

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to community associations' building
3 inspections; amending ss. 718.112, 719.106, and
4 720.303, F.S.; requiring that residential condominium,
5 residential cooperative, and homeowners' association
6 buildings be inspected upon reaching 30 years of age
7 and every 5 years thereafter; requiring that the
8 inspection be completed by a specified architect or
9 engineer; requiring the boards of a condominium
10 association, cooperative association, and homeowners'
11 association, respectively, to convene within a
12 specified time after receipt of the inspection report
13 for a specified purpose; requiring such associations
14 to provide a copy of the inspection report to the
15 local authority having jurisdiction and to make the
16 report available for inspection by their members
17 within a specified time; requiring that a copy of the
18 inspection report be maintained in the associations'
19 official records; amending ss. 718.111 and 719.104,
20 F.S.; requiring that a specified inspection report be
21 maintained as an official record of condominium
22 associations and cooperative associations,
23 respectively; amending ss. 718.301 and 720.307, F.S.;
24 requiring a developer to comply with certain building
25 inspection requirements and to provide a specified
26 inspection report upon the transition of association
27 control under certain circumstances; providing an
28 effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (a) of subsection (12) of section
33 718.111, Florida Statutes, is amended to read:

34 718.111 The association.—

35 (12) OFFICIAL RECORDS.—

36 (a) From the inception of the association, the association
37 shall maintain each of the following items, if applicable, which
38 constitutes the official records of the association:

39 1. A copy of the plans, permits, warranties, and other
40 items provided by the developer under s. 718.301(4).

41 2. A photocopy of the recorded declaration of condominium
42 of each condominium operated by the association and each
43 amendment to each declaration.

44 3. A photocopy of the recorded bylaws of the association
45 and each amendment to the bylaws.

46 4. A certified copy of the articles of incorporation of the
47 association, or other documents creating the association, and
48 each amendment thereto.

49 5. A copy of the current rules of the association.

50 6. A book or books that contain the minutes of all meetings
51 of the association, the board of administration, and the unit
52 owners.

53 7. A current roster of all unit owners and their mailing
54 addresses, unit identifications, voting certifications, and, if
55 known, telephone numbers. The association shall also maintain
56 the e-mail addresses and facsimile numbers of unit owners
57 consenting to receive notice by electronic transmission. The e-
58 mail addresses and facsimile numbers are not accessible to unit

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59 owners if consent to receive notice by electronic transmission
60 is not provided in accordance with sub-subparagraph (c)3.e.
61 However, the association is not liable for an inadvertent
62 disclosure of the e-mail address or facsimile number for
63 receiving electronic transmission of notices.

64 8. All current insurance policies of the association and
65 condominiums operated by the association.

66 9. A current copy of any management agreement, lease, or
67 other contract to which the association is a party or under
68 which the association or the unit owners have an obligation or
69 responsibility.

70 10. Bills of sale or transfer for all property owned by the
71 association.

72 11. Accounting records for the association and separate
73 accounting records for each condominium that the association
74 operates. Any person who knowingly or intentionally defaces or
75 destroys such records, or who knowingly or intentionally fails
76 to create or maintain such records, with the intent of causing
77 harm to the association or one or more of its members, is
78 personally subject to a civil penalty pursuant to s.

79 718.501(1)(d). The accounting records must include, but are not
80 limited to:

81 a. Accurate, itemized, and detailed records of all receipts
82 and expenditures.

83 b. A current account and a monthly, bimonthly, or quarterly
84 statement of the account for each unit designating the name of
85 the unit owner, the due date and amount of each assessment, the
86 amount paid on the account, and the balance due.

87 c. All audits, reviews, accounting statements, and

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88 financial reports of the association or condominium.

89 d. All contracts for work to be performed. Bids for work to
90 be performed are also considered official records and must be
91 maintained by the association for at least 1 year after receipt
92 of the bid.

93 12. Ballots, sign-in sheets, voting proxies, and all other
94 papers and electronic records relating to voting by unit owners,
95 which must be maintained for 1 year from the date of the
96 election, vote, or meeting to which the document relates,
97 notwithstanding paragraph (b).

98 13. All rental records if the association is acting as
99 agent for the rental of condominium units.

100 14. A copy of the current question and answer sheet as
101 described in s. 718.504.

102 15. A copy of the inspection reports ~~report~~ as described in
103 ss. 718.112(2)(p) and 718.301(4)(p) ~~s. 718.301(4)(p)~~.

104 16. Bids for materials, equipment, or services.

105 17. All affirmative acknowledgments made pursuant to s.
106 718.121(4)(c).

107 18. All other written records of the association not
108 specifically included in the foregoing which are related to the
109 operation of the association.

110 Section 2. Paragraph (p) is added to subsection (2) of
111 section 718.112, Florida Statutes, to read:

112 718.112 Bylaws.—

113 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
114 following and, if they do not do so, shall be deemed to include
115 the following:

116 (p) Building inspections.—An association must ensure

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117 compliance with the Florida Building Code.

118 1. As to a residential condominium building that is four
119 stories or more in height and located within a one-half mile
120 radius of the Gulf of Mexico or Atlantic coast shoreline of the
121 state, once the building reaches 30 years of age, and every 5
122 years thereafter, the board must have the condominium building
123 inspected by a licensed architect or engineer authorized to
124 practice in this state.

