

# THIS WEEK'S NEWS FROM THE CAPITOL

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49th Legislature - 2nd Regular Session, 2010

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### ARIZONA TRUSTEE ASSOCIATION

#### ARIZONA TRUSTEE ASSOCIATION: Bill Summaries

##### H2173: PERSONAL PROPERTY EXEMPTIONS; DEBT COLLECTION

Any household furniture with an aggregate market value of up to \$4,000 is exempt from debt collection. Formerly, only furniture specifically listed in the statute was exempt.

First sponsor: Rep. Crump

H2173 Daily History	Date	Action
PERSONAL PROPERTY EXEMPTIONS; DEBT COLLECTION	1/27	from House gov do pass.
PERSONAL PROPERTY EXEMPTIONS; DEBT COLLECTION	1/26	House gov do pass; report awaited.
PERSONAL PROPERTY EXEMPTIONS; DEBT COLLECTION	1/19	referred to House gov.

##### H2174: POSTJUDGEMENT GARNISHMENT; ATTORNEY'S WRIT

Licensed attorneys may issue a writ of garnishment for \$5,000 or less if a judgment has been entered and the writ meets current statutory requirements. At least 10 days prior to serving the writ, the attorney must serve the debtor notice that a writ may be issued.

First sponsor: Rep. Crump

H2174 Daily History	Date	Action
POSTJUDGEMENT GARNISHMENT; ATTORNEY'S WRIT	1/28	form House jud with amend #4053.
POSTJUDGEMENT GARNISHMENT; ATTORNEY'S WRIT	1/19	referred to House jud.

##### H2236: THEFT BY EXTORTION; TAX LIENS

It is theft by extortion to take or withhold action regarding an alleged claim of easement or other right of access to a servient estate if the claimant's interest in the estate is the result of a tax lien purchase or foreclosure and if the fair market value (defined) is equal to or less than the amount paid by the claimant for the purchase.

First sponsor: Rep. Kavanagh

H2236 Daily History	Date	Action
THEFT BY EXTORTION; TAX LIENS	1/20	referred to House jud.

##### H2237: CIVIL ACTIONS; ATTORNEY FEES; RECOVERY

Statute allowing the court to award reasonable attorney fees to the successful party are expanded to all contested civil actions. Previously, the statute applied only to contested actions arising out of a contract.

First sponsor: Rep. Kavanagh

H2237 Daily History	Date	Action
CIVIL ACTIONS; ATTORNEY FEES; RECOVERY 1/20 referred to House jud.		

## H2244: POSTING OF NOTICES; WEBSITES

Articles of incorporation, articles of amendment, and other corporation filings must be posted on the Corporation Commission's website instead of published. Annual reports of limited liability partnerships must be posted on the Secretary of State's website instead of published. Municipal and county boards or commissions may fulfill public meeting notice requirements by posting a notice on an official website and publishing the website address in the newspaper.

First sponsor: Rep. Biggs

H2244 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

## H2247: PROPERTY TAX APPEALS TO COURT

Language allowing new owners of property to appeal property valuation or legal classification to court is moved to a new section of statute.

First sponsor: Rep. Biggs

H2247 Daily History	Date	Action
PROPERTY TAX APPEALS TO COURT 1/25 from House ways-means do pass.		
PROPERTY TAX APPEALS TO COURT 1/21 House ways-means do pass; report awaited.		
PROPERTY TAX APPEALS TO COURT 1/20 referred to House ways-means.		

## H2302: PUBLICATION OF NOTICES; COMMITTEE

Creates a Committee on Published Public Legal Notices consisting of 10 legislators to examine existing statutes requiring newspaper publication of legal or public notices and submit reports to the Governor and the Legislature on November 30, 2011 and on November 30, 2012. Self-repeals October 1, 2012.

First sponsor: Rep. Crump

Others: Rep. Antenori, Rep. Barto, Rep. Boone, Rep. Burges, Rep. Chabin, Rep. Hendrix, Rep. Jones, Rep. Kavanagh, Rep. Lesko, Rep. Montenegro, Rep. Seel

H2302 Daily History	Date	Action
PUBLICATION OF NOTICES; COMMITTEE 1/26 House gov held.		
PUBLICATION OF NOTICES; COMMITTEE 1/19 referred to House gov.		

