

House Engrossed

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2411

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

5 A. Notwithstanding any provision in the declaration, bylaws or
6 other documents to the contrary, all meetings of the unit owners'
7 association and the board of directors, and any regularly scheduled
8 committee meetings, are open to all members of the association or any
9 person designated by a member in writing as the member's representative
10 and all members or designated representatives so desiring shall be
11 permitted to attend and speak at an appropriate time during the
12 deliberations and proceedings. The board may place reasonable time
13 restrictions on those persons speaking during the meeting but shall permit
14 a member or a member's designated representative to speak once after the
15 board has discussed a specific agenda item but before the board takes
16 formal action on that item in addition to any other opportunities to
17 speak. The board shall provide for a reasonable number of persons to
18 speak on each side of an issue. Persons attending may audiotape or
19 videotape those portions of the meetings of the board of directors and
20 meetings of the members that are open. The board of directors of the
21 association **SHALL NOT REQUIRE ADVANCE NOTICE OF THE AUDIOTAPING OR**
22 **VIDEOTAPING AND** may adopt reasonable rules governing the audiotaping or
23 videotaping of open portions of the meetings of the board and the
24 membership, but such rules shall not preclude such audiotaping or
25 videotaping by those attending, **UNLESS THE BOARD AUDIOTAPES OR VIDEOTAPES**
26 **THE MEETING AND MAKES THE AUDIOTAPES OR VIDEOTAPES AVAILABLE TO MEMBERS**
27 **UPON REQUEST.** Any portion of a meeting may be closed only if that portion
28 of the meeting is limited to consideration of one or more of the
29 following:

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

36 2. Pending or contemplated litigation.

37 3. Personal, health or financial information about an individual
38 member of the association, an individual employee of the association or an
39 individual employee of a contractor for the association, including records
40 of the association directly related to the personal, health or financial
41 information about an individual member of the association, an individual
42 employee of the association or an individual employee of a contractor for
43 the association.

1 4. Matters relating to the job performance of, compensation of,
2 health records of or specific complaints against an individual employee of
3 the association or an individual employee of a contractor of the
4 association who works under the direction of the association.

5 5. Discussion of a unit owner's appeal of any violation cited or
6 penalty imposed by the association except on request of the affected unit
7 owner that the meeting be held in an open session.

8 B. Notwithstanding any provision in the condominium documents, all
9 meetings of the unit owners' association and the board shall be held in
10 this state. A meeting of the unit owners' association shall be held at
11 least once each year. Special meetings of the unit owners' association
12 may be called by the president, by a majority of the board of directors or
13 by unit owners having at least twenty-five ~~per cent~~ PERCENT, or any lower
14 percentage specified in the bylaws, of the votes in the association. Not
15 fewer than ten nor more than fifty days in advance of any meeting of the
16 unit owners, the secretary shall cause notice to be hand delivered or sent
17 prepaid by United States mail to the mailing address of each unit or to
18 any other mailing address designated in writing by the unit owner. The
19 notice of any meeting of the unit owners shall state the DATE, time and
20 place of the meeting. The notice of any ANNUAL, REGULAR OR special
21 meeting of the unit owners shall also state the purpose for which the
22 meeting is called, including the general nature of any proposed amendment
23 to the declaration or bylaws, any changes in assessments that require
24 approval of the unit owners and any proposal to remove a director or
25 officer. The failure of any unit owner to receive actual notice of a
26 meeting of the unit owners does not affect the validity of any action
27 taken at that meeting.

28 C. BEFORE ENTERING INTO ANY CLOSED PORTION OF A MEETING OF THE
29 BOARD OF DIRECTORS, OR UPON NOTICE OF A CLOSED MEETING UNDER SUBSECTION D
30 OF THIS SECTION, THE BOARD SHALL IDENTIFY THE PARAGRAPH IN SUBSECTION A OF
31 THIS SECTION THAT AUTHORIZES THE BOARD TO CLOSE THE MEETING.

32 ~~C.~~ D. Notwithstanding any provision in the declaration, bylaws or
33 other condominium documents, for meetings of the board of directors that
34 are held after the termination of declarant control of the association,
35 notice to unit owners of meetings of the board of directors shall be given
36 at least forty-eight hours in advance of the meeting by newsletter,
37 conspicuous posting or any other reasonable means as determined by the
38 board of directors. An affidavit of notice by an officer of the
39 association is prima facie evidence that notice was given as prescribed by
40 this section. Notice to unit owners of meetings of the board of directors
41 is not required if emergency circumstances require action by the board
42 before notice can be given. Any notice of a board meeting shall state the
43 DATE, time and place of the meeting. The failure of any unit owner to

1 receive actual notice of a meeting of the board of directors does not
2 affect the validity of any action taken at that meeting.

