2019 End of Session Report

Community Associations Institute’s (CAI) Arizona Legislative Action Committee (AZ LAC) was busy this session tracking and advocating legislation introduced in the Arizona Legislature. CAI members volunteered hundreds of collective hours to review bills, draft testimony, work with the LAC’s lobbyists, meet with legislators and other decision-makers, and testify for and against bills. More than 1,400 bills were introduced, and over 340 were enacted. The LAC reviewed 20 bills that directly or indirectly impacted community associations. Below is a brief list of highlights from the 2019 Legislative Session.

Bills that Passed with Specific Impact on CAI Members

H2230: WRIT OF GARNISHMENT; CERTIFIED MAIL
Service of a writ of garnishment may be made by certified mail, return receipt requested. Service of a writ of garnishment on any banking corporation or association, savings bank, savings and loan association, or credit union may also be made by certified mail, return receipt requested, at the garnishee’s regular place of business, or to the garnishee’s statutory agent or at a location that is designated by the garnishee. If served by certified mail, the effective date of service is the date of receipt by the garnishee or the garnishee’s statutory agent. AS SIGNED BY GOVERNOR.
Final Version of Bill

H2672: VACATION RENTALS; SHORT-TERM RENTALS; REGULATION
The list of purposes for which counties and municipalities are permitted to regulate vacation rentals and short-term rentals is expanded to include requiring the owner 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 the vacation rental or short-term rental. Counties and municipalities are required to notify the Department of Revenue and the property owner of “verified violations” (defined) of the county’s or municipality’s applicable laws and regulations within 30 days of a verified violation. If the owner of a vacation rental or short-term rental has provided contact information to a county or municipality, and if the county or municipality issues a citation for a violation of applicable laws, regulations or ordinances or a state law that occurred on the owner’s vacation rental or short-term rental property, the county or municipality is required to make a reasonable attempt to notify the owner or the owner’s designee of the citation within seven business days after the citation is issued. Vacation rentals and short-term rentals are prohibited from being used for nonresidential uses, including for a special event that would otherwise require a permit or license or for a retail, restaurant, banquet space or other similar use. An online lodging operator is prohibited from offering for rent or renting a lodging accommodation without a current transaction privilege tax license. The online lodging operator is required to list the transaction privilege tax license number on each advertisement for each lodging accommodation the online lodging operator maintains, including online lodging marketplace postings. Establishes penalties for violations. If there is a legitimate business need relating to enforcing laws, regulations and ordinances, a county or municipal tax official is authorized to redisclose transaction privilege tax information relating to a vacation rental or short-term rental property owner or online lodging operator from the new license report and license update report, subject to a list of specified requirements. AS PASSED SENATE.
Final Version of Bill
S1094: PLANNED COMMUNITIES; APPLICABILITY
Statute regulating planned communities does not apply to a nonprofit corporation or unincorporated association of owners that is 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. Contains a legislative intent section. Retroactive to July 17, 1994. Severability clause. AS SIGNED BY GOVERNOR.
Final Version of Bill

S1271: PURCHASER DWELLING ACTIONS; NOTICE; COMPLAINTS
Various changes relating to dwelling actions filed by a purchaser. A seller who receives a written notice of the basis of a dwelling action is required to forward a copy of the notice by certified mail, return receipt requested, to the last known address of each construction professional who the seller reasonably believes is responsible for an alleged defect that is specified in the notice. The seller’s construction professional is added to the process for the right to repair and replace a construction defect. Subject to Arizona rules of court, the identified construction professionals must be joined as third-party defendants, if feasible. Subject to Arizona rules of court, for each construction defect found to exist, the trier of fact in any dwelling action is required to first determine if a construction defect exists and the amount of damages caused by the defect and identify each seller or construction professional whose conduct may have caused, in whole or in part, any construction defect. The purchaser has the burden of proof to demonstrate the existence of a construction defect and the amount of damages caused. The trier of fact is required to determine the relative degree of fault of any defendant or third-party defendant and is required to allocate the pro rata share of liability based on relative degree of fault. The seller has the burden to prove the pro rata share of liability of any third-party defendant. The determination of whether a construction defect exists, the amount of damages caused by the defect, and who may have caused the construction defect must be bifurcated from and take place in a separate phase of the trial or alternative dispute resolution process from the determination of the relative degree of fault of any defendant or third-party defendant, unless the court finds that bifurcation is not appropriate. In a contested dwelling action, the court or tribunal is authorized to award the prevailing party reasonable attorney fees and taxable costs. An award of attorney fees is limited to the amount of fees actually and reasonably incurred with respect to the contested issue and factors the court or tribunal must consider when determining whether the fees are reasonable are listed. Also, a covenant, clause or understanding in, collateral to or affecting a "construction contract" or "architect-engineer professional service contract" (both defined) involving a dwelling that purports to insure, to indemnify or to hold harmless the promise from or against liability for loss or damage is against the public policy of this state and is void to the extent that it purports to do so. Some exceptions. Retroactive to July 1, 2019, the repeal date of the Construction Liability Apportionment Study Committee is moved to October 1, 2020, from July 1, 2019. AS SIGNED BY GOVERNOR.
Final Version of Bill

