

By Senator Baker

20-02403B-08

20082600__

1 A bill to be entitled

2 An act relating to homeowners' associations; requiring
3 homeowners' associations to establish grievance committees
4 by a specified date; providing for membership; requiring
5 the Department of State to maintain a list of members of
6 such committees and provide it to the public upon request;
7 providing procedures for filing and processing grievances;
8 tolling certain actions during the period that a grievance
9 is unresolved; providing for grievance committee
10 recommendations to be admissible in subsequent mediation
11 or legal actions; prohibiting homeowners' associations
12 from prohibiting solar panels or satellite dishes or
13 requiring certain leases or lease approvals; prohibiting
14 homeowners' associations from requiring homeowners to pay
15 for certain mandatory cable or similar communications
16 services or mandatory lawn or exterior maintenance
17 services; amending s. 720.305, F.S.; requiring that notice
18 be sent to a homeowner by certified mail, return receipt
19 requested, before an association may impose certain fines
20 or suspensions; suspending certain fines, fees, or
21 penalties during any period that an association or
22 grievance committee cannot meet to adjudicate a grievance;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. (1) After January 1, 2009, each homeowners'
28 association must have a grievance committee composed of five
29 members, four of whom are residents of the community governed by

20-02403B-08

20082600__

30 the association and one who is not and has never been a resident
31 of the community. A member may not be a director or officer of
32 the association or a relative or lessee of a director or officer
33 of the association.

34 (a) The committee members shall be elected by a majority
35 vote of the association members at a meeting of the membership of
36 the association. The initial meeting to elect the committee
37 members must be held on or before January 1, 2009, and must
38 comply with the requirements of chapter 720, Florida Statutes.
39 The committee members shall annually elect a chair.

40 (b) The names of committee members shall be submitted to
41 the Department of State, which shall maintain a record of the
42 names and contact information for the committee members of each
43 association in the state that has incorporated or formed an LLC,
44 and shall list the names and contact information for the public
45 on the department's website of corporate filings.

46 (2) An association member who has a grievance against the
47 association must submit a written complaint detailing such
48 grievance and specifying the relief requested to the committee
49 chair by certified mail, return receipt requested. The chair must
50 convene a committee meeting within 30 days after receipt of the
51 grievance. If the chair does not convene a meeting within such
52 time, the complainant may contact the committee members and, if
53 three members agree, they may convene a meeting without the
54 approval of the chair.

55 (a) Within 7 days after meeting, the committee shall submit
56 a report, including its findings and recommendations, to the
57 president of the association.

20-02403B-08

20082600__

58 (b) The chair shall also present the committee's findings
59 to the board of directors at the next meeting of the board. If a
60 regular meeting of the board is not scheduled within 30 days
61 after the report is submitted to the president, the committee
62 chair shall request a special meeting pursuant to chapter 720,
63 Florida Statutes.

64 (c) The board shall consider the grievance and make a
65 determination within 30 days after the meeting, shall submit a
66 written copy of the determination to the committee chair, and
67 shall send a written copy to the complainant by certified mail,
68 return receipt requested.

69 (d) If the grievance involves fines, assessments, or any
70 other actions previously taken or currently under consideration
71 by the board against the complainant, the board shall consider
72 the committee recommendations in making a final decision.

73 (e) The committee recommendations are admissible in any
74 subsequent mediation or litigation involving the subject of the
75 complaint. After the chair's receipt of the complaint, evidenced
76 by the complainant's certified mailing receipt, the association
77 may not institute legal action, assess any additional fines or
78 other assessments, or threaten foreclosure based on prior fines
79 or assessments against the complainant until the board has
80 received the committee report and has made a final determination
81 on the matter, unless such actions are authorized by chapter 720,
82 Florida Statutes.

83 Section 2. Notwithstanding any provision of law to the
84 contrary, a homeowner's association may not:

85 (1) Require approval by any person or entity for a
86 homeowner to install solar energy panels on a residence.

20-02403B-08

20082600__

87 (2) Prohibit a homeowner from installing a satellite dish
88 antenna or require a homeowner to pay for any community satellite
89 or cable television or other similar service that he or she
90 chooses not to receive.

91 (3) Require a homeowner to participate in or pay for any
92 required lawn or other exterior maintenance service to the
93 homeowner's property if he or she performs or has such
94 maintenance performed to the standards of the community. This
95 subsection does not prohibit an association from assessing fees
96 for the maintenance of common areas of the community which are
97 not individually owned or controlled by the homeowner.

98 (4) Take any adverse action against a homeowner, including
99 assessing fines or other fees, until the homeowner has received
100 notice by certified mail, return receipt requested, pursuant to
101 s. 720.305(2), Florida Statutes.

102 (5) Require specific agreements between a homeowner and a
103 lessee or require approval of such agreements by the association
104 or any person or entity representing the association unless such
105 action is specifically authorized under chapter 720, Florida
106 Statutes.

107 Section 3. Subsection (2) of section 720.305, Florida
108 Statutes, is amended to read:

109 720.305 Obligations of members; remedies at law or in
110 equity; levy of fines and suspension of use rights; failure to
111 fill sufficient number of vacancies on board of directors to
112 constitute a quorum; appointment of receiver upon petition of any
113 member.--

114 (2) If the governing documents so provide, an association
115 may suspend, for a reasonable period of time, the rights of a

20-02403B-08

20082600__

116 member or a member's tenants, guests, or invitees, or both, to
117 use common areas and facilities and may levy reasonable fines,
118 not to exceed \$100 per violation, against any member or any
119 tenant, guest, or invitee. A fine may be levied on the basis of
120 each day of a continuing violation, with a single notice and
121 opportunity for hearing, except that no such fine shall exceed
122 \$1,000 in the aggregate unless otherwise provided in the
123 governing documents. A fine shall not become a lien against a
124 parcel. In any action to recover a fine, the prevailing party is
125 entitled to collect its reasonable attorney's fees and costs from
126 the nonprevailing party as determined by the court.

127 (a) A fine or suspension may not be imposed without notice
128 of at least 14 days, sent by certified mail, return receipt
129 requested, to the person sought to be fined or suspended and an
130 opportunity for a hearing before a committee of at least three
131 members appointed by the board who are not officers, directors,
132 or employees of the association, or the spouse, parent, child,
133 brother, or sister of an officer, director, or employee. If the
134 committee, by majority vote, does not approve a proposed fine or
135 suspension, it may not be imposed.

136 (b) The requirements of this subsection, except for the
137 requirement that notice be sent by certified mail, return receipt
138 requested, do not apply to the imposition of suspensions or fines
139 upon any member because of the failure of the member to pay
140 assessments or other charges when due if such action is
141 authorized by the governing documents.

142 (c) Suspension of common-area-use rights shall not impair
143 the right of an owner or tenant of a parcel to have vehicular and

20-02403B-08

20082600__

144 pedestrian ingress to and egress from the parcel, including, but
145 not limited to, the right to park.

146 (d) If a quorum of the homeowners' association or a quorum
147 of the grievance committee cannot convene to adjudicate a
148 grievance due to the unavailability or out-of-state residency of
149 a member, all fines, fees, or penalties levied against the lessee
150 or homeowner who filed the grievance shall be suspended until a
151 quorum convenes to determine the validity of the grievance.

152 Section 4. This act shall take effect July 1, 2008.