

House Engrossed

homeowners' associations; meeting agendas

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2662

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; notice; agenda; policy
5 statement

6 A. Notwithstanding any provision in the declaration, bylaws or
7 other documents to the contrary, all meetings of the unit owners'
8 association and the board of directors, and any regularly scheduled
9 committee meetings, are open to all members of the association or any
10 person designated by a member in writing as the member's representative
11 and all members or designated representatives so desiring shall be
12 ~~permitted~~ ALLOWED to attend and speak at an appropriate time during the
13 deliberations and proceedings. The board may place reasonable time
14 restrictions on those persons speaking during the meeting but shall ~~permit~~
15 ALLOW a member or a member's designated representative to speak once after
16 the board has discussed a specific agenda item but before the board takes
17 formal action on that item in addition to any other opportunities to
18 speak. The board shall provide for a reasonable number of persons to
19 speak on each side of an issue. Persons attending may audiotape or
20 videotape those portions of the meetings of the board of directors and
21 meetings of the members that are open. The board of directors of the
22 association shall not require advance notice of the audiotaping or
23 videotaping and may adopt reasonable rules governing the audiotaping or
24 videotaping of open portions of the meetings of the board and the
25 membership, but such rules shall not preclude such audiotaping or
26 videotaping by those attending, unless the board audiotapes or videotapes
27 the meeting and makes the unedited audiotapes or videotapes available to
28 members on request without restrictions on ~~its~~ THEIR use as evidence in
29 any dispute resolution process. Any portion of a meeting may be closed
30 only if that portion of the meeting is limited to consideration of one or
31 more of the following:

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

38 2. Pending or contemplated litigation.

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

1 employee of the association or an individual employee of a contractor for
2 the association.

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

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

10 B. Notwithstanding any provision in the condominium documents, all
11 meetings of the unit owners' association and the board shall be held in
12 this state. A meeting of the unit owners' association shall be held at
13 least once each year. Special meetings of the unit owners' association
14 may be called by the president, by a majority of the board of directors or
15 by unit owners having at least twenty-five percent, or any lower
16 percentage specified in the bylaws, of the votes in the association. Not
17 fewer than ten ~~TOT~~ OR more than fifty days in advance of any meeting of
18 the unit owners, the secretary shall cause notice to be hand delivered or
19 sent prepaid by United States mail to the mailing address of each unit or
20 to any other mailing address designated in writing by the unit owner. The
21 notice of any meeting of the unit owners shall state the date, time and
22 place of the meeting. The notice of any annual, regular or special
23 meeting of the unit owners shall also state the purpose for which the
24 meeting is called, including the general nature of any proposed amendment
25 to the declaration or bylaws, any changes in assessments that require
26 approval of the unit owners and any proposal to remove a director or
27 officer. **THE SECRETARY SHALL ALSO PROVIDE AN AGENDA FOR ANY MEETING OF
28 THE UNIT OWNERS' ASSOCIATION BY HAND DELIVERY, MAIL, WEBSITE POSTING,
29 EMAIL OR OTHER ELECTRONIC MEANS OR POSTING AT A COMMUNITY CENTER OR OTHER
30 SIMILAR LOCATION.** The failure of any unit owner to receive actual notice
31 of a meeting of the unit owners **OR THE MEETING AGENDA** does not affect the
32 validity of any action taken at that meeting.

33 C. Before entering into any closed portion of a meeting of the
34 board of directors, or on notice of a meeting under subsection D of this
35 section that will be closed, the board shall identify the paragraph under
36 subsection A of this section that authorizes the board to close the
37 meeting.

