

REFERENCE TITLE: association meetings; condominiums; planned communities

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HB 2330

Introduced by  
Representative Harper

AN ACT

AMENDING SECTIONS 33-1248 AND 33-1804, ARIZONA REVISED STATUTES; 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; declaration of policy

5 A. Notwithstanding any provision in the declaration, bylaws or other  
6 documents to the contrary, all meetings of the **UNIT OWNERS'** association and  
7 **THE** board of directors, **AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS**, are  
8 open to all members of the association or any person designated by a member  
9 in writing as the member's representative and all members or designated  
10 representatives so desiring shall be permitted to attend and speak at an  
11 appropriate time during the deliberations and proceedings. The board may  
12 place reasonable time restrictions on those persons speaking during the  
13 meeting but shall permit a member or a member's designated representative to  
14 speak **ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT** before  
15 the board takes formal action on ~~an~~ **THAT** item ~~under discussion~~ in addition to  
16 any other opportunities to speak. The board shall provide for a reasonable  
17 number of persons to speak on each side of an issue. Any portion of a  
18 meeting may be closed only if that portion of the meeting is limited to  
19 consideration of one or more of the following:

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

26 2. Pending or contemplated litigation.

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

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

38 **5. DISCUSSION OF A UNIT OWNER'S APPEAL OF ANY VIOLATION CITED OR**  
39 **PENALTY IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED UNIT**  
40 **OWNER THAT THE MEETING BE HELD IN AN OPEN SESSION.**

41 B. Notwithstanding any provision in the condominium documents, all  
42 meetings of the **UNIT OWNERS'** association and the board shall be held in this  
43 state. A meeting of the **UNIT OWNERS'** association shall be held at least once  
44 each year. Special meetings of the **UNIT OWNERS'** association may be called by  
45 the president, by a majority of the board of directors or by unit owners

1 having at least twenty-five per cent, or any lower percentage specified in  
2 the bylaws, of the votes in the association. ~~Unless otherwise provided in~~  
3 ~~the articles or the bylaws of the association,~~ Not fewer than ten nor more  
4 than fifty days in advance of any meeting of the unit owners, the secretary  
5 shall cause notice to be hand delivered or sent prepaid by United States mail  
6 to the mailing address of each unit or to any other mailing address  
7 designated in writing by the unit owner. The notice of any meeting of the  
8 unit owners shall state the time and place of the meeting. The notice of any  
9 special meeting of the unit owners shall also state the purpose for which the  
10 meeting is called, including the general nature of any proposed amendment to  
11 the declaration or bylaws, any changes in assessments that require approval  
12 of the unit owners and any proposal to remove a director or officer. The  
13 failure of any unit owner to receive actual notice of a meeting of the unit  
14 owners does not affect the validity of any action taken at that meeting.

15 C. ~~Unless otherwise provided in the articles or bylaws of the~~  
16 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER  
17 CONDOMINIUM DOCUMENTS, for meetings of the board of directors that are held  
18 after the termination of declarant control of the association, notice to unit  
19 owners of meetings of the board of directors shall be given at least  
20 forty-eight hours in advance of the meeting by newsletter, conspicuous  
21 posting or any other reasonable means as determined by the board of  
22 directors. An affidavit of notice by an officer of the association is prima  
23 facie evidence that notice was given as prescribed by this section. Notice  
24 to unit owners of meetings of the board of directors is not required if  
25 emergency circumstances require action by the board before notice can be  
26 given. Any notice of a board meeting shall state the time and place of the  
27 meeting. The failure of any unit owner to receive actual notice of a meeting  
28 of the board of directors does not affect the validity of any action taken at  
29 that meeting.

30 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER  
31 CONDOMINIUM DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS OR OF THE UNIT  
32 OWNERS' ASSOCIATION THAT ARE HELD AFTER THE TERMINATION OF DECLARANT CONTROL  
33 OF THE ASSOCIATION, ALL OF THE FOLLOWING APPLY:

- 34 1. THE AGENDA SHALL BE AVAILABLE TO ALL UNIT OWNERS ATTENDING.
- 35 2. A MEETING OF THE BOARD OF DIRECTORS MAY ADJOURN INTO A CLOSED  
36 SESSION ON A VOTE OF THE BOARD OF DIRECTORS AND AFTER THE BOARD ANNOUNCES THE  
37 REASON FOR THE CLOSED SESSION AT AN OPEN SESSION OF A MEETING OF THE BOARD.  
38 A CLOSED SESSION OF THE BOARD OF DIRECTORS MAY BE HELD WITHOUT FIRST MEETING  
39 IN AN OPEN SESSION IF NOTICE IS GIVEN AS PRESCRIBED BY THIS SECTION. THE  
40 BOARD OF DIRECTORS SHALL DISCLOSE AT AN OPEN MEETING ANY DECISION TO BECOME A  
41 PARTY TO A LAWSUIT. THIS PARAGRAPH DOES NOT APPLY TO AN ACTION FILED  
42 PURSUANT TO TITLE 12, CHAPTER 8, ARTICLE 14.
- 43 3. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO  
44 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT  
45 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING

1 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF  
2 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY  
3 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

4 4. THE BOARD OF DIRECTORS MAY TAKE ACTION WITHOUT A MEETING AS  
5 PRESCRIBED IN SECTION 10-3821. IF THE BOARD TAKES ACTION WITHOUT A MEETING,  
6 A STATEMENT SHALL BE PREPARED STATING THAT AN ACTION HAS BEEN TAKEN WITHOUT A  
7 MEETING, THE REASON FOR TAKING THE ACTION AND THE ACTION TAKEN. THIS  
8 STATEMENT SHALL BE READ INTO THE MINUTES OF THE NEXT REGULARLY SCHEDULED  
9 MEETING OF THE BOARD OF DIRECTORS. THE PROCEDURE FOR TAKING ACTION WITHOUT A  
10 MEETING SHALL BE USED ONLY WHEN EMERGENCY CIRCUMSTANCES WARRANT A MEETING AND  
11 THERE IS NOT SUFFICIENT TIME TO PROVIDE NOTICE FOR A MEETING, OR WHEN A  
12 QUORUM OF THE BOARD IS IMPOSSIBLE TO OBTAIN AND NECESSARY BUSINESS MUST BE  
13 UNDERTAKEN. THIS PROCEDURE SHALL NOT BE USED TO TAKE THE PLACE OF CONDUCTING  
14 BUSINESS AT A REGULARLY SCHEDULED BOARD MEETING.

15 5. MEETINGS OF THE UNIT OWNERS' ASSOCIATION OR THE BOARD OF DIRECTORS,  
16 OTHER THAN CLOSED SESSIONS OF THE BOARD OF DIRECTORS, MAY BE RECORDED BY  
17 MEANS OF A VIDEO CAMERA OR TAPE RECORDER OR ANY OTHER MEANS OF AUDIO  
18 REPRODUCTION ONLY IF THE PARTICIPANTS ARE NOTIFIED AND THERE IS NO ACTIVE  
19 INTERFERENCE WITH THE CONDUCT OF THE MEETING.

20 6. OTHER THAN ACTIONS ALLOWED BY PARAGRAPH 4 OF THIS SUBSECTION, A  
21 QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS, VOTE OR  
22 MAKE ANY DECISIONS BY MEANS OF TELEPHONE OR ANY TYPE OF ELECTRONIC  
23 COMMUNICATIONS, SUCH AS CELLULAR TELEPHONE PHONE, ELECTRONIC MAIL, CHAT ROOMS  
24 OR OTHER METHODS OF INTERNET COMMUNICATION.

25 7. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE  
26 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS  
27 BOARD MEMBERS AND UNIT OWNERS TO HEAR ALL PARTIES WHO ARE SPEAKING DURING THE  
28 MEETING.

29 8. ANY QUORUM OF THE BOARD OF DIRECTORS THAT MEETS INFORMALLY TO  
30 DISCUSS ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN  
31 MEETING AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE  
32 BOARD VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

33 E. IT IS THE POLICY OF THIS STATE AS REFLECTED IN THIS SECTION THAT  
34 ALL MEETINGS OF A CONDOMINIUM, WHETHER MEETINGS OF THE UNIT OWNERS'  
35 ASSOCIATION OR MEETINGS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, BE  
36 CONDUCTED OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR THOSE MEETINGS  
37 THAT CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE UNIT  
38 OWNERS OF THE MATTERS TO BE DISCUSSED OR DECIDED AND TO ENSURE THAT UNIT  
39 OWNERS HAVE THE ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS, BUT BEFORE  
40 A VOTE OF THE BOARD OF DIRECTORS IS TAKEN. TOWARD THIS END, ANY PERSON OR  
41 ENTITY THAT IS CHARGED WITH THE INTERPRETATION OF THESE PROVISIONS SHALL TAKE  
42 INTO ACCOUNT THIS DECLARATION OF POLICY AND SHALL CONSTRUE ANY PROVISION OF  
43 THIS SECTION IN FAVOR OF OPEN MEETINGS.