S1397: REGISTRAR OF CONTRACTORS OMNIBUS
Various changes to statutes relating to the Registrar of Contractors (ROC) and the regulation of licensed contractors. The list of persons not required to be licensed as a contractor is modified. A joint venture or other combination of persons or organizations is not required to obtain a separate contractor’s license in its own name if at least one member holds a contractor’s license in good standing with the ROC and other specified conditions are met. While engaged as the qualifying party for a licensee, the qualifying party is responsible for
any violation of ROC statutes by the licensee. If a person who qualified for a license ceases to be connected with the licensee, both the licensee and the qualifying party are required to notify the ROC in writing within 15 days after the disassociation. The licensee must requalify through another person within 60 days after the date of a disassociation or the license is automatically suspended by operation of law until the licensee qualifies through another person. A person applying for a contractor license or for renewal of a contractor license to engage in residential contracting is required to pay an assessment of up to $600 during the biennial license period for deposit in the Residential Contractors’ Recovery Fund (RCR Fund). Statute governing eligibility for awards from the RCR Fund are repealed and replaced. An award from the RCR Fund is limited to residential real properties. The RCR Fund 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. An action for a judgment that may subsequently result in an order for collection from the RCR Fund cannot be commenced later than two years after the date of the commission of the act by the contractor that is the cause of the injury or from the date of occupancy. If a contractor license has been revoked or suspended as a result of an order to remedy a violation of statute, the ROC is permitted to order payment from the RCR Fund to remedy the violation. The ROC is authorized to issue cease and desist orders or a citation for contracting practicing or transacting that constitutes a violation of statute or rule. Establishes civil penalties for violations. Contains a legislative intent section. 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. AS SIGNED BY GOVERNOR. In his signing statement, the Governor expressed his belief that a balance between the responsibilities of contractors and consumers should be maintained in relation to prompt pay, and his expectation that any language to change that balance be construed as narrowly as possible.

Final Version of Bill

S1531: HOAS; ASSESSMENTS; COSTS
Various changes relating to condo associations and planned community associations (HOAs). A lien for unpaid HOA assessments is extinguished unless proceedings to enforce the lien are instituted within six years, increased from three years, after the full amount of the assessments becomes due. For a delinquent account for unpaid assessments or for charges related to unpaid assessments, the HOA is required to provide a specified 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. AS SIGNED BY GOVERNOR.

Final Version of Bill

CAI AZ LAC Monitored the Following Bills That May Impact CAI Members - Bills Passed

H2146: CONTRACTS; LICENSURE REQUIREMENTS; WAIVER; APPLICABILITY
In a contract between two or more private parties, the parties are authorized to agree to waive any state, county or municipal laws relating to licensure, certification, registration or other authorization if a list of specified conditions applies. There are some exceptions, including for health professions and any regulated practice of law.

Current Version of Bill
H2117: DEVELOPMENTAL HOMES; MONITORING
A service provider that operates a group home or an intermediate care facility for persons with an intellectual disability is permitted to install, oversee and monitor "electronic monitoring devices" (defined) in common areas, including hallways, of the group home or facility. The Department of Health Services is required to adopt rules regarding the use of electronic monitoring in group homes and intermediate care facilities, and provisions that must be included in the rules are listed, including public disclosure of the device. A service provider that uses an electronic monitoring device before the effective date of this legislation is required to establish policies consistent with the rules and to submit the policies to the Dept within 90 days after the rules are adopted. AS PASSED HOUSE.
Final Version of Bill

