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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment to Amendment (152060) (with title**
2 **amendment)**

3
4 Between lines 524 and 525
5 insert:

6 Section 14. Subsection (2) of section 720.302, Florida
7 Statutes, is amended to read:

8 720.302 Purposes, scope, and application.—

9 (2) The Legislature recognizes that it is ~~not~~ in the best
10 interest of homeowners' associations or the individual



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11 association members thereof to allow ~~create or impose~~ a bureau
12 or other agency of state government to regulate a limited number
13 of the affairs of homeowners' associations. ~~However,~~

14 (a) In accordance with s. 720.311, the Legislature finds
15 that homeowners' associations and their individual members will
16 benefit from an expedited alternative process for resolution of
17 election and recall disputes and presuit mediation of other
18 disputes involving covenant enforcement and authorizes the
19 department to hear, administer, and determine these disputes as
20 more fully set forth in this chapter.

21 (b) The Legislature finds that homeowners' associations and
22 their individual members will benefit from having access to all
23 records and financial documents. Therefore, the Legislature
24 authorizes the department to receive and make a determination on
25 complaints against homeowners' associations, their officers, or
26 any directors which involve association financial matters,
27 access to official records, passage of an annual budget, reserve
28 funds, or misappropriation of funds.

29 (c) The Legislature recognizes that certain existing
30 contract rights were created for the benefit of homeowners'
31 associations and their members before July 1, 2016, and that ss.
32 720.301-720.407 are not intended to impair such contract rights,
33 including, but not limited to, the rights of a developer to
34 complete a community as initially contemplated. Notwithstanding
35 this, the Legislature finds that homeowners' associations and
36 their individual members will benefit from being afforded
37 reasonable protections of their property through contractual
38 rights and authorizes the department to receive and make a
39 determination on complaints against any association or a



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40 director or an officer of an association that is still subject
41 to developer control ~~Further, the Legislature recognizes that~~
42 ~~certain contract rights have been created for the benefit of~~
43 ~~homeowners' associations and members thereof before the~~
44 ~~effective date of this act and that ss. 720.301-720.407 are not~~
45 ~~intended to impair such contract rights, including, but not~~
46 ~~limited to, the rights of the developer to complete the~~
47 ~~community as initially contemplated.~~

48 Section 15. Subsection (13) of section 720.303, Florida
49 Statutes, is amended to read:

50 720.303 Association powers and duties; meetings of board;
51 official records; budgets; financial reporting; association
52 funds; recalls.-

53 (13) REPORTING REQUIREMENT.-The community association
54 manager or management firm, or the association when there is no
55 community association manager or management firm, shall submit a
56 report to the division by November 22, 2016 2013, and each year
57 thereafter in a manner and form prescribed by the division.

58 (a) The report must ~~shall~~ include the association's:

- 59 1. Legal name.
- 60 2. Federal employer identification number.
- 61 3. Mailing and physical addresses.
- 62 4. Total number of parcels.
- 63 5. Total amount of revenues and expenses from the
64 association's annual budget.

65 (b) For associations in which control of the association
66 has not been transitioned to nondeveloper members, as set forth
67 in s. 720.307, the report shall also include the developer's:

- 68 1. Legal name.



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69 2. Mailing address.

70 3. Total number of parcels owned on the date of reporting.

71 (c) The reporting requirement provided in this subsection
72 shall be a continuing obligation on each association until the
73 required information is reported to the division. The community
74 association manager or management firm, or the association if
75 there is no community association manager or management firm,
76 must resubmit the report required under this subsection upon the
77 occurrence of a material change in the information required to
78 be reported pursuant to paragraphs (a) and (b).

79 (d) By October 1, 2016 ~~2013~~, the department shall establish
80 and implement a registration system through a ~~an Internet~~
81 website that provides for the reporting requirements of
82 paragraphs (a) and (b).

83 (e) The department shall prepare an annual report of the
84 data reported pursuant to this subsection and present it to the
85 Governor, the President of the Senate, and the Speaker of the
86 House of Representatives by December 1, 2016 ~~2013~~, and each year
87 thereafter.

88 (f) The division shall adopt rules pursuant to ss.
89 120.536(1) and 120.54 to implement the provisions of this
90 subsection.

91 (g) This subsection shall expire on July 1, 2026 ~~2016~~,
92 unless reenacted by the Legislature.

