

REFERENCE TITLE: homeowners' associations; annual meeting

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1384

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTIONS 33-1248, 33-1250, 33-1804 AND 33-1812, 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; directors'
5 elections; policy 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
44 employee of the association or an individual employee of a contractor for
45 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 percent, or any lower
14 percentage specified in the bylaws, of the votes in the association. Not
15 fewer than ten ~~not~~ OR more than fifty days in advance of any meeting of
16 the unit owners, the secretary shall cause WRITTEN notice to be ~~hand~~
17 delivered ~~or sent prepaid by United States mail to the mailing address of~~
18 ~~each unit or to any other mailing address designated in writing by the~~
19 ~~unit owner~~ TO EVERY UNIT OWNER BY AT LEAST ONE OF THE FOLLOWING METHODS:

20 1. IN PERSON.

21 2. BY MAIL TO THE PHYSICAL ADDRESS OF THE UNIT OWNER'S UNIT OR THE
22 ALTERNATE MAILING ADDRESS DESIGNATED IN WRITING BY THE UNIT OWNER.

23 3. BY EMAIL TO THE EMAIL ADDRESS DESIGNATED IN WRITING BY THE UNIT
24 OWNER.

25 C. The notice of any meeting of the unit owners shall state the
26 date, time and place of the meeting. The notice of any annual, regular or
27 special meeting of the unit owners shall also state the purpose for which
28 the meeting is called, including the general nature of any proposed
29 amendment to the declaration or bylaws, any changes in assessments that
30 require approval of the unit owners and any proposal to remove a director
31 or officer. The failure of any unit owner to receive actual notice of a
32 meeting of the unit owners does not affect the validity of any action
33 taken at that meeting.

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

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

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

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

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

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

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

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

30 G. NOTWITHSTANDING ANY OTHER LAW OR ANY PROVISION IN THE
31 CONDOMINIUM DOCUMENTS, THE FOLLOWING APPLY TO ALL DIRECTORS' ELECTIONS:

32 1. CUMULATIVE VOTING IS PROHIBITED.

33 2. NOMINATIONS FROM THE FLOOR ARE PROHIBITED.

34 3. THE NAMES OF ALL ELIGIBLE CANDIDATES NOMINATED FOR THE BOARD OF
35 DIRECTORS SHALL APPEAR ON THE BALLOT. THE BALLOT MAY INCLUDE ONE OR MORE
36 WRITE-IN LINES EQUAL TO THE NUMBER OF DIRECTORS TO BE ELECTED.

37 4. FOR ANY MEETING AT WHICH THE ELECTION OF DIRECTORS OCCURS, THE
38 QUORUM REQUIREMENT IS ONE-TENTH OF THE TOTAL NUMBER OF VOTES ENTITLED TO
39 BE CAST UNLESS THE CONDOMINIUM DOCUMENTS SPECIFY A LESSER AMOUNT.

40 ~~F.~~ H. It is the policy of this state as reflected in this section
41 that all meetings of a condominium, whether meetings of the unit owners'
42 association or meetings of the board of directors of the association, be
43 conducted openly and that notices and agendas be provided for those
44 meetings that contain the information that is reasonably necessary to
45 inform the unit owners of the matters to be discussed or decided and to

1 ensure that unit owners have the ability to speak after discussion of
2 agenda items, but before a vote of the board of directors or members is
3 taken. Toward this end, any person or entity that is charged with the
4 interpretation of these provisions, including members of the board ~~or~~ OF
5 directors and any community manager, shall take into account this
6 declaration of policy and shall construe any provision of this section in
7 favor of open meetings.

8 ~~6.~~ I. This section does not apply to timeshare plans or
9 associations that are subject to chapter 20 of this title.