## H2309: FORECLOSURE CONSULTANTS

Adds a new article to statute regulating foreclosure consultants (defined). Includes provisions for contracts, right of cancellation, action to recover damages, and enforcement.

First sponsor: Rep. Hendrix

Others: Rep. Reagan

H2309 Daily History	Date	Action
FORECLOSURE CONSULTANTS 1/27 from House com with amend #4042.		
FORECLOSURE CONSULTANTS 1/19 referred to House com.		

## H2316: WHISTLEBLOWER PROTECTIONS; FINANCIAL EMPLOYEES

Financial institutions are prohibited from terminating or discriminating against employees who provide information to a governmental entity, file or testify in a proceeding under consumer law, or refuse to participate in illegal activities. Provides remedies through the Industrial Commission for employees whose rights under this legislation have been violated.

First sponsor: Rep. Patterson

Others: Rep. Chad Campbell, Rep. Cloves Campbell

H2316 Daily History	Date	Action
WHISTLEBLOWER PROTECTIONS; FINANCIAL EMPLOYEES	1/25	referred to House bank-ins.

## H2319: FAMILY LEAVE INSURANCE

The Department of Economic Security is required to establish and administer a family leave insurance program and pay family leave insurance benefits. Provides regulations for the family leave insurance program, including premiums, benefits, claims, and appeals. The program terminates July 1, 2020. Due to a potential increase in state revenue, this bill requires the affirmative vote of at least 2/3 of each house of the Legislature for passage.

First sponsor: Rep. Patterson

Others: Rep. Ableser, Rep. Chad Campbell, Rep. Deschene, Rep. Heinz, Rep. McGuire, Rep. Sinema

H2319 Daily History	Date	Action
FAMILY LEAVE INSURANCE	1/19	referred to House com, appro.

## H2321: FORECLOSED PROPERTIES; MAINTENANCE; ABATEMENT

The power of sale of residential trust property cannot be exercised until after delivery of notice of pending foreclosure to the municipality or county in which the property is located. Upon notice, municipalities and counties may inspect the exterior of a property and send notice to the beneficiary of the deed of trust to remove trash, weeds or dilapidated structures from the property. Trustees must remove or abate the hazard and pay any costs or assessments, and may then proceed with a notice of sale.

First sponsor: Rep. Patterson

Others: Rep. Ableser, Rep. Chad Campbell, Rep. Cloves Campbell, Rep. Chabin, Rep. Deschene, Rep. Farley, Rep. Pancrazi

H2321 Daily History	Date	Action
FORECLOSED PROPERTIES; MAINTENANCE; ABATEMENT	1/19	referred to House gov.

## H2334: COSTS; SUPERIOR COURT; DOCUMENT PREPARATION

Adds the cost of document preparation by a certified legal document preparer to the list of taxable costs in the superior court.

First sponsor: Rep. Ash

Others: Rep. Ableser, Rep. McComish, Rep. Sinema, Sen. Huppenthal

H2334 Daily History	Date	Action
COSTS; SUPERIOR COURT; DOCUMENT PREPARATION	1/25	referred to House jud.

## H2396: HOA; REGISTRATION; DISCLOSURE

Beginning January 1, 2011, homeowners' associations must register with the Secretary of State, and must provide specified information to the Secretary of State instead of recording the information in the office of the county recorder. The Secretary of State must post this information on the website in a form that makes it available to the public.

First sponsor: Rep. Chad Campbell

Others: Rep. Cloves Campbell, Rep. Nichols, Rep. Sinema

H2396 Daily History	Date	Action
HOA; REGISTRATION; DISCLOSURE	1/19	referred to House gov.

#### **H2409: REALTY SALES; IMPACT FEE DISCLOSURE**

An agreement for the purchase of subdivided land must clearly disclose in an itemized list the impact fees, permit fees or other per unit costs on the development and sale of the property that were imposed by the municipality.

First sponsor: Rep. Antenori

Others: Rep. Burges, Rep. Court, Rep. Crump, Rep. Gowan, Rep. Jones, Rep. Kavanagh, Rep. Montenegro, Rep. Seel, Rep. Stevens

H2409 Daily History	Date	Action
REALTY SALES; IMPACT FEE DISCLOSURE	1/19	referred to House gov.