44 ~~D.~~ F. This section does not apply to timeshare plans or associations  
45 that are subject to chapter 20 of this title.

1           Sec. 2. Section 33-1804, Arizona Revised Statutes, is amended to read:  
2           33-1804. Open meetings; exceptions; declarataion of policy

3           A. Notwithstanding any provision in the declaration, bylaws or other  
4 documents to the contrary, all meetings of the MEMBERS' association and THE  
5 board of directors, AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS, are open  
6 to all members of the association or any person designated by a member in  
7 writing as the member's representative and all members or designated  
8 representatives so desiring shall be permitted to attend and speak at an  
9 appropriate time during the deliberations and proceedings. The board may  
10 place reasonable time restrictions on those persons speaking during the  
11 meeting but shall permit a member or member's designated representative to  
12 speak ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT before  
13 the board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to  
14 any other opportunities to speak. The board shall provide for a reasonable  
15 number of persons to speak on each side of an issue. Any portion of a  
16 meeting may be closed only if that closed portion of the meeting is limited  
17 to consideration of one or more of the following:

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

24           2. Pending or contemplated litigation.

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

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

36           5. DISCUSSION OF A MEMBER'S APPEAL OF ANY VIOLATION CITED OR PENALTY  
37 IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED MEMBER THAT THE  
38 MEETING BE HELD IN AN OPEN SESSION.

39           B. Notwithstanding any provision in the community documents, all  
40 meetings of the MEMBERS' association and the board shall be held in this  
41 state. A meeting of the MEMBERS' association shall be held at least once  
42 each year. Special meetings of the MEMBERS' association may be called by the  
43 president, by a majority of the board of directors or by members having at  
44 least twenty-five per cent, or any lower percentage specified in the bylaws,  
45 of the votes in the association. ~~Unless otherwise provided in the articles~~

1 ~~or bylaws of the association,~~ Not fewer than ten nor more than fifty days in  
2 advance of any meeting of the members, the secretary shall cause notice to be  
3 hand-delivered or sent prepaid by United States mail to the mailing address  
4 for each lot, parcel or unit owner or to any other mailing address designated  
5 in writing by a member. The notice shall state the time and place of the  
6 meeting. A notice of any special meeting of the members shall also state the  
7 purpose for which the meeting is called, including the general nature of any  
8 proposed amendment to the declaration or bylaws, changes in assessments that  
9 require approval of the members and any proposal to remove a director or an  
10 officer. The failure of any member to receive actual notice of a meeting of  
11 the members does not affect the validity of any action taken at that meeting.

12 C. ~~Unless otherwise provided in the articles or bylaws of the~~  
13 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER  
14 COMMUNITY DOCUMENTS, for meetings of the board of directors that are held  
15 after the termination of declarant control of the association, notice to  
16 members of meetings of the board of directors shall be given at least  
17 forty-eight hours in advance of the meeting by newsletter, conspicuous  
18 posting or any other reasonable means as determined by the board of  
19 directors. An affidavit of notice by an officer of the corporation is prima  
20 facie evidence that notice was given as prescribed by this section. Notice  
21 to members of meetings of the board of directors is not required if emergency  
22 circumstances require action by the board before notice can be given. Any  
23 notice of a board meeting shall state the time and place of the meeting. The  
24 failure of any member to receive actual notice of a meeting of the board of  
25 directors does not affect the validity of any action taken at that meeting.

