



265374

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
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The Committee on Criminal Justice (Pizzo) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 88 - 197

and insert:

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium



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- 11 of each condominium operated by the association and each
12 amendment to each declaration.
- 13 3. A photocopy of the recorded bylaws of the association
14 and each amendment to the bylaws.
- 15 4. A certified copy of the articles of incorporation of the
16 association, or other documents creating the association, and
17 each amendment thereto.
- 18 5. A copy of the current rules of the association.
- 19 6. A book or books that contain the minutes of all meetings
20 of the association, the board of administration, and the unit
21 owners.
- 22 7. A current roster of all unit owners and their mailing
23 addresses, unit identifications, voting certifications, and, if
24 known, telephone numbers. The association shall also maintain
25 the e-mail addresses and facsimile numbers of unit owners
26 consenting to receive notice by electronic transmission. The e-
27 mail addresses and facsimile numbers are not accessible to unit
28 owners if consent to receive notice by electronic transmission
29 is not provided in accordance with sub-subparagraph (c)3.e.
30 However, the association is not liable for an inadvertent
31 disclosure of the e-mail address or facsimile number for
32 receiving electronic transmission of notices.
- 33 8. All current insurance policies of the association and
34 condominiums operated by the association.
- 35 9. A current copy of any management agreement, lease, or
36 other contract to which the association is a party or under
37 which the association or the unit owners have an obligation or
38 responsibility.
- 39 10. Bills of sale or transfer for all property owned by the



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40 association.

41 11. Accounting records for the association and separate
42 accounting records for each condominium that the association
43 operates. Any person who knowingly or intentionally defaces or
44 destroys such records, or who knowingly or intentionally fails
45 to create or maintain such records, with the intent of causing
46 harm to the association or one or more of its members, is
47 personally subject to a civil penalty pursuant to s.
48 718.501(1)(d). The accounting records must include, but are not
49 limited to:

50 a. Accurate, itemized, and detailed records of all receipts
51 and expenditures.

52 b. A current account and a monthly, bimonthly, or quarterly
53 statement of the account for each unit designating the name of
54 the unit owner, the due date and amount of each assessment, the
55 amount paid on the account, and the balance due.

56 c. All audits, reviews, accounting statements, and
57 financial reports of the association or condominium.

58 d. All contracts for work to be performed. Bids for work to
59 be performed are also considered official records and must be
60 maintained by the association.

61 e. All bank statements, canceled checks, and credit card
62 statements.

63 f. All invoices, transaction receipts, deposit slips, or
64 other underlying documentation that substantiates any receipt or
65 expenditure of funds by the association.

66 12. Ballots, sign-in sheets, voting proxies, and all other
67 papers and electronic records relating to voting by unit owners,
68 which must be maintained for 1 year from the date of the



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69 election, vote, or meeting to which the document relates,
70 notwithstanding paragraph (b).

71 13. All rental records if the association is acting as
72 agent for the rental of condominium units.

73 14. A copy of the current question and answer sheet as
74 described in s. 718.504.

75 15. All other written records of the association not
76 specifically included in the foregoing which are related to the
77 operation of the association.

78 16. A copy of the inspection report as described in s.
79 718.301(4)(p).

80 17. Bids for materials, equipment, or services.

81 (b) The official records specified in subparagraphs (a)1.-
82 6. must be permanently maintained from the inception of the
83 association. All other official records must be maintained
84 within the state for at least 7 years, unless otherwise provided
85 by general law. The official records must be maintained in an
86 organized manner that facilitates inspection of the records by a
87 unit owner. The obligation to maintain official records includes
88 the obligation to obtain and recreate those records to the
89 fullest extent possible in the event that the records are lost,
90 destroyed, or otherwise unavailable. The records of the
91 association shall be made available to a unit owner within 45
92 miles of the condominium property or within the county in which
93 the condominium property is located within 10 working days after
94 receipt of a written request by the board or its designee.
95 However, such distance requirement does not apply to an
96 association governing a timeshare condominium. This paragraph
97 may be complied with by having a copy of the official records of



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98 the association available for inspection or copying on the
99 condominium property or association property, or the association
100 may offer the option of making the records available to a unit
101 owner electronically via the Internet or by allowing the records
102 to be viewed in electronic format on a computer screen and
103 printed upon request. The association is not responsible for the
104 use or misuse of the information provided to an association
105 member or his or her authorized representative pursuant to the
106 compliance requirements of this chapter unless the association
107 has an affirmative duty not to disclose such information
108 pursuant to this chapter.