#### **H2458: HOME SALES; WATER SUPPLY DISCLOSURE**

Beginning January 1, 2011, a subdivider selling lots outside an active management area must record with the county recorder a document that contains a statement of water adequacy or inadequacy for that subdivision.

First sponsor: Rep. Ableser

Others: Rep. Ash, Rep. Barnes, Rep. Brown, Rep. Burges, Rep. Chad Campbell, Rep. Chabin, Rep. Farley, Rep. Fleming, Rep. Heinz, Rep. Konopnicki, Rep. Meyer, Rep. Pancrazi, Rep. Patterson, Rep. Schapira, Rep. Sinema, Rep. Tovar, Rep. Waters, Rep. Young Wright

H2458 Daily History	Date	Action
HOME SALES; WATER SUPPLY DISCLOSURE	1/21	referred to House water-energy, com.

#### **H2470: PUBLIC DEFENDER; DUTIES; REIMBURSEMENT**

Public defenders are required to provide legal services, on order of the court, to any person who is entitled to counsel as a matter of law, instead of only a defendant, and who is not financially able to employ counsel. The court is authorized to require parties other than the defendant to repay the county a reasonable amount to reimburse the county for the cost of a public defender.

First sponsor: Rep. Goodale

Others: Rep. Brown, Rep. Burges, Rep. Court, Rep. Driggs, Rep. Gowan, Rep. Jones, Rep. Stevens, Sen. Paton, Sen. Verschoor

H2470 Daily History	Date	Action
PUBLIC DEFENDER; DUTIES; REIMBURSEMENT	1/25	referred to House jud.

#### **H2479: FORECLOSURE DEEDS; BUYER IDENTIFICATION**

If a grantee, purchase or redemptioner of property is a financial institution, corporation, or partnership, the grantee's name, address, and the state and country where the grantee is organized or chartered must be set forth in a sheriff's deed to the property. Within 10 days after the sheriff's deed is executed, the sheriff must record the deed in the office of the county recorder.

First sponsor: Rep. Konopnicki

H2479 Daily History

Date Action

FORECLOSURE DEEDS; BUYER IDENTIFICATION 1/21 referred to House gov.

### **H2509: PROPERTY TAX LIENS; REDEMPTION; FORECLOSURE**

The list of situations under which the person who redeems a tax lien is liable for the lien purchaser's costs is expanded to include redemption after notice of a pending action is recorded.

First sponsor: Rep. Murphy

H2509 Daily History

Date Action

PROPERTY TAX LIENS; REDEMPTION; FORECLOSURE 1/25 from House ways-means with amend #4019.

PROPERTY TAX LIENS; REDEMPTION; FORECLOSURE 1/21 House ways-means amended; report awaited.

PROPERTY TAX LIENS; REDEMPTION; FORECLOSURE 1/19 referred to House ways-means.

### **H2511: MUNICIPAL TAXES; REAL ESTATE FORECLOSURES**

The list of items exempt from municipal sales tax is expanded to include the transfer of property due to foreclosure. Taxes may be imposed on subsequent sales of the property, with gross income for computing the tax calculated using a specified formula.

First sponsor: Rep. Murphy

H2511 Daily History

Date Action

MUNICIPAL TAXES; REAL ESTATE FORECLOSURES 1/25 referred to House ways-means.

### **H2554: FORECLOSURE CONSULTANTS**

Regulates the activities of foreclosure consultants (defined).

First sponsor: Rep. Mason

Others: Rep. Ash, Rep. Heinz

H2554 Daily History

Date Action

FORECLOSURE CONSULTANTS 1/21 referred to House com.

### **H2586: EXECUTION AND ATTACHMENT; EXEMPTIONS**

The list of specific household items exempt from attachment in bankruptcy or other debt-related proceedings is deleted, leaving a total exemption for these items not to exceed \$4,000 in value. The value of categories of personal items (musical instruments, domestic animals, wedding and engagement rings, books, etc.) exempt from process is increased. The list of money benefits exempt from process is expanded to include the full value of tax returns or judgments for personal injury.