26 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER  
27 COMMUNITY DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS OR OF THE  
28 MEMBERS' ASSOCIATION THAT ARE HELD AFTER THE TERMINATION OF DECLARANT CONTROL  
29 OF THE ASSOCIATION, ALL OF THE FOLLOWING APPLY:

- 30 1. THE AGENDA SHALL BE AVAILABLE TO ALL MEMBERS ATTENDING.
- 31 2. A MEETING OF THE BOARD OF DIRECTORS MAY ADJOURN INTO A CLOSED  
32 SESSION ON A VOTE OF THE BOARD OF DIRECTORS AND AFTER THE BOARD ANNOUNCES THE  
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36 BOARD OF DIRECTORS SHALL DISCLOSE AT AN OPEN MEETING ANY DECISION TO BECOME A  
37 PARTY TO A LAWSUIT. THIS PARAGRAPH DOES NOT APPLY TO AN ACTION FILED  
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40 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT  
41 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING  
42 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF  
43 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY  
44 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

1           4. THE BOARD OF DIRECTORS MAY TAKE ACTION WITHOUT A MEETING AS  
2 PRESCRIBED IN SECTION 10-3821. IF THE BOARD TAKES ACTION WITHOUT A MEETING,  
3 A STATEMENT SHALL BE PREPARED STATING THAT AN ACTION HAS BEEN TAKEN WITHOUT A  
4 MEETING, THE REASON FOR TAKING THE ACTION AND THE ACTION TAKEN. THIS  
5 STATEMENT SHALL BE READ INTO THE MINUTES OF THE NEXT REGULARLY SCHEDULED  
6 MEETING OF THE BOARD OF DIRECTORS. THE PROCEDURE FOR TAKING ACTION WITHOUT A  
7 MEETING SHALL BE USED ONLY WHEN EMERGENCY CIRCUMSTANCES WARRANT A MEETING AND  
8 THERE IS NOT SUFFICIENT TIME TO PROVIDE NOTICE FOR A MEETING, OR WHEN A  
9 QUORUM OF THE BOARD IS IMPOSSIBLE TO OBTAIN AND NECESSARY BUSINESS MUST BE  
10 UNDERTAKEN. THIS PROCEDURE SHALL NOT BE USED TO TAKE THE PLACE OF CONDUCTING  
11 BUSINESS AT A REGULARLY SCHEDULED BOARD MEETING.

12           5. MEETINGS OF THE MEMBERS' ASSOCIATION OR THE BOARD OF DIRECTORS,  
13 OTHER THAN CLOSED SESSIONS OF THE BOARD OF DIRECTORS, MAY BE RECORDED BY  
14 MEANS OF A VIDEO CAMERA OR TAPE RECORDER OR ANY OTHER MEANS OF AUDIO  
15 REPRODUCTION ONLY IF THE PARTICIPANTS ARE NOTIFIED AND THERE IS NO ACTIVE  
16 INTERFERENCE WITH THE CONDUCT OF THE MEETING.

17           6. OTHER THAN ACTIONS ALLOWED BY PARAGRAPH 4 OF THIS SUBSECTION, A  
18 QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS, VOTE OR  
19 MAKE ANY DECISIONS BY MEANS OF TELEPHONE OR ANY TYPE OF ELECTRONIC  
20 COMMUNICATIONS, SUCH AS CELLULAR TELEPHONE PHONE, ELECTRONIC MAIL, CHAT ROOMS  
21 OR OTHER METHODS OF INTERNET COMMUNICATION.

22           7. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE  
23 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS  
24 BOARD MEMBERS AND ASSOCIATION MEMBERS TO HEAR ALL PARTIES WHO ARE SPEAKING  
25 DURING THE MEETING.

26           8. ANY QUORUM OF THE BOARD OF DIRECTORS THAT MEETS INFORMALLY TO  
27 DISCUSS ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN  
28 MEETING AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE  
29 BOARD VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

30           E. IT IS THE POLICY OF THIS STATE AS REFLECTED IN THIS SECTION THAT  
31 ALL MEETINGS OF A PLANNED COMMUNITY, WHETHER MEETINGS OF THE MEMBERS'  
32 ASSOCIATION OR MEETINGS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, BE  
33 CONDUCTED OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR THOSE MEETINGS  
34 THAT CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE  
35 MEMBERS OF THE MATTERS TO BE DISCUSSED OR DECIDED AND TO ENSURE THAT MEMBERS  
36 HAVE THE ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS, BUT BEFORE A VOTE  
37 OF THE BOARD OF DIRECTORS IS TAKEN. TOWARD THIS END, ANY PERSON OR ENTITY  
38 THAT IS CHARGED WITH THE INTERPRETATION OF THESE PROVISIONS SHALL TAKE INTO  
39 ACCOUNT THIS DECLARATION OF POLICY AND SHALL CONSTRUE ANY PROVISION OF THIS  
40 SECTION IN FAVOR OF OPEN MEETINGS.