10 Sec. 2. Section 33-1250, Arizona Revised Statutes, is amended to
11 read:

12 33-1250. Voting; proxies; ballot requirements; applicability;
13 definition

14 A. If only one of the multiple owners of a unit is present at a
15 meeting of the association, the owner is entitled to cast all the votes
16 allocated to that unit. If more than one of the multiple owners are
17 present, the votes allocated to that unit may be cast only in accordance
18 with the agreement of a majority in interest of the multiple owners unless
19 the declaration expressly provides otherwise. There is majority agreement
20 if any one of the multiple owners casts the votes allocated to that unit
21 without protest being made promptly to the person presiding over the
22 meeting by any of the other owners of the unit.

23 B. During the period of declarant control, votes allocated to a
24 unit may be cast pursuant to a proxy duly executed by a unit owner. If a
25 unit is owned by more than one person, each owner of the unit may vote or
26 register protest to the casting of votes by the other owners of the unit
27 through a duly executed proxy. A unit owner may not revoke a proxy given
28 pursuant to this section except by actual notice of revocation to the
29 person presiding over a meeting of the association. A proxy is void if it
30 is not dated or purports to be revocable without notice. The proxy is
31 revoked on presentation of a later dated proxy executed by the same unit
32 owner. A proxy terminates one year after its date, unless it specifies a
33 shorter term or unless it states that it is coupled with an interest and
34 is irrevocable.

35 ~~C. Notwithstanding any provision in the condominium documents,~~
36 ~~after termination of the period of declarant control, votes allocated to a~~
37 ~~unit may not be cast pursuant to a proxy. The association shall provide~~
38 ~~for votes to be cast in person and by absentee ballot and, in addition,~~
39 ~~the association may provide for voting by some other form of delivery,~~
40 ~~including the use of e-mail and fax delivery. Notwithstanding section~~
41 ~~10-3708 or the provisions of the condominium documents, any action taken~~
42 ~~at an annual, regular or special meeting of the members shall comply with~~
43 ~~all of the following if absentee ballots or ballots provided by some other~~
44 ~~form of delivery are used:~~

45 ~~1. The ballot shall set forth each proposed action.~~

1 ~~2. The ballot shall provide an opportunity to vote for or against~~
2 ~~each proposed action.~~

3 ~~3. The ballot is valid for only one specified election or meeting~~
4 ~~of the members and expires automatically after the completion of the~~
5 ~~election or meeting.~~

6 ~~4. The ballot specifies the time and date by which the ballot must~~
7 ~~be delivered to the board of directors in order to be counted, which shall~~
8 ~~be at least seven days after the date that the board delivers the unvoted~~
9 ~~ballot to the member.~~

10 ~~5. The ballot does not authorize another person to cast votes on~~
11 ~~behalf of the member.~~

12 ~~6. The completed ballot shall contain the name, the address and~~
13 ~~either the actual or electronic signature of the person voting, except~~
14 ~~that if the condominium documents permit secret ballots, only the envelope~~
15 ~~shall contain the name, the address and either the actual or electronic~~
16 ~~signature of the voter.~~

17 ~~7. Ballots, envelopes and related materials, including sign-in~~
18 ~~sheets if used, shall be retained in electronic or paper format and made~~
19 ~~available for unit owner inspection for at least one year after completion~~
20 ~~of the election.~~

21 ~~D. Votes cast by absentee ballot or other form of delivery,~~
22 ~~including the use of e-mail and fax delivery, are valid for the purpose of~~
23 ~~establishing a quorum.~~

24 C. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS,
25 AFTER THE TERMINATION OF THE PERIOD OF DECLARANT CONTROL, VOTES ALLOCATED
26 TO A UNIT MAY NOT BE CAST PURSUANT TO A PROXY. THE ASSOCIATION SHALL
27 PROVIDE FOR VOTES TO BE CAST IN COMPLIANCE WITH ALL OF THE FOLLOWING:

28 1. VOTES SHALL BE CAST IN PERSON AND BY ABSENTEE BALLOT IF VOTING
29 WILL OCCUR AT A MEETING OF THE UNIT OWNERS, OR BY WRITTEN BALLOT WITHOUT A
30 MEETING OF THE UNIT OWNERS.

