

SUMMARY OF ARIZONA HOA LAWS ENACTED IN 2011

(Effective Date: July 20, 2011)

HB2609: OPEN MEETINGS & SIGNS [A.R.S. §33-1248; §33-1804; §33-1261; and §33-1808].

- A. “Regularly-scheduled” committee meetings are subject to same open meeting requirements as board meetings and association meetings.
- B. Members or designated representatives must be permitted to speak once after the board has discussed a specific agenda item, but before the board takes formal action on that item, in addition to other opportunities to speak.
- C. Adds a fifth exception to the open meeting requirements: A board meeting may be closed if it concerns “discussion of a unit or lot owner’s appeal of any violation cited or penalty imposed by the association, unless the affected unit/lot owner requests that the meeting be held in open session.”
- D. Notice for association meetings (i.e., member meetings) must be sent to owners not less than 10 nor more than 50 days in advance of the meeting [this trumps any notice provision in community documents].
- E. The following requirements must be met for board meetings after the expiration of the period of declarant control:
 - (1) The agenda must be available to all owners attending.
 - (2) Emergency meetings may be called to discuss business or take action that cannot be delayed until the next regularly-scheduled board meeting. The meeting minutes must state the reason necessitating the emergency meeting, and must be read and approved at next regularly-scheduled meeting of the board.
 - (3) A quorum of the board may meet by telephone if a speakerphone is available in the meeting room that allows board members and owners to hear all parties who are speaking during the meeting.
 - (4) Any quorum of the board that meets informally to discuss association business (including “workshops”) shall comply with open meeting requirements without regard to whether the board votes or takes any action on any matter at that informal meeting.
- F. States that the public policy of Arizona is that all association and board meetings be conducted openly and that notices and agendas be provided that contain the information that is reasonably necessary to inform the unit owners of the matters to be discussed or decided.
- G. Association cannot prohibit or charge a fee for the posting of a commercially printed “for sale,” “for lease” or “for rent” sign on a resident’s property.
- H. If an association or its managing agent violates the provision that protects the unrestricted display of real estate signs, the association’s lien rights will be forfeited and extinguished against the unit or lot for a period of 6 consecutive months from the date of the violation.

- I. In a Planned Community, if there is a city, town or county ordinance that regulates the size and number of political signs on a member's property, that ordinance governs. If there is no such ordinance, the previous display limit of one political sign is modified to permit the display of any number of political signs, so long as the total of all political signs on the individual's property does not cover more than nine square feet. All displayed political signs must be commercially produced. Political signs are now allowed 71 days before an election day and no later than 3 days after an election day.

HB2245: RECORDING BOARD MEETINGS [A.R.S. §33-1248; §33-1804]. Owners cannot be precluded from recording board of directors meetings with a tape recorder or a video recorder. A board can adopt reasonable rules and regulations regarding the taping, but may not prohibit it.

SB1148: ADMINISTRATIVE HEARINGS FOR DISPUTES [A.R.S. §41-2141; §41-2198.02, and §41-2198.04]: Allows disputes against Planned Community and Condominium associations to again be filed with the State Dept. of Fire, Building and Life Safety and heard by administrative law judges. The hearing officer will apply and enforce the statutes regulating Planned Communities and Condominiums as well as the private contracts and rules that govern Planned Communities and Condominiums. Rulings by an administrative law judge are subject to judicial review.

SB1149: DOCUMENT PREPARATION FEES [A.R.S. §33-1256; §33-1260; §33-1261; §33-1806; §33-1807 & §33-1808]§. (Effective 12/31/11)

- A. Statement of Assessments Owed must be provided by association to a lienholder, escrow agent, unit/lot owner or person designated by unit/lot owner within 10 days after receipt of the request, and the statement is binding on the association. If the information is not timely given, the association's lien for assessments is extinguished.
- B. Fees. An association may charge:
 - 1. A total of \$400.00 for providing resale disclosure information and documents to a prospective purchaser.
 - 2. A "rush fee" of up to \$100 if rush services are required to be performed within 72 hours.
 - 3. A document update fee of up to \$50 if 30 days or more have passed since the date of the original disclosure documents.
 - 4. If the aggregate fee being charged by an association as of January 1, 2010 is less than \$400, the fee may be increased at a rate of not more than 20% each year, not to exceed a \$400 aggregate fee.

The association may charge the same fee if the documents are produced in paper or electronic format.

- . Fees are not payable before close of escrow and may only be charged once to an owner for a transaction.

If an association or managing agent charges or collects a fee relating to resale disclosure, lien estoppel or any other services related to the transfer or use of property except as authorized in this Section, the association or managing agent is subject to a civil penalty of up to \$1,200.00.

C. Disclosure. The association must include a summary of all pending lawsuits in which the association is a named party (other than assessment collection lawsuits that are not related to the unit/lot being sold), including the amount of any money claimed. A condominium association must provide any documents that may be required for certification of certain federally financed loans.

D. Signs. An association may not charge any fee for the use of, the placement of or the indoor or outdoor display of a “for sale” sign and a sign rider. An association or managing agent that violates ARS §33-1261(C) or §33-1808(C) forfeits the association’s assessment lien rights against the unit/lot for six months from the date of the violation.

SB1326: FLAGS & FLAGPOLES [A.R.S. §33-1261 & § 33-1808] : An association may not prohibit the display of the “Gadsden Flag” along with the other protected flags already named. The Gadsden Flag is the "Don't Tread on Me" flag. In Planned Communities, an association can limit the number of flags to no more than two at once, and can limit the height of the flagpole to no more than the height of the rooftop of the home. The association must allow a flagpole in the front and back yard.

SB1540: POLITICAL SIGNS & POLITICAL ACTIVITY [A.R.S. §16-019, §33-1261, AND §33-1808]: A person has committed a class 2 misdemeanor if he is found to have knowingly removed, altered, defaced, or covered any political sign of any candidate for public office; or knowingly removed, altered or defaced any political mailers, handouts, flyers or other printed materials of a candidate that are delivered by hand to a residence for the period commencing 45 days before a primary election and ending 7 days after the general election.”

Associations are prohibited from restricting “door to door political activity, including solicitations of support or opposition regarding candidates or ballot issues,” with the following provisions: (1) the association must only allow door to door solicitation or circulation of political petitions “on property normally open to visitors within the association, (2) the association can restrict or prohibit door-to-door political activity from sunset to sunrise, (3) the association can require an identification tag for each person engaged in the political activity, (4) an association cannot require political signs to be commercially produced or professionally manufactured, (5) an association is not required to allow the door- to- door activity if the association “restricts vehicular or pedestrian access” to the condominium or community, and (6) only roadways and sidewalks that are normally open to visitors must be made available for political activity.