3 ~~D.~~ E. Notwithstanding any provision in the declaration, bylaws or
4 other condominium documents, for meetings of the board of directors that
5 are held after the termination of declarant control of the association,
6 all of the following apply:

7 1. The agenda shall be available to all unit owners attending.

8 2. An emergency meeting of the board of directors may be called to
9 discuss business or take action that cannot be delayed ~~until the next~~
10 ~~regularly scheduled board meeting~~ FOR THE FORTY-EIGHT HOURS REQUIRED FOR
11 NOTICE. AT ANY EMERGENCY MEETING CALLED BY THE BOARD OF DIRECTORS, THE
12 BOARD OF DIRECTORS MAY ACT ONLY ON EMERGENCY MATTERS. The minutes of the
13 emergency meeting shall state the reason necessitating the emergency
14 meeting. The minutes of the emergency meeting shall be read and approved
15 at the next regularly scheduled meeting of the board of directors.

16 3. A quorum of the board of directors may meet by means of a
17 telephone conference if a speakerphone is available in the meeting room
18 that allows board members and unit owners to hear all parties who are
19 speaking during the meeting.

20 4. Any quorum of the board of directors that meets informally to
21 discuss association business, including workshops, shall comply with the
22 open meeting and notice provisions of this section without regard to
23 whether the board votes or takes any action on any matter at that informal
24 meeting.

25 ~~E.~~ F. It is the policy of this state as reflected in this section
26 that all meetings of a condominium, whether meetings of the unit owners'
27 association or meetings of the board of directors of the association, be
28 conducted openly and that notices and agendas be provided for those
29 meetings that contain the information that is reasonably necessary to
30 inform the unit owners of the matters to be discussed or decided and to
31 ensure that unit owners have the ability to speak after discussion of
32 agenda items, but before a vote of the board of directors OR MEMBERS is
33 taken. Toward this end, any person or entity that is charged with the
34 interpretation of these provisions, INCLUDING MEMBERS OF THE BOARD OR
35 DIRECTORS AND ANY COMMUNITY MANAGER, shall take into account this
36 declaration of policy and shall construe any provision of this section in
37 favor of open meetings.

38 ~~F.~~ G. This section does not apply to timeshare plans or
39 associations that are subject to chapter 20 of this title.

40 Sec. 2. Section 33-1804, Arizona Revised Statutes, is amended to
41 read:

42 33-1804. Open meetings; exceptions

43 A. Notwithstanding any provision in the declaration, bylaws or
44 other documents to the contrary, all meetings of the members' association

1 and the board of directors, and any regularly scheduled committee
2 meetings, are open to all members of the association or any person
3 designated by a member in writing as the member's representative and all
4 members or designated representatives so desiring shall be permitted to
5 attend and speak at an appropriate time during the deliberations and
6 proceedings. The board may place reasonable time restrictions on those
7 persons speaking during the meeting but shall permit a member or member's
8 designated representative to speak once after the board has discussed a
9 specific agenda item but before the board takes formal action on that item
10 in addition to any other opportunities to speak. The board shall provide
11 for a reasonable number of persons to speak on each side of an issue.
12 Persons attending may ~~tape record~~ AUDIOTAPE or videotape those portions of
13 the meetings of the board of directors and meetings of the members that
14 are open. The board of directors of the association SHALL NOT REQUIRE
15 ADVANCE NOTICE OF THE AUDIOTAPING OR VIDEOTAPING AND may adopt reasonable
16 rules governing the ~~taping~~ AUDIOTAPING AND VIDEOTAPING of open portions of
17 the meetings of the board and the membership, but such rules shall not
18 preclude such ~~tape recording~~ AUDIOTAPING or videotaping by those
19 attending, UNLESS THE BOARD AUDIOTAPES OR VIDEOTAPES THE MEETING AND MAKES
20 THE AUDIOTAPES OR VIDEOTAPES AVAILABLE TO MEMBERS UPON REQUEST. Any
21 portion of a meeting may be closed only if that closed portion of the
22 meeting is limited to consideration of one or more of the following:

- 23 1. Legal advice from an attorney for the board or the association.
24 On final resolution of any matter for which the board received legal
25 advice or that concerned pending or contemplated litigation, the board may
26 disclose information about that matter in an open meeting except for
27 matters that are required to remain confidential by the terms of a
28 settlement agreement or judgment.
- 29 2. Pending or contemplated litigation.
- 30 3. Personal, health or financial information about an individual
31 member of the association, an individual employee of the association or an
32 individual employee of a contractor for the association, including records
33 of the association directly related to the personal, health or financial
34 information about an individual member of the association, an individual
35 employee of the association or an individual employee of a contractor for
36 the association.
- 37 4. Matters relating to the job performance of, compensation of,
38 health records of or specific complaints against an individual employee of
39 the association or an individual employee of a contractor of the
40 association who works under the direction of the association.
- 41 5. Discussion of a member's appeal of any violation cited or
42 penalty imposed by the association except on request of the affected
43 member that the meeting be held in an open session.

