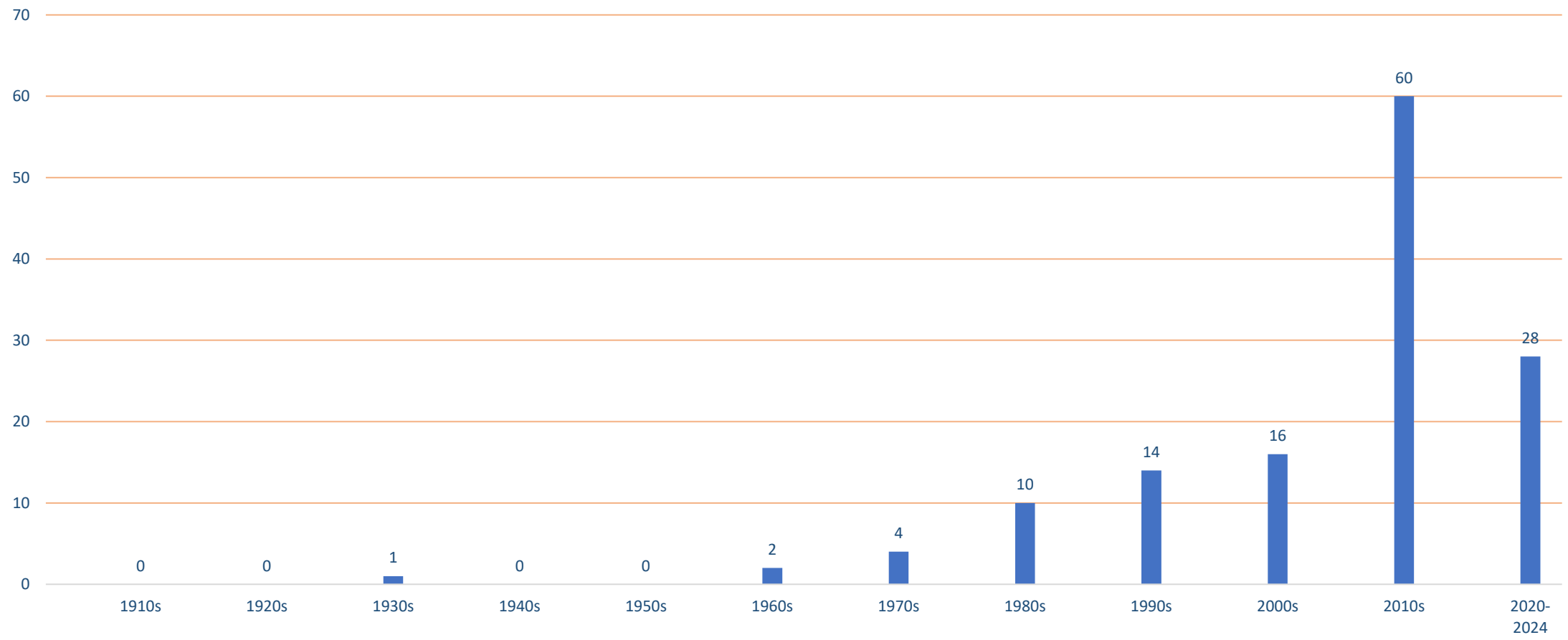
Dealing with Preemption

Arizona

- Governor: **D**
- Senate: R (16 / 14)
- House: R (31 / 29)
- A.G.: **D**
- SOS: **D (elected)**
- U.S. Sen.: **D & I**

- 2024 Session: 160 days
  - 1663 bills introduced
  - League tracked 600+
  - Passed: 332 (78 are relevant to cities)
  - Signed: 259
  - Vetoed: 73
  - Resolutions: 31/138

