

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Moraitis offered the following:

**Amendment (with title amendment)**

Remove lines 1073-1151 and insert:

(b) The official records of the association must ~~shall~~ be maintained within the state for at least 7 years. The records of the association shall be made available to a unit owner within 45 miles of the cooperative property or within the county in which the cooperative property is located within 5 working days after receipt of written request by the board or its designee. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the cooperative property or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in an electronic format on a computer screen and printed

094171

Approved For Filing: 4/16/2013 1:43:04 PM

Amendment No.

17 upon request. The association is not responsible for the use or  
18 misuse of the information provided to an association member or  
19 his or her authorized representative pursuant to the compliance  
20 requirements of this chapter unless the association has an  
21 affirmative duty not to disclose such information pursuant to  
22 this chapter.

23 (c) The official records of the association are ~~shall be~~  
24 open to inspection by any association member or the authorized  
25 representative of such member at all reasonable times. ~~Failure~~  
26 ~~to permit inspection of the association records as provided~~  
27 ~~herein entitles any person prevailing in an enforcement action~~  
28 ~~to recover reasonable attorney's fees from the person in control~~  
29 ~~of the records who, directly or indirectly, knowingly denies~~  
30 ~~access to the records for inspection.~~ The right to inspect the  
31 records includes the right to make or obtain copies, at the  
32 reasonable expense, if any, of the association member. The  
33 association may adopt reasonable rules regarding the frequency,  
34 time, location, notice, and manner of record inspections and  
35 copying. The failure of an association to provide the records  
36 within 10 working days after receipt of a written request  
37 creates a rebuttable presumption that the association willfully  
38 failed to comply with this paragraph. A unit owner who is denied  
39 access to official records is entitled to the actual damages or  
40 minimum damages for the association's willful failure to comply  
41 ~~with this paragraph.~~ The minimum damages are ~~shall be~~ \$50 per  
42 calendar day for up to 10 days, beginning ~~the calculation to~~  
43 ~~begin~~ on the 11th working day after receipt of the written  
44 request. The failure to permit inspection entitles any person

094171

Approved For Filing: 4/16/2013 1:43:04 PM

Amendment No.

45 prevailing in an enforcement action to recover reasonable  
46 attorney fees from the person in control of the records who,  
47 directly or indirectly, knowingly denied access to the records.  
48 Any person who knowingly or intentionally defaces or destroys  
49 accounting records that are required by this chapter to be  
50 maintained during the period for which such records are required  
51 to be maintained, or who knowingly or intentionally fails to  
52 create or maintain accounting records that are required to be  
53 created or maintained, with the intent of causing harm to the  
54 association or one or more of its members, is personally subject  
55 to a civil penalty pursuant to s. 719.501(1)(d). The association  
56 shall maintain an adequate number of copies of the declaration,  
57 articles of incorporation, bylaws, and rules, and all amendments  
58 to each of the foregoing, as well as the question and answer  
59 sheet as described ~~provided for~~ in s. 719.504 and year-end  
60 financial information required by the department, on the  
61 cooperative property to ensure their availability to unit owners  
62 and prospective purchasers, and may charge its actual costs for  
63 preparing and furnishing these documents to those requesting the  
64 same. An association shall allow a member or his or her  
65 authorized representative to use a portable device, including a  
66 smartphone, tablet, portable scanner, or any other technology  
67 capable of scanning or taking photographs, to make an electronic  
68 copy of the official records in lieu of the association  
69 providing the member or his or her authorized representative  
70 with a copy of such records. The association may not charge a  
71 member or his or her authorized representative for the use of a  
72 portable device. Notwithstanding ~~the provisions of~~ this

094171

Approved For Filing: 4/16/2013 1:43:04 PM

Amendment No.

73 paragraph, the following records shall not be accessible to unit  
74 owners:

75 1. Any record protected by the lawyer-client privilege as  
76 described in s. 90.502 and any record protected by the work-  
77 product privilege, including any record ~~A record that was~~  
78 prepared by an association attorney or prepared at the  
79 attorney's express direction which,~~that~~ reflects a mental  
80 impression, conclusion, litigation strategy, or legal theory of  
81 the attorney or the association, and which,~~or that~~ was prepared  
82 exclusively for civil or criminal litigation or for adversarial  
83 administrative proceedings, or which was prepared in  
84 anticipation of such ~~imminent civil or criminal~~ litigation or  
85 ~~imminent adversarial administrative~~ proceedings, until the  
86 conclusion of the litigation or ~~adversarial administrative~~  
87 proceedings.

88 2. Information obtained by an association in connection  
89 with the approval of the lease, sale, or other transfer of a  
90 unit.

91 3. Personnel records of association or management company  
92 employees, including, but not limited to, disciplinary, payroll,  
93 health, and insurance records. For purposes of this  
94 subparagraph, the term "personnel records" does not include  
95 written employment agreements with an association employee or  
96 management company, or budgetary or financial records that  
97 indicate the compensation paid to an association employee.

98 ~~4.3.~~ Medical records of unit owners.

99 5. Social security numbers, driver license numbers, credit  
100 card numbers, e-mail addresses, telephone numbers, facsimile

094171

Approved For Filing: 4/16/2013 1:43:04 PM

Amendment No.

101 numbers, emergency contact information, addresses of a unit  
 102 owner other than as provided to fulfill the association's notice  
 103 requirements, and other personal identifying information of any  
 104 person, excluding the person's name, unit designation, mailing  
 105 address, property address, and any address, e-mail address, or  
 106 facsimile number provided to the association to fulfill the  
 107 association's notice requirements. Notwithstanding the  
 108 restrictions in this subparagraph, an association may print and  
 109 distribute to parcel owners a directory containing the name,  
 110 parcel address, and telephone number of each parcel owner.  
 111 However, an owner may exclude his or her telephone number from  
 112 the directory by so requesting in writing to the association.  
 113 The association is not liable for the inadvertent disclosure of  
 114 information that is protected under this subparagraph if the  
 115 information is included in an official record of the association  
 116 and is voluntarily provided by an owner and not requested by the  
 117 association.

118 6. Electronic security measures that are used by the  
 119 association to safeguard data, including passwords.

120 7. The software and operating system used by the  
 121 association which allow the manipulation of data, even if the  
 122 owner

124 -----

125 **T I T L E A M E N D M E N T**

126 Remove lines 69-74 and insert:  
 127 providing requirements for the maintenance of the  
 128 official records of the association; authorizing

Amendment No.

129 records to be made available to unit owners in an  
130 electronic format; providing a civil penalty for the  
131 denial of a request to view records; requiring an  
132 association to allow a member or the member's  
133 authorized representative to use certain portable  
134 devices to make electronic copies of association  
135 records; prohibiting the association from charging the  
136 member or authorized representative for using the  
137 portable device; authorizing a cooperative association  
138 to print and distribute a member directory under  
139 certain conditions; specifying additional records that  
140 are not