1 B. Notwithstanding any provision in the community documents, all
2 meetings of the members' association and the board shall be held in this
3 state. A meeting of the members' association shall be held at least once
4 each year. Special meetings of the members' association may be called by
5 the president, by a majority of the board of directors or by members
6 having at least twenty-five ~~per cent~~ PERCENT, or any lower percentage
7 specified in the bylaws, of the votes in the association. Not fewer than
8 ten nor more than fifty days in advance of any meeting of the members the
9 secretary shall cause notice to be hand-delivered or sent prepaid by
10 United States mail to the mailing address for each lot, parcel or unit
11 owner or to any other mailing address designated in writing by a
12 member. The notice shall state the DATE, time and place of the
13 meeting. A notice of any ANNUAL, REGULAR OR special meeting of the
14 members shall also state the purpose for which the meeting is called,
15 including the general nature of any proposed amendment to the declaration
16 or bylaws, changes in assessments that require approval of the members and
17 any proposal to remove a director or an officer. The failure of any
18 member to receive actual notice of a meeting of the members does not
19 affect the validity of any action taken at that meeting.

20 C. BEFORE ENTERING INTO ANY CLOSED PORTION OF A MEETING OF THE
21 BOARD OF DIRECTORS, OR UPON NOTICE OF A CLOSED MEETING UNDER SUBSECTION D
22 OF THIS SECTION, THE BOARD SHALL IDENTIFY THE PARAGRAPH IN SUBSECTION A OF
23 THIS SECTION THAT AUTHORIZES THE BOARD TO CLOSE THE MEETING.

24 ~~D.~~ D. Notwithstanding any provision in the declaration, bylaws or
25 other community documents, for meetings of the board of directors that are
26 held after the termination of declarant control of the association, notice
27 to members of meetings of the board of directors shall be given at least
28 forty-eight hours in advance of the meeting by newsletter, conspicuous
29 posting or any other reasonable means as determined by the board of
30 directors. An affidavit of notice by an officer of the corporation is
31 prima facie evidence that notice was given as prescribed by this
32 section. Notice to members of meetings of the board of directors is not
33 required if emergency circumstances require action by the board before
34 notice can be given. Any notice of a board meeting shall state the DATE,
35 time and place of the meeting. The failure of any member to receive
36 actual notice of a meeting of the board of directors does not affect the
37 validity of any action taken at that meeting.

38 ~~E.~~ E. Notwithstanding any provision in the declaration, bylaws or
39 other community documents, for meetings of the board of directors that are
40 held after the termination of declarant control of the association, all of
41 the following apply:

- 42 1. The agenda shall be available to all members attending.
- 43 2. 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~~

1 ~~regularly scheduled board meeting~~ FOR THE FORTY-EIGHT HOURS REQUIRED FOR
2 NOTICE. AT ANY EMERGENCY MEETING CALLED BY THE BOARD OF DIRECTORS, THE
3 BOARD OF DIRECTORS MAY ACT ONLY ON EMERGENCY MATTERS. The minutes of the
4 emergency meeting shall state the reason necessitating the emergency
5 meeting. The minutes of the emergency meeting shall be read and approved
6 at the next regularly scheduled meeting of the board of directors.

7 3. A quorum of the board of directors may meet by means of a
8 telephone conference if a speakerphone is available in the meeting room
9 that allows board members and association members to hear all parties who
10 are speaking during the meeting.

11 4. Any quorum of the board of directors that meets informally to
12 discuss association business, including workshops, shall comply with the
13 open meeting and notice provisions of this section without regard to
14 whether the board votes or takes any action on any matter at that informal
15 meeting.

16 ~~E.~~ F. It is the policy of this state as reflected in this section
17 that all meetings of a planned community, whether meetings of the members'
18 association or meetings of the board of directors of the association, be
19 conducted openly and that notices and agendas be provided for those
20 meetings that contain the information that is reasonably necessary to
21 inform the members of the matters to be discussed or decided and to ensure
22 that members have the ability to speak after discussion of agenda items,
23 but before a vote of the board of directors OR MEMBERS is taken. Toward
24 this end, any person or entity that is charged with the interpretation of
25 these provisions, INCLUDING MEMBERS OF THE BOARD OF DIRECTORS AND ANY
26 COMMUNITY MANAGER, shall take into account this declaration of policy and
27 shall construe any provision of this section in favor of open meetings.