



562282

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2013	.	
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The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1074 - 1152
and insert:

(b) The official records of the association must ~~shall~~ be maintained within the state for at least 7 years. The records of the association shall be made available to a unit owner within 45 miles of the cooperative property or within the county in which the cooperative property is located within 5 working days after receipt of written request by the board or its designee. This paragraph may be complied with by having a copy of the official records of the association available for inspection or



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13 copying on the cooperative property, or the association may
14 offer the option of making the records available to a unit owner
15 electronically via the Internet or by allowing the records to be
16 viewed in an electronic format on a computer screen and printed
17 upon request. The association is not responsible for the use or
18 misuse of the information provided to an association member or
19 his or her authorized representative pursuant to the compliance
20 requirements of this chapter unless the association has an
21 affirmative duty not to disclose such information pursuant to
22 this chapter.

23 (c) The official records of the association are ~~shall be~~
24 open to inspection by any association member or the authorized
25 representative of such member at all reasonable times. ~~Failure~~
26 ~~to permit inspection of the association records as provided~~
27 ~~herein entitles any person prevailing in an enforcement action~~
28 ~~to recover reasonable attorney's fees from the person in control~~
29 ~~of the records who, directly or indirectly, knowingly denies~~
30 ~~access to the records for inspection.~~ The right to inspect the
31 records includes the right to make or obtain copies, at the
32 reasonable expense, if any, of the association member. The
33 association may adopt reasonable rules regarding the frequency,
34 time, location, notice, and manner of record inspections and
35 copying. The failure of an association to provide the records
36 within 10 working days after receipt of a written request
37 creates a rebuttable presumption that the association willfully
38 failed to comply with this paragraph. A unit owner who is denied
39 access to official records is entitled to the actual damages or
40 minimum damages for the association's willful failure to comply
41 ~~with this paragraph.~~ The minimum damages are ~~shall be~~ \$50 per



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42 calendar day for up to 10 days, beginning ~~the calculation to~~
43 ~~begin~~ on the 11th working day after receipt of the written
44 request. The failure to permit inspection entitles any person
45 prevailing in an enforcement action to recover reasonable
46 attorney fees from the person in control of the records who,
47 directly or indirectly, knowingly denied access to the records.
48 Any person who knowingly or intentionally defaces or destroys
49 accounting records that are required by this chapter to be
50 maintained during the period for which such records are required
51 to be maintained, or who knowingly or intentionally fails to
52 create or maintain accounting records that are required to be
53 created or maintained, with the intent of causing harm to the
54 association or one or more of its members, is personally subject
55 to a civil penalty pursuant to s. 719.501(1)(d). The association
56 shall maintain an adequate number of copies of the declaration,
57 articles of incorporation, bylaws, and rules, and all amendments
58 to each of the foregoing, as well as the question and answer
59 sheet as described ~~provided for~~ in s. 719.504 and year-end
60 financial information required by the department, on the
61 cooperative property to ensure their availability to unit owners
62 and prospective purchasers, and may charge its actual costs for
63 preparing and furnishing these documents to those requesting the
64 same. An association shall allow a member or his or her
65 authorized representative to use a portable device, including a
66 smartphone, tablet, portable scanner, or any other technology
67 capable of scanning or taking photographs, to make an electronic
68 copy of the official records in lieu of the association
69 providing the member or his or her authorized representative
70 with a copy of such records. The association may not charge a



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71 member or his or her authorized representative for the use of a
72 portable device. Notwithstanding the provisions of this
73 paragraph, the following records shall not be accessible to unit
74 owners:

75 1. Any record protected by the lawyer-client privilege as
76 described in s. 90.502 and any record protected by the work-
77 product privilege, including any record ~~A record that was~~
78 ~~prepared by an association attorney or prepared at the~~
79 ~~attorney's express direction~~ which; ~~that~~ reflects a mental
80 impression, conclusion, litigation strategy, or legal theory of
81 the attorney or the association, and which; ~~or that~~ was prepared
82 exclusively for civil or criminal litigation or for adversarial
83 administrative proceedings, or which was prepared in
84 anticipation of such imminent civil or criminal litigation or
85 ~~imminent adversarial administrative proceedings,~~ until the
86 conclusion of the litigation or ~~adversarial administrative~~
87 ~~proceedings.~~

88 2. Information obtained by an association in connection
89 with the approval of the lease, sale, or other transfer of a
90 unit.

91 3. Personnel records of association or management company
92 employees, including, but not limited to, disciplinary, payroll,
93 health, and insurance records. For purposes of this
94 subparagraph, the term "personnel records" does not include
95 written employment agreements with an association employee or
96 management company, or budgetary or financial records that
97 indicate the compensation paid to an association employee.

98 4.3. ~~Medical records of unit owners.~~

99 5. Social security numbers, driver license numbers, credit



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100 card numbers, e-mail addresses, telephone numbers, facsimile
101 numbers, emergency contact information, addresses of a unit
102 owner other than as provided to fulfill the association's notice
103 requirements, and other personal identifying information of any
104 person, excluding the person's name, unit designation, mailing
105 address, property address, and any address, e-mail address, or
106 facsimile number provided to the association to fulfill the
107 association's notice requirements. Notwithstanding the
108 restrictions in this subparagraph, an association may print and
109 distribute to parcel owners a directory containing the name,
110 parcel address, and telephone number of each parcel owner.
111 However, an owner may exclude his or her telephone number from
112 the directory by so requesting in writing to the association.
113 The association is not liable for the inadvertent disclosure of
114 information that is protected under this subparagraph if the
115 information is included in an official record of the association
116 and is voluntarily provided by an owner and not requested by the
117 association.

118 6. Electronic security measures that are used by the
119 association to safeguard data, including passwords.

120 7. The software and operating system used by the
121 association which allow the manipulation of data, even if the
122 owner

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

125 And the title is amended as follows:

126 Delete lines 69 - 74

127 and insert:

128 providing requirements for the maintenance of the



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129 official records of the association; authorizing
130 records to be made available to unit owners in an
131 electronic format; providing a civil penalty for the
132 denial of a request to view records; requiring an
133 association to allow a member or the member's
134 authorized representative to use certain portable
135 devices to make electronic copies of association
136 records; prohibiting the association from charging the
137 member or authorized representative for using the
138 portable device; authorizing a cooperative association
139 to print and distribute a member directory under
140 certain conditions; specifying additional records that
141 are not