

# Land Title Association of Arizona

2015 State Legislative Report

April 2015

## STATE OF ARIZONA

It has been TRIADVOCATES' honor to continue representation of the Land Title Association of Arizona ("LTAA") before the Arizona Legislature.

In the early hours of Friday, April 3, the 52nd Legislature, First Regular Session, adjourned *Sine Die* after 81 days at the Capitol, marking the shortest session in nearly five decades. The breakneck pace can likely be attributed to like-minded objectives from the Governor's Office and the Legislature's conservative leadership. Time-consuming debates were avoided when a \$9.1 billion dollar budget was passed following negotiations between Governor Ducey and the House and Senate leadership.

The session, however, was not all smooth sailing. The relationship between House and Senate leadership was tested in the final days before adjournment. Frustrated by delays and exhausted by the pace, the Senate moved to adjourn *Sine Die* several hours before the House, making for an unusual and somewhat bumpy end to the session. By adjourning early, the Senate sacrificed a number of its own bills awaiting a final vote. Likewise, many House bills did not make it to the finish line.

In contrast to recent legislative sessions, lawmakers were able to keep Arizona out of national headlines by avoiding hot-button issues and keeping controversial legislation off the Governor's desk. This was much-needed relief for the state following intense international scrutiny last year over the religious freedom bill passed by lawmakers but ultimately vetoed by then-Governor Jan Brewer.

This year, the Legislature introduced 1,163 bills and sent 344 bills to the Governor's desk, where 324 were signed into law and 20 were vetoed. Below is a summary of the policy issues debated during this legislative session that have the greatest impact on the LTAA.

## BILLS THAT PASSED

***Bills listed below will become effective on July 3, 2015, unless otherwise noted.***

**[HB 2084 \(condominiums; planned communities; associations; disclosures\)](#) [Chapter 21], an LTAA-sponsored bill, moves the responsibility of storing contact information for HOAs and their management companies from the County Recorders to the Arizona Corporation Commission. Effective July 3, 2015, HOAs will be required to submit up-to-date contact information in conjunction with their annual reports to the ACC, and will be required to update information within 30 days of any change. The bill passed with unanimous votes in the House and Senate**

and was signed into law by the Governor on March 17, 2015. **Amends ARS 10-11622, 33-1242, 33-1256, 33-1803 and 33-1807.**

[HB 2311 \(judgment liens; recordation; real property\)](#) [Chapter 110] allows a certified copy of a judgment of any court in Arizona to be filed with the County Recorder and become a lien on a judgment debtor's real property. This allows justice court and municipal court judgments to become a lien without first having to be filed in superior court. TRIADVOCATES worked with the bill sponsor, Representative Eddie Farnsworth, on an amendment that clarifies that the bill is only applicable to judgments recorded on January 1, 2016, and thereafter. The bill passed both chambers and was signed into law by the Governor on March 30, 2015. **Amends ARS 33-961 and 33-962.**

[HB 2335 \(insurance compliance audit privilege\)](#) [Chapter 55] is a follow-up to last year's insurance audit privilege legislation and expands the privilege to any insurance compliance audit document instead of only self-audit documents. The bill also removes last year's requirement to notify the State's Department of Insurance prior to the initiation of the audit. It passed with unanimous votes in the House and Senate and was signed into law by the Governor on March 23, 2015. **Amends ARS 20-3301 and 20-3302.**

[HB 2653 \(tax liens; delinquency; partial payments\)](#) [Chapter 324] eliminates the requirement that a person pay 16% interest when redeeming a real property tax lien in Maricopa County. The person redeeming the tax lien will now pay the rate stated in the certificate of purchase. This eliminates the funding source for the Maricopa County Elderly Assistance Fund. The bill passed both chambers and was signed into law by the Governor on April 14, 2015. **Amends ARS 42-18153.**

[SB 1135 \(tax liens; delinquency; partial payments\)](#) [Chapter 322] allows partial payments of delinquent taxes in Maricopa County up to 25% of the principal amount. The bill was brought forth by the Maricopa County Treasurer as a way to address some of the issues raised in previous year's attempts to authorize third-party financing for tax lien payments. The bill passed both chambers and was signed into law by the Governor on April 14, 2015. **Amends ARS 42-18056, 42-18121, 42-18152, 42-18154, 42-18201 and 42-18202.**

[SB 1218 \(county recorder; recording fees\)](#) [Chapter 67], an LTAA-sponsored bill, establishes fixed recording fees for deeds that transfer, convey or affect interest in real property (\$15), deeds of trust or mortgages (\$25), and releases of a deed of trust or mortgage (\$10). Fixed fees are needed to comply with new federal regulations that take effect in August 2015. The bill passed with unanimous votes in the House and Senate and was signed into law by the Governor on March 26, 2015. Many thanks to the County Recorders for their collaboration and to the Arizona Association of Counties for its work determining the average costs for each document to be recorded. **Amends ARS 11-475.**

