

REFERENCE TITLE: condominiums; planned communities; open meetings

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1341

Introduced by
Senator Gray C

AN ACT

AMENDING SECTION 33-1248, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1248.01; AMENDING SECTION 33-1804, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1804.01; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1248, Arizona Revised Statutes, is amended to
3 read:

4 33-1248. Open meetings; exceptions

5 A. Notwithstanding any provision in the declaration, bylaws or other
6 documents to the contrary, all meetings of the association and board of
7 directors are open to all members of the association or any person designated
8 by a member in writing as the member's representative and all members or
9 designated representatives so desiring shall be permitted to attend and speak
10 at an appropriate time during the deliberations and proceedings. The board
11 may place reasonable time restrictions on those persons speaking during the
12 meeting but shall permit a member or a member's designated representative to
13 speak **AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT** before the
14 board takes formal action on ~~an~~ **THAT** item ~~under discussion~~ in addition to any
15 other opportunities to speak. The board shall provide for a reasonable
16 number of persons to speak on each side of an issue. **THE BOARD SHALL NOT**
17 **VOTE ON ANY MATTER IN A CLOSED MEETING AND ANY MATTERS DISCUSSED IN A CLOSED**
18 **MEETING MAY ONLY BE VOTED ON IN AN OPEN MEETING.** Any portion of a meeting
19 may be closed only if that portion of the meeting is limited to ~~consideration~~
20 **DISCUSSION ONLY** of one or more of the following:

21 1. Legal advice from an attorney for the board or the association. On
22 final resolution of any matter for which the board received legal advice or
23 that concerned pending or contemplated litigation, the board may disclose
24 information about that matter in an open meeting except for matters that are
25 required to remain confidential by the terms of a settlement agreement or
26 judgment.

27 2. Pending ~~or contemplated~~ litigation.

28 3. Personal, health or financial information about an individual
29 member of the association, an individual employee of the association or an
30 individual employee of a contractor for the association, including records of
31 the association directly related to the personal, health or financial
32 information about an individual member of the association, an individual
33 employee of the association or an individual employee of a contractor for the
34 association.

35 4. Matters relating to the job performance of, compensation of, health
36 records of or specific complaints against an individual employee of the
37 association or an individual employee of a contractor of the association who
38 works under the direction of the association.

39 B. Notwithstanding any provision in the condominium documents, all
40 meetings of the association and the board shall be held in this state. **FOR**
41 **REGULAR MEETINGS AND WORKSHOPS OF THE BOARD OF DIRECTORS, THE TIME AND**
42 **LOCATION SHALL BE POSTED IN AN OFFICIAL POSTING LOCATION THAT PREVIOUSLY HAS**
43 **BEEN DESIGNATED BY THE BOARD, ON THE COMMUNITY WEBSITE, IF ANY, AND IN THE**
44 **COMMUNITY NEWSLETTER. A LIST OF ALL BOARD MEMBERS AND THEIR CONTACT**
45 **INFORMATION SHALL ALSO BE INCLUDED IN ALL OFFICIAL POSTINGS.** A meeting of

1 the association shall be held at least once each year. Special meetings of
2 the association may be called by the president, by a majority of the board of
3 directors or by unit owners having at least twenty-five per cent, or any
4 lower percentage specified in the bylaws, of the votes in the association.
5 ~~Unless otherwise provided in the articles or the bylaws of the association~~
6 NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, not fewer than
7 ten nor more than fifty days in advance of any meeting of the unit owners,
8 the secretary shall cause notice to be hand delivered or sent prepaid by
9 United States mail to the mailing address of each unit or to any other
10 mailing address designated in writing by the unit owner. The notice of any
11 meeting of the unit owners shall state the time and place of the meeting AND
12 SHALL INCLUDE AN AGENDA THAT LISTS THE SPECIFIC MATTERS TO BE DISCUSSED,
13 CONSIDERED OR DECIDED AT THE MEETING. The notice of any special meeting of
14 the unit owners shall also INCLUDE AN AGENDA AND SHALL state the purpose for
15 which the meeting is called, including the general nature of any proposed
16 amendment to the declaration or bylaws, any changes in assessments that
17 require approval of the unit owners and any proposal to remove a director or
18 officer. The failure of any unit owner to receive actual notice of a meeting
19 of the unit owners does not affect the validity of any action taken at that
20 meeting.