H2179: VIDEO SERVICE PROVIDERS
A video service provider is included in the definition of "cable operator" for the purpose of the transaction privilege taxes. Various statutes regulating and relating to cable operators and licensed cable television systems are expanded to include video service providers and licensed video service networks, including various public utility regulations, use of public streets for utility right of ways, utility relocation cost reimbursement, and the prohibition against fraudulently obtaining video services. AS SIGNED BY GOVERNOR.
Final Version of Bill

H2181: REGISTRAR OF CONTRACTORS; LICENSING; EXEMPTION
The list of persons exempt from licensure and regulation as a registered contractor is expanded to include cable television, satellite television and telecommunications providers and their contractors and subcontractors if the work is limited to installing low-voltage cable, telephone services, internet services and data service. For the purpose of this exemption, installation does not include digging, trenching, grading, horizontal boring, compacting or filling earthen or other material before the service drop of the commercial or residential structure. AS SIGNED BY GOVERNOR.
Final Version of Bill

H2443: PROPERTY DISCLOSURE AFFIDAVIT; ADJUDICATION CLAIM
Modifies the affidavit of disclosure that a seller of five or fewer parcels of land in an unincorporated area of a county is required to furnish to a buyer by requiring the seller to check whether the property or the water used on the property "is" or "is not" the subject of a statement of claim for the use of water in a general adjudication of water rights, or if it is "unknown." AS SIGNED BY GOVERNOR.
Final Version of Bill

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, instead of only a dwelling unit in a common interest development. AS SIGNED BY GOVERNOR.
Final Version of Bill

H2485: REAL PROPERTY DISCLOSURE; SOLAR; DISPOSAL
Modifies the affidavit of disclosure that a seller of five or fewer parcels of land in an unincorporated area of a county is required to furnish to a buyer by requiring the seller to check whether the property "does have" or "does not have" one or more solar energy devices, to check whether the solar energy devices are "leased" or "owned," and stating that if the property contains the solar energy devices, it is the buyer's responsibility to verify the proper replacement and disposal method for the devices, as applicable. If the devices are leased,
the seller is also required to disclose the name and contact information of the leasing company. AS SIGNED BY GOVERNOR.

Final Version of Bill

H2687: CONDOMINIUMS; TERMINATIONS; APPRAISALS
Modifies statutes relating to termination of condominium procedures. At least 30 days before recording a termination agreement, the board of directors of the condo association are required to convene a meeting at which a person to entity that purports to have the agreement of at least 80 percent of the votes in the association must produce and make available to the unit owners copies of a signed notarized statement that the owner or a unit has executed a termination agreement. The person or entity is required to produce copies of a statement for each unit owner who has agreed to the termination or is permitted to produce the signed termination agreement that includes a sufficient number of unit owners. Any meeting called for this purpose is required to be noticed as otherwise provided by law, except that the board cannot take action by written consent or any other method that does not provide for an actual meeting that is open to all unit owners. Any termination agreement that is recorded without full compliance with statutory termination procedures is invalid. The respective interest of unit owners is modified to include their pro rata share of any monies in the association’s reserve fund and the operating account. 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. Also makes identical changes to Laws 2018, Chapter 235 and repeals that legislation. AS PASSED HOUSE.

Final Version of Bill

S1033: PROPERTY TAX STATEMENTS; MORTGAGED PROPERTY
The county treasurer is required to mail a statement of property taxes due on a mortgaged property to the mortgagor, instead of being required to do so on request. If a mortgagee requests a statement of taxes due on a mortgaged property, the county treasurer is allowed to send the statement in any form. AS SIGNED BY GOVERNOR.

Final Version of Bill

S1235: POSSESSORY IMPROVEMENTS; GOVERNMENT PROPERTY; ASSESSMENT
Various changes relating to "possession improvements" (defined). The assessor is required to use standard appraisal methods and techniques to value possession improvements. The limited property value of possession improvements must be calculated using the statutory limitation on valuation increases and is not subject to the exemption for personal property. Ownership of improvements on government property is considered sufficient security for the payment of taxes and may be placed on the real property roll. If the tax on any possession improvement remains unpaid at the date set for selling the real property tax lien, the assessment and any interest, penalties and costs is subject to procedures for delinquent taxes as real property. Repeals statute exempting a dwelling on possession rights that is taxed as personal property from seizure or sale for delinquent taxes as personal property. Does not alter the definition of or the characteristics used to determine ownership under applicable law. AS PASSED HOUSE.