[SB 1316 \(subpoena compliance; copying; clerical costs\)](#) [Chapter 232] is an LTAA-sponsored bill that adjusts for inflation the "reasonable costs" that a third party may receive for producing

documentary evidence pursuant to a subpoena. The reasonable cost for the reproduction of documents is increased to 25 cents per page, from 10 cents per page. The reasonable cost for clerical work associated with locating and making documents available is increased to \$25 per hour, from \$10 per hour. The bill passed with unanimous votes in the House and a 28-1 vote in the Senate, and was signed into law by the Governor on April 9, 2015. **Amends ARS 12-351.**

**[SB 1447 \(foreign country money judgments; enforcement\)](#) [Chapter 170]** establishes a procedure for recording foreign-country judgments and requires a court to recognize a judgment of a court of a foreign country unless specific conditions are met. The bill passed with unanimous votes in the House and Senate and was signed into law by the Governor on April 1, 2015. **Adds Chapter 25 to ARS Title 12.**

**[SB 1448 \(trustee's sale; foreclosure; notice; recording\)](#) [Chapter 190]** requires a prescribed statement to be included on a notice of trustee's sale stating that if there is a defense or objection to the sale, an action must be filed and a court order obtained in order to stop the sale. As originally introduced, SB 1448 was highly objectionable to the LTAA. TRIADVOCATES originally opposed SB 1448 on behalf of the LTAA, but after several negotiation sessions, the bill's proponents and the bill sponsor, Senator David Farnsworth, agreed to a consensus amendment that removed the most objectionable sections. Sections increasing liability for trustees, changing the presumption of law regarding the correctness of a trustee's deed and a requirement to record all assignments of a deed of trust were removed. The bill passed both chambers and was signed into law by the Governor on April 2, 2015. **Amends ARS 33-808.**

## **BILLS THAT FAILED**

**[HB 2016 \(corp comm filings; database\)](#)** was this year's attempt to move notice requirements from print media to the internet. HB 2016 would have required the Arizona Corporation Commission to establish an online database for the publishing of certain corporate notice documents, including Articles of Incorporation, Articles of Amendment, Restated Articles of Incorporation, Amendment Pursuant to Reorganization, Statement of Merger, Dissolutions, Application by Foreign Corporation, Withdrawal of Foreign Corporation, and Formation of an LLC. TRIADVOCATES joined a coalition of newspaper lobbyists opposing the bill. HB 2016 was defeated by a 26-33 vote in the House on March 11, 2015.

Despite the defeat, the proponents of HB 2016 worked through *Sine Die* to find a home for the language of HB 2016. However, the coalition of opponents successfully prevented the language from being added to multiple bills during the last few days of session.

**[HB 2173 \(legal tender; specie\)](#)**, as initially introduced, would have recognized coin or bullion with gold or silver content as "legal tender" in Arizona, and would have required licensed escrow agents to handle legal tender for deposits, exchanges, and debt payment. As originally introduced, HB 2173 was highly objectionable to the LTAA. TRIADVOCATES along with John Lotardo and Matt Sager, both members of the LTAA Legislative Committee, met with the bill sponsor, Representative Mark Finchem, and persuaded him to remove the provision relating to

escrow agents. The bill passed both chambers, however, it was vetoed by the Governor. In his veto message, the Governor stated that he does not believe this policy is appropriate at this time.

[SB 1071 \(tax lien deeds; aggregate fees\)](#) would have set the maximum aggregate fee the County Treasurer may charge for a deed of conveyance after receiving a copy of a judgment foreclosing the right to redeem at \$500. The bill passed the Senate but was defeated by a 28-30 vote in the House on March 18, 2015 and defeated again, upon reconsideration, by a 28-31 vote in the House on March 25, 2015.

## ISSUES FOR THE INTERIM

**Foreclosure Reform** TRIADVOCATES expects that in the upcoming legislative session, the proponents of SB 1448 (trustee's sale; foreclosure; notice; recording) will seek passage of the sections that the LTAA found highly objectionable. Over the interim, TRIADVOCATES recommends working with the Arizona Trustee Association, the Arizona Bankers Association and other stakeholders to further educate the sponsor of SB 1448 on the negative consequences of these changes to Arizona's foreclosure process and overall real estate system.

**Summer Planning** TRIADVOCATES would like to schedule a summer planning session with the LTAA Legislative Committee to discuss priorities and objectives for the next legislation session.

## CONCLUSION

Please let us know if you have any questions about the information contained in this report. It is our pleasure to be a part of the LTAA team, and we look forward to our continuing efforts over the months and years ahead.

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Prepared by TRIADVOCATES LLC