21 C. ~~Unless otherwise provided in the articles or bylaws of the~~
22 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, for
23 meetings of the board of directors that are held after the termination of
24 declarant control of the association, notice to unit owners of meetings of
25 the board of directors shall be given at least forty-eight hours in advance
26 of the meeting by newsletter, WEBSITE, conspicuous posting IN AN OFFICIAL
27 LOCATION PREVIOUSLY DESIGNATED AND KNOWN TO THE UNIT OWNERS or any other
28 reasonable means ~~as determined by the board of directors~~. An affidavit of
29 notice by an officer of the association is prima facie evidence that notice
30 was given as prescribed by this section. Notice to unit owners of meetings
31 of the board of directors is not required if emergency circumstances require
32 action by the board before notice can be given. Any notice of a board
33 meeting shall state the time and place of the meeting AND SHALL INCLUDE AN
34 AGENDA THAT LISTS THE SPECIFIC MATTERS TO BE DISCUSSED, CONSIDERED OR DECIDED
35 AT THE MEETING. ONLY THOSE ITEMS THAT ARE LISTED ON THE AGENDA MAY BE
36 DISCUSSED, CONSIDERED OR DECIDED AT THE MEETING. ISSUES THAT ARE NOT ON THE
37 AGENDA MAY BE BROUGHT BEFORE THE BOARD OF DIRECTORS FOR INFORMATIONAL
38 PURPOSES ONLY FOR FUTURE DISCUSSION. THE BOARD OF DIRECTORS MAY NOT VOTE ON
39 ANY MATTER AT A WORKSHOP MEETING OF THE BOARD OF DIRECTORS. The failure of
40 any unit owner to receive actual notice of a meeting of the board of
41 directors does not affect the validity of any action taken at that meeting.

42 D. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, A
43 WORKSHOP MEETING OF THE BOARD OF DIRECTORS MAY BE HELD ONLY FOR THE PURPOSES
44 OF DISCUSSION AND STUDY OF ISSUES, EDUCATION OF BOARD MEMBERS AND WORK ON
45 SPECIAL PROJECTS. THE BOARD OF DIRECTORS SHALL PROVIDE PROPER NOTICE OF ANY

1 WORKSHOP MEETING AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, INCLUDING AN
2 AGENDA THAT DESCRIBES THE SPECIFIC REASONS FOR THE WORKSHOP. THE MEMBERS OF
3 THE BOARD OF DIRECTORS AT THE WORKSHOP MEETING SHALL NOT MAKE FORMAL OR
4 INFORMAL DECISIONS ON MATTERS AND SHALL NOT TAKE ANY FORMAL ACTION ON ANY
5 MATTER BEFORE THE BOARD.

6 E. ALL MEETINGS OF ANY COMMITTEE DESIGNATED BY THE BOARD OF DIRECTORS
7 OR ANY COMMITTEE OF THE BOARD SHALL BE OPEN TO ALL MEMBERS OF THE
8 ASSOCIATION. THE BOARD OF DIRECTORS SHALL PROVIDE NOTICE OF THE MEETING AS
9 PRESCRIBED IN SUBSECTION C OF THIS SECTION AND SHALL INCLUDE AN AGENDA.

10 F. MINUTES OF ANY MEETING OF THE BOARD OF DIRECTORS THAT IS NOT A
11 CLOSED MEETING SHALL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN TEN BUSINESS
12 DAYS AFTER THE MEETING IS HELD. MEMBERS SHALL BE PROVIDED WITH A COPY OF THE
13 MINUTES AT NO COST TO THE MEMBER WITHIN THREE BUSINESS DAYS AFTER A WRITTEN
14 REQUEST TO THE SECRETARY OF THE BOARD OF DIRECTORS OR TO THE MANAGER OF THE
15 ASSOCIATION.

16 G. ANY PERSON WHO IS ENTITLED TO BE PRESENT AT A MEETING OF THE BOARD
17 OF DIRECTORS, A MEETING OF THE MEMBERSHIP OR A MEETING OF A COMMITTEE OF THE
18 ASSOCIATION MAY RECORD THE MEETING BY USE OF A VIDEO CAMERA, AN AUDIO TAPE
19 RECORDER OR ANY OTHER MEANS OF SOUND REPRODUCTION IF THE PERSON DOES NOT
20 ACTIVELY INTERFERE IN THE CONDUCT OF THE MEETING.

21 H. A QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS
22 OR MAKE ANY DECISIONS BY MEANS OF ELECTRONIC MAIL COMMUNICATION. A QUORUM OF
23 THE BOARD OF DIRECTORS SHALL NOT MEET INFORMALLY WITHOUT COMPLYING WITH THIS
24 SECTION AND PROVIDING PROPER NOTICE OF THE MEETING, WITHOUT REGARD TO WHETHER
25 THE BOARD MEMBERS VOTE OR TAKE ANY OTHER ACTION.

