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ATTORNEYS AT LAW

In prior tips, we addressed House Bill 2726 which will amend A.R.S. § 33-1201. This new law will eliminate the exception in the Condominium Act for pre-1986 condominiums. Under the new law, *all* condominiums in Arizona will be subject to the Condominium Act, regardless of when the condominium was formed. This means that the Condominium Act will now trump the governing documents of condominiums formed before 1986. This new law will go into effect on January 1, 2009.

While pre-1986 condominiums will be affected in many ways by becoming subject to the Condominium Act, one area in which pre-1986 condominiums will not be affected is in the levying of special assessments. The Condominium Act does not address special assessments or set forth any requirements for the adoption of special assessments. Therefore, the ability of pre-1986 condominiums to pass special assessments will not be impacted by the Condominium Act. In other words, the levying of special assessments will continue to be governed solely by the association governing documents in pre-1986 condominiums. Accordingly, if the governing documents presently allow the board to pass a special assessment without a vote of the members, the board will still be allowed to do so, since the Condominium Act does not set forth any requirements relating to special assessments.

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