

PROPOSED  
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.

39 F. It is the policy of this state as reflected in this section that  
40 all meetings of a planned community, whether meetings of the members'  
41 association or meetings of the board of directors of the association, be  
42 conducted openly and that notices and agendas be provided in advance for  
43 those meetings that contain the information that is reasonably necessary  
44 to inform the members of the matters to be discussed or decided and to  
45 ensure that members have the ability to speak after discussion of agenda  
46 items, but before a vote of the board of directors or members is taken.

1 Toward this end, any person or entity that is charged with the  
2 interpretation of these provisions, including members of the board of  
3 directors and any community manager, shall take into account this  
4 declaration of policy and shall construe any provision of this section in  
5 favor of open meetings."  
6 Amend title to conform

NEAL CARTER

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