

THE FLORIDA SENATE
2013 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/HB 7119 — Homeowners' Associations

by Judiciary Committee; Business and Professional Regulation Subcommittee; and Rep. LaRosa and others (CS/CS/CS/SB 580 by Rules Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Hays)

The bill revises requirements for the governance of homeowners' associations. The bill provides additional grounds for disciplining licensed community association managers for failing to comply with the governing statutes for condominium, cooperative, and homeowners' associations. Regarding the homeowner's access to official records of the association, the bill:

- Requires that the official records must be maintained for seven years and maintained within 45 miles of the community or within the same county;
- Permits associations to maintain the records electronically;
- Permits members to photograph records using a camera or other electronic device at no charge;
- Permits associations to charge copying costs and personnel costs required to retrieve and copy records that exceed one half hour, but the cost may not exceed \$20 per hour, except that personnel costs may not be charged for requests that result in 25 or fewer pages; and
- Decreases the cost of copies provided on the association's photocopier from 50 cents per page to 25 cents per page.

The bill requires homeowners' associations to report specified information to the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation. It requires the department to establish an Internet-based registration system and to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This reporting requirement would expire on July 1, 2016, unless reenacted by the Legislature.

The bill provides that associations do not have to allow nominations at the meeting where the election is to be held if it permits nominations in advance of the meeting. It also provides that an election is not required unless more candidates are nominated than board vacancies exist.

The bill limits the liability of associations for assessments that came due before the association acquired title through a foreclosure.

Regarding the officers and directors of homeowners' associations, the bill requires:

- Newly elected directors to certify that they have read, and will uphold, the governing documents;
- Contracts with interested directors to be disclosed and approved by a two-thirds vote of the board, and permits the contract to be cancelled by a vote of the members;
- The removal of officers and directors who solicit or accept things of value from anyone providing or offering to provide services to the association, with exceptions;
- The removal of officers or directors charged with theft or embezzlement of association funds; and

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- Associations to maintain insurance or fidelity bonding, but permits the associations to annually waive the insurance requirement upon a majority vote of the members.

Regarding developer control of homeowners' associations, the bill provides:

- Additional events that trigger control of the association by the non-developer members, including when the developer has failed to complete the amenities and infrastructure, has filed chapter 7 bankruptcy, has lost title through foreclosure, or when a receiver has been appointed;
- That homeowners can elect at least one member to the board when 50 percent of the parcels are conveyed to non-developer members; and
- That the right of a developer to amend the association's governing documents must be reasonable and prohibits the developer from making unilateral changes to those governing documents under certain circumstances.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 37-0; House 113-5