

ADRE 2016 Legislative Summary





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The Arizona State Legislature adjourned *sine die* on May 7, 2016 at 5:45am. The following bills were passed and signed into law by Governor Douglas A. Ducey. If you have questions relating to the bills below, please contact the Department's Deputy Commissioner and Legislative Liaison at ldetorre@azre.gov. The general effective date for legislation is August 6, 2016 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.

HB 2076 (Chapter 93) Annexation; Single Property Owner; Exception (Rep. Weninger)

For the purposes of municipal annexation, a territory is considered contiguous if the territory adjoins the exterior boundary of the annexing municipality for at least 300 feet, if all of the real property in the territory is owned by one person, and the municipality and the property owner agree to the annexation.

HB 2076 was signed by the Governor on April 5, 2016. A.R.S Titles Affected: [9](#)

HB 2106 (Chapter 230) HOAs; Enforcement Grace Period (Rep. Lovas)

A member (owner) of a homeowners' association or condominium association has 21 calendar days, increased from 10 business days, after the date of a written notice of violation to provide a written response to the HOA.

HB 2106 was signed by the Governor on May 12, 2016. A.R.S Titles Affected: [33](#)

HB 2125 (Chapter 179) District Boundary Modification; Parcel Lines (Rep. Shope)

For any special taxing district whose boundaries split parcels as determined by the county assessor on or before November 1, 2007, a property owner in the district is authorized to request in writing that the county assessor modify the boundary so that the entire parcel is contained in the district that governs the majority of the parcel. If two or more districts of the same type govern an identical percentage of the area of the parcel, the property owner may designate the district that will govern the entire parcel. Does not apply to a list of special taxing district types. On discovery that a parcel is split by a district boundary, the county assessor is authorized to initiate the consolidation of the entire parcel into a single district, and must provide the property owner with at least 30 days' notice before the consolidation becomes final. If the property owner rejects the proposed consolidation, the parcel cannot be consolidated.

HB 2125 was signed by the Governor on, 2016. A.R.S Titles Affected: [48](#)

HB 2172 (Chapter 83) Planned Communities; Architectural Designs; Approval (Rep. Petersen)

Planned communities are prohibited from unreasonably withholding approval of a construction project's architectural designs, plans and amendments.



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HB 2172 was signed by the Governor on March 30, 2016. A.R.S. Titles Affected: [33](#)

[HB 2382](#) (Chapter 254) Property; Declaration Amendment; Procedure (*Rep. E. Farnsworth*)

Except during the period of declarant control, or if during the period of declarant control with the written consent of the declarant in each instance, the declaration may be amended by a homeowner's association or a property owner by an affirmative vote or written consent of the number of eligible voters as prescribed in the declaration. An amendment to a declaration may apply to fewer than all of the lots or less than all of the property that is bound by the declaration, and the amendment is deemed to conform to the general design and plan of the community if specified conditions are met. An amendment to the declaration is effective immediately on recordation of the instrument in the county in which the property is located. Any adopted amendment must be recorded within 30 days and is effective upon recording. Does not apply to a condominium or a timeshare plan or association.

HB 2382 was signed by the Governor on May 17, 2016. A.R.S. Titles Affected: [33](#)

[HB 2514](#) (Chapter 73) Restricted Vehicle Use; DUI; Repeal (*Rep. Borelli*)

A person who is licensed by the Real Estate Department and who is awaiting trial on or who has been convicted of driving under the influence (DUI), extreme DUI or aggravated DUI within five years from the date of applying for a fingerprint clearance card is exempt from the prohibition on driving any vehicle to transport employees or clients of the employing agency as part of the person's employment, unless the person is employed by specified state agencies.

HB 2514 was signed by the Governor on March 24, 2016. A.R.S. Titles Affected: [41](#)

[SB 1193](#) (Chapter 336) Real Estate Licenses; Broker Possession (*Senator Griffin*)

A designated broker is authorized to comply with the possession requirements for a salesperson's or associate broker's license certificate by accessing the licensee's record in the Real Estate Department's online database and printing a copy of the record that shows current and active licensure or by having the record available electronically.