Final Version of Bill

S1333: REAL ESTATE APPRAISAL
The county treasurer is required to mail a statement of property taxes due on a mortgaged property to the mortgagor, instead of being required to do so on request. If a mortgagee requests a statement of taxes due on a mortgaged property, the county treasurer is allowed to send the statement in any form. AS SIGNED BY GOVERNOR.
Bills that Did Not Pass

H2031 APPRENTICESHIPS; LICENSURE; LICENSING AUTHORITIES
Unless other cause for denial of a license exists, a "licensing authority" (defined) is required to grant a license to an applicant who possess a high school or general equivalency diploma, completes an "apprenticeship" (defined) program that requires the applicant to learn the skills and knowledge relevant to the profession under the direct supervision and instruction of a licensed professional, passes any required licensing examination, and pays the required fees. Each licensing authority is required to determine the duration of an apprenticeship for that profession. Each licensing authority is required to require an apprentice to register and establish fees for registration. An apprentice is authorized to engage in acts that require licensure under the direct supervision and instruction of a license professional, except that the licensing authority may set limits on the apprentice’s practice as are reasonably necessary to protect public health, safety and welfare. Does not require licensing authorities to establish an apprenticeship program.

Current Version of Bill

H2087: INVESTOR-OWNED SHORT-TERM RENTALS; LOCAL REGULATION
The list of purposes for which municipalities and counties may regulate vacation rentals or short-term rentals is expanded to include ensuring that "investor-owned" (defined) vacation rentals or short-term rentals comply with residential use and zoning ordinances if the ordinances are applied in the same manner as other property classified as class 3 or class 4 property for property tax purposes.

Current Version of Bill

H2138: HOMEOWNERS' ASSOCIATIONS; EVAPORATIVE COOLERS
A homeowners' association cannot prohibit the installation of an evaporative cooler that is designed primarily for use as a residential cooling device.

Current Version of Bill

H2141: PURCHASER DWELLING ACTIONS; PROCEDURES; COST
Various changes relating to dwelling actions filed by a purchaser. The permitted responses by the seller when a purchaser gives written notice of the basis of a dwelling action are modified. The purchaser is required to respond within 30 days after receiving the seller’s response. Negotiations or offers involving monetary compensation are inadmissible in any dwelling action. The procedure for supplementing the list of alleged construction defects is modified. In a contested dwelling action filed either after the seller did not provide a written response or after the seller responded, the court is authorized to award the successful party reasonable attorney fees, expert witness fees and taxable costs. In a contested dwelling action that is filed by a purchaser after a seller completed repairs, the court is required to award the successful purchaser reasonable attorney fees, expert witness fees and taxable costs. The seller is prohibited from being reimbursed for the cost of an investigation or repair that the seller performed during a dwelling action procedure.

Current Version of Bill

H2515: MOBILE HOME PARKS; ABANDONMENT
If a tenant abandons a mobile home unit on a mobile home space, the landlord is permitted, instead of required, to notify the owner of record and lienholder of record of their liability for any costs incurred by the landlord for the mobile home space for that mobile home unit. A landlord's lien attaches to a mobile home
when it is placed on the rental premises and extends to a list of specified costs. The lien is not affected by any transfer of the mobile home and remains on the mobile home if removed from the rental premises without paying the lien. The lien does not apply to the tenant's household goods. After a mobile home has been abandoned, the landlord is permitted to notify the owner of record and lienholder of record that the landlord has terminated any right to keep the home on the space and demand payment of monies due to the landlord for rent and utilities. If all monies owed are not paid in full within 72 days after the notice is sent, the landlord may foreclose the lien and sell the mobile home. If a sale is held, the landlord is required to distribute the proceeds of the sale to specified persons in a specified order.

Current Version of Bill
Strike Everything Amendment

H2534: REZONING PROTESTS; MUNICIPAL ZONING
Clarifies that the group of persons authorized to file a protest in writing against a municipal rezoning, which triggers a requirement for the rezoning to obtain a 3/4 vote of the municipal governing body for passage, is the owners of 20 percent or more of the property by area and number of lots, tracts and condominium units either within the area of the proposed change or the area within 150 feet of the proposed change, including all rights of way.

Current Version of Bill

H2546: ANTIDISCRIMINATION EMPLOYMENT; HOUSING; PUBLIC ACCOMMODATIONS
The list of attributes for which a person cannot be discriminated against in employment practices, various housing related statutes, and in places of public accommodation is expanded to include "sexual orientation" and "gender identity" (both defined).