26 I. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
27 CONFERENCE CALL IF A SPEAKER TELEPHONE IS AVAILABLE IN THE MEETING ROOM THAT
28 ALLOWS BOARD MEMBERS AND MEMBERS OF THE ASSOCIATION TO HEAR ALL PERSONS WHO
29 SPEAK DURING THE MEETING. IF THE MEMBER OF THE BOARD OF DIRECTORS WHO IS
30 PARTICIPATING BY TELEPHONE CANNOT BE HEARD BY EVERYONE PRESENT FOR THE
31 MEETING OR CANNOT HEAR EVERYONE SPEAKING IN THE MEETING, THE CALL SHALL BE
32 TERMINATED AND THE MEETING SHALL BE ADJOURNED.

33 ~~D.~~ J. This section does not apply to timeshare plans or associations
34 that are subject to chapter 20 of this title.

35 Sec. 2. Title 33, chapter 9, article 3, Arizona Revised Statutes, is
36 amended by adding section 33-1248.01, to read:

37 33-1248.01. Declaration of open meeting policy

38 A. IT IS THE POLICY OF THIS STATE THAT ALL MEETINGS OF A CONDOMINIUM
39 ASSOCIATION, WHETHER MEETINGS OF THE MEMBERSHIP, MEETINGS OF THE BOARD OF
40 DIRECTORS OR MEETINGS OF COMMITTEES OF THE MEMBERSHIP, BE CONDUCTED OPENLY
41 AND THAT NOTICES AND AGENDAS BE PROVIDED FOR ALL OF THOSE MEETINGS.

42 B. IT IS FURTHER THE POLICY OF THIS STATE THAT NOTICES AND AGENDAS FOR
43 MEETINGS CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE
44 MEMBERS OF THE MATTERS BEING DISCUSSED OR DECIDED AND THAT MEMBERS HAVE THE

1 ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS AND BEFORE A VOTE OF THE
2 BOARD OF DIRECTORS.

3 C. THIS POLICY SHALL ALSO APPLY TO ASSOCIATIONS THAT ARE UNDER
4 DECLARANT CONTROL.

5 D. ANY PERSON OR ENTITY RESPONSIBLE FOR THE INTERPRETATION OR
6 IMPLEMENTATION OF THIS CHAPTER SHALL CONSTRUE ANY PROVISION OF THIS CHAPTER
7 IN FAVOR OF OPEN MEETINGS.

8 Sec. 3. Section 33-1804, Arizona Revised Statutes, is amended to read:
9 33-1804. Open meetings; exceptions

10 A. Notwithstanding any provision in the declaration, bylaws or other
11 documents to the contrary, all meetings of the association and board of
12 directors are open to all members of the association or any person designated
13 by a member in writing as the member's representative and all members or
14 designated representatives so desiring shall be permitted to attend and speak
15 at an appropriate time during the deliberations and proceedings. The board
16 may place reasonable time restrictions on those persons speaking during the
17 meeting but shall permit a member or member's designated representative to
18 speak AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT before the
19 board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to any
20 other opportunities to speak. The board shall provide for a reasonable
21 number of persons to speak on each side of an issue. THE BOARD SHALL NOT
22 VOTE ON ANY MATTER IN A CLOSED MEETING AND ANY MATTERS DISCUSSED IN A CLOSED
23 MEETING MAY ONLY BE VOTED ON IN AN OPEN MEETING. Any portion of a meeting
24 may be closed only if that closed portion of the meeting is limited to
25 ~~consideration~~ DISCUSSION ONLY of one or more of the following:

26 1. Legal advice from an attorney for the board or the association. On
27 final resolution of any matter for which the board received legal advice or
28 that concerned pending or contemplated litigation, the board may disclose
29 information about that matter in an open meeting except for matters that are
30 required to remain confidential by the terms of a settlement agreement or
31 judgment.

32 2. Pending ~~or contemplated~~ litigation.

33 3. Personal, health or financial information about an individual
34 member of the association, an individual employee of the association or an
35 individual employee of a contractor for the association, including records of
36 the association directly related to the personal, health or financial
37 information about an individual member of the association, an individual
38 employee of the association or an individual employee of a contractor for the
39 association.

40 4. Matters relating to the job performance of, compensation of, health
41 records of or specific complaints against an individual employee of the
42 association or an individual employee of a contractor of the association who
43 works under the direction of the association.

