

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1290
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 33-1804, Arizona Revised Statutes, is amended
3 to read:

4 33-1804. 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 members' association
8 and the board of directors, and any regularly scheduled committee
9 meetings, are open to all members of the association or any person
10 designated by a member in writing as the member's representative and all
11 members or designated representatives so desiring shall be allowed to
12 attend and speak at an appropriate time during the deliberations and
13 proceedings. The board may place reasonable time restrictions on those
14 persons speaking during the meeting but shall allow a member or member's
15 designated representative to speak once after the board has discussed a
16 specific agenda item but before the board takes formal action on that item
17 in addition to any other opportunities to speak. The board shall provide
18 for a reasonable number of persons to speak on each side of an issue.
19 Persons attending may audiotape or videotape those portions of the
20 meetings of the board of directors and meetings of the members that are
21 open. The board of directors of the association shall not require advance
22 notice of the audiotaping or videotaping and may adopt reasonable rules
23 governing the audiotaping and videotaping of open portions of the meetings
24 of the board and the membership, but such rules shall not preclude such
25 audiotaping or videotaping by those attending, unless the board audiotapes
26 or videotapes the meeting and makes the unedited audiotapes or videotapes
27 available to members on request without restrictions on their use as
28 evidence in any dispute resolution process. If a board records a meeting
29 that is open to the members, the board shall keep a copy of the recording
30 for at least six months and make the unedited recording available to any
31 member on request in compliance with section 33-1805, subsection A. Any
32 portion of a meeting may be closed only if that closed portion of the
33 meeting is limited to consideration **WITHOUT ACTION** of one or more of the
34 following:

35 1. Legal advice from an attorney for the board or the association.
36 On final resolution of any matter for which the board received legal
37 advice or that concerned pending or contemplated litigation, the board may
38 disclose information about that matter in an open meeting except for

1 matters that are required to remain confidential by the terms of a
2 settlement agreement or judgment.

3 2. Pending or contemplated litigation.

4 3. Personal, health or financial information about an individual
5 member of the association, an individual employee of the association or an
6 individual employee of a contractor for the association, including records
7 of the association directly related to the personal, health or financial
8 information about an individual member of the association, an individual
9 employee of the association or an individual employee of a contractor for
10 the association.

11 4. Matters relating to the job performance of, compensation of,
12 health records of or specific complaints against an individual employee of
13 the association or an individual employee of a contractor of the
14 association who works under the direction of the association.

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

18 B. Notwithstanding any provision in the community documents, all
19 meetings of the members' association and the board shall be held in this
20 state. A meeting of the members' association shall be held at least once
21 each year. Special meetings of the members' association may be called by
22 the president, by a majority of the board of directors or by members
23 having at least twenty-five percent, or any lower percentage specified in
24 the bylaws, of the votes in the association. Not fewer than ten or more
25 than fifty days in advance of any meeting of the members the secretary
26 shall cause notice to be hand delivered or sent prepaid by United States
27 mail to the mailing address for each lot, parcel or unit owner or to any
28 other mailing address designated in writing by a member. The notice shall
29 state the date, time and place of the meeting. A notice of any annual,
30 regular or special meeting of the members shall also state the purpose for
31 which the meeting is called, including the general nature of any proposed
32 amendment to the declaration or bylaws, changes in assessments that
33 require approval of the members and any proposal to remove a director or
34 an officer. The secretary shall also provide an agenda for any meeting of
35 the members' association by hand delivery, mail, website posting, email or
36 other electronic means or posting at a community center or other similar
37 location. The failure of any member to receive actual notice of a meeting
38 of the members or the meeting agenda does not affect the validity of any
39 action taken at that meeting.

40 C. Before entering into any closed portion of a meeting of the
41 board of directors, or on notice of a meeting under subsection D of this
42 section that will be closed, the board shall identify the paragraph under
43 subsection A of this section that authorizes the board to close the
44 meeting.

1 D. Notwithstanding any provision in the declaration, bylaws or
2 other community documents, for meetings of the board of directors that are
3 held after the termination of declarant control of the association, notice
4 to members of meetings of the board of directors and meeting agendas shall
5 be given at least forty-eight hours in advance of the meeting by
6 newsletter, conspicuous posting or any other reasonable means as
7 determined by the board of directors. An affidavit of notice by an
8 officer of the corporation is prima facie evidence that notice was given
9 as prescribed by this section. Notice to members of meetings of the board
10 of directors is not required if emergency circumstances require action by
11 the board before notice can be given. Any notice of a board meeting shall
12 state the date, time and place of the meeting. The failure of any member
13 to receive actual notice of a meeting of the board of directors or a
14 meeting agenda does not affect the validity of any action taken at that
15 meeting.

16 E. Notwithstanding any provision in the declaration, bylaws or
17 other community documents, for meetings of the board of directors that are
18 held after the termination of declarant control of the association, all of
19 the following apply:

20 1. The agenda shall be available in advance for all members
21 attending.

22 2. An emergency meeting of the board of directors may be called to
23 discuss business or take action that cannot be delayed for the forty-eight
24 hours required for notice. At any emergency meeting called by the board
25 of directors, the board of directors may act only on emergency matters.
26 The minutes of the emergency meeting shall state the reason necessitating
27 the emergency meeting. The minutes of the emergency meeting shall be read
28 and approved at the next regularly scheduled meeting of the board of
29 directors.

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

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

1 F. It is the policy of this state as reflected in this section that
2 all meetings of a planned community, whether meetings of the members'
3 association or meetings of the board of directors of the association, be
4 conducted openly and that notices and agendas be provided in advance for
5 those meetings that contain the information that is reasonably necessary
6 to inform the members of the matters to be discussed or decided and to
7 ensure that members have the ability to speak after discussion of agenda
8 items, but before a vote of the board of directors or members is taken.
9 Toward this end, any person or entity that is charged with the
10 interpretation of these provisions, including members of the board of
11 directors and any community manager, shall take into account this
12 declaration of policy and shall construe any provision of this section in
13 favor of open meetings."

14 Amend title to conform

And, as so amended, it do pass

JEFF WENINGER
CHAIRMAN

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