93 Section 16. Subsection (2) of section 720.305, Florida
94 Statutes, is amended to read:

95 720.305 Obligations of members; remedies at law or in
96 equity; levy of fines and suspension of use rights.—
97 (2) The association may levy reasonable fines. A fine may



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98 not exceed \$100 per violation against any member or any member's
99 tenant, guest, or invitee for the failure of the owner of the
100 parcel or its occupant, licensee, or invitee to comply with any
101 provision of the declaration, the association bylaws, or
102 reasonable rules of the association unless otherwise provided in
103 the governing documents. A fine may be levied by the board for
104 each day of a continuing violation, with a single notice and
105 opportunity for hearing, except that the fine may not exceed
106 \$1,000 in the aggregate unless otherwise provided in the
107 governing documents. A fine, or an action to collect on a fine,
108 may not result in foreclosure on ~~of less than \$1,000 may not~~
109 ~~become a lien against~~ a parcel. In any action to recover a fine,
110 the prevailing party is entitled to reasonable attorney fees and
111 costs from the nonprevailing party as determined by the court.

112 (a) An association may suspend, for a reasonable period of
113 time, the right of a member, or a member's tenant, guest, or
114 invitee, to use common areas and facilities for the failure of
115 the owner of the parcel or its occupant, licensee, or invitee to
116 comply with any provision of the declaration, the association
117 bylaws, or reasonable rules of the association. This paragraph
118 does not apply to that portion of common areas used to provide
119 access or utility services to the parcel. A suspension may not
120 prohibit an owner or tenant of a parcel from having vehicular
121 and pedestrian ingress to and egress from the parcel, including,
122 but not limited to, the right to park.

123 (b) A fine or suspension may not be imposed by the board of
124 administration without at least 14 days' notice to the person
125 sought to be fined or suspended and an opportunity for a hearing
126 before a committee of at least three members appointed by the



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127 board who are not officers, directors, or employees of the
128 association, or the spouse, parent, child, brother, or sister of
129 an officer, director, or employee. If the committee, by majority
130 vote, does not approve a proposed fine or suspension, it may not
131 be imposed. The role of the committee is limited to determining
132 whether to confirm or reject the fine or suspension levied by
133 the board. If the board of administration imposes a fine or
134 suspension, the association must provide written notice of such
135 fine or suspension by mail or hand delivery to the parcel owner
136 and, if applicable, to any tenant, licensee, or invitee of the
137 parcel owner.

138 Section 17. Subsection (1) and paragraph (d) of subsection
139 (2) of section 720.311, Florida Statutes, are amended to read:

140 720.311 Dispute resolution.—

141 (1) The Legislature finds that alternative dispute
142 resolution has made progress in reducing court dockets and
143 trials and in offering a more efficient, cost-effective option
144 to litigation. The filing of any petition for arbitration or the
145 serving of a demand for presuit mediation as provided for in
146 this section shall toll the applicable statute of limitations.
147 Any recall dispute filed with the department pursuant to s.
148 720.303(10) shall be conducted by the department in accordance
149 with the provisions of ss. 718.112(2)(j) and 718.1255 and the
150 rules adopted by the division. In addition, the department shall
151 conduct mandatory binding arbitration of election disputes
152 between a member and an association pursuant to s. 718.1255 and
153 rules adopted by the division. ~~Neither Election disputes and nor~~
154 ~~recall disputes are eligible for presuit mediation; these~~
155 ~~disputes shall be arbitrated by the department.~~ At the request



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156 of the parcel owner or the homeowners' association, the
157 department is authorized to, and shall provide, binding
158 arbitration in disputes involving covenants, restrictions, rule
159 enforcement, and duties to maintain and make safe pursuant to
160 the declaration of covenants, rules and regulations, and other
161 governing documents; disputes involving assessments; and
162 disputes involving the official records of the homeowners'
163 association. At the conclusion of the proceeding, the department
164 shall charge the parties a fee in an amount adequate to cover
165 all costs and expenses incurred by the department in conducting
166 the proceeding. Initially, the petitioner shall remit a filing
167 fee of at least \$200 to the department. The fees paid to the
168 department shall become a recoverable cost in the arbitration
169 proceeding, and the prevailing party in an arbitration
170 proceeding shall recover its reasonable costs and attorney
171 ~~attorney's~~ fees in an amount found reasonable by the arbitrator.
172 The department shall adopt rules to effectuate the purposes of
173 this section.

174 (2)

175 (d) A mediator or arbitrator shall be authorized to conduct
176 mediation or arbitration under this section only if he or she
177 has been certified as a county court or circuit court civil
178 mediator or arbitrator, respectively, pursuant to the
179 requirements established by the Florida Supreme Court.
180 Settlement agreements resulting from mediation do ~~shall~~ not have
181 precedential value in proceedings involving parties other than
182 those participating in the mediation to support either a claim
183 or defense in other disputes.

