

Arizona Association of Community Managers 2020 Final Legislative Session Report



**Prepared by Veridus LLC
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General Session Overview

The 2nd Regular Session of the 54th Arizona Legislature matched the 2019 session at 135 days – interrupted, of course, by a nearly two-month pandemic-forced hiatus from the Capitol. A record 1,607 bills (plus 127 memorials and resolutions) were introduced, though just 90 measures received final passage. The governor has signed all 90 bills into law and did not issue a single veto. The general effective date for new laws is Aug. 25, 2020.

Given the disrupted nature of the session, it's not surprising few legislative hot-button issues were resolved. [A push to reform short-term rentals](#) fizzled out, as did legislation to [ban transgender students from competing in girls' sports](#); a proposal to [double Arizona's gas tax](#) over the next three years; a suite of [criminal justice reforms](#), including a bill to scale back Arizona's "truth in sentencing" law; and a number of Ducey administration priorities – including efforts to [eliminate income taxes on military pensions](#), close the [achievement gap in struggling public schools](#), raise salaries for correctional officers and more.

Lawmakers did succeed in passing a spending plan for the coming year, a tread-water budget that mostly maintains state programs at existing levels. Notable exceptions include an additional [\\$50 million in COVID-19 assistance](#), as well as a separate bill that provides a [\\$55 million boost to Arizona's Public Health Emergency Fund](#).

With twin economic and public health crises raging, at least one special session was all but guaranteed between now and legislators' usual return to the State Capitol in January. Some at the Capitol were already calling to begin budget cutting as soon as possible in order to mitigate more severe reductions in the future. However, with additional unrest and protesting, there is another dynamic to watch: it's Governor Ducey's prerogative to call the special session and set the parameters of debate. Amid growing uncertainty whether votes actually exist to pass various measures, it is looking like waiting till January may be the preferred option.

Industry Overview

Again, like many Legislative Sessions before, there were many concepts circulating that would have impacted HOAs and the community management industry prior to session. AACM's lobbying efforts have always focused on educating legislators as to the workings of the HOA industry, and how various proposals could be helpful or harmful. This process has successfully led to the limited introduction of harmful bills. Of the priority bills tracked this session, there were eight primary bills that impacted the community management industry specifically. AACM was involved either with direct lobbying efforts, providing technical support, or monitoring progress on all priority bills.

Most notably, AACM strongly advocated for Senator David Farnsworth to utilize the stakeholder process regarding his bill, SB1001 (homeowners' associations; payment coupon books), which sought to amend statement of account requirements that passed last session after a robust

stakeholder process was utilized. The bill would have dramatically changed statement requirements, which are proving to increase transparency in the HOA industry.

By the end of session, no HOA bills had successfully been passed by the Legislature.

Priority Bills Failed by the Legislature

SB1001 HOMEOWNERS' ASSOCIATIONS; PAYMENT COUPON BOOKS (D. Farnsworth)

Homeowners' associations and condominium associations with at least 50 lots that do not contract with a third party to perform management services would no longer have been required to provide a statement of account in lieu of a periodic payment book to association members. Beginning January 1, 2021, homeowners' associations and condominium associations would have been required to provide a statement of account to each unit owner or member at least twice a year, at the beginning and the midpoint of the association's fiscal year, and at least monthly if the unit owner or member had a delinquent account. Information that must have been included in the statement was specified. If the association offers the statement of account by electronic means, a unit owner or member was allowed to opt to receive the statement electronically. The bill FAILED in the House Government Committee.

S1337 HOMEOWNERS' ASSOCIATIONS; SOLAR, WATER DEVICES (Mendez)

A homeowners' association could not prohibit the installation of a water saving device or indoor or outdoor water conservation practice. A homeowners' association was authorized to adopt reasonable rules regarding the placement of a solar energy device, or water saving device, or the use of a water conservation practice, if the rules did not prevent the installation of the device or impair the functioning of the device. The association was required to provide written notice to members of any such rules adopted. The Senate never heard the bill in COW.

S1412 HOMEOWNERS' ASSOCIATIONS; POLITICAL; COMMUNITY ACTIVITY (D. Farnsworth)

Condominium associations and planned community associations could not prohibit or unreasonably restrict a unit owner or member's ability to peacefully assemble and use private or common elements of the community if done in compliance with reasonable restrictions for the use of that property adopted by the board of directors. An individual unit owner or member or a group of unit owners or members were permitted to organize to discuss or address association business, including board elections or recalls, potential or actual ballot issues or revisions to the community documents, property maintenance or safety issues or any other association business or actions. A unit owner or member was allowed to invite a political candidate or other non-unit owner guest to speak to an assembly of unit owners or members. For the purpose of the prohibition on condominium associations and planned community associations prohibiting the display of a political sign, the definition of "political sign" was expanded to include a sign regarding any activity to elect or remove association directors or to circulate or oppose petitions for actions in the association or in support of or opposition to association ballot measures or other questions. The House Rules Committee did not hear the bill.

H2027 HOMEOWNERS' ASSOCIATIONS; EVAPORATIVE COOLERS (Fillmore)

A homeowners' association could not prohibit the installation of an evaporative cooler that was designed primarily for use as a residential cooling device. The House Commerce Committee Chairman never heard the bill.