44 B. Notwithstanding any provision in the community documents, all
45 meetings of the association and the board shall be held in this state. FOR

1 REGULAR MEETINGS AND WORKSHOPS OF THE BOARD OF DIRECTORS, THE TIME AND
2 LOCATION SHALL BE POSTED IN AN OFFICIAL POSTING LOCATION THAT PREVIOUSLY HAS
3 BEEN DESIGNATED BY THE BOARD, ON THE COMMUNITY WEBSITE, IF ANY, AND IN THE
4 COMMUNITY NEWSLETTER. A LIST OF ALL BOARD MEMBERS AND THEIR CONTACT
5 INFORMATION SHALL ALSO BE INCLUDED IN ALL OFFICIAL MEETING POSTINGS. A
6 meeting of the association shall be held at least once each year. Special
7 meetings of the association may be called by the president, by a majority of
8 the board of directors or by members having at least twenty-five per cent, or
9 any lower percentage specified in the bylaws, of the votes in the
10 association. ~~Unless otherwise provided in the articles or bylaws of the~~
11 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, not
12 fewer than ten nor more than fifty days in advance of any meeting of the
13 members the secretary shall cause notice to be hand-delivered or sent prepaid
14 by United States mail to the mailing address for each lot, parcel or unit
15 owner or to any other mailing address designated in writing by a member. The
16 notice shall state the time and place of the meeting AND SHALL INCLUDE AN
17 AGENDA THAT LISTS THE SPECIFIC MATTERS TO BE DISCUSSED, CONSIDERED OR DECIDED
18 AT THE MEETING. A notice of any special meeting of the members shall also
19 INCLUDE AN AGENDA AND SHALL state the purpose for which the meeting is
20 called, including the general nature of any proposed amendment to the
21 declaration or bylaws, changes in assessments that require approval of the
22 members and any proposal to remove a director or an officer. The failure of
23 any member to receive actual notice of a meeting of the members does not
24 affect the validity of any action taken at that meeting.

25 C. ~~Unless otherwise provided in the articles or bylaws of the~~
26 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, for
27 meetings of the board of directors that are held after the termination of
28 declarant control of the association, notice to members of meetings of the
29 board of directors shall be given at least forty-eight hours in advance of
30 the meeting by newsletter, WEBSITE, conspicuous posting IN AN OFFICIAL
31 LOCATION PREVIOUSLY DESIGNATED AND KNOWN TO THE MEMBERS or any other
32 reasonable means ~~as determined by the board of directors~~. An affidavit of
33 notice by an officer of the corporation is prima facie evidence that notice
34 was given as prescribed by this section. Notice to members of meetings of
35 the board of directors is not required if emergency circumstances require
36 action by the board before notice can be given. Any notice of a board
37 meeting shall state the time and place of the meeting AND SHALL INCLUDE AN
38 AGENDA THAT LISTS THE SPECIFIC MATTERS TO BE DISCUSSED, CONSIDERED OR DECIDED
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40 DISCUSSED, CONSIDERED OR DECIDED AT THE MEETING. ISSUES THAT ARE NOT ON THE
41 AGENDA MAY BE BROUGHT BEFORE THE BOARD OF DIRECTORS FOR INFORMATIONAL
42 PURPOSES ONLY FOR FUTURE DISCUSSION. THE BOARD OF DIRECTORS MAY NOT VOTE ON
43 ANY MATTER AT A WORKSHOP MEETING OF THE BOARD OF DIRECTORS. The failure of
44 any member to receive actual notice of a meeting of the board of directors
45 does not affect the validity of any action taken at that meeting.

1 D. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, A
2 WORKSHOP MEETING OF THE BOARD OF DIRECTORS MAY BE HELD ONLY FOR THE PURPOSES
3 OF DISCUSSION AND STUDY OF ISSUES, EDUCATION OF BOARD MEMBERS AND WORK ON
4 SPECIAL PROJECTS. THE BOARD OF DIRECTORS SHALL PROVIDE PROPER NOTICE OF ANY
5 WORKSHOP MEETING AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, INCLUDING AN
6 AGENDA THAT DESCRIBES THE SPECIFIC REASONS FOR THE WORKSHOP. THE MEMBERS OF
7 THE BOARD OF DIRECTORS AT THE WORKSHOP MEETING SHALL NOT MAKE FORMAL OR
8 INFORMAL DECISIONS ON MATTERS AND SHALL NOT TAKE ANY FORMAL ACTION ON ANY
9 MATTER BEFORE THE BOARD.

