

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6027 Financial Reporting

SPONSOR(S): Williamson

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	12 Y, 0 N	Brackett	Anstead
2) Commerce Committee	25 Y, 0 N	Brackett	Hamon

SUMMARY ANALYSIS

Condominium associations (condominiums) and cooperative associations (cooperatives) are forms of real property ownership which are divided into units and governed internally by owners of the units. A homeowners' association (HOA) is a corporation responsible for the operation of a community or mobile home subdivision. Condominiums, cooperatives, and HOAs must complete an annual financial report in accordance with financial reporting requirements.

The bill amends current law relating to financial report requirements for condominiums, cooperatives, and homeowners' associations. Specifically, the bill:

- Removes the provisions permitting condominiums, cooperatives, and HOAs operating fewer than 50 units, regardless of their annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements; and
- Removes the provisions prohibiting cooperatives and condominiums from waiving the financial reporting for more than three consecutive years.

There appears to be no fiscal impact on state or local governments. The bill may have a fiscal impact on the private sector.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

A condominium association (condominium) is a form of ownership of real property comprised of units which may be owned by one or more persons, but who have an undivided share of access to common facilities. A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located. A declaration governs the relationships among condominium unit owners and the condominium.¹

A cooperative association (cooperative) is a form of real property ownership. The real property is owned by the cooperative, and individual units are leased to the residents, who own shares in the cooperative. The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the laws regulating cooperatives are in many instances nearly identical.²

Condominiums and cooperatives are regulated in a limited manner by the Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the Florida Department of Business and Professional Regulation (DBPR).

A homeowners' association (HOA) is a corporation responsible for the operation of a community or mobile home subdivision. Only HOAs whose covenants and restrictions include mandatory assessments are statutorily regulated. FCTMH provides arbitration services for HOA election and recall disputes, but DBPR does not regulate HOAs. However, DBPR does regulate the community association managers (CAMs) which often manage HOAs.³

To comply with financial reporting requirements, condominiums, cooperatives, and HOAs (collectively "associations") must:

- Complete an annual financial report for the previous fiscal year within 90 days after the end of the fiscal year, calendar year, or annually on a date provided in the bylaws;
- Provide unit or parcel owners the financial report or notice that the report is available upon request without charge within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or calendar year, or other date as provided in the bylaws; and
- Prepare financial statements according to generally accepted accounting principles and in a manner dictated by the total revenue of the association, namely:
 - An association having total annual revenues between \$150,000 and less than \$300,000 must prepare compiled financial statements;
 - An association having total annual revenues of at least \$300,000 but less than \$500,000 must prepare reviewed financial statements;
 - An association having total revenues of \$500,000 or more must prepare audited financial statements; and
 - An association with total annual revenue of less than \$150,000 must prepare a report of cash receipts and expenditures.⁴

¹ ss. 718.103(11) & 718.104(2), F.S.

² s. 719.103, F.S.

³ s. 720.301, & 720.302, F.S.

⁴ ss. 718.111(13), 719.104(4), & 720.303(7), F.S.,

Condominiums and cooperatives must, and HOAs may, prepare a report of cash receipts and expenditures in lieu of financial reports regardless of total annual revenues if the association operates fewer than 50 units⁵ or parcels.⁶

A condominium or cooperative may vote to waive the annual financial reporting requirements, but they may not waive the annual financial report requirement for more than three consecutive years.⁷

Industry experts have interpreted waiving a financial report to mean preparing a report of cash receipts and expenditures in lieu of the financial report.⁸

Effect of the Bill

The bill removes the provisions that associations operating fewer than 50 units or parcels may or must prepare a report of cash receipts and expenditures in lieu of a financial statement regardless of the associations' total annual revenue.

The bill removes the provision that prohibits cooperatives and condominiums from waiving the annual financial reporting requirements for more than three consecutive years.

The bill provides an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1. Amends s. 718.111, F.S., relating to preparing and providing condominium financial reports.

Section 2. Amends s. 719.104, F.S., relating to preparing and providing cooperative financial reports.

Section 3. Amends s. 720.303, F.S., relating to preparing and providing HOA financial reports.

Section 4. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁵ ss. 718.111(13), & 719.104(4), F.S.

⁶ s. 720.303(7), F.S.

⁷ s. 718.111(13), & 719.104(4)(b), F.S.

⁸ ss. 718.111(13), & 719.104(4)(e), F.S. *See* Peter M. Dunbar, *The Complete Condominium*, 169 (13th ed. 2012-13).

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Associations operating fewer than 50 units may have increased costs if they are required to do financial statements other than cash receipts and expenditures as these associations may choose to hire accountants or CAMs to prepare the financial statements. Condominiums or cooperatives that consistently vote to waive financial reporting may have decreased costs by being able to waive perpetually instead of having to prepare a financial report once every four years.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES