

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – Second Regular Session

COMMITTEE ON GOVERNMENT

Minutes of Meeting
Tuesday, January 31, 2012
House Hearing Room 4 -- 2:00 p.m.

Chairman Ugenti called the meeting to order at 2:10 p.m. and attendance was noted by the secretary.

Members Present

Mr. Arredondo
Mr. Forese
Mr. Gowan

Ms. Hobbs
Mr. Meyer
Mr. Urie

Mr. Montenegro, Vice-Chairman
Mrs. Ugenti, Chairman

Members Absent

None

Committee Action

HB2021 – HELD	HB2446 – DP (7-0-0-1)
HB2129 – DP (7-1-0-0)	HB2471 – DP (6-1-0-1)
HB2160 – DP (7-1-0-0)	HB2513 – DP (8-0-0-0)
HB2168 – HELD	HB2565 – HELD
HB2290 – HELD	HB2621 – DP (8-0-0-0)
HB2390 – DP (7-0-0-1)	HB2642 – HELD
HB2399 – HELD	

CONSIDERATION OF BILLS

HB2021 - municipalities; residential rental property - HELD

Chairman Ugenti announced that HB2021 will be held.

HB2168 - building permits; self-certification process - HELD

Chairman Ugenti announced that HB2168 will be held.

HB2399 - state agency fee commission - HELD

Chairman Ugenti announced that HB2399 will be held.

HB2565 - lobbyist registration; exception; 501(c)(3) - HELD

Chairman Ugenti announced that HB2565 will be held.

HB2642 - public bodies; lobbying expenditures; reports - HELD

Chairman Ugenti announced that HB2642 will be held.

HB2621 - local government budgets; posting; contents – DO PASS

Vice-Chairman Montenegro moved that HB2621 do pass.

Stephanie Johnson, House Majority Assistant Research Analyst, explained that HB2621 provides various requirements for the posting of an adopted budget of community college districts, counties, cities, towns and fire districts (Attachment 1).

Representative Debbie Lesko, sponsor, explained that HB2621 will require that budgets include total compensation (salaries and expenses) and be posted.

Jennifer Stielow, Arizona Tax Research Association, stated her support for the legislation and intention to work on any needed amendments.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2621 but did not speak:

Spencer Kamps, Home Builders Association of Central Arizona
Heather Bernacki, East Valley Chambers of Commerce Alliance
Allison Bell, Arizona Public Service

Vice-Chairman Montenegro announced the names of those who signed up as neutral on HB2621 but did not speak:

Seth Apfel, representing self
Rene Guillen, League of Arizona Cities and Towns

Question was called on the motion that HB2621 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).

HB2129 - landlord tenant; maintenance request; access – DO PASS

Vice-Chairman Montenegro moved that HB2129 do pass.

Michelle Hindman, Assistant Director of Majority Research, explained that HB2129 modifies the access statutes related to the Arizona Residential Landlord and Tenant Act (Attachment 3).

Mr. Urie, sponsor, explained that HB2129 addresses rescheduling of repairs to rented property when the tenant has served notice to vacate.

Ms. Hobbs asked if this refers to tenant-requested repairs and consent to enter is implied. Mr. Urie answered in the affirmative, adding that scheduling is necessary.

Mr. Meyer expressed concerns about the notice that the tenant receives. Mr. Urie replied that the landlord will post the time for the repairs. Mr. Meyer reiterated his concern that there is no protection for the tenant who has requested a repair and whose residence will then be scheduled for that repair, perhaps without the tenant's knowledge. Discussion ensued.

Ellen Katz, William E. Morris Institute for Justice, stated her opposition to the bill as currently written because it allows landlords to enter unannounced: a tenant's request for repair means that the tenant waives rights to schedule access.

Mr. Urie clarified that HB2129 says that if a tenant does not allow access at the scheduled time, he or she must allow access after that first attempt. Discussion ensued.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2129 but did not speak:

Courtney Gilstrap LeVinus, Arizona Multihousing Association
Norman Moore, LeadingAge Arizona
Don Isaacson, LeadingAge Arizona

Vice-Chairman Montenegro announced the names of those who signed up in opposition to HB2129 but did not speak:

Seth Apfel, representing self

Vice-Chairman Montenegro announced the names of those who signed up as neutral on HB2129 but did not speak:

Nicole LaSlavic, Arizona Association of REALTORS®

Question was called on the motion that HB2129 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 4).

HB2160 - homeowners' associations; election procedures – DO PASS

Vice-Chairman Montenegro moved that HB2160 do pass.

Michelle Hindman, Assistant Director of Majority Research, explained that HB2160 enacts election procedures for any condominium or community election in which votes are cast in person or by absentee ballot (Attachment 5).

Representative John Kavanagh, sponsor, explained that HB2160 is intended to address problems encountered by individuals in "rogue" homeowners' associations (HOA) who risk losing their homes in order to enforce their rights. He added that the election reform measures in HB2160 are intended to protect these owners from HOA abuse.

Mr. Urie asked the procedure to complain about these situations. Mr. Kavanagh replied that these will be misdemeanors that will not require money to be prosecuted; he added that the violations require an intentional action on the part of the HOA. Discussion ensued.

Byron Raynie, representing self, stated his support for HB2160 and explained that there are over 20,000,000 condominiums in the country and that one-sixth of all Americans live in a community association. He stated that these homeowners expect good governance and a trustworthy ballot process (Attachment 6). He stated that HB2160 addresses these issues by stating that an intentional violation is a Class 1 misdemeanor, and that rules without penalties are meaningless.

Lynne Weaver, representing self, stated her support for the bill and related examples of her "rogue" HOA and the election problems that it has caused. She stated that high attorney costs are required to resolve these problems.

Jeff Sandquist, Arizona Association of Community Managers (AACM), stated that he is neutral on HB2160, cautioning the Members that it is inappropriate to criminalize the conduct of people in volunteer positions. In response to questions, he stressed that it is important to codify best practices and to identify penalties other than criminalizing conduct, which include recall elections, court proceedings, firing bad management companies, and civil penalties such as fines.

Representative Kavanagh indicated his willingness to work with Mr. Sandquist to discuss reasonable penalties.

Kevin DeMenna, Community Associations Institute, appeared to oppose HB2160, explaining that a criminal penalty does not belong and would be an impediment to volunteer service. He stressed that owners have a contract with their HOA and the Legislature should not interfere with that.

Wesley Harris, representing self, stated his support for HB2160.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2160 but did not speak:

Roger Wood, representing self
Anthony Scopellite, representing self
Mary Arnold, representing self
Joyce Hill, representing self
Holly Buss, representing self
Seth Apfel, representing self
Onita Davis, representing self
George Staropoli, representing self
Buffalo Rick Galeener, representing self

Pat Haruff, representing self, stated her support for HB2160, reiterating that HOA boards should be accountable and responsible for what they do.

Vice-Chairman Montenegro announced the names of those who signed up in opposition to HB2160 but did not speak:

Kathe Barnes, Community Associations Institute
Brian Morgan, Community Associations Institute
Ryan DeMenna, Community Associations Institute

Vice-Chairman Montenegro announced the names of those who signed up as neutral on HB2160 but did not speak:

Nicole LaSlavic, Arizona Association of REALTORS®
Linda Lang, Arizona Association of Community Managers

Question was called on the motion that HB2160 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 7).

HB2390 - home detention programs – DO PASS

Vice-Chairman Montenegro moved that HB2390 do pass.

Patrick Devine, House Majority Research Intern, explained that HB2390 includes the option of being employed within a 120 mile radius of current residence for prisoners selected for the home detention program (Attachment 8).

Representative Frank Pratt, sponsor, explained that HB2390 addresses issues in Pinal County and other communities.

Paul Jepson, Assistant to the City Manager, City of Maricopa, explained that Maricopa has experienced rapid population growth but does not have a home detention program because of the current requirement that to qualify for the program a person must work in the same county in which they reside. He stated his support for HB2390 to address this geographical situation by changing the requirement to "within a 120 mile radius."

Terry Stewart, Court Administrator, Maricopa County Justice Courts, testified in support of HB2390. He stated that he would like to have the employment portion removed, but is working with the sponsor to address his concerns. Representative Pratt concurred.

Donna Hamm, Middle Ground Prison Reform, stated her support for HB2390, which can help provide restitution to victims.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2390 but did not speak:

Scott Sulley, Judge, City of Maricopa Magistrate Court
Shirley Gunther, City of Avondale
Seth Apfel, representing self
Dale Wiebusch, League of Arizona Cities and Towns
Benjamin Bitter, City of Casa Grande
Lester Pearce, Presiding Justice of the Peace, Maricopa County Justice Courts

Vice-Chairman Montenegro announced the names of those who signed up as neutral on HB2390 but did not speak:

Ellen Katz, William E. Morris Institute for Justice
Douglas Long, representing self

Question was called on the motion that HB2390 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).

HB2446 - liquefied petroleum gas; emergency aid – DO PASS

Vice-Chairman Montenegro moved that HB2446 do pass.

Patrick Devine, House Majority Research Intern, explained that HB2446 removes liability from a person with knowledge of liquefied petroleum gas that is providing assistance in an accident or other emergency situation (Attachment 10).

Mr. Gowan, sponsor, explained that this provides some protection for companies called in by first responders to clear an accident or incident.

Barry Aarons, Arizona Propane Gas Association, stated his support for HB2446 and explained that this liability exemption only happens when a first responder calls for assistance from an expert.

Vice-Chairman Montenegro clarified that this does not include people contracted to do the work or at fault, only those who volunteer their services when requested by first responders.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2446 but did not speak:

John Flynn, Arizona Fire District Association

Vice-Chairman Montenegro announced the names of those who signed up as opposed to HB2390 but did not speak:

Seth Apfel, representing self

Question was called on the motion that HB2446 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 11).

HB2290 - homeowners' associations; dispute resolution, taping - HELD

Chairman Ugenti announced that HB2290 will be held.

HB2471 - homeowners' associations; conflicting enactments – DO PASS

Vice-Chairman Montenegro moved that HB2471 do pass.

Michelle Hindman, Assistant Director of Majority Research, explained that HB2471 makes clarifying and conforming changes to the condominium and planned community statutes regarding *for rent* signs, *for lease* signs and political signs (Attachment 12).

In response to Mr. Arredondo's question, Ms. Hindman explained that HB2471 deletes quadruple conflicting enactments from last year's legislation.

Mr. Meyer asked if this bill strikes 51 days and inserts 71 days as the timeframe for displaying political signs, so that signs can be up longer and be bigger. Ms. Hindman answered in the affirmative.

Representative Kate Brophy McGee, sponsor, explained that this is a cleanup bill due to conflicting statutes passed last year. Discussion ensued regarding the number of days before and after an election that signs can be up in a community association. She added that there is nothing new, that all these options have been passed before.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2471 but did not speak:

Pat Haruff, representing self

Tom Farley, representing self

Jeff Sandquist, Arizona Association of Community Managers

Kevin DeMenna, Community Associations Institute

Roger Wood, representing self

Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona

Mary Arnold, representing self

Buffalo Rick Galeener, representing self

Nicole LaSlavic, Government Affairs Director, Arizona Association of REALTORS®

Linda Lang, Executive Director, Arizona Association of Community Managers

Ryan DeMenna, Associate, Community Associations Institute

Kathe Barnes, Executive Director, Community Associations Institute

Brian Morgan, Attorney, Community Associations Institute

Anthony Scopellite, representing self

Vice-Chairman Montenegro announced the names of those who signed up in opposition to HB2471 but did not speak:

Seth Apfel, representing self

Question was called on the motion that HB2471 do pass. The motion carried by a roll call vote of 6-1-0-1 (Attachment 13).

HB2513 - condominiums; planned communities; rental properties – DO PASS

Vice-Chairman Montenegro moved that HB2513 do pass.

Patrick Devine, House Majority Research Intern, explained that HB2513 allows a condominium owner or community member to use their unit or property as a rental property unless prohibited in the condominium or community documents (Attachment 14).

Mr. Urie, sponsor, stressed that this bill has been crafted by HOAs and landlords.