31 2. THE FORM OF THE ABSENTEE BALLOTS OR WRITTEN BALLOTS SHALL COMPLY
32 WITH ALL OF THE FOLLOWING:

33 (a) THE BALLOT SHALL SET FORTH EACH PROPOSED ACTION.

34 (b) THE BALLOT SHALL PROVIDE AN OPPORTUNITY TO VOTE FOR OR AGAINST
35 EACH PROPOSED ACTION EXCEPT IN THE CASE OF THE ELECTION OF DIRECTORS.

36 (c) THE BALLOT SHALL STATE THE REQUIRED QUORUM FOR EACH PROPOSED
37 ACTION.

38 (d) THE BALLOT SHALL STATE THE PERCENTAGE OF APPROVAL NECESSARY FOR
39 EACH PROPOSED ACTION OTHER THAN THE ELECTION OF DIRECTORS.

40 (e) THE BALLOT SHALL STATE THE TIME AND DATE BY WHICH THE BALLOT
41 MUST BE DELIVERED TO THE ASSOCIATION IN ORDER TO BE COUNTED, WHICH SHALL
42 BE AT LEAST SEVEN DAYS AFTER THE DATE THAT THE UNVOTED BALLOT IS DELIVERED
43 TO THE UNIT OWNER.

44 (f) THE BALLOT MAY NOT AUTHORIZE ANOTHER PERSON TO CAST VOTES ON
45 BEHALF OF THE UNIT OWNER.

1 (g) THE COMPLETED BALLOT SHALL CONTAIN THE NAME, THE ADDRESS AND
2 EITHER THE ACTUAL OR ELECTRONIC SIGNATURE OF THE PERSON VOTING, EXCEPT
3 THAT IF THE CONDOMINIUM DOCUMENTS ALLOW SECRET BALLOTS, THE NAME, THE
4 ADDRESS AND EITHER THE ACTUAL OR ELECTRONIC SIGNATURE OF THE MEMBER SHALL
5 APPEAR ON THE ENVELOPE OR AS PART OF THE ELECTRONIC MEANS OF SUBMISSION.

6 3. THE ASSOCIATION SHALL DELIVER AN ABSENTEE BALLOT OR WRITTEN
7 BALLOT TO EVERY UNIT OWNER WHO IS ELIGIBLE TO VOTE NOT LATER THAN TEN DAYS
8 BEFORE THE DATE THAT THE COMPLETED BALLOT MUST BE DELIVERED TO THE
9 ASSOCIATION. DELIVERY OF AN ABSENTEE BALLOT OR WRITTEN BALLOT TO THE UNIT
10 OWNER MAY BE ACCOMPLISHED IN PERSON OR BY MAIL OR SOME FORM OF ELECTRONIC
11 DELIVERY AS DETERMINED BY THE BOARD.

12 4. THE METHOD OF DELIVERY OF ABSENTEE BALLOTS OR WRITTEN BALLOTS
13 FROM THE UNIT OWNER TO THE ASSOCIATION MAY INCLUDE MAIL OR IN-PERSON
14 DELIVERY TO A PERSON OR LOCATION DESIGNATED BY THE BOARD OR SOME FORM OF
15 ELECTRONIC DELIVERY, INCLUDING THE USE OF EMAIL, FAX OR AN ONLINE VOTING
16 SYSTEM THAT COMPLIES WITH SECTION 10-3708.

17 5. ABSENTEE BALLOTS OR WRITTEN BALLOTS TIMELY DELIVERED TO THE
18 ASSOCIATION SHALL COUNT TOWARD THE REQUIRED QUORUM FOR THE MEETING OR
19 ELECTION, AS APPLICABLE.

