

**Arizona Association of Community Managers
2018 Final Legislative Session Report**



**Prepared by Veridus LLC
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General Session Overview

The 53rd Arizona Legislature, Second Regular Session adjourned Sine Die on Wednesday, May 4, 2018, at 12:26am. This session, lawmakers introduced 1,206 bills and 122 memorials & resolutions. After the dust settled, 369 bills received final passage – 346 of which were signed into law. There were 23 vetoes. The effective date for all non-emergency measures is August 3rd, 2018. The bills containing an emergency clause take effect immediately upon signature.

This was the session that educators painted the Arizona Capitol red. Tens of thousands of teachers, education advocates and allies descended on the Capitol as part of the sweeping “Red for Ed” movement. The campaign culminated with a 6-day teacher walkout, which closed the overwhelming majority of public schools across Arizona. Ultimately, Governor Doug Ducey and legislators coalesced around the Governor’s 20x2020 plan providing Arizona teachers with a [20 percent pay raise by the 2020 school year](#).

The education package the Governor ultimately signed into law, concluding the strike, was virtually identical to what he had initially proposed – leading some to wonder what the weeklong walkout had achieved.

This session was not all education rancor. In January, the Governor called the Legislature into a Special Session to act on his [Arizona Opioid Epidemic Act](#). The measure passed unanimously and was swiftly signed by Governor Ducey, making it the first bill to become law in 2018.

Then, there were those matters that did not get addressed this session - most notably, water and school safety. Primarily incentivized by the increasing likelihood of a drought declaration on the Colorado River, which would result in a cutback to Arizona users’ allotments, this session the Governor sought an omnibus overhaul of Arizona’s water policies. After months of debate between the Governor’s office, Legislature and stakeholders, the effort ended in a stalemate. The Arizona Department of Water Resources and the Central Arizona Water Conservation District recently jointly announced a commitment to working out many of the issues left unaddressed, so expect action next session if not sooner. Meanwhile, the Governor’s [major school safety initiative](#) – whose fate had been touch-and-go from the beginning – ultimately could not muster the votes to pass.

All eyes now turn to the elections this fall, with each statewide office and all 90 legislative seats on the ballot.

Industry Overview

Prior to this legislative session there were numerous bills being discussed that could have impacted the community management industry, however, AACM’s lobbying efforts were successful in limiting the introduction of many bills. This was likely due in part to extensive education efforts conducted with legislators to make them aware of the pitfalls of many issues being circulated. In the end, there were nine bills that were tracked as having a direct impact on homeowners’ associations and the community management industry. Of the nine priority bills, only one was successfully passed by the Legislature and signed by the Governor, and the remaining eight failed to pass the Legislature. The single bill signed into law impacts condominium communities that are having their condominium agreements terminated. AACM provided technical expertise on the bill but never registered an official position as it was determined to have minimal impact on the operations of community managers. Finally, multiple bills

were monitored by AACM for amendments detrimental to the industry, but no direct engagement was eventually required.

Priority Bills Passed by the Legislature and Signed by the Governor

H2262: CONDOMINIUMS; TERMINATION; APPRAISALS (Toma R-22)

HB2262 modifies statutes related to the termination of condominium associations. This bill provides for an individual unit owner to disapprove of an independent appraisal. A determination of fair market value of a condominium unit as determined by an independent appraiser selected by the condominium association becomes final unless disapproved by the unit owner within 60 days. A unit owner is authorized to obtain a second independent appraisal at the unit owner's expense and if the total amount of compensation owed as determined by the second appraiser is less than five percent, the higher appraisal is final. If the second appraisal is more than five percent higher than the amount determined by the association's appraiser, the unit owner must submit to arbitration at the association's expense and the arbitration amount is the final sale amount. Finally, this legislation establishes a unit owner receives an additional five percent of the final sale amount for relocation costs for owner-occupied units.

Priority Bills Failed by the Legislature

H2308: HOAS; IMPROVEMENT DISTRICTS; ZONING (Bowers R-25)

Under the provisions of this bill, counties and municipalities would no longer be prohibited from requiring as part of a subdivision approval or regulation or a zoning ordinance that a subdivider or developer establish a homeowner's association, and were instead required to provide for the establishment of single-family residential property developments that do not include property held in common ownership and that are required to be included in an improvement district for the limited purpose of owning, operating and maintaining any detention and retention basins, landscaping, open spaces, parks, entryways, street rights-of-way, recreational facilities and other improvements for the benefit of the private property owners within the development and the improvement district. The bill does not prohibit a subdivider or developer from obtaining approval for a residential property development that does not include property held in common ownership without an improvement district. NEVER HEARD IN HOUSE COMMITTEE.

H2530: HOA; DECLARANT CONTROL; CONFLICTS (Campbell R-1)

This bill would have prohibited persons who have either a specified business or familial relationship with the declarant or who have the appearance of a conflict of interest due to specified real estate activities in the community from serving on the board of directors of a homeowners' association after the period of declarant control. NEVER HEARD IN HOUSE COMMITTEE.

