

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Robaina offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 278 and 279, insert:

5 Section 2. Section 718.303, Florida Statutes, is amended
6 to read:

7 718.303 Obligations of owners and occupants; waiver; levy
8 of fines, suspension or use or voting rights, and other
9 nonexclusive remedies in law or equity ~~fine against unit~~ by an
10 association.--

11 (1) Each unit owner, each tenant and other invitee, and
12 each association shall be governed by, and shall comply with the
13 provisions of, this chapter, the declaration, the documents
14 creating the association, and the association bylaws and the
15 provisions thereof shall be deemed expressly incorporated into
16 any lease of a unit. Actions for damages or for injunctive
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17 relief, or both, for failure to comply with these provisions may
18 be brought by the association or by a unit owner against:

19 (a) The association.

20 (b) A unit owner.

21 (c) Directors designated by the developer, for actions
22 taken by them prior to the time control of the association is
23 assumed by unit owners other than the developer.

24 (d) Any director who willfully and knowingly fails to
25 comply with these provisions.

26 (e) Any tenant leasing a unit, and any other invitee
27 occupying a unit.

28
29 The prevailing party in any such action or in any action in
30 which the purchaser claims a right of voidability based upon
31 contractual provisions as required in s. 718.503(1)(a) is
32 entitled to recover reasonable attorney's fees. A unit owner
33 prevailing in an action between the association and the unit
34 owner under this section, in addition to recovering his or her
35 reasonable attorney's fees, may recover additional amounts as
36 determined by the court to be necessary to reimburse the unit
37 owner for his or her share of assessments levied by the
38 association to fund its expenses of the litigation. This relief
39 does not exclude other remedies provided by law. Actions arising
40 under this subsection shall not be deemed to be actions for
41 specific performance.

42 (2) A provision of this chapter may not be waived if the
43 waiver would adversely affect the rights of a unit owner or the
44 purpose of the provision, except that unit owners or members of
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45 a board of administration may waive notice of specific meetings
46 in writing if provided by the bylaws. Any instruction given in
47 writing by a unit owner or purchaser to an escrow agent may be
48 relied upon by an escrow agent, whether or not such instruction
49 and the payment of funds thereunder might constitute a waiver of
50 any provision of this chapter.

51 (3) If the declaration or bylaws so provide, the
52 association may suspend, for a reasonable time, the right of a
53 unit owner or a unit's occupant, licensee, or invitee, to use
54 common elements, common facilities, or any other association
55 property. This subsection does not apply to limited common
56 elements intended to be used only by that unit, common elements
57 that must be used to access the unit, utility services provided
58 to the unit, parking spaces, or elevators. The association may
59 also levy reasonable fines against a unit for the failure of the
60 owner of the unit, or its occupant, licensee, or invitee, to
61 comply with any provision of the declaration, the association
62 bylaws, or reasonable rules of the association. No fine will
63 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per
64 violation. However, a fine may be levied on the basis of each
65 day of a continuing violation, with a single notice and
66 opportunity for hearing, provided that no such fine shall in the
67 aggregate exceed \$1,000. A ~~No~~ fine may not be levied and a
68 suspension may not be imposed unless the association first gives
69 ~~except after giving~~ reasonable notice and opportunity for a
70 hearing to the unit owner and, if applicable, its occupant,
71 licensee, or invitee. The hearing must be held before a
72 committee of other unit owners who are neither board members nor
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73 persons residing in a board member's household. If the committee
74 does not agree with the fine or suspension, the fine or
75 suspension may not be levied or imposed. ~~The provisions of this~~
76 ~~subsection do not apply to unoccupied units.~~

77 (4) The notice and hearing requirements of subsection (3)
78 do not apply to the imposition of suspensions or fines against a
79 unit owner or a unit's occupant, licensee, or invitee because of
80 the failure to pay any amounts due the association. If such a
81 fine or suspension is imposed, the association must levy the
82 fine or impose a reasonable suspension at a properly noticed
83 board meeting, and after the imposition of such fine or
84 suspension, the association must notify the unit owner and, if
85 applicable, the unit's occupant, licensee, or invitee by mail or
86 hand delivery

87 (5) If the declaration or bylaws so provide, an
88 association may also suspend the voting rights of a member due
89 to nonpayment of assessments, fines, or other charges payable to
90 the association which are delinquent in excess of 90 days.

91
92 -----
93 **T I T L E A M E N D M E N T**

94 Remove line 15 and insert:

95 amending s. 718.303, F.S.; authorizing an association to
96 suspend the right of a unit owner or a unit's occupant,
97 licensee, or invitee to use certain common elements or
98 association property; excluding certain common elements and
99 property from such authorization; requiring that reasonable
100 notice and opportunity for a hearing be provided before an

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101 association levies fines for certain activities; granting
102 certain powers to the committee before which hearings are
103 held; providing exceptions to notice and hearing
104 requirements; authorizing an association to suspend the
105 voting rights of a member due to nonpayment of assessments,
106 fines, or other charges delinquent for a specified period
107 under certain circumstances; amending s. 720.303, F.S.;
108 revising provisions relating to