

Legislative Overview for ADRE | 2013

The Arizona State Legislature adjourned *sine die* on June 14, 2013. The following bills were passed and signed into law by Governor Janice K. Brewer. If you have questions relating to the bills below please contact the Department's Legislative Liaison at ldetorre@azre.gov. The general effective date for legislation is September 13, 2013 unless otherwise stated.

Please be advised that this list is not comprehensive and therefore may not include all bills that directly or indirectly affect ADRE licensees. Please visit the state legislature's website at <http://www.azleg.gov> for more information.

GENERAL:

HB 2033 Foreclosure; deeds of trust; affidavits

If a beneficiary of a foreclosed deed of trust receives payment based on private mortgage insurance that is in addition to the proceeds of the sale, the beneficiary is required to submit to the county recorder a declaration of additional funds received containing specified information. The declaration must be submitted within four months after the date of the trustee's sale. Within seven business days after receipt of payment by the trustee, the trustee is required to execute and submit the trustee's deed to the county recorder for recording and to provide an unrecorded copy to the purchaser upon request. On completion of the sale and conveyance of the trustee's deed to the purchaser, the trustee is required to notify the beneficiary of the beneficiary's obligations. *HB 2033 was signed by the Governor on April 5th, 2013.*

ARS Titles Affected: [11](#), [33](#)

HB 2344 Property tax penalty waiver

A county treasurer, in consultation with the board of supervisors, is authorized to waive a penalty required for failure to respond to a request for information about classification of residential property for good cause. Retroactive to July 1, 2012. Self-repeals July 1, 2014. *HB 2344 was signed by the Governor on March 21, 2013.*

ARS Titles Affected: [41](#)

HB 2393 State Agencies; licensure; time frames

A person who is or could be required to obtain a license may petition the Governor's Regulatory Review Council to require an agency to consider including a recommendation for reducing a licensing time frame in its five-year report. *HB 2393 was signed by the Governor on April 5, 2013.*

ARS Titles Affected: [41](#)

HB 2525 Real estate licenses; exempt sales

The bill allows an inactive licensee, in good standing, to cancel their real estate license without first becoming active. The bill also modifies the public report requirement in the sale of subdivided lands. The Arizona Department of Real Estate worked with stakeholders to add an amendment to the original bill that extended the term for a developer to qualify for an exemption

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to use the original public report from two to five years. This legislation was a step to reduce unnecessary regulatory burden for developers and the industry. The amendment extended this time frame to five years. *HB 2525 was signed by the Governor on April 5th, 2013.*

ARS Titles Affected: [32](#)

[SB 1278](#) Homeowner's Associations; public roadways

After the period of declarant control, an HOA has no authority over and is prohibited from regulating any roadway owned or held by a governmental entity. Applies only to planned communities for which the declaration is recorded after December 31, 2014. *SB 1278 was signed by the Governor on April 11th.*

ARS Titles Affected: [33](#)

[SB 1302](#) Planned communities; design review process

Clarifies that in order to be subject to statutory guidelines for new construction in a planned community, the construction must be in a planned community that has enacted design or architectural guidelines and the association must be permitted to charge members a security deposit. *SB 1302 was signed by the Governor on April 30th, 2013.*

ARS Titles Affected: [33](#)

[SB 1322](#) Assured water supply requirements; exemption

The repeal date for session law exempting land destroyed by fire and meeting other conditions from the requirement that a certificate of assured water supply is necessary for the land to be offered for sale or lease is extended 10 years to September 1, 2024. [Capitol Reports note: legislative research staff indicated in 2007 that this session law applies specifically to land at Summerhaven in the Catalina Mountains near Tucson.] *SB 1322 was signed by the Governor on June 20th, 2013.*

ARS Titles Affected: [41](#) [45](#)

[S1454](#) Elections; campaign finance; HOAS (The information below only pertains to the HOA portion of the bill.)

Makes several changes to statutes that govern elections and homeowner associations. Outlines the following requirements relating to political sign display for condominiums:

- Allows HOAs to prohibit the display of political signs 71 days before the election date and three days after.
- Allows HOAs to regulate the size and number of political signs that may be placed on a unit owner's property or limited common elements for that unit, if the regulation is no more restrictive than any applicable city, town or county ordinance.
- Prohibits HOAs from limiting the number of political signs if the city, town or ordinance does not regulate the size and number of political signs on residential property, but caps the maximum aggregate number of political signs on a unit's property to nine square feet.

