Including Betsy Ross Flag)



Summary of House Bill 2251 – Condominium Insurance Coverage

- Only applies to Condominiums, not Planned Communities.
- Amends A.R.S. Section 33-1253 of the Condominium Act
- Clarifies that the Association is only required to provide property insurance on the units if it is required by the Condominium Documents
 - Unless required by governing documents, property insurance coverage on the units is at the discretion of the Board
 - If documents do require, such coverage must include the units or any portion of those units provided in the Condominium Documents, but need not include improvements installed by unit owners or the personal property of unit owners



- Provides that unit owners, as insured persons under the Association's policy, have the right to report a loss under the Association's property insurance policy
- Prior to reporting a loss under the Association's policy, a unit owner shall report the loss to the Association
- The Association then has 10 days to provide the unit owner with a written decision regarding whether the Association will be reporting a claim
- If the Association opts not to report a claim, it must provide the owner with a written reason for its decision
- Requires the Association to inform each unit owner annually in writing of: (1) the unit owner's responsibility for the Association's insurance deductibles for all property and liability coverage; and (2) the amount of each deductible.

Summary of House Bill 2298 – Planned Communities; Public Roadways

- Only applies Planned Communities, not Condominiums
- Amends A.R.S. Section 33-1818 of the Planned Communities Act
- Requires certain planned communities that regulate public roadways to call a meeting of the membership on the question of whether to continue to regulate the public roadways.
- Only applies if Planned Community meets all of the following criteria:
 - Planned Community is no longer under Declarant control;
 - CC&Rs were recorded before January 01, 2015;
 - CC&Rs include on-street parking regulations; and
 - The roadways within the community are public.
- If Planned Community meets all 4 requirements, the existing on-street parking regulations remain in effect until either of the following occurs:
 - No later than June 30, 2025, the planned community shall call a meeting of the membership on the question of whether to continue to regulate public roadways. If a quorum of the membership is met and a majority of the owners voting at that meeting votes to continue regulating public roadways in the planned community, the planned community retains its authority to regulate those public roadways. The board of directors shall record in the office of the county recorder of the county in which the planned community is located a document confirming that the planned community continues to regulate the public roadways.
 - If the vote fails or if the planned community does not hold a vote by June 30, 2025, the planned community no longer has authority to regulate the public roadways in the planned community and any existing regulations expire.
- If such planned community's CC&Rs were recorded on or after January 01, 2015, the community has no authority over public roadways within the community.



Summary of House Bill 2301 - HOA Political Activity

- Applies to both Planned Communities and Condominiums.
- Allows a community association to prohibit a person who is not accompanied by an Association unit owner or resident from entering the Association premises if the Association restricts vehicular and/or pedestrian access.
- Amends A.R.S. Section 33-1808 of the Planned Communities Act and A.R.S. Section 33-1261 of the Condominium Act.
- Bill introduced to address misconceptions regarding existing laws as they apply to political activities within community associations.
- Community associations that do not restrict access are still not permitted to prohibit door-to-door political activity.
- Following passage of HB2301, associations may:
 - Restrict or prohibit door-to-door political activity regarding candidates or ballot issues from sunset to sunrise;
 - Require the prominent display of an identification tag for each person engaged in the activity, along with the prominent display of the candidate or ballot issue that is the subject of the support or opposition; and
 - Now, prohibit a person who is not accompanied by an Association unit owner or resident from entering the Association premises if the Association restricts vehicular and/or pedestrian access (i.e., gated communities).

Summary of House Bill 2607 - Board Member Removal

- Applies to both Planned Communities and Condominiums.
- Amends A.R.S. Section 33-1813 of the Planned Communities Act and A.R.S. Section 33-1243 of the Condominium Act
- Strictly penalizes board of directors for failing to comply with timely noticing a board removal meeting
- Original statutes provide mechanism for the members of a community to remove a member or members of the board of directors, but contained no express consequences for failing to timely call, notice, and hold the removal meeting
- HB2607 now provides that if the board of directors receives a removal petition that satisfies the statutory requirements and fails to timely call, notice, and hold the removal meeting within 30 days, all members of the board of directors are removed from office effective on the 31st from receipt of the signed petition.
- A special meeting is then to be called, noticed, and held within 30 days to elect an entirely new board of directors.