H2059 HOMEOWNERS' ASSOCIATIONS; BILLING STATEMENTS; WAIVER (Kavanagh)

If there was no amount due or if a unit owner or member provided written notice to a condo association or homeowners' association (HOA) that the unit owner or member waived the right to receive account statements, the HOA was not required to provide statements. A unit owner or member was allowed reinstate the right to receive statements by providing written notice to the HOA. The House Government Committee FAILED to pass the bill.

H2279 CONDOMINIUMS; PLANNED COMMUNITIES; WRITE-IN CANDIDATES (D. Hernandez)

The board of directors of a condominium association or planned community association was required to provide for and accept write-in candidates for election to any position on the board, other than for a director appointed by the declarant. The House Elections Committee Chairman held the bill preventing it from having a hearing.

H2483 HOAS; MEETING TECHNOLOGY; VOTING RIGHTS (Carroll)

The bill contained various changes to statutes regulating meetings of the board of directors of a condo association or homeowners' association (HOA). A quorum of the HOA board of directors was permitted to meet by electronic or digital means if an electronic or digital device was available in the meeting room that allowed board members and HOA members to hear all parties who were speaking during the meeting. Absentee ballots for HOA elections could have been delivered and returned by electronic or digital means. If an online voting system was used, it needed to include specified capabilities, including authentication of the unit owner's identity and storage of electronic votes for recount, inspection and review. An HOA could have suspended a member's voting rights or eligibility for membership on the board of directors only if the member failed to pay one or more assessments. The House Government Committee held the bill at the sponsor's urging.

H2651 HOA; RENTAL INFORMATION; VIOLATION; PENALTY (Kavanagh)

If a unit owner or member or their agent failed to disclose to a condo association or planned community association tenant information as required by statute, the tenancy was presumed to be in violation, and the association was authorized to impose a monetary penalty on the unit owner or member in the full amount of the monies paid by the tenant. The prohibition on an association imposing a fee greater than \$15 for incomplete or late information was deleted. The bill FAILED to pass the House on Third Read.

Monitored Bills Passed by the Legislature and Signed by the Governor

S1096 PROPERTY MANAGEMENT RECORDS; RESIDENTIAL RECORDS (Pace)

For the purpose of a statute requiring property management firms to keep residential rental agreements and related documents for one year from the expiration of the rental agreement or

until the rental agreement and related documents are given to the owner at the termination of any property management agreement, "related documents" is defined to include copies of the rental applications with tenant-identifying information, move-in forms, and default notices. If a broker keeps records at an "off-site storage location" (defined), the broker is required to provide to the State Real Estate Department prior written notification and the street address of the off-site storage location.

Monitored Bills Failed by the Legislature or Vetoed by the Governor

H2085 WRITS OF GARNISHMENT; ATTORNEY FEES (J. Allen)

Accrued attorney fees, including fees for garnishment, if allowed by a judgment or contract, were added to the amount that could be included in a writ of garnishment. The Senate Judiciary Committee Chairman held the bill.

H2445 RIGHT TO REDEEM; LIEN; SALE (Kern)

A real property tax lien could not be redeemed after the entry of a judgment of foreclosing the right to redeem. When the court enters judgment foreclosing the right to redeem, the court must direct the county treasurer to sell the property and deliver the deed to the purchaser after the purchaser pays, instead of to deliver the deed to the party in whose favor the judgment was entered. The foreclosure of the right to redeem does not extinguish the property owner's or another lienholder's interest in the surplus proceeds from the sale of the property. The treasurer is required to sell the property at public auction. An auction must be held within 6 months after the entry of a judgment foreclosing the right to redeem. Requirements for notice of the auction and conducting the auction are established, including requiring the county treasurer to set the minimum bid at the property's limited cash value. After deducting and distributing interest, penalties, fees and costs charged against the parcel, the county treasurer is required to post a public list of the remaining monies that any party that had a legal interest in the property before the judgment foreclosing the right to redeem or the issuance of the tax deed to this state may claim. The county treasurer is required to continuously post a list of properties sold in the past five years in the treasurer's office and on the treasurer's official website. After receiving full payment for the property, the county treasurer is required to notify by mail the former property owner and any person with a recorded interest in the property, and information that must be included in the notice is listed. Any portion of the surplus monies that remains unclaimed after five years must be treated as unclaimed property. The House did not consider the bill for Third Read.

H2485 PARKED VEHICLES BLOCKING SIDEWALK; PROHIBITION (Carroll)

The prohibition against a person stopping, standing or parking a vehicle on a sidewalk was to be amended to include stopping, standing or parking a vehicle so that any part of or attachment to the vehicle that blocks an area of a sidewalk, and impedes continuous pedestrian use of the sidewalk, in a manner that is not consistent with the Americans with Disabilities Act. The Senate Transportation and Public Safety Committee Chairman did not hear the bill.

Conclusion

AACM successfully navigated another Legislative Session by ensuring that it was at the forefront of HOA policy discussions. As a continued resource for Arizona's elected officials, AACM is continually sought out for its expertise in the industry. Consultation with AACM has assisted legislators in developing common sense policy to better the industry and the customers we serve. Once again, AACM successfully advocated for the freedom to contract, local nongovernmental control and private property rights, and continues to speak as the "Voice of Reason" at the Arizona State Capitol.