Planned Communities; Local Governments; Zoning

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- Prohibits the planning or zoning entity of a local government from requiring that a developer establish an association as part of a subdivision approval or zoning ordinance.
- Asserts that a developer cannot be penalized because a real estate subdivision or development does not constitute or include a planned community.
- Permits a local government to require a 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.
- Prohibits a local government from requiring that an association be formed or operated other than for the maintenance of common area or community owned property.
- Specifies that planned communities required under these provisions apply only to those established in plats recorded after the effective date of this Act.
- States that these provisions do not prohibit the establishment or authority of any planned community otherwise established pursuant to statute or limit a subdivider, developer or association from requesting and entering into a maintenance agreement with a municipality or county.

Management Companies; Lawful Actions

- Specifies lawful actions for the officers and employees of a management company or other lawfully formed and operating entity or is contracted with an HOA to provide management services, including recording a notice of lien or notice of claim of lien against a member's property and appearing on behalf of an HOA in small claims court under specific conditions.

HOA Voting; Alternative Forms of Delivery

- Allows an HOA to provide for voting by use of electronic mail and facsimile delivery and states that votes cast by the use of electronic mail and facsimile count towards a quorum.

Office of Administrative Hearings; Filing Fee; Refund

- Requires the filing fee to be refunded to the petitioner upon dismissal of a petition at the request of the petitioner before a hearing is scheduled or by stipulation of the parties before a hearing is scheduled.

HOA's; Rental Property

- Asserts that a unit or property owner may use their unit or property as a rental property in accordance with the declaration's rental time period restrictions, unless it is prohibited in the declaration.
- Allows a unit or property owner, through a written designation, to authorize a third party to act as their agent with respect to all HOA matters regarding the rental property.
- Directs the unit or property owner to provide the HOA with the written designation, which authorizes the HOA to conduct all business relating to the rental property through the designated agent.
- Specifies that notice by the HOA to the designated agent regarding a rental property serves as notice to the owner.
- Prohibits an HOA from requiring an owner or designated agent to disclose any information regarding a tenant, other than the following:
 - Name and contact information for any adults occupying the unit or property.
 - Time period of the lease including the beginning and ending dates of the tenancy.
 - A description and license plate number of the tenant's vehicles.
 - A government issued identification that bears a photograph and date of birth, if the unit or property is in an age restricted community.

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Permits an HOA to charge no more than \$25 as an administrative fee for each new tenancy for a unit or property, but not for the renewal of an existing lease.

➤ Requires the \$25 fee to be paid within 15 days of the post marked request.

• Prohibits an HOA from the following:

➤ Assessing or levying any other fee or fine or otherwise impose a requirement on a rental property that is different than on an owner-occupied unit or property in the association.

➤ Requiring a unit or property owner to provide them with a copy of a rental application, credit report, lease agreement, rental contract or any other personal information.

➤ Requiring a tenant to sign a waiver or other document limiting their civil rights to due process as a condition of their occupancy of a rental property.

➤ Restricting or prohibiting a unit owner from serving on the board of directors based on the owner not being an occupant of the unit.

➤ Imposing any fee, penalty, assessment or other charge of more than \$15 for incomplete or late information.

• Determines any attempt by an HOA to impose a fee, penalty, assessment or other charge not authorized by statute to void the fee authorized by statute and the requirement to provide information to the HOA.

• Allows an HOA to acquire a credit report on a person in an attempt to collect a debt.

SB 1454 was signed by the Governor on June 20th, 2013.

ARS Titles Affected: [16](#)

Substantive Policy Statements

2013.01 Short Title: Multifamily Housing Records Retention

Per A.R.S. §32-2175 - A broker managing multifamily housing may designate an onsite leasing office as an off-site storage location in this state for residential rental agreements, related residential rental agreement documents and records of finder's fees if the Department of Real Estate is notified in writing. Off-site storage location may include a multifamily leasing office as well as electronic storage. If electronic, then ADRE shall be notified of the physical location and records host as prescribed in SPS No. 2010.01 Electronic Records Storage. Per A.R.S. §32-2151, trust account records shall not be maintained at an onsite leasing office. The broker managing multifamily housing shall notify the department within 10 days of any change in location of the off-site storage location. *SPS No 2013.01 became effective on March 28, 2013.*