20 6. THE ABSENTEE BALLOT OR WRITTEN BALLOT IS VALID FOR ONLY ONE
21 SPECIFIED ELECTION OR MEETING OF THE MEMBERS, AS APPLICABLE, AND EXPIRES
22 AUTOMATICALLY AFTER THE COMPLETION OF THE ELECTION OR MEETING.

23 7. BALLOTS, ENVELOPES AND RELATED MATERIALS, INCLUDING SIGN-IN
24 SHEETS IF USED, SHALL BE RETAINED IN ELECTRONIC OR PAPER FORMAT AND MADE
25 AVAILABLE FOR UNIT OWNER INSPECTION FOR AT LEAST ONE YEAR AFTER COMPLETION
26 OF THE ELECTION OR MEETING.

27 8. THIS SECTION DOES NOT PROHIBIT THE USE OF WRITTEN CONSENT IN
28 ACCORDANCE WITH SECTION 10-3704.

29 D. NOTWITHSTANDING THE CONDOMINIUM DOCUMENTS, THE QUORUM
30 REQUIREMENT FOR THE ANNUAL MEETING IS ONE-TENTH OF THE TOTAL NUMBER OF
31 VOTES ENTITLED TO BE CAST UNLESS THE CONDOMINIUM DOCUMENTS SPECIFY A
32 LESSER AMOUNT.

33 E. Notwithstanding subsection C of this section, an association for
34 a timeshare plan as defined in section 32-2197 may ~~permit~~ ALLOW votes by a
35 proxy that is duly executed by a unit owner.

36 F. If the declaration requires that votes on specified matters
37 affecting the condominium be cast by lessees rather than unit owners of
38 leased units all of the following apply:

39 1. ~~The provisions of~~ Subsections A and B of this section apply to
40 lessees as if they were unit owners.

41 2. Unit owners who have leased their units to other persons shall
42 not cast votes on those specified matters.

43 3. Lessees are entitled to notice of meetings, access to records
44 and other rights respecting those matters as if they were unit owners.

1 Unit owners shall also be given notice, in the manner prescribed in
2 section 33-1248, of all meetings at which lessees may be entitled to vote.

3 G. Unless the declaration provides otherwise, votes allocated to a
4 unit owned by the association shall not be cast.

5 H. This section does not apply to timeshare plans or associations
6 that are subject to chapter 20 of this title.

7 I. For the purposes of this section, "period of declarant control"
8 means the time during which the declarant or persons designated by the
9 declarant may elect or appoint the members of the board of directors
10 pursuant to the condominium documents or by virtue of superior voting
11 power.

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

14 33-1804. Open meetings; exceptions; notice; directors'
15 elections; policy statement

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

42 1. Legal advice from an attorney for the board or the association.
43 On final resolution of any matter for which the board received legal
44 advice or that concerned pending or contemplated litigation, the board may
45 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 ~~not~~ OR
25 more than fifty days in advance of any meeting of the members the
26 secretary shall cause WRITTEN notice to be ~~hand-delivered or sent prepaid~~
27 ~~by United States mail to the mailing address for each lot, parcel or unit~~
28 ~~owner or to any other mailing address designated in writing by a member~~
29 DELIVERED TO EVERY MEMBER BY AT LEAST ONE OF THE FOLLOWING METHODS:

30 1. IN PERSON.

31 2. BY MAIL TO THE PHYSICAL ADDRESS OF THE MEMBER'S LOT OR THE
32 ALTERNATE MAILING ADDRESS DESIGNATED IN WRITING BY THE MEMBER.

33 3. BY EMAIL TO THE EMAIL ADDRESS DESIGNATED IN WRITING BY THE
34 MEMBER.

35 C. The notice shall state the date, time and place of the
36 meeting. A notice of any annual, regular or special meeting of the
37 members shall also state the purpose for which the meeting is called,
38 including the general nature of any proposed amendment to the declaration
39 or bylaws, changes in assessments that require approval of the members and
40 any proposal to remove a director or an officer. The failure of any
41 member to receive actual notice of a meeting of the members does not
42 affect the validity of any action taken at that meeting.

