

Bill No. SB 948

Barcode 413176

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Jones, and Hill)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. The Advisory Council on Condominiums is directed to hold public hearings, study available options and proposals, and prepare a report to the Legislature, including recommended legislation, dealing with the protection and preservation of condominium property at the time of anticipated catastrophic windstorm events and the recovery and rebuilding following such events. Recommendations should consider the communication options with condominium owners in times of anticipated and declared emergencies, financial planning for protecting and rebuilding condominium property following such events, and the powers and responsibilities of unit owners and the board of directors of the condominium association before, during, and after such occurrences.

Section 2. Subsection (2) of section 720.305, Florida

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1 Statutes, is amended to read:

2 720.305 Obligations of members; remedies at law or in
3 equity; levy of fines and suspension of use rights; failure to
4 fill sufficient number of vacancies on board of directors to
5 constitute a quorum; appointment of receiver upon petition of
6 any member.--

7 (2) If the governing documents so provide, an
8 association may suspend, for a reasonable period of time, the
9 rights of a member or a member's tenants, guests, or invitees,
10 or both, to use common areas and facilities and may levy
11 reasonable fines, not to exceed \$100 per violation, against
12 any member or any tenant, guest, or invitee. A fine may be
13 levied on the basis of each day of a continuing violation,
14 with a single notice and opportunity for hearing, except that
15 no such fine shall exceed \$1,000 in the aggregate unless
16 otherwise provided in the governing documents. A fine shall
17 not become a lien against a parcel unless it is imposed for
18 violations of use restrictions on the land. In any action to
19 recover a fine, the prevailing party is entitled to collect
20 its reasonable attorney's fees and costs from the
21 nonprevailing party as determined by the court.

22 (a) A fine or suspension may not be imposed without
23 notice of at least 14 days to the person sought to be fined or
24 suspended and an opportunity for a hearing before a committee
25 of at least three members appointed by the board who are not
26 officers, directors, or employees of the association, or the
27 spouse, parent, child, brother, or sister of an officer,
28 director, or employee. If the committee, by majority vote,
29 does not approve a proposed fine or suspension, it may not be
30 imposed.

31 (b) The requirements of this subsection do not apply

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1 to the imposition of suspensions or fines upon any member
2 because of the failure of the member to pay assessments or
3 other charges when due if such action is authorized by the
4 governing documents.

5 (c) Suspension of common-area-use rights shall not
6 impair the right of an owner or tenant of a parcel to have
7 vehicular and pedestrian ingress to and egress from the
8 parcel, including, but not limited to, the right to park.

9 Section 3. Paragraphs (b) and (c) of subsection (2)
10 and subsection (3) of section 720.311, Florida Statutes, are
11 amended to read:

12 720.311 Dispute resolution.--

13 (2)

14 (b) If mediation as described in paragraph (a) is not
15 successful in resolving all issues between the parties, the
16 parties may file the unresolved dispute in a court of
17 competent jurisdiction or elect to enter into binding or
18 nonbinding arbitration pursuant to the procedures set forth in
19 s. 718.1255 and rules adopted by the division, with the
20 arbitration proceeding to be conducted by a department
21 arbitrator or by a private arbitrator certified by the
22 department. If all parties do not agree to arbitration
23 proceedings following an unsuccessful mediation, any party may
24 file the dispute in court. A final order resulting from
25 nonbinding arbitration is final and enforceable in the courts
26 if a complaint for trial de novo is not filed in a court of
27 competent jurisdiction within 30 days after entry of the
28 order. The failure of any party to make payment of fees and
29 costs within the time established by department rule or to
30 appear for a scheduled mediation session or arbitration
31 proceeding shall operate as an impasse in the proceeding

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1 between the parties, entitling the other party to proceed in
2 court and to receive and enforce an award of costs and fees
3 associated with the mediation or arbitration.