Nicole LaSlavic, Government Affairs Director, Arizona Association of REALTORS®, stated her support for HB2513. She added that she has some concerns, particularly the \$50 administrative fee to process a rental agreement. She stated that this is a contract between a homeowner and tenant and that the HOA should not step into this contract to demand rental or lease information, nor charge a fee to do so. Ms. LaSlavic clarified that the "documents" referred to should be more properly termed Covenants, Conditions, and Restrictions (CC&Rs) and added that she will work with the sponsor to address these concerns.

Douglas Hebert, representing self, stated his support for the legislation and added that he would like to see a grandfather clause which allows owners to operate under the CC&Rs that were in effect when the property was purchased. He explained that, when CC&Rs in his HOA changed to deny rentals, his property had to remain vacant because he could no longer rent it out.

Brian Lincks, Arizona Association of Community Managers (AACM), testified in support of HB2513 and stressed the importance of knowing information about who is residing in a property for safety reasons. He stated that the manager also needs to know when leases or rental agreements will expire.

Chairman Ugenti asked if license plate numbers are required; Mr. Lincks replied that plate numbers are required from both resident owners and renters.

Sue Flucke, representing self, stated her support for the legislation. She stated that she works in property management and described the code of ethics that governs the profession. She stated that it is the property owner's right to rent to a tenant and that HOA approval can hamper owners' rights and cause financial loss.

Guy Wolf, representing self, stated his support for HB2513. He stated that he works as a property management attorney and concurs with Ms. Flucke's testimony. He stated that he is not in favor of the HOA obtaining all of the tenant information. He stated that the purpose of the HOA is to "make sure the grass is mowed and the pool is cleaned" and that HOAs should stay out of the business of individual owners and not change the terms of the HOA's contract with those owners.

Kevin DeMenna, Community Associations Institute, explained that he initially opposed this legislation, but has changed his stance to "neutral" as a result of conversations with the sponsor and the information presented today. He stated that he would like to see occupants in vacant condominiums.

Vice-Chairman Montenegro announced the names of those who signed up in support of HB2471 but did not speak:

Linda Lang, Arizona Association of Community Managers
Jeff Sandquist, Arizona Association of Community Managers
Mary Arnold, representing self
Courtney Gilstrap LeVinus, Arizona Multihousing Association
Anne McCawley, representing self

Kathe Barnes, Community Associations Institute, stated her neutrality on HB2513 and stressed that the manager does want to see tenant information and the term of the lease; she explained the rationale for needing that information.

Pat Haruff, representing self, registered in support of HB2513, but has changed her position to "against" due to the \$50 administrative fee. She requested more specifics about what this legislation will require.

Chairman Ugenti clarified that this bill prohibits HOAs from requiring a lease, credit report or criminal report on tenants. Mr. Urie concurred and discussion ensued.

Tom Farley, Arizona Association of REALTORS®, expressed his support for the bill and stressed that leases are sensitive documents with personal information and that each is an agreement between an owner and a tenant, not involving the HOA. He stated that he will assist to ensure that the legislation reflects this.

Vice-Chairman Montenegro announced the names of those who signed up in opposition to HB2471 but did not speak:

Brian Morgan, Community Associations Institute
Ryan DeMenna, Community Associations Institute
Anthony Scopellite, representing self

Vice-Chairman Montenegro announced the names of those who signed up as neutral on HB2471 but did not speak:

Roger Wood, representing self
Seth Apfel, representing self

Chairman Ugenti asked the sponsor what changes he will make to HB2513. Mr. Urie listed the following:

- re-evaluate the \$50 administrative fee and determine specifically what costs are associated with that
- remove the age of minors and require that the tenant report the number of adults and minors in the property
- change "documents" to read "Covenants, Conditions, and Restrictions (CC&Rs)"
- include a grandfather clause to protect those who have rentals should the HOA decide to prohibit rentals

Question was called on the motion that HB2513 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 15).

Without objection, the meeting adjourned at 4:31 p.m.

Jane Dooley, Committee Secretary
February 9, 2012

(Original minutes, attachments and audio on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)