10 E. ALL MEETINGS OF ANY COMMITTEE DESIGNATED BY THE BOARD OF DIRECTORS
11 OR ANY COMMITTEE OF THE BOARD SHALL BE OPEN TO ALL MEMBERS OF THE
12 ASSOCIATION. THE BOARD OF DIRECTORS SHALL PROVIDE NOTICE OF THE MEETING AS
13 PRESCRIBED IN SUBSECTION C OF THIS SECTION AND SHALL INCLUDE AN AGENDA.

14 F. MINUTES OF ANY MEETING OF THE BOARD OF DIRECTORS THAT IS NOT A
15 CLOSED MEETING SHALL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN TEN BUSINESS
16 DAYS AFTER THE MEETING IS HELD. MEMBERS SHALL BE PROVIDED WITH A COPY OF THE
17 MINUTES AT NO COST TO THE MEMBER WITHIN THREE BUSINESS DAYS AFTER A WRITTEN
18 REQUEST TO THE SECRETARY OF THE BOARD OF DIRECTORS OR TO THE MANAGER OF THE
19 ASSOCIATION.

20 G. ANY PERSON WHO IS ENTITLED TO BE PRESENT AT A MEETING OF THE BOARD
21 OF DIRECTORS, A MEETING OF THE MEMBERSHIP OR A MEETING OF A COMMITTEE OF THE
22 ASSOCIATION MAY RECORD THE MEETING BY USE OF A VIDEO CAMERA, AN AUDIO TAPE
23 RECORDER OR ANY OTHER MEANS OF SOUND REPRODUCTION IF THE PERSON DOES NOT
24 ACTIVELY INTERFERE IN THE CONDUCT OF THE MEETING.

25 H. A QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS
26 OR MAKE ANY DECISIONS BY MEANS OF ELECTRONIC MAIL COMMUNICATION. A QUORUM OF
27 THE BOARD OF DIRECTORS SHALL NOT MEET INFORMALLY WITHOUT COMPLYING WITH THIS
28 SECTION AND PROVIDING PROPER NOTICE OF THE MEETING, WITHOUT REGARD TO WHETHER
29 THE BOARD MEMBERS VOTE OR TAKE ANY OTHER ACTION.

30 I. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
31 CONFERENCE CALL IF A SPEAKER TELEPHONE IS AVAILABLE IN THE MEETING ROOM THAT
32 ALLOWS BOARD MEMBERS AND MEMBERS OF THE ASSOCIATION TO HEAR ALL PERSONS WHO
33 SPEAK DURING THE MEETING. IF THE MEMBER OF THE BOARD OF DIRECTORS WHO IS
34 PARTICIPATING BY TELEPHONE CANNOT BE HEARD BY EVERYONE PRESENT FOR THE
35 MEETING OR CANNOT HEAR EVERYONE SPEAKING IN THE MEETING, THE CALL SHALL BE
36 TERMINATED AND THE MEETING SHALL BE ADJOURNED.

37 Sec. 4. Title 33, chapter 16, article 1, Arizona Revised Statutes, is
38 amended by adding section 33-1804.01, to read:

39 33-1804.01. Declaration of open meeting policy

40 A. IT IS THE POLICY OF THIS STATE THAT ALL MEETINGS OF A PLANNED
41 COMMUNITY ASSOCIATION, WHETHER MEETINGS OF THE MEMBERSHIP, MEETINGS OF THE
42 BOARD OF DIRECTORS OR MEETINGS OF COMMITTEES OF THE MEMBERSHIP, BE CONDUCTED
43 OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR ALL OF THOSE MEETINGS.

1 B. IT IS FURTHER THE POLICY OF THIS STATE THAT NOTICES AND AGENDAS FOR
2 MEETINGS CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE
3 MEMBERS OF THE MATTERS BEING DISCUSSED OR DECIDED AND THAT MEMBERS HAVE THE
4 ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS AND BEFORE A VOTE OF THE
5 BOARD OF DIRECTORS.
6 C. THIS POLICY SHALL ALSO APPLY TO ASSOCIATIONS THAT ARE UNDER
7 DECLARANT CONTROL.
8 D. ANY PERSON OR ENTITY RESPONSIBLE FOR THE INTERPRETATION OR
9 IMPLEMENTATION OF THIS CHAPTER SHALL CONSTRUE ANY PROVISION OF THIS CHAPTER
10 IN FAVOR OF OPEN MEETINGS.