Preemption Trend in Arizona

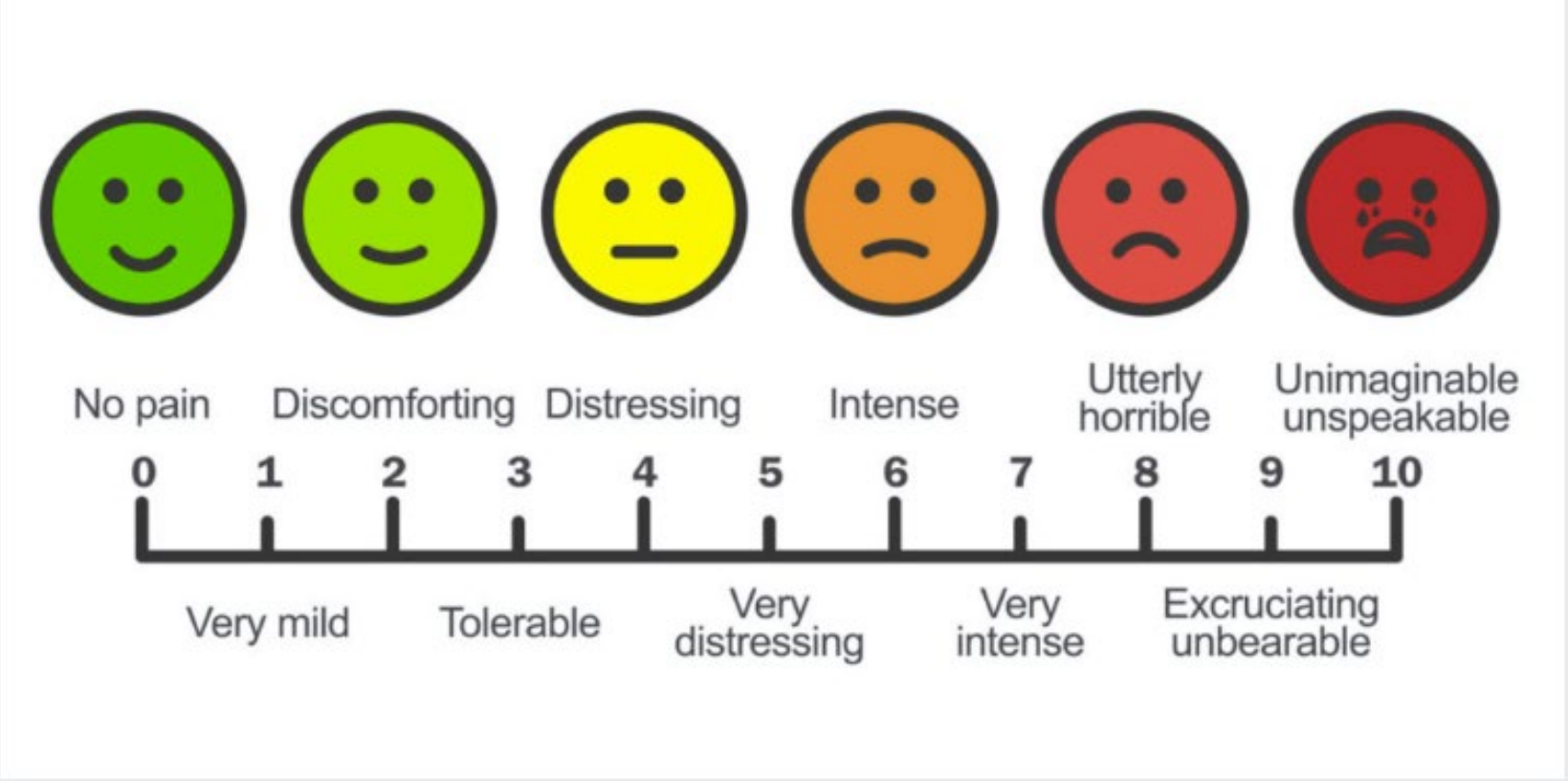


Georgia

- Governor: R
- Senate: R (34-23)
- House: R (101-80)
- A.G.:R
- SOS: R
- U.S. Sen.: D

- 2023 -2024 Session: 40 working days (each year)
  - Bills “hold over” for two-year cycle
  - 2,107 Bills Introduced
  - League Tracked: 500+
  - 735 signed into law
  - 27 Vetoed
  - Key areas: taxation, public safety, housing

Pain Scale: Preemption



No pain?



- Good bills! (unfortunately, it’s a very short list)

Tolerable?



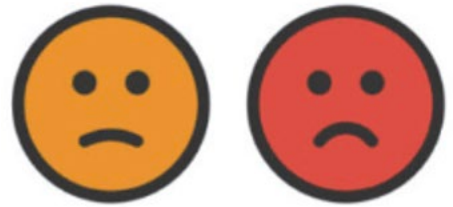
- Bad bills with no chance of passing House/Senate
- Bad bills that will be vetoed
- Bad bills with limited (or no) statewide impacts
  - Bills about issues that cities have no interest in regulating
  - Bills lobbyists didn’t realize were already on the books
- Bad bills with high likelihood of being invalidated by a court
- Bad bills that create administrative burdens or disclosure requirements
- Bad bills that may impact procurement

Distressing?