4 (c) The department shall develop a certification and
5 training program for private mediators and private arbitrators
6 which shall emphasize experience and expertise in the area of
7 the operation of community associations. A mediator or
8 arbitrator shall be certified by the department only if he or
9 she has met the qualifications for a mediator established for
10 circuit court mediators ~~has attended at least 20 hours of~~
11 ~~training in mediation or arbitration, as appropriate, and only~~
12 ~~if the applicant has mediated or arbitrated at least 10~~
13 ~~disputes involving community associations within 5 years prior~~
14 ~~to the date of the application, or has mediated or arbitrated~~
15 ~~10 disputes in any area within 5 years prior to the date of~~
16 ~~application and has completed 20 hours of training in~~
17 ~~community association disputes. In order to be certified by~~
18 ~~the department, any mediator must also be certified by the~~
19 Florida Supreme Court. The department may conduct the training
20 and certification program within the department or may
21 contract with an outside vendor to perform the training or
22 certification. The expenses of operating the training and
23 certification and training program shall be paid by the moneys
24 and filing fees generated by the arbitration of recall and
25 election disputes and by the mediation of those disputes
26 referred to in this subsection and by the training fees.

27 (3) The department shall develop an education program
28 to assist homeowners, associations, board members, and
29 managers in understanding and increasing awareness of the
30 operation of homeowners' associations pursuant to this chapter
31 and in understanding the use of alternative dispute resolution

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1 techniques in resolving disputes between parcel owners and
 2 associations or between owners. Such education program may
 3 include the development of pamphlets and other written
 4 instructional guides, the holding of classes and meetings by
 5 department employees or outside vendors, as the department
 6 determines, and the creation and maintenance of a website
 7 containing instructional materials. ~~The expenses of operating~~
 8 ~~the education program shall be initially paid by the moneys~~
 9 ~~and filing fees generated by the arbitration of recall and~~
 10 ~~election disputes and by the mediation of those disputes~~
 11 ~~referred to in this subsection.~~

12 Section 4. Section 712.11, Florida Statutes, is
 13 created to read:

14 712.11 Covenants and restrictions.--A homeowners'
 15 association that is not otherwise subject to chapter 720 may
 16 use the procedures provided in ss. 720.403-720.407 to revive a
 17 declaration of covenants and restrictions that has been
 18 extinguished by this chapter entitled Marketable Record Titles
 19 to Real Property.

20 Section 5. This act shall take effect upon becoming a
 21 law.

22
 23

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

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27

28 and insert:

29 A bill to be entitled
 30 An act relating to community associations;
 31 directing the Advisory Council on Condominiums

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1 to hold public hearings and prepare and present
2 a report to the Legislature regarding certain
3 issues relating to the powers of condominium
4 associations during catastrophic windstorm
5 events and the recovery and rebuilding
6 following such events; amending s. 720.305,
7 F.S.; providing that a fine levied by a
8 homeowners' association against a homeowner
9 shall not become a lien against a parcel unless
10 it is imposed for violations of use
11 restrictions on the land; amending s. 720.311,
12 F.S.; providing that the failure of a party to
13 make payment of fees and costs or appear for a
14 mediation session or arbitration proceeding
15 acts as an impasse in the proceeding and
16 entitles the other party to proceed in court
17 and to receive and enforce an award of costs
18 and fees associated with the mediation or
19 arbitration; deleting the training hours
20 required for certification of mediators and
21 arbitrators; providing that qualifications for
22 certification as a mediator or arbitrator will
23 be established by the Florida Supreme Court;
24 deleting a provision requiring the initial
25 costs of educating homeowners and other parties
26 about homeowners' associations and the use of
27 alternative dispute resolution techniques to be
28 paid from moneys and filing fees generated by
29 the arbitration of recall and election disputes
30 and by the mediation of those disputes;
31 creating s. 712.11, F.S.; providing for the

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revival of certain declarations that have been
extinguished; providing an effective date.