SB 1193 was signed by the Governor on May 18, 2016. A.R.S. Titles Affected: [32](#)

[SB 1350](#) (Chapter 208) Online Lodging Marketplaces; Taxation (*Senator Lesko*)

Vacation Rental and Short-Term Rental Regulations

- Prohibits a city, town or county from restricting the use or regulation of vacation rentals and short-term rentals based upon their classification, use or occupancy;
- Specifies that a city, town or county may regulate vacation rentals or short-term rentals if the regulation is meant to protect public health and safety, including fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution control and the designation of an emergency contact;



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- Allows a city, town or county to regulate vacation rentals or short-term rentals for the purpose of adopting and enforcing residential use and zoning ordinances, including ordinances relating to noise, welfare, property maintenance and other nuisance issues;
- States that a city, town or county may limit or prohibit the use of vacation rentals or short-term rentals for each of the following purposes: housing sex offenders, maintaining a structured sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses;
- Specifies that an owner of a vacation rental or short-term rental is still obligated to provide required residential rental property information to the county assessor; and
- States that a vacation rental or short-term rental does not include any units used for nonresidential purposes.

Online Lodging: Taxation

- Allows an online lodging marketplace to register with the DOR for a license for the payment of taxes levied by the state or a political subdivision thereof for any online lodging transactions.
- Requires an online lodging marketplace licensed with DOR to remit all taxes for each online lodging transaction facilitated by the marketplace.
- Specifies that an online lodging marketplace must remit the aggregate total amount for all respective taxing jurisdictions and report taxes monthly to DOR.
- Specifies that the activities of any online lodging marketplace are not classified as transient lodging.
- Provides that an online lodging marketplace is not required to list or identify any individual online lodging operator on any return.
- Exempts the gross proceeds or gross income received by an online lodging operator from any taxes for online lodging transactions made by an online lodging marketplace, for which there is written notice that the marketplace is registered with DOR for the collection of taxes and documentation of tax collected.
- Stipulates that a city, town or other taxing jurisdiction may levy TPT, use, franchise or other similar taxes or fees on an online lodging marketplace if the following requirements are met:
- The adopted tax is administered, collected and enforced by DOR and remitted to the city, town or other taxing jurisdiction in a uniform manner.
- The adopted tax is uniform upon online lodging operators and other taxpayers of the same class within the jurisdictional boundaries of the city, town or other jurisdiction.
- Any adopted tax is subject to provisions relating to audits, confidential information, judicial enforcement, registration of online lodging marketplaces and tax returns.
- Requires that the adopted tax a city, town or other taxing jurisdiction levies on an online lodging marketplace is uniform with the treatment of online lodging operators and online lodging transactions, except that:
- The adopted tax may be different from the state tax rate.



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- The adopted tax may apply to online lodging transactions involving rentals of lodging accommodations for more than 29 or more consecutive days. The adopted tax must uniformly apply to all lodging accommodations for 30 consecutive days or more, and the tax base must be limited to online lodging transactions facilitated by an online lodging marketplace for rentals of lodging accommodations for 30 consecutive days or more.

Online Lodging Classification

- Establishes the Online Lodging Marketplace Classification of TPT is comprised of businesses of operating an online lodging marketplace that are registered with the DOR for a license to collect tax.
- Specifies that the Online Lodging Marketplace Classification of TPT does not include any online lodging marketplace that has not entered into an agreement with DOR to register for a license to collect tax.
- States that the tax base for the online lodging marketplace classification is the gross proceeds of sales or gross income derived from the business measured by the total amount charged for an online transient lodging transaction by the online lodging operator.
- Establishes that the tax rate of this classification is 5.5% of the tax base.

Property Manager Tax Returns

- Allows a property manager who is licensed with DOR to file an electronic consolidated tax return with DOR, monthly, with respect to gross proceeds or gross income derived from the individual properties under management on behalf of the property owners.
- Requires DOR to administer, collect and enforce the tax paid under an electronic consolidated return and remit the collected revenue to the appropriate city or town.
- Specifies that the tax may not be collected from any property owner whose licensee has provided written documentation to the property owner and to the city or town that the licensee has reported and remitted or will report and remit the applicable tax with respect to the property under management.
- Requires DOR to develop an electronic consolidated return form that separately identifies each owner's property locations and the gross income and deductions for each property location.
- Requires a licensed real estate broker to file the return electronically using the consolidated return form developed by DOR.
- Specifies that all participating property owners included in the same electronic consolidated return must be on the same tax payment schedule and use the same cash receipts or accrual basis of reporting.
- Establishes that a licensed real estate broker is responsible and accountable to the property owner and to the city or town for fully and accurately reporting and paying to DOR the tax and any other amounts due.
- Specifies that a real estate broker licensed with DOR for the payment of taxes subject to audit of the electronic consolidated returns, including data in the licensee's possession that is used in compiling and filing the electronic consolidated returns.