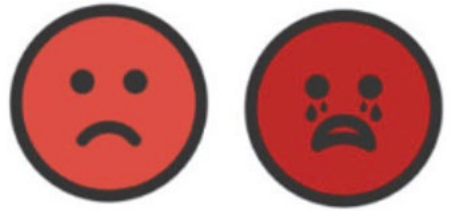
- Bad bills with delayed or conditional effective dates
- Bad bills that will significantly impact public meetings
- Bad bills we can likely “fix” or narrow
- Bad bills that risk compliance issues
- Bad bills could over penalize
- As always…. The unintended consequences

Very Distressing? Intense?



- Bad bills with significant impacts to municipal budgets
- Restricting zoning authority
- Restricting the legal rights or defenses of municipalities
- Prohibiting municipalities from recovering attorney fees as prevailing parties in litigation
- Bad bills that will significantly impact local elections
- Legislative (statutory) referrals to the ballot
- Restricts ability in public safety efforts

Utterly Horrible? Unimaginable?



- “By right” permits and zoning
- Preemption on public health and safety matters
- Bad bills that would completely change local elections (e.g., requiring partisan elections)
- Restricting or removing immunity
- Reducing or withholding state share revenues
- Removing a municipality’s ability to adopt a charter
- Giving the Legislature to interfere in litigation involving a municipality
- Legislative (constitutional) referrals to the ballot
- Providing new unreasonable paths for litigation against city

Illustration: Housing Bills



What ChatGPT thinks “affordable housing” looks like. ⮡

AZ League: Preparing for 2024 Session

- Created housing survey
- Professor and data analyst compiled & analyzed housing data and trends
- Graphic artist created housing webpage, graphics, and “stories”
- P.R. person launched social media campaign
- Hosted webinars
- Met with lawmakers and stakeholders
- Strategy retreat with lobbyists
- Housing workgroup
    - Crafted language for ADU bill and middle housing bill, worked with sponsors
- Build coalitions
- Set media alerts
- Review “model” legislation by interest groups

AZ League: 2024 Session

- Meetings, meetings, meetings
- Prioritizing 57-housing related bills, heat charts
- Weekly updates, alerts, one pagers
- “Fixing”
  - Limit the scope
  - Set population thresholds
  - Limit to specific geographic areas
  - Create exceptions (e.g., historic areas, airports, PADs)
  - Propose delayed effective dates and sunset clauses
  - Keep overly vague and conflicting language
- Letters to attorneys at the Legislature, letters requesting vetoes
- Press conferences, editorials, social media

GA League: Preparing for 2023-2024 Session

- Leaving 2022 session, local governments were on defense
- “Built to Rent” Bill defeated but interest growing in housing and blame shifting
- House Study committee appointed
- Governor lists “Workforce Housing” as top issue
- GMA and ACCG worked together
- Engaged Other interest groups: Chamber, Habit, Relators, Homebuilders
- Worked to focus on incentives instead of preemptions

GA League: 2023-2024 Session

- Working Group did not have a recommendation in time for 2023 legislative session
- In response, “pro-housing” legislators drop two statement bills
  - HB 514: Housing Regulation Transparency Act
  - HB 517: Georgia Homeowner Opportunity Act
- “Build to Rent” Reintroduced (SB 188)

GA League: 2023-2024 Session

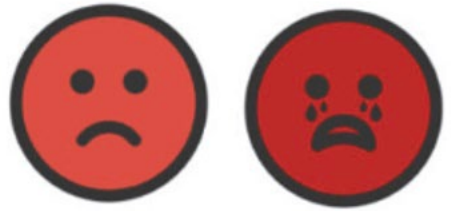
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  - HB 514: Housing Regulation Transparency Act
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- In 2024: Housing Coalition bring HB 1266 “The CHOICE Act”

Arizona



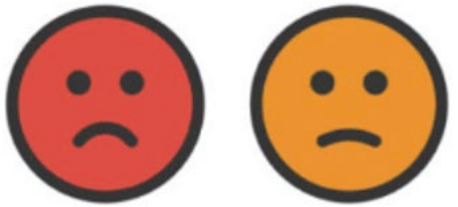
- HB2570 (vetoed)
- HCR2023 (on the Nov. ballot): Property tax; refund; nuisance enforcement

