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ARIZONA HOA LEGISLATIVE UPDATE
2019: 54TH Legislative Session

This year's Arizona legislative session adjourned on May 28, 2019. The general effective date for new laws is August 27, 2019. Following is a summary of new laws that are of interest to homeowners and condominium associations. For the full text of the laws go to www.azleg.gov. For copies of the Arizona Condominium Act and Arizona Planned Communities Act go to www.gshoalaw.com.

H2230: WRIT OF GARNISHMENT; CERTIFIED MAIL

Service of a writ of garnishment to collect on a judgment may be made by certified mail, return receipt requested, at the regular place of business of the entity to be garnished (the "garnishee"). If served by certified mail, the effective date of service is the date of receipt by the garnishee.

H2451: REAL ESTATE LICENSURE; EXCEPTIONS; RENTALS

Real estate licensing regulations do not apply to a person who, on behalf of another, solicits or accepts reservations and/or monies for occupancies of 31 or fewer days in any dwelling unit. Prior version of the law applied only to dwelling units in a common interest development.

H2672: VACATION RENTALS; SHORT-TERM RENTALS; REGULATION

Counties and municipalities may require the owner of residential property to provide contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting a vacation rental or short-term rental.

H2687: CONDOMINIUMS; TERMINATIONS; APPRAISALS

Modifies and repeals 2018 law relating to termination of condominium procedures. At least 30 days before recording a termination agreement, the board of directors of the condo association is required to convene a meeting at which requirements must be met to show that at least 80% of the votes in the association have agreed to the termination. The percentage interests of unit owners will be modified to include their pro rata share of any monies in the association's reserve fund and the operating account, plus an additional 5% of the available monies for relocation costs. A unit owner may obtain a second independent appraisal at his/her expense, and arbitration will be required in the event that the difference between the appraisals is greater than 5%. Also, as part of the arbitration process, the appraisers determining the fair market values of the condo units are required to fully disclose their appraisal methodologies and any other transaction occurring between the buyer and the sellers.

**S1094: PLANNED COMMUNITIES; APPLICABILITY**

The Arizona Planned Communities Act does not apply to a nonprofit corporation or unincorporated association of owners that was created or incorporated before January 1, 1974 and that does not have authority to enforce covenants, conditions and restrictions related to the use, occupancy or appearance of the separately owned lots, parcels or units in a real estate development, unless a majority of all the members of such a nonprofit corporation or unincorporated association of owners elect in writing to subject the corporation or association to those statutes by recording a notice of election with the county recorder. The notice of election must include the written approval of a majority of all the members, and is effective as of the date of recording. The election may be rescinded in the same manner as an election.

S1271: PURCHASER DWELLING ACTIONS; NOTICE; COMPLAINTS

Includes various changes relating to construction defect actions filed by a purchaser. The seller's construction professional is added to the process for the right to repair and replace a construction defect; and a seller who receives a written notice of the basis of a dwelling action is required to forward a copy of the notice to each construction professional who the seller reasonably believes is responsible for an alleged defect that is specified in the notice. This law also establishes additional judicial procedure for each alleged defect to first determine if a construction defect exists and the amount of damages caused by the defect, and to identify each seller or construction professional whose conduct may have caused, in whole or in part, any construction defect. The court is authorized to award the prevailing party reasonable attorney fees limited to the amount of fees actually and reasonably incurred with respect to the contested issue, according to certain specific factors set forth in the statute. Clauses in any "construction contract" or "architect-engineer professional service contract" involving a dwelling that include waivers of negligence or indemnification clauses as to liability for loss or damage are void as being against the public policy of this state.

S1397: REGISTRAR OF CONTRACTORS OMNIBUS

Numerous changes to statutes relating to the Registrar of Contractors (ROC) and the regulation of licensed contractors. The Registrar of Contractors Recovery Fund (RCR Fund) award is prohibited from exceeding the actual damages suffered by the claimant as a direct result of a contractor's violation, and the maximum individual award from the RCR Fund is \$30,000. A billing or estimate for a progress payment is required to be submitted on a 30-day billing cycle unless the construction contract and each page of the plans specifically identifies a different billing cycle in a clear and conspicuous manner.

S1531: HOAS; ASSESSMENTS; COSTS

Various changes relating to condo associations and planned community associations: A lien for unpaid HOA assessments is extinguished unless legal action to enforce the lien is instituted within six years (increased from three years), after the full amount of the assessment becomes due. For a delinquent account for unpaid assessments or for charges related to unpaid assessments, the HOA is required to provide a specific written notice to the unit owner or member at least 30 days



before authorizing an attorney or a collection agency that is not the HOA's managing agent to begin collection activity on behalf of the HOA. Beginning January 1, 2020, an HOA with more than 50 units or lots that contracts with a third party to perform management services is required to provide a statement of account in lieu of a periodic payment book to the unit owner or member with the same frequency that assessments are provided for in the declaration. Information that must be included in the statement is specified. An agent for an HOA is authorized to collect assessments on behalf of the HOA directly from a unit owner and to charge a convenience fee that is approximately the amount charged to the agent by a third-party service provider.