First sponsor: Rep. Biggs

H2586 Daily History

Date Action

EXECUTION AND ATTACHMENT; EXEMPTIONS 1/28 referred to House bank-ins.

### **H2593: HEALTHCARE GROUP; SMALL EMPLOYERS; ELIGIBILITY**

If an employer group of 2 or more eligible employees is enrolled in Healthcare Group and subsequently becomes an employer group on one, the employer group may continue to be enrolled in Healthcare Group. Retroactive to September 26, 2008.

First sponsor: Rep. Farley

Others: Rep. Barto, Sen. C. Allen, Sen. Leff

H2593 Daily History

Date Action

HEALTHCARE GROUP; SMALL EMPLOYERS; ELIGIBILITY 1/25 referred to House hel-hu ser, bank-ins.

## H2605: SUBDIVISIONS; ACTING IN CONCERT

Counties and municipalities must waive platting requirements for any subdivision with ten or fewer lots or parcels, each of which meets a minimum size as determined by the entity's governing body. A parcel or fractional interest that is sold or leased more than five years after sale of another lot or fractional interest is excluded from the definition of subdivision if the other lot or parcel was likewise excluded. In statutes related to subdividing land, the definition of "acting in concert" is changed to state overlapping corporate membership or a familial relationship among principals is not sufficient evidence in itself to constitute unlawful acting in concert. More.

First sponsor: Rep. Burges

H2605 Daily History

Date Action

SUBDIVISIONS; ACTING IN CONCERT 1/28 referred to House gov.

## H2618: TRUSTEES; RELEASE & RECONVEYANCE DEED

If a full or partial release or satisfaction of a mortgage or deed of release has not been executed and recorded within 60 days of satisfaction of the obligation, and the total amount of the mortgage (exclusive of interest) is \$1 million or less, a title insurer is authorized to prepare and record the release. Formerly, a title insurer could prepare and record a release only if the amount of the mortgage did not exceed \$500,000.

First sponsor: Rep. Williams

H2618 Daily History

Date Action

TRUSTEES; RELEASE & RECONVEYANCE DEED 2/1 referred to House bank-ins.

## H2626: DEEDS OF TRUST; FORECLOSURE PROCEDURES

For property with a first deed of trust recorded January 1, 2003, through December 31, 2008, and used as the borrower's principal residence, lenders must attempt to contact the borrower to explore options to avoid foreclosure at least 30 days before a notice of trustee sale is recorded. Loans serviced by a mortgage loan service with a comprehensive loan modification program are exempt if the program meets specified requirements and the loan servicer applies to the Department of Financial Institutions for an exemption.

First sponsor: Rep. Reagan

Others: Rep. Chad Campbell, Rep. Driggs, Rep. Jones, Rep. Konopnicki, Rep. Mason, Rep. McLain, Rep. Meza, Rep. Tobin

H2626 Daily History

Date Action

DEEDS OF TRUST; FORECLOSURE PROCEDURES 2/1 referred to House com.

## S1094: MARRIAGE DISSOLUTION; DISPOSITION OF PROPERTY

In marriage dissolution proceedings, the court may order an unequal division of property or a debt obligation. Prescribes standards the court must apply when determining property or debt allocation. Effective January 1, 2011.

First sponsor: Sen. L. Gray

**S1094 Daily History**

Date Action

MARRIAGE DISSOLUTION; DISPOSITION OF PROPERTY 2/2 from Senate rules okay.

MARRIAGE DISSOLUTION; DISPOSITION OF PROPERTY 1/27 from Senate pub-hu ser do pass.

MARRIAGE DISSOLUTION; DISPOSITION OF PROPERTY 1/19 referred to Senate pub-hu ser.

**S1127: HOMESTEAD EXEMPTION; AMOUNT**

The value of the homestead exemption from attachment or forced sale in a bankruptcy is increased to \$500,000 from \$150,000. Applies to any claim of homestead made before or after the effective date of this act.

First sponsor: Sen. Melvin

**S1127 Daily History**

Date Action

HOMESTEAD EXEMPTION; AMOUNT 1/27 Senate fin held.

HOMESTEAD EXEMPTION; AMOUNT 1/19 referred to Senate fin.

**S1130: FORECLOSURE CONSULTANTS**

Establishes regulations for foreclosure consultants.