38 D. Notwithstanding any provision in the declaration, bylaws or
39 other condominium documents, for meetings of the board of directors that
40 are held after the termination of declarant control of the association,
41 notice to unit owners of meetings of the board of directors **AND MEETING
42 AGENDAS** shall be given at least forty-eight hours in advance of the
43 meeting by newsletter, conspicuous posting or any other reasonable means
44 as determined by the board of directors. An affidavit of notice by an

1 officer of the association is prima facie evidence that notice was given
2 as prescribed by this section. Notice to unit owners of meetings of the
3 board of directors is not required if emergency circumstances require
4 action by the board before notice can be given. Any notice of a board
5 meeting shall state the date, time and place of the meeting. The failure
6 of any unit owner to receive actual notice of a meeting of the board of
7 directors **OR A MEETING AGENDA** does not affect the validity of any action
8 taken at that meeting.

9 E. Notwithstanding any provision in the declaration, bylaws or
10 other condominium documents, for meetings of the board of directors that
11 are held after the termination of declarant control of the association,
12 all of the following apply:

13 1. The agenda shall be available ~~to~~ **IN ADVANCE FOR** all unit owners
14 attending.

15 2. An emergency meeting of the board of directors may be called to
16 discuss business or take action that cannot be delayed for the forty-eight
17 hours required for notice. At any emergency meeting called by the board
18 of directors, the board of directors may act only on emergency
19 matters. The minutes of the emergency meeting shall state the reason
20 necessitating the emergency meeting. The minutes of the emergency meeting
21 shall be read and approved at the next regularly scheduled meeting of the
22 board of directors.

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

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

32 F. It is the policy of this state as reflected in this section that
33 all meetings of a condominium, whether meetings of the unit owners'
34 association or meetings of the board of directors of the association, be
35 conducted openly and that notices and agendas be provided **IN ADVANCE** for
36 those meetings that contain the information that is reasonably necessary
37 to inform the unit owners of the matters to be discussed or decided and to
38 ensure that unit owners have the ability to speak after discussion of
39 agenda items, but before a vote of the board of directors or members is
40 taken. Toward this end, any person or entity that is charged with the
41 interpretation of these provisions, including members of the board ~~or~~ **OF**
42 directors and any community manager, shall take into account this
43 declaration of policy and shall construe any provision of this section in
44 favor of open meetings.

1 G. This section does not apply to timeshare plans or associations
2 that are subject to chapter 20 of this title.

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

5 33-1804. Open meetings; exceptions; notice; agenda; policy
6 statement

7 A. Notwithstanding any provision in the declaration, bylaws or
8 other documents to the contrary, all meetings of the members' association
9 and the board of directors, and any regularly scheduled committee
10 meetings, are open to all members of the association or any person
11 designated by a member in writing as the member's representative and all
12 members or designated representatives so desiring shall be ~~permitted~~
13 ~~ALLOWED~~ to attend and speak at an appropriate time during the
14 deliberations and proceedings. The board may place reasonable time
15 restrictions on those persons speaking during the meeting but shall ~~permit~~
16 ~~ALLOW~~ a member or member's designated representative to speak once after
17 the board has discussed a specific agenda item but before the board takes
18 formal action on that item in addition to any other opportunities to
19 speak. The board shall provide for a reasonable number of persons to
20 speak on each side of an issue. Persons attending may audiotape or
21 videotape those portions of the meetings of the board of directors and
22 meetings of the members that are open. The board of directors of the
23 association shall not require advance notice of the audiotaping or
24 videotaping and may adopt reasonable rules governing the audiotaping and
25 videotaping of open portions of the meetings of the board and the
26 membership, but such rules shall not preclude such audiotaping or
27 videotaping by those attending, unless the board audiotapes or videotapes
28 the meeting and makes the unedited audiotapes or videotapes available to
29 members on request without restrictions on ~~its~~ ~~THEIR~~ use as evidence in
30 any dispute resolution process. Any portion of a meeting may be closed
31 only if that closed portion of the meeting is limited to consideration of
32 one or more of the following:

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

39 2. Pending or contemplated litigation.

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

1 employee of the association or an individual employee of a contractor for
2 the association.