43 ~~C.~~ D. Before entering into any closed portion of a meeting of the
44 board of directors, or on notice of a meeting under subsection ~~D~~ E of
45 this section that will be closed, the board shall identify the paragraph

1 under subsection A of this section that authorizes the board to close the
2 meeting.

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

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

21 1. The agenda shall be available to all members 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
26 matters. The minutes of the emergency meeting shall state the reason
27 necessitating the emergency meeting. The minutes of the emergency meeting
28 shall be read and approved at the next regularly scheduled meeting of the
29 board of 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 G. NOTWITHSTANDING ANY OTHER LAW OR ANY PROVISION IN THE COMMUNITY
40 DOCUMENTS, THE FOLLOWING APPLY TO ALL DIRECTORS' ELECTIONS:

41 1. CUMULATIVE VOTING IS PROHIBITED.

42 2. NOMINATIONS FROM THE FLOOR ARE PROHIBITED.

43 3. THE NAMES OF ALL ELIGIBLE CANDIDATES NOMINATED FOR THE BOARD OF
44 DIRECTORS SHALL APPEAR ON THE BALLOT. THE BALLOT MAY INCLUDE ONE OR MORE
45 WRITE-IN LINES EQUAL TO THE NUMBER OF DIRECTORS TO BE ELECTED.

1 4. FOR ANY MEETING AT WHICH THE ELECTION OF DIRECTORS OCCURS, THE
2 QUORUM REQUIREMENT IS ONE-TENTH OF THE TOTAL NUMBER OF VOTES ENTITLED TO
3 BE CAST UNLESS THE COMMUNITY DOCUMENTS SPECIFY A LESSER AMOUNT.

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

16 Sec. 4. Section 33-1812, Arizona Revised Statutes, is amended to
17 read:

18 33-1812. Proxies; ballot requirements; definition

19 A. Notwithstanding any provision in the community documents, after
20 termination of the period of declarant control, votes allocated to a ~~unit~~
21 ~~LOT~~ may not be cast pursuant to a proxy. The association shall provide
22 for votes to be cast IN COMPLIANCE WITH ALL OF THE FOLLOWING:

23 1. VOTES SHALL BE CAST in person and by absentee ballot ~~and, in~~
24 ~~addition, the association may provide for voting by some other form of~~
25 ~~delivery, including the use of e-mail and fax delivery. Notwithstanding~~
26 ~~section 10-3708 or the provisions of the community documents, any action~~
27 ~~taken at an annual, regular or special meeting of the members shall comply~~
28 ~~with all of the following if absentee ballots or ballots provided by some~~
29 ~~other form of delivery are used:~~ IF VOTING WILL OCCUR AT A MEETING OF THE
30 MEMBERS OR BY WRITTEN BALLOT WITHOUT A MEETING OF THE MEMBERS.

31 2. THE FORM OF THE ABSENTEE BALLOTS OR WRITTEN BALLOTS SHALL COMPLY
32 WITH ALL OF THE FOLLOWING:

33 ~~1.~~ (a) The ballot shall set forth each proposed action.

34 ~~2.~~ (b) The ballot shall provide an opportunity to vote for or
35 against each proposed action, EXCEPT IN THE CASE OF AN ELECTION OF
36 DIRECTORS.

37 (c) THE BALLOT SHALL STATE THE REQUIRED QUORUM FOR EACH PROPOSED
38 ACTION.

39 (d) THE BALLOT SHALL STATE THE PERCENTAGE OF APPROVAL NECESSARY FOR
40 EACH PROPOSED ACTION OTHER THAN AN ELECTION OF DIRECTORS.

41 ~~3.~~ (e) The ABSENTEE OR WRITTEN ballot is valid for only one
42 specified election or meeting of the members, AS APPLICABLE, and expires
43 automatically after the completion of the election or meeting.

