

WENDY EHRLICH, ATTORNEY PLLC

9671 N. Horizon Vista Place | Oro Valley, Arizona 85704 | 520-229-1947 | wehrlich@comcast.net
Admitted in AZ, MD and DC

2024 LEGISLATIVE UPDATE

The following is a brief summary of bills impacting community associations that were passed by the Arizona Legislature and signed by the Governor in 2024. These laws will go into effect on 9/14/24 and will be available on my website (azhoalawyer.com) under the Arizona statute library tab.

HB 2648 (Amending §§33-1202, 1256, 1802 and 1807)

Changes the statutes governing an association's lien rights under both the Condominium Act and the Planned Community Act:

1. An association's assessment lien no longer includes its attorney fees and costs incurred in collecting the debt unless awarded by a court; and
2. Requires the Board of Directors to "exercise reasonable efforts to communicate" with an owner and offer a reasonable payment plan before filing a foreclosure action.

HB 2662 (Amending §§33-1248 and 1804)

Changes the open meeting laws for condominiums and planned communities by adding the following:

1. Requires associations to provide an agenda for an open Board meeting (in addition to the meeting notice) at least 48 hours before the meeting by any reasonable means; and
2. Requires associations to provide an agenda for a member meeting by hand-delivery, mail, website posting, email, electronic means, or posting at community location prior to the meeting.

SB 1016 (Amending §33-1808)

Adds that planned community associations may limit an owner to no more than two (2) flagpoles on his/her property.

HB 2141 (Amending §33-1221)

Restricts condominium associations from:

1. prohibiting an owner from making an interior modification even if it may disturb others as long as it includes improved materials, accessories or other adjustments that eliminate or minimize the disturbance; and
2. prohibiting an owner from using any manner of decoration on the interior of his/her unit.

HB 2119 (Amending §33-442)

Prohibits any type of community association from charging a fee for certain transfers of title to a lot or unit (other than an administrative fee charged by a management company), such as when a property is placed in a trust or gifted to a relative.

HB 1432 (Amending Title 33, Chapter 4)

Allows an owner or community association (without a vote of the members) to amend CC&R's in order to remove a discriminatory restriction based on race, color, religion, national origin, sex, familial status or disability.

HB 2720 (Adding §9-461.18 and amending §9-500.39)

1. Requires municipalities with populations over 75k to adopt regulations allowing for one accessory dwelling unit on a lot or parcel (two if the lot is one acre or more) and prohibits regulating the use, parking accommodations or design of same. An "accessory dwelling unit" is defined as a self-contained living unit on the same lot as a larger single-family dwelling.

2. Allows municipalities that regulate vacation and short-term rentals to require an owner to reside on the property if he/she rents out an accessory dwelling unit that was built on or after 9/14/24.

These statutes have no effect on an association's ability to enforce any CC&R restrictions that prohibit or otherwise regulate accessory dwelling units.

Corporate Transparency Act (CTA) Update

In March of this year, a federal court in Alabama ruled that the CTA was unconstitutional and could not be enforced against the National Small Business Association (or its members), the plaintiff in the case.

Last month, Community Associations Institute (CAI) announced that it intends to file a similar lawsuit in a Virginia federal court on behalf of volunteer homeowner associations. That litigation will include a request for a preliminary injunction - a court order granting temporary relief from the CTA (and the FinCEN registration) during the pendency of the litigation. With that court's expedited docket process, it is possible that a preliminary injunction could be issued prior to the 1/1/25 deadline for FinCEN registration.

Additional information regarding the CTA and CAI's litigation is available on the following websites:

<https://www.caionline.org/Advocacy/Priorities/CTA/Pages/landing.aspx>

<https://www.caionline.org/Advocacy/Priorities/CTA/Documents/FAQ%20FINAL.pdf>