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

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

10 B. Notwithstanding any provision in the community documents, all
11 meetings of the members' association and the board shall be held in this
12 state. A meeting of the members' association shall be held at least once
13 each year. Special meetings of the members' association may be called by
14 the president, by a majority of the board of directors or by members
15 having at least twenty-five percent, or any lower percentage specified in
16 the bylaws, of the votes in the association. Not fewer than ten ~~not~~ OR
17 more than fifty days in advance of any meeting of the members the
18 secretary shall cause notice to be ~~hand-delivered~~ HAND DELIVERED or sent
19 prepaid by United States mail to the mailing address for each lot, parcel
20 or unit owner or to any other mailing address designated in writing by a
21 member. The notice shall state the date, time and place of the
22 meeting. A notice of any annual, regular or special meeting of the
23 members shall also state the purpose for which the meeting is called,
24 including the general nature of any proposed amendment to the declaration
25 or bylaws, changes in assessments that require approval of the members and
26 any proposal to remove a director or an officer. THE SECRETARY SHALL ALSO
27 PROVIDE AN AGENDA FOR ANY MEETING OF THE MEMBERS' ASSOCIATION BY HAND
28 DELIVERY, MAIL, WEBSITE POSTING, EMAIL OR OTHER ELECTRONIC MEANS OR
29 POSTING AT A COMMUNITY CENTER OR OTHER SIMILAR LOCATION. The failure of
30 any member to receive actual notice of a meeting of the members OR THE
31 MEETING AGENDA does not affect the validity of any action taken at that
32 meeting.

33 C. Before entering into any closed portion of a meeting of the
34 board of directors, or on notice of a meeting under subsection D of this
35 section that will be closed, the board shall identify the paragraph under
36 subsection A of this section that authorizes the board to close the
37 meeting.

38 D. 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, notice
41 to members of meetings of the board of directors AND MEETING AGENDAS shall
42 be given at least forty-eight hours in advance of the meeting by
43 newsletter, conspicuous posting or any other reasonable means as
44 determined by the board of directors. An affidavit of notice by an

1 officer of the corporation is prima facie evidence that notice was given
2 as prescribed by this section. Notice to members of meetings of the board
3 of directors is not required if emergency circumstances require action by
4 the board before notice can be given. Any notice of a board meeting shall
5 state the date, time and place of the meeting. The failure of any member
6 to receive actual notice of a meeting of the board of directors OR A
7 MEETING AGENDA does not affect the validity of any action taken at that
8 meeting.

9 E. Notwithstanding any provision in the declaration, bylaws or
10 other community documents, for meetings of the board of directors that are
11 held after the termination of declarant control of the association, all of
12 the following apply:

13 1. The agenda shall be available ~~to~~ IN ADVANCE FOR all members
14 attending.

15 2. An emergency meeting of the board of directors may be called to
16 discuss business or take action that cannot be delayed for the forty-eight
17 hours required for notice. At any emergency meeting called by the board
18 of directors, the board of directors may act only on emergency
19 matters. The minutes of the emergency meeting shall state the reason
20 necessitating the emergency meeting. The minutes of the emergency meeting
21 shall be read and approved at the next regularly scheduled meeting of the
22 board of directors.

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

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

32 F. It is the policy of this state as reflected in this section that
33 all meetings of a planned community, whether meetings of the members'
34 association or meetings of the board of directors of the association, be
35 conducted openly and that notices and agendas be provided IN ADVANCE for
36 those meetings that contain the information that is reasonably necessary
37 to inform the members of the matters to be discussed or decided and to
38 ensure that members have the ability to speak after discussion of agenda
39 items, but before a vote of the board of directors or members is
40 taken. Toward this end, any person or entity that is charged with the
41 interpretation of these provisions, including members of the board of
42 directors and any community manager, shall take into account this
43 declaration of policy and shall construe any provision of this section in
44 favor of open meetings.