44 ~~4.~~ (f) The ballot ~~specifies~~ SHALL STATE the time and date by which
45 the ballot must be delivered to the board of directors in order to be

1 counted, which shall be at least seven days after the date that ~~the board~~
2 ~~delivers~~ the unvoted ballot IS DELIVERED to the member.

3 ~~5.~~ (g) The ballot ~~does~~ MAY not authorize another person to cast
4 votes on behalf of the member.

5 ~~6.~~ (h) The completed ballot shall contain the name, address and
6 EITHER THE ACTUAL OR ELECTRONIC signature of the person voting, except
7 that if the community documents ~~permit~~ ALLOW secret ballots, ~~only the~~
8 ~~envelope shall contain~~ the name, address and EITHER THE ACTUAL OR
9 ELECTRONIC signature of the voter SHALL APPEAR ON THE ENVELOPE OR AS PART
10 OF THE ELECTRONIC MEANS OF SUBMISSION.

11 3. THE ASSOCIATION SHALL DELIVER AN ABSENTEE BALLOT OR WRITTEN
12 BALLOT TO EVERY MEMBER WHO IS ELIGIBLE TO VOTE NOT LATER THAN TEN DAYS
13 BEFORE THE DATE THAT THE COMPLETED BALLOT MUST BE DELIVERED TO THE
14 ASSOCIATION. DELIVERY OF AN ABSENTEE BALLOT OR WRITTEN BALLOT TO THE
15 MEMBER MAY BE ACCOMPLISHED IN PERSON OR BY MAIL OR SOME FORM OF ELECTRONIC
16 DELIVERY AS DETERMINED BY THE BOARD.

17 4. THE METHOD OF DELIVERY OF ABSENTEE BALLOTS OR WRITTEN BALLOTS
18 FROM THE MEMBER TO THE ASSOCIATION MAY INCLUDE MAIL OR IN-PERSON DELIVERY
19 TO A PERSON OR LOCATION DESIGNATED BY THE BOARD OR SOME FORM OF ELECTRONIC
20 DELIVERY, INCLUDING THE USE OF EMAIL, FAX OR AN ONLINE VOTING SYSTEM THAT
21 COMPLIES WITH SECTION 10-3708.

22 5. ABSENTEE BALLOTS OR WRITTEN BALLOTS TIMELY DELIVERED TO THE
23 ASSOCIATION SHALL COUNT TOWARD THE REQUIRED QUORUM FOR THE MEETING OR
24 ELECTION, AS APPLICABLE.

25 ~~7.~~ 6. Ballots, envelopes and related materials, including sign-in
26 sheets if used, shall be retained in electronic or paper format and made
27 available for member inspection for at least one year after completion of
28 the election OR MEETING.

29 ~~B. Votes cast by absentee ballot or other form of delivery,~~
30 ~~including the use of e-mail and fax delivery, are valid for the purpose of~~
31 ~~establishing a quorum.~~

32 B. NOTWITHSTANDING THE COMMUNITY DOCUMENTS, THE QUORUM REQUIREMENT
33 FOR THE ANNUAL MEETING IS ONE-TENTH OF THE TOTAL NUMBER OF VOTES ENTITLED
34 TO BE CAST UNLESS THE COMMUNITY DOCUMENTS SPECIFY A LESSER AMOUNT.

35 C. THIS SECTION DOES NOT PROHIBIT THE USE OF WRITTEN CONSENT IN
36 ACCORDANCE WITH SECTION 10-3704.

37 ~~C.~~ D. Notwithstanding subsection A of this section, an association
38 for a timeshare plan as defined in section 32-2197 may ~~permit~~ ALLOW votes
39 by a proxy that is duly executed by a ~~unit owner~~ MEMBER.

40 ~~D.~~ E. For the purposes of this section, "period of declarant
41 control" means the time during which the declarant or persons designated
42 by the declarant may elect or appoint the members of the board of
43 directors pursuant to the community documents or by virtue of superior
44 voting power.