Arizona



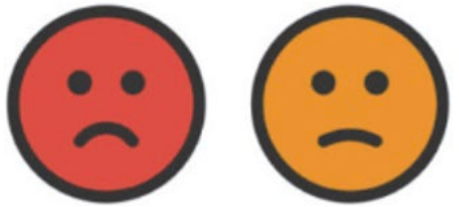
- HB2261 (failed): parking preemption
- HB2533 (failed): “must approve” building permits
- SB1112 (failed): home design preemption
- HB2096 (failed): cottage homes

Arizona



- HB2384 (failed): expedited processing
- SB1665 (failed): 3rd-party plan reviewers & inspectors
- SB1563 (failed): transit-oriented development
- HB2584 (failed): building materials
- HB2597 (failed): residential planning
- HB2734 (failed): public hearings

Arizona



- HB2720 (signed): ADUs
- HB2297 (signed): adaptive reuse & multifamily
- HB2721 (signed): middle housing

Arizona: HB2720 (passed)



Accessory dwelling units (ADUs) are allowed **"by right"**
in cities above 75K as follows:

Single family (SF) parcel/lot size	ADUs allowed per lot/parcel	Size
Lot is <1 acre	1 attached ADU + 1 detached ADU	Lesser of: 75% of the gross floor area of the existing SF dwelling or 1000 SF
Lot is 1 acre or more	1 attached ADU + 1 detached ADU	
Lot has at least 1 restricted-affordable ADU (defined)	1 attached ADU + 2 detached ADUs	



In addition to the “by right” provisions, all ADUs are allowed the following under HB2720:	
Locations	Must allow where SF is allowed
Frontage, lot coverage, height	Must treat ADU like SF
Setbacks (rear, side)	Cannot require more than 5 feet
Exterior design, roof pitch, finishing materials	Cannot require ADU to match SF
Parking	Cannot require additional parking or “in lieu parking fees”

Arizona: HB2720 (passed)



Applies to <u>all</u> ADUs:

- Must approve ADUs administratively, “shot clocks” apply
- Cannot require long term lease for ADUs
- Cannot require “familial, marital, employment or other preexisting relationship”
- Must allow ADUs to be used as vacation rentals*
  - Can require owner to reside on the property, but only if the ADU was constructed after Sept. 14, 2024

Arizona: HB2720 (passed)



- Must amend zoning codes by Jan. 1, 2025
- **Penalty:** ADUs will be allowed on all lots or parcels zoned for residential use “without limits”

Arizona: HB2297 (passed)



By Jan. 1, 2025, **municipalities of 150,000 or more**:

- Must allow multifamily or adaptive reuse on 10% of existing commercial, office or mixed-use buildings subject to exemptions
- Cannot require CUP, PUD, rezoning, or other discretionary review
- Subject to restrictions on parking authority
- Cannot withhold demolition permits in some cases
- May designate “excluded areas” every 10 years

Arizona: HB2721 (passed)



In all municipalities ≥ 75,000:

- Multi-plex homes and townhomes are allowed “by right”:
  - On all SF lots within 1 mile of central business district
  - On at least 20% of any new development ≥10 acres
- Cannot discourage middle housing
- Penalty for failure to amend codes by Jan. 1, 2026: middle housing allowed “by right” without limitations on all lots zoned for SF residential use

Arizona



- SB1162 (signed): approval timeframes, housing needs assessments
- HB2264 (failed): housing needs assessments

Arizona: SB1162 (passed)



- **All municipalities** must amend codes by Jan. 1, 2025, to allow the following for ”residential zoning applications”*:
  - 30 days for admin. *completeness, 15 days for resubmittals*
  - *180 days to approve/deny*
  - *One-time 30-day extension for extenuating circumstances or 30-day extensions if requested by the applicant*
  - *Exempts existing historic districts, PADs*
  - *“Residential zoning applications” is not defined
- Starting Jan. 1, 2025, **all municipalities >30K** must publish/submit annual housing needs assessment and annual report

Arizona



SB1720 (failed): inclusionary zoning
SB1606 (failed): residential lease communities
HB2259 (failed): rent control
SB1426; HB2267 (failed): rental housing; income source discrimination
HB2576 (failed): affordable housing tax credits
HB2813; SB1315 (failed): appropriations; down payment assistance

Arizona



Surprise!

- HB2210 (annual reporting to Arizona Commerce Authority)

Discussion