

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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

CHAPTER 50

HOUSE BILL 2245

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 other
6 documents to the contrary, all meetings of the association and board of
7 directors are open to all members of the association or any person designated
8 by a member in writing as the member's representative and all members or
9 designated representatives so desiring shall be permitted to attend and speak
10 at an appropriate time during the deliberations and proceedings. The board
11 may place reasonable time restrictions on those persons speaking during the
12 meeting but shall permit a member or a member's designated representative to
13 speak before the board takes formal action on an item under discussion in
14 addition to any other opportunities to speak. The board shall provide for a
15 reasonable number of persons to speak on each side of an issue. PERSONS
16 ATTENDING MAY AUDIOTAPE OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE
17 BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF
18 DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE
19 AUDIOTAPING OR VIDEOTAPING OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND
20 THE MEMBERSHIP, BUT SUCH RULES SHALL NOT PRECLUDE SUCH AUDIOTAPING OR
21 VIDEOTAPING BY THOSE ATTENDING. Any portion of a meeting may be closed only
22 if that portion of the meeting is limited to consideration of one or more of
23 the following:

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

30 2. Pending or contemplated litigation.

31 3. Personal, health or financial information about an individual
32 member of the association, an individual employee of the association or an
33 individual employee of a contractor for the association, including records of
34 the association directly related to the personal, health or financial
35 information about an individual member of the association, an individual
36 employee of the association or an individual employee of a contractor for the
37 association.

38 4. Matters relating to the job performance of, compensation of, health
39 records of or specific complaints against an individual employee of the
40 association or an individual employee of a contractor of the association who
41 works under the direction of the association.

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

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

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

29 D. This section does not apply to timeshare plans or associations that
30 are subject to chapter 20 of this title.

31 Sec. 2. Section 33-1804, Arizona Revised Statutes, is amended to read:
32 33-1804. Open meetings; exceptions

33 A. Notwithstanding any provision in the declaration, bylaws or other
34 documents to the contrary, all meetings of the association and board of
35 directors are open to all members of the association or any person designated
36 by a member in writing as the member's representative and all members or
37 designated representatives so desiring shall be permitted to attend and speak
38 at an appropriate time during the deliberations and proceedings. The board
39 may place reasonable time restrictions on those persons speaking during the
40 meeting but shall permit a member or member's designated representative to
41 speak before the board takes formal action on an item under discussion in
42 addition to any other opportunities to speak. The board shall provide for a
43 reasonable number of persons to speak on each side of an issue. PERSONS
44 ATTENDING MAY TAPE RECORD OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE
45 BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF

1 DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE TAPING
2 OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND THE MEMBERSHIP, BUT SUCH
3 RULES SHALL NOT PRECLUDE SUCH TAPE RECORDING OR VIDEOTAPING BY THOSE
4 ATTENDING. Any portion of a meeting may be closed only if that closed
5 portion of the meeting is limited to consideration of one or more of the
6 following:

7 1. Legal advice from an attorney for the board or the association. On
8 final resolution of any matter for which the board received legal advice or
9 that concerned pending or contemplated litigation, the board may disclose
10 information about that matter in an open meeting except for matters that are
11 required to remain confidential by the terms of a settlement agreement or
12 judgment.

13 2. Pending or contemplated litigation.

14 3. Personal, health or financial information about an individual
15 member of the association, an individual employee of the association or an
16 individual employee of a contractor for the association, including records of
17 the association directly related to the personal, health or financial
18 information about an individual member of the association, an individual
19 employee of the association or an individual employee of a contractor for the
20 association.

21 4. Matters relating to the job performance of, compensation of, health
22 records of or specific complaints against an individual employee of the
23 association or an individual employee of a contractor of the association who
24 works under the direction of the association.

25 B. Notwithstanding any provision in the community documents, all
26 meetings of the association and the board shall be held in this state. A
27 meeting of the association shall be held at least once each year. Special
28 meetings of the association may be called by the president, by a majority of
29 the board of directors or by members having at least twenty-five per cent, or
30 any lower percentage specified in the bylaws, of the votes in the
31 association. Unless otherwise provided in the articles or bylaws of the
32 association, not fewer than ten nor more than fifty days in advance of any
33 meeting of the members the secretary shall cause notice to be hand-delivered
34 or sent prepaid by United States mail to the mailing address for each lot,
35 parcel or unit owner or to any other mailing address designated in writing by
36 a member. The notice shall state the time and place of the meeting. A
37 notice of any special meeting of the members shall also state the purpose for
38 which the meeting is called, including the general nature of any proposed
39 amendment to the declaration or bylaws, changes in assessments that require
40 approval of the members and any proposal to remove a director or an officer.
41 The failure of any member to receive actual notice of a meeting of the
42 members does not affect the validity of any action taken at that meeting.

43 C. Unless otherwise provided in the articles or bylaws of the
44 association, for meetings of the board of directors that are held after the
45 termination of declarant control of the association, notice to members of

1 meetings of the board of directors shall be given at least forty-eight hours
2 in advance of the meeting by newsletter, conspicuous posting or any other
3 reasonable means as determined by the board of directors. An affidavit of
4 notice by an officer of the corporation is prima facie evidence that notice
5 was given as prescribed by this section. Notice to members of meetings of
6 the board of directors is not required if emergency circumstances require
7 action by the board before notice can be given. Any notice of a board
8 meeting shall state the time and place of the meeting. The failure of any
9 member to receive actual notice of a meeting of the board of directors does
10 not affect the validity of any action taken at that meeting.

APPROVED BY THE GOVERNOR APRIL 12, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2011.

Passed the House March 3, 20 11

Passed the Senate April 5, 20 11

by the following vote: 56 Ayes,

by the following vote: 28 Ayes,

0 Nays, 4 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2245

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 7, 2011,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7 day of April, 2011,

at 2:35 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 12th day of

April, 2011,

at 10:31 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2245

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12th day of April, 2011,

at 4:01 o'clock P. M.

[Signature]
Secretary of State