109 (c)1. The official records of the association are open to
110 inspection by any association member or the authorized
111 representative of such member at all reasonable times. The right
112 to inspect the records includes the right to make or obtain
113 copies, at the reasonable expense, if any, of the member or
114 authorized representative of such member. A renter of a unit has
115 a right to inspect and copy the association's bylaws and rules.
116 The association may adopt reasonable rules regarding the
117 frequency, time, location, notice, and manner of record
118 inspections and copying. The failure of an association to
119 provide the records within 10 working days after receipt of a
120 written request that complies with the association's document
121 inspection rule creates a rebuttable presumption that the
122 association willfully failed to comply with this paragraph. A
123 unit owner who is denied access to official records is entitled
124 to the actual damages or minimum damages for the association's
125 willful failure to comply. Minimum damages are \$50 per calendar
126 day for up to 10 days, beginning on the 11th working day after



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127 receipt of the written request that complies with the
128 association's document inspection rule. The failure to permit
129 inspection entitles any person prevailing in an enforcement
130 action to recover reasonable attorney fees from the person in
131 control of the records who, directly or indirectly, knowingly
132 denied access to the records. If the requested records are
133 posted on an association's website, the association may fulfill
134 its obligations as provided under this paragraph by directing to
135 the website all persons authorized to request access to official
136 records pursuant to this paragraph.

137 2. Any director or member of the board or association or a
138 community association manager who knowingly, willfully, and
139 repeatedly violates subparagraph 1. commits a misdemeanor of the
140 second degree, punishable as provided in s. 775.082 or s.
141 775.083. For the purposes of this subparagraph, the term
142 "repeatedly" means two or more violations within a 12-month
143 period.

144 3.2. Any person who knowingly or intentionally defaces or
145 destroys accounting records that are required by this chapter to
146 be maintained during the period for which such records are
147 required to be maintained, or who knowingly or intentionally
148 fails to create or maintain accounting records that are required
149 to be created or maintained, with the intent of causing harm to
150 the association or one or more of its members, commits a
151 misdemeanor of the first degree, punishable as provided in s.
152 775.082 or s. 775.083 is personally subject to a civil penalty
153 pursuant to s. 718.501(1)(d).

154 4. Any person who willfully and knowingly refuses to
155 release or otherwise produce association records with the intent



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156 to avoid or escape detection, arrest, trial, or punishment for
157 the commission of a crime, or to assist another person with such
158 avoidance or escape, commits a felony of the third degree,
159 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

160 ~~5.3~~ The association shall maintain an adequate number of
161 copies of the declaration, articles of incorporation, bylaws,
162 and rules, and all amendments to each of the foregoing, as well
163 as the question and answer sheet as described in s. 718.504 and
164 year-end financial information required under this section, on
165 the condominium property to ensure their availability to unit
166 owners and prospective purchasers, and may charge its actual
167 costs for preparing and furnishing these documents to those
168 requesting the documents. An association shall allow a member or
169 his or her authorized representative to use a portable device,
170 including a smartphone, tablet, portable scanner, or any other
171 technology capable of scanning or taking photographs, to make an
172 electronic copy of the official records in lieu of the
173 association's providing the member or his or her authorized
174 representative with a copy of such records. The association may
175 not charge a member or his or her authorized representative for
176 the use of a portable device. Notwithstanding this paragraph,
177 the following records are not accessible to unit owners:

178 a. Any record protected by the lawyer-client privilege as
179 described in s. 90.502 and any record protected by the work-
180 product privilege, including a record prepared by an association
181 attorney or prepared at the attorney's express direction, which
182 reflects a mental impression, conclusion, litigation strategy,
183 or legal theory of the attorney or the association, and which
184 was prepared exclusively for civil or criminal litigation or for



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185 adversarial administrative proceedings, or which was prepared in
186 anticipation of such litigation or proceedings until the
187 conclusion of the litigation or proceedings.

188 b. Information obtained by an association in connection
189 with the approval of the lease, sale, or other transfer of a
190 unit.

191 c. Personnel records of association or management company
192 employees, including, but not limited to, disciplinary, payroll,
193 health, and insurance records. For purposes of this sub-
194 subparagraph, the term "personnel records" does not include
195 written employment agreements with an association employee or
196 management company, or budgetary or financial records that
197 indicate the compensation paid to an association employee.

198 d. Medical records of unit owners.

199 e. Social security numbers, driver license numbers, credit
200 card numbers, e-mail addresses, telephone numbers, facsimile
201 numbers, emergency contact information, addresses of a unit
202 owner other than as provided to fulfill the association's notice
203 requirements, and other personal identifying information of any
204 person, excluding the person's name, unit designation, mailing
205 address, property address, and any address, e-mail address, or
206 facsimile number provided to the association to fulfill the
207 association's notice requirements. Notwithstanding the
208 restrictions in this sub-subparagraph, an association may print
209 and distribute to parcel owners a directory containing the name,
210 parcel address, and all telephone numbers of each parcel owner.
211 However, an owner may exclude his or her telephone numbers from
212 the directory by so requesting in writing to the association. An
213 owner may consent in writing to the disclosure of other contact



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214 information described in this sub-subparagraph. The association
215 is not liable for the inadvertent disclosure of information that
216 is protected under this sub-subparagraph if the information is
217 included in an official record of the association and is
218 voluntarily provided by an owner and not requested by the
219 association.

220 f. Electronic security measures that are used by the
221 association to safeguard data, including passwords.

222 g. The software and operating system used by the
223 association which allow the manipulation of data, even if the
224 owner owns a copy of the same software used by the association.
225 The data is part of the official records of the association.