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- Establishes that the property owner remains ultimately responsible, accountable and liable for both the accuracy of the information given to the licensed real estate broker and for the return and payment of the full tax amount.
- Specifies that the property owners are subject to audit of the records in the property owner's possession that are submitted to the licensed real estate broker for the electronic consolidated return.
- Allows the property owner to withdraw any property from the electronic consolidated return on 30 day's written notice to the licensed real estate broker, DOR and the tax collector of the city or town.

Hospitality Studies Scholarship Fund

- Establishes a Hospitality Studies Scholarship Fund, used to provide scholarships to students entering into or enrolled in a hospitality studies program at any university under the Arizona Board of Regents (ABOR) for the purpose of defraying educational costs such as room and board.
- Requires a recipient who withdraws from the school or from the hospitality studies program before receiving a degree to repay all scholarship monies awarded to the recipient.
- Specifies that if a recipient of the Hospitality Studies Scholarship Fund is dismissed from the university, ABOR will negotiate an appropriate repayment schedule, plus 8% interest.
- Allows ABOR to partner with any statewide lodging and tourism association that provides matching monies in administering the fund.

Joint Legislative Study Committee on Transient Lodging

- Establishes the 16-member Joint Legislative Study Committee on Transient Lodging for the purposes of considering current state and local government laws and regulations on transient lodging businesses.
- Allows the Joint Legislative Study Committee to request industry data from relevant state agencies during an annual committee meeting to be held on or before September 15, 2017 and annually thereafter.
- Requires the Joint Legislative Study Committee to report the committee's findings and any recommendations on or before December 15, 2017, and each year after, to the President of the Senate, Speaker of the House of Representatives, the Governor and provide a report to the Secretary of State.
- Repeals and terminates the Joint Legislative Study Committee on December 31, 2020.

SB 1350 was signed by the Governor on May 12, 2016. A.R.S. Titles Affected: [42](#) -- Effective date January 1, 2017

SB 1496 (Chapter 343) Homeowners' Associations; Director Removal (Senator Farnsworth)

On removal of a majority of the members of a condo or HOA board of directors, the HOA is required to hold an election for the replacement of the removed directors at a separate meeting of the members, which must be held no later than 30 days after the day of the meeting at which the



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directors were removed. A director who is removed is ineligible to serve on the board again until after the expiration of the director's term, unless the HOA documents specifically provide for a longer period of time.

SB 1496 was signed by the Governor on May 18, 2016. A.R.S Titles Affected: [33](#)

[SB 1498](#) (Chapter 172) Homeowners' Association; Fees; Hearings; Elections (*Senator Farnsworth*)

Condo and homeowners' associations (HOAs) are only authorized to impose charges for late payment of assessment after the HOA has provided notice that the assessment is overdue or is considered overdue after a certain date. The HOA is required to give the unit owner or homeowner written notice of the person's option to petition for an administrative hearing on an enforcement action in the Department of Fire, Building and Life Safety. If an HOA provides for absentee ballots or ballots provided by some other form of delivery, the completed ballot and envelope and any related materials must contain the name, address and signature of the person voting, unless the HOA documents permit secret ballots, in which case only the envelope must contain that information. The ballots, envelopes and related materials must be retained and made available for unit owner or member inspection for at least one year after completion of the election.

SB 1498 was signed by the Governor on May 11, 2016. A.R.S. Titles Affected: [33](#)

[SB 1530](#) (Chapter 128) Budget; BRB; Agency Consolidation; FY2016-17 (*Senator Biggs*)

Makes various changes to state agencies that affect the budget. The Department of Fire, Building and Life Safety is eliminated, and the functions of the Dept. are transferred to the Department of Housing, the State Forester and the Real Estate Department. All unspent and unencumbered monies in the Condominium and Planned Community Hearing Office Fund are transferred to the Real Estate Department on the effective date.

SB 1530 was signed by the Governor on May 10, 2016. Effective date: July 1, 2016

A.R.S. Titles Affected: [11](#), [17](#), [23](#), [26](#), [27](#), [28](#), [30](#), [32](#), [33](#), [34](#), [35](#), [36](#), [37](#), [40](#), [41](#), [42](#), [49](#)

More information, including an overview of each bill can be found at www.azleg.gov