Current Version of Bill

H2585: CONDOMINIUMS, PLANNED COMMUNITIES; WRITE-IN CANDIDATES
The board of directors of a condominium association or planned community association is 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.

Current Version of Bill

H2637: CONDOMINIUM, HOMEOWNERS' ASSOCIATIONS; LIEN PRIORITY
A recorded first mortgage, a seller’s interest in a first contract for sale recorded prior to the lien and a recorded first deed of trust on a unit in a condominium association or planned community association (HOA) no longer have priority over a lien for HOA assessments, charges for late payment of assessments, reasonable collection fees and reasonable attorney fees and costs incurred with respect to those assessments.

Current Version of Bill

H2728: SHORT-TERM RENTALS; REGULATION
The list of ways in which counties and municipalities are permitted to regulate short-term rentals is expanded to include in the same manner as a business that is subject to a transient lodging classification of transaction privilege taxes. Does not subject the activities of an online lodging marketplace to the transient lodging classification.

Current Version of Bill

S1031: REGISTRAR OF CONTRACTORS; ARBITRATION; REPEAL
Repeals statute allowing the Registrar of Contractors to refer to arbitration a complaint disputing the
Registrar’s corrective work order if the cost of repairs is five thousand dollars or less.

Current Version of Bill

S1249: ANTIDISCRIMINATION; EMPLOYMENT; HOUSING; PUBLIC ACCOMMODATIONS
The list of attributes for which a person cannot be discriminated against in employment practices, various housing related statutes, and in places of public accommodation is expanded to include “sexual orientation” and “gender identity” (both defined).
Current Version of Bill
See mirror bill: H2546

S1480: CONDOMINIUMS, HOMEOWNERS’ ASSOCIATIONS; DECLARATION AMENDMENTS
Various changes relating to condominium associations and planned community homeowners’ associations. If there has been a material change to the plan under which a subdivision is offered for sale or lease and an amendment to the public report is required, after units or parcels have been sold or leased to anyone other than the subdivider or its subsidiaries, the subdivider is required to obtain written consent to the proposed amendment to the public report from all current owners or lessees before submitting the amendment to the State Real Estate Commissioner for review and approval if a list of specified conditions exist. An amendment to a declaration is permitted to apply to fewer than all of the units or less than all of the property that is bound by the declaration, and such an amendment is deemed to conform to the general design and plan of the community, if specified conditions apply. Increases the statute of limitations for an action to challenge the validity of an amendment adopted by the association to four years after the amendment is recorded, from one year, with some exceptions. While under the period of declarant control, the voting powers that are specified in the declaration are maintained and an amendment cannot be proposed without the written consent of the declarant. Establishes a list of actions that an amendment to a declaration cannot take without unanimous consent of the community members.
Current Version of Bill

S1544 WATER CONSERVATION; LANDSCAPING; RENT; NOTICE
Any covenant, restriction or condition contained in any deed, contract, security agreement or other instrument affecting the transfer or sale of real property that effectively prohibits the installation or use of a water saving device or indoor or outdoor water conservation practice is void and unenforceable. HOAs cannot prohibit a water saving device or indoor or outdoor water conservation practice. Also, before a tenant's lease terminates, a landlord is required to give written notice to the tenant of an increase in rent. At least 30 days’ notice is required for a rent increase of 10 percent of less, and at least 60 days’ notice is required for a rent increase of more than 10 percent.
Current Version of Bill

For more information on the AZ LAC’s activities and community association legislation in Arizona, visit www.caionline.org/AZLAC.

Your Assistance is Needed

The CAI Arizona LAC may rely on professional lobbying as a vital and integral part of the legislative process. As volunteers, CAI AZ LAC members including homeowner leaders, community managers, and business partners, significantly rely on this highly effective professional representation. In addition to contributions from management companies and business partners, the CAI AZ LAC needs your financial support to bolster their advocacy activities in 2019 and beyond. We encourage donations from Arizona community associations and
individuals. Please visit www.caionline.org/lacdonate/ and donate to “Arizona” to support our continued efforts.

Arizona Contact Information

- Community Associations Institute Arizona Legislative Action Committee (888) 224-43231
- Community Associations Institute Central Arizona Chapter (602) 388-1159
- Community Associations Institute Southern Arizona Chapter (520) 870-7759