226 (g)1. By January 1, 2021 ~~2019~~, an association managing a
227 condominium with 25 ~~150~~ or more units which does not contain
228 timeshare units shall post digital copies of the documents
229 specified in subparagraph 2. on its website.

230 a. The association's website must be:

231 (I) An independent website or web portal wholly owned and
232 operated by the association; or

233 (II) A website or web portal operated by a third-party
234 provider with whom the association owns, leases, rents, or
235 otherwise obtains the right to operate a web page, subpage, web
236 portal, or collection of subpages or web portals dedicated to
237 the association's activities and on which required notices,
238 records, and documents may be posted by the association.

239 b. The association's website must be accessible through the
240 Internet and must contain a subpage, web portal, or other
241 protected electronic location that is inaccessible to the
242 general public and accessible only to unit owners and employees



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243 of the association.

244 c. Upon a unit owner's written request, the association
245 must provide the unit owner with a username and password and
246 access to the protected sections of the association's website
247 that contain any notices, records, or documents that must be
248 electronically provided.

249 2. A current copy of the following documents must be posted
250 in digital format on the association's website:

251 a. The recorded declaration of condominium of each
252 condominium operated by the association and each amendment to
253 each declaration.

254 b. The recorded bylaws of the association and each
255 amendment to the bylaws.

256 c. The articles of incorporation of the association, or
257 other documents creating the association, and each amendment
258 thereto. The copy posted pursuant to this sub-subparagraph must
259 be a copy of the articles of incorporation filed with the
260 Department of State.

261 d. The rules of the association.

262 e. A list of all executory contracts or documents to which
263 the association is a party or under which the association or the
264 unit owners have an obligation or responsibility and, after
265 bidding for the related materials, equipment, or services has
266 closed, a list of bids received by the association within the
267 past year. Summaries of bids for materials, equipment, or
268 services which exceed \$500 must be maintained on the website for
269 1 year. In lieu of summaries, complete copies of the bids may be
270 posted.

271 f. The annual budget required by s. 718.112(2)(f) and any



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272 proposed budget to be considered at the annual meeting.
273 g. The financial report required by subsection (13) and any
274 monthly income or expense statement to be considered at a
275 meeting.
276 h. The certification of each director required by s.
277 718.112(2)(d)4.b.
278 i. All contracts or transactions between the association
279 and any director, officer, corporation, firm, or association
280 that is not an affiliated condominium association or any other
281 entity in which an association director is also a director or
282 officer and financially interested.
283 j. Any contract or document regarding a conflict of
284 interest or possible conflict of interest as provided in ss.
285 468.436(2)(b)6. and 718.3027(3).
286 k. The notice of any unit owner meeting and the agenda for
287 the meeting, as required by s. 718.112(2)(d)3., no later than 14
288 days before the meeting. The notice must be posted in plain view
289 on the front page of the website, or on a separate subpage of
290 the website labeled "Notices" which is conspicuously visible and
291 linked from the front page. The association must also post on
292 its website any document to be considered and voted on by the
293 owners during the meeting or any document listed on the agenda
294 at least 7 days before the meeting at which the document or the
295 information within the document will be considered.
296 l. Notice of any board meeting, the agenda, and any other
297 document required for the meeting as required by s.
298 718.112(2)(c), which must be posted no later than the date
299 required for notice pursuant to s. 718.112(2)(c).
300 3. The association shall ensure that the information and



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301 records described in paragraph (c), which are not allowed to be
302 accessible to unit owners, are not posted on the association's
303 website. If protected information or information restricted from
304 being accessible to unit owners is included in documents that
305 are required to be posted on the association's website, the
306 association shall ensure the information is redacted before
307 posting the documents online. Notwithstanding the foregoing, the
308 association or its agent is not liable for disclosing
309 information that is protected or restricted pursuant to this
310 paragraph unless such disclosure was made with a knowing or
311 intentional disregard of the protected or restricted nature of
312 such information.

313 4. The failure of the association to post information
314 required under subparagraph 2. is not in and of itself
315 sufficient to invalidate any action or decision of the
316 association's board or its committees.

317 5. By January 1, 2021, an association managing 25 or more
318 units shall post on its website digital copies of all official
319 records subject to inspection by tenants or unit owners or their
320 authorized representatives.

321
322 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

323 And the directory clause is amended as follows:

324 Delete line 18

325 and insert:

326 paragraphs (a), (b), (c), and (g) of subsection (12), and

327 paragraph (b) of

328

329 ===== T I T L E A M E N D M E N T =====



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330 And the title is amended as follows:

331 Delete lines 5 - 7

332 and insert:

333 kickbacks; revising the documents required to be
334 included with accounting records; requiring an
335 association to maintain official records in a
336 specified manner; revising requirements for the
337 creation of a rebuttable presumption relating to the
338 provision of records; authorizing an association to
339 direct certain persons to the association's website to
340 fulfill certain obligations relating to the inspection
341 of records; providing criminal penalties for certain
342 violations relating to official association records;
343 defining the term "repeatedly"; requiring certain
344 associations to post copies of certain documents on
345 the association's website by a specified date;
346 revising criminal