First sponsor: Sen. Nelson

**S1130 Daily History**

Date Action

FORECLOSURE CONSULTANTS 2/2 from Senate rules okay.

FORECLOSURE CONSULTANTS 1/27 from Senate com-econ with amend #4032.

FORECLOSURE CONSULTANTS 1/26 Senate com-econ amended; report awaited.

FORECLOSURE CONSULTANTS 1/19 referred to Senate com-econ.

**S1173: DEBTOR PROPERTY EXEMPTIONS; EARNED INCOME**

A federal or state income tax refund for the earned income tax credit or a child tax credit is added to the list of a debtor's property that is exempt from execution or sale on any court-issued process.

First sponsor: Sen. Alvarez

Others: Rep. Chabin, Sen. S. Allen, Sen. C. Allen, Sen. Burton Cahill, Sen. Garcia, Sen. Landrum Taylor, Sen. Lopez, Sen. McCune Davis, Sen. Miranda, Sen. Pierce, Sen. Rios

**S1173 Daily History**

Date Action

DEBTOR PROPERTY EXEMPTIONS; EARNED INCOME 1/21 referred to Senate fin.

**S1202: COUNTY TREASURER; EXCESS FORECLOSURE PROCEEDS**

New procedures are installed whereby county treasurers notify persons with an interest in a property that has been foreclosed and sold.

First sponsor: Sen. Leff

**S1202 Daily History**

Date Action

COUNTY TREASURER; EXCESS FORECLOSURE PROCEEDS 2/3 from Senate com-econ do pass.

COUNTY TREASURER; EXCESS FORECLOSURE PROCEEDS 1/26 referred to Senate com-econ.

**S1211: CONDOS; PLANNED COMMUNITIES; RESALE FEES**

Fees charged by an HOA or condo association to a unit owner for preparation of a packet of information required to be forwarded to a proposed purchaser of the owner's unit are to be refunded to the unit owner if the sale falls through.

First sponsor: Sen. Pearce

S1211 Daily History	Date	Action
CONDOS; PLANNED COMMUNITIES; RESALE FEES	1/26	referred to Senate gov inst.

### **S1224: TAX VALUATION NOTICE; CONTENTS**

Property tax assessment notices must include the notice "appeals of this valuation or classification must be filed by (date)" in boldfaced type.

First sponsor: Sen. S. Allen

S1224 Daily History	Date	Action
TAX VALUATION NOTICE; CONTENTS	1/28	referred to Senate fin.

### **S1287: COUNTY TREASURER; LIENS; NOTICES; PAYMENTS**

The minimum number of property tax payments that a taxpayer may make electronically in a lump sum is reduced to 50 from 100. The list of persons able to redeem a tax lien any time prior to foreclosure and have a court enter a judgment for attorney fees to the plaintiff is expanded to include a person who became the owner after the action began and subsequent to a notice of pendency being recorded. Procedures are written into statute requiring a public notice to be published for a sheriff's tax sale if the owner's address is unknown.

First sponsor: Sen. Nelson  
Others: Rep. Heinz, Rep. Reagan

S1287 Daily History	Date	Action
COUNTY TREASURER; LIENS; NOTICES; PAYMENTS	2/1	referred to Senate fin.

### **S1302: REAL ESTATE TRANSFERS; DISCLOSURES**

The affidavit of value that must be filed with any transfer of title to real property must be complete and correct. A person who knowingly fails to do is guilty of committing a deceptive practice. A conveyance of real property that does not include all required disclosures may be voided by action of the attorney general. Formerly only the buyer could void the conveyance.

First sponsor: Sen. McCune Davis  
Others: Rep. Chad Campbell, Rep. Meza, Sen. Cheuvront

S1302 Daily History	Date	Action
REAL ESTATE TRANSFERS; DISCLOSURES	2/1	referred to Senate com-econ.

### **S1386: CONDOS; HOA; RENTAL LIMITS**

In a community where rentals are otherwise permitted, condominium associations and homeowners' associations are prohibited from prescribing a minimum or maximum rental period.

First sponsor: Sen. Rios

S1386 Daily History	Date	Action
CONDOS; HOA; RENTAL LIMITS	2/4	referred to Senate gov inst.