H2540: HOAs; RADAR GUNS; CERTIFICATION (Townsend R-16)

Under HB2540, a homeowners' association would have been prohibited from using a doppler radar unit or other speed enforcement tool to detect a violation of statutory speed restrictions or of a city or town ordinance unless the radar or tool was properly calibrated by a licensed facility and the results were submitted to the Arizona Peace Officer Standards and Training Board, the operator of the unit or tool had at least 10 hours of training on its proper use, and the speed detected was at least 10 miles per hour above the posted speed limit. DEFEATED IN HOUSE COMMITTEE WITH 3-4 VOTE.

H2609: HOAs; ASSESSMENTS; FORECLOSURES (Mosley R-5)

This legislation would have required a lien on a unit in a condominium association or homeowner's association been enforced first by a civil action for the amount owed, and on entry of judgement, by proper execution of a garnishment of monies or property, and the HOA could have foreclosed on the property only on any failure to recover the full amount of the assessments owed by way of the execution of the writ of garnishment. PLACED ON HOUSE COMMITTEE AGENDA, BUT HELD IN HOUSE COMMITTEE.

S1012: PRIVATE PROCESS SERVERS; AUTHORITY (Kavanagh R-23)

This bill was similar to bills on the same topic seen in previous years. Under this legislation, a duly appointed or certified private process server, who was attempting to serve or while serving process, would have been authorized to enter and remain on real property, and to enter unannounced and remain in a planned community or condo association that was guarded or gated. In working with the chair of the committee to which this bill was assigned, we were able to determine early in session that this bill would not be brought before the committee. NEVER HEARD IN SENATE COMMITTEE.

S1080: HOMEOWNERS' ASSOCIATIONS; FORECLOSURES; ASSESSMENTS (Kavanagh R-23)

This bill would have allowed a lien on a unit in a condominium association or homeowner's association to be foreclosed only if the owner had been delinquent in the payment of monies secured by the lien for a period of six months, instead of for one year, or \$1,200 or more, whichever occurred first. This bill received a substantial amount of negative media coverage and was "killed" by the sponsor early in session. NEVER HEARD IN SENATE COMMITTEE.

S1495: CONDO; PLANNED COMMUNITIES; MEETINGS (Griffin R-14)

According to this bill, the annual meeting of a condominium association or planned community association (HOA) would have been required to include the election of HOA board members and any other business of the HOA, and must have provided the members or unit owners an opportunity to address the HOA board according to timeframes set by the members. An HOA in violation of meeting requirements was liable in a civil action for damages of \$500 for each violation. The bill contained other provisions related to the amendment of the duration of declarant control. HEARD IN SENATE COMMITTEE, BUT HELD BEFORE TAKING A VOTE.

S1084: CONDO; TERMINATION; APPRAISAL DISPUTE (Barto R-15)

As introduced, this bill was similar to H2262 (described above). The sponsors of the two bills agreed to move H2262 forward and it became the primary bill for the issue. S1084 continued through the process, but was eventually amended with a Strike Everything Amendment to change the purpose to the incorporation of cities and town. The goal of the proposal became a mechanism to resolve an incorporation dispute in the San Tan Valley. The interested parties were unable to find a compromise. NOT HEARD IN HOUSE COMMITTEE OF THE WHOLE.

Monitored Bills To Be Aware Of Passed by the Legislature and Signed by the Governor

S1043: COUNTY RECORDER; RECORDING FEES (Kavanagh R-23)

This bill modifies the fees received by the county recorder. \$30 for recording papers required or authorized by law, changed from \$5 for the first five pages plus \$1 for each additional page. Also, \$15 for recording papers to which a government entity is the requesting party, changed from \$3 for the first five pages plus \$0.50 for each additional page. Previously separated fees are eliminated.

Monitored Bills To Be Aware Of Failed by the Legislature

S1387: HOME-BASED BUSINESSES; LOCAL REGULATIONS (Griffin R-14)

Originally, H2223 HOME-BASED BUSINESSES; LOCAL REGULATION (Weninger R-17)

Under this bill, the use of a residential dwelling for a home-based business would have been a permitted use, except that this permission did not supersede any deed restriction, covenant or agreement restricting the use of land, or any master deed, bylaw or other document applicable to a common interest ownership community. A county or municipality could not prohibit the operation of a no-impact "home-based business" (defined) or otherwise require a person to apply for or obtain any permit, license or other prior approval to operate a no-impact home-based business. Also, this bill established a list of factors that qualify a residential property for use as a no-impact home-based business. Counties and municipalities would have been permitted to establish reasonable regulations on a home-based business if the regulations are tailored for specified purposes, including protecting public health and safety.

Conclusion

This session was exceptionally successful for AACM as the status quo for the industry was maintained. While a substantial amount of bills were being discussed prior to session, through our educational efforts, few legislators were willing to sponsor bills that could have hurt Arizona's homeowners and the community management industry. AACM successfully advocated for the freedom to contract, local nongovernmental control, and private property rights. Additionally, each year AACM continues to see an increase in legislators reaching out to our lobbying team for input on legislation, or to seek input on bills and issues before them. This is fulfilling our goal to be the "Voice of Reason" at the Arizona State Capitol. With the likely influx of new legislators after this election season, AACM will need to meet and educate new law makers to maintain the status we have achieved.