184 Section 18. Present subsection (2) of section 720.401,



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185 Florida Statutes, is redesignated as subsection (3), and a new
186 subsection (2) is added to that section, to read:

187 720.401 Prospective purchasers subject to association
188 membership requirement; disclosure required; covenants;
189 assessments; contract cancellation.—

190 (2) A seller of a parcel for which membership in a
191 homeowners' association is a condition of ownership must provide
192 a prospective buyer with the association's governing documents,
193 including the declaration of covenants, the articles and bylaws,
194 any rules and regulations, the operating budget for the current
195 year, and any amendments to such documents. The seller must
196 provide the prospective buyer with such documents at least 7
197 days before closing. The prospective buyer may terminate the
198 contract for purchase within 3 days after receipt of such
199 documents.

200
201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete lines 644 - 691

204 and insert:

205 An act relating to real property; amending s.
206 192.0105, F.S.; conforming provisions to changes made
207 by the act; amending s. 193.073, F.S.; revising
208 procedures for the revision of an erroneous or
209 incomplete personal property tax return; amending s.
210 193.122, F.S.; specifying deadlines for value
211 adjustment boards to complete certain hearings and
212 final assessment roll certifications; providing
213 exceptions; providing applicability; amending ss.



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214 193.155, 193.1554, and 193.1555, F.S.; requiring a
215 property appraiser to serve a notice of intent to
216 record a notice of tax lien under certain
217 circumstances; requiring certain taxpayers to be given
218 a specified timeframe to pay taxes, penalties, and
219 interest to avoid the filing of a lien; prohibiting
220 the assessment of penalties and interest under certain
221 circumstances; amending s. 194.011, F.S.; revising the
222 procedures for filing petitions to the value
223 adjustment board; providing applicability as to the
224 confidentiality of certain taxpayer information;
225 amending s. 194.014, F.S.; revising the entities
226 authorized to determine under certain circumstances
227 that a petitioner owes ad valorem taxes or is owed a
228 refund of overpaid taxes; revising the rate at which
229 interest accrues on unpaid and overpaid ad valorem
230 taxes; defining the term "bank prime loan rate";
231 amending s. 194.032, F.S.; revising the purposes for
232 which a value adjustment board may meet; revising
233 requirements for the provision of property record
234 cards to a petitioner for certain hearings; requiring
235 the petitioner or property appraiser to show good
236 cause to reschedule a hearing related to an
237 assessment; defining the term "good cause"; amending
238 s. 194.034, F.S.; revising requirements for an entity
239 that may represent a taxpayer before the value
240 adjustment board; requiring the Department of Revenue
241 to adopt certain forms; prohibiting a taxpayer from
242 contesting an assessment unless the return was timely



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243 filed; defining the term "timely filed"; revising
244 provisions relating to findings of fact; amending s.
245 194.035, F.S.; specifying that certain petitions must
246 be heard by a special magistrate; prohibiting
247 consideration of assessment reductions recommended in
248 previous hearings by special magistrates when
249 appointing or when scheduling a special magistrate;
250 amending s. 197.3632, F.S.; extending the dates for
251 certain counties to adopt or certify non-ad valorem
252 assessment rolls; amending s. 720.302, F.S.; revising
253 legislative findings; amending s. 720.303, F.S.;
254 providing that a community association manager or
255 management firm, or the association, must submit an
256 annual report to the Division of Florida Condominiums,
257 Timeshares, and Mobile Homes beginning on a specified
258 date; requiring the community association or
259 management firm, or the association, to resubmit the
260 report under certain circumstances; revising the date
261 by which the Department of Business and Professional
262 Regulation must establish and implement a certain
263 registration system through a website and the date by
264 which it must prepare a certain report; revising an
265 expiration date; amending s. 720.305, F.S.; providing
266 that an action to collect a fine may not result in
267 foreclosure on a parcel; deleting a provision
268 prohibiting a fine less than \$1,000 from becoming a
269 lien against a parcel; amending s. 720.311, F.S.;
270 providing that election and recall disputes are
271 eligible for presuit mediation; providing that the



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272 department must provide binding arbitration for
273 certain disputes at the request of the parcel owner or
274 homeowners' association; revising certification
275 requirements to conduct mediation or arbitration in
276 such disputes; amending s. 720.401, F.S.; providing
277 that a seller must provide certain documents to a
278 prospective buyer if membership in a homeowners'
279 association is a condition of ownership; authorizing a
280 prospective buyer to terminate a contract for purchase
281 within a specified timeframe; reenacting and amending
282 s.