125 2. In accordance with the requirements of paragraph (c),
126 the board shall convene a board meeting within 21 days after the
127 date of receipt of the inspection report to vote on a plan to
128 repair the condominium building if the inspection report
129 indicates that repairs are needed.

130 3. Within 5 days after the date of receipt of the
131 inspection report, the board shall:

132 a. Provide a copy of the report to the local authority
133 having jurisdiction; and

134 b. Make the report available for inspection by any
135 association member or an authorized representative of such
136 member as required under s. 718.111(12).

137 4. The association shall maintain a copy of the inspection
138 report as part of the association's official records in
139 accordance with s. 718.111(12).

140 Section 3. Paragraph (p) of subsection (4) of section
141 718.301, Florida Statutes, is amended to read:

142 718.301 Transfer of association control; claims of defect
143 by association.—

144 (4) At the time that unit owners other than the developer
145 elect a majority of the members of the board of administration

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146 of an association, the developer shall relinquish control of the
147 association, and the unit owners shall accept control.
148 Simultaneously, or for the purposes of paragraph (c) not more
149 than 90 days thereafter, the developer shall deliver to the
150 association, at the developer's expense, all property of the
151 unit owners and of the association which is held or controlled
152 by the developer, including, but not limited to, the following
153 items, if applicable, as to each condominium operated by the
154 association:

155 (p)1. A report included in the official records, under seal
156 of an architect or engineer authorized to practice in this
157 state, attesting to required maintenance, useful life, and
158 replacement costs of the following applicable common elements
159 comprising a turnover inspection report:

- 160 a.1. Roof.
161 b.2. Structure.
162 c.3. Fireproofing and fire protection systems.
163 d.4. Elevators.
164 e.5. Heating and cooling systems.
165 f.6. Plumbing.
166 g.7. Electrical systems.
167 h.8. Swimming pool or spa and equipment.
168 i.9. Seawalls.
169 j.10. Pavement and parking areas.
170 k.11. Drainage systems.
171 l.12. Painting.
172 m.13. Irrigation systems.

173 2. If a residential condominium building requires an
174 inspection under s. 718.112(2) (p) before a developer

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175 relinquishes control of the association, the developer must
176 comply with that paragraph and provide a copy of any inspection
177 reports generated to the association when the developer
178 relinquishes control of the association.

179 Section 4. Paragraph (a) of subsection (2) of section
180 719.104, Florida Statutes, is amended to read:

181 719.104 Cooperatives; access to units; records; financial
182 reports; assessments; purchase of leases.—

183 (2) OFFICIAL RECORDS.—

184 (a) From the inception of the association, the association
185 shall maintain a copy of each of the following, where
186 applicable, which shall constitute the official records of the
187 association:

188 1. The plans, permits, warranties, and other items provided
189 by the developer pursuant to s. 719.301(4).

190 2. A photocopy of the cooperative documents.

191 3. A copy of the current rules of the association.

192 4. A book or books containing the minutes of all meetings
193 of the association, of the board of directors, and of the unit
194 owners.

195 5. A current roster of all unit owners and their mailing
196 addresses, unit identifications, voting certifications, and, if
197 known, telephone numbers. The association shall also maintain
198 the e-mail addresses and the numbers designated by unit owners
199 for receiving notice sent by electronic transmission of those
200 unit owners consenting to receive notice by electronic
201 transmission. The e-mail addresses and numbers provided by unit
202 owners to receive notice by electronic transmission shall be
203 removed from association records when consent to receive notice

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204 by electronic transmission is revoked. However, the association
205 is not liable for an erroneous disclosure of the e-mail address
206 or the number for receiving electronic transmission of notices.

207 6. All current insurance policies of the association.

208 7. A current copy of any management agreement, lease, or
209 other contract to which the association is a party or under
210 which the association or the unit owners have an obligation or
211 responsibility.

212 8. Bills of sale or transfer for all property owned by the
213 association.

214 9. Accounting records for the association and separate
215 accounting records for each unit it operates, according to good
216 accounting practices. The accounting records shall include, but
217 not be limited to:

218 a. Accurate, itemized, and detailed records of all receipts
219 and expenditures.

220 b. A current account and a monthly, bimonthly, or quarterly
221 statement of the account for each unit designating the name of
222 the unit owner, the due date and amount of each assessment, the
223 amount paid upon the account, and the balance due.

224 c. All audits, reviews, accounting statements, and
225 financial reports of the association.

226 d. All contracts for work to be performed. Bids for work to
227 be performed shall also be considered official records and shall
228 be maintained for a period of 1 year.

229 10. Ballots, sign-in sheets, voting proxies, and all other
230 papers and electronic records relating to voting by unit owners,
231 which shall be maintained for a period of 1 year after the date
232 of the election, vote, or meeting to which the document relates.

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233 11. All rental records where the association is acting as
234 agent for the rental of units.

235 12. A copy of the current question and answer sheet as
236 described in s. 719.504.

237 13. All affirmative acknowledgments made pursuant to s.
238 719.108(3)(b)3.

239 14. A copy of the inspection report as described in s.
240 719.106(1)(n).

241 ~~15.14.~~ All other written records of the association not
242 specifically included in the foregoing which are related to the
243 operation of the association.

244 Section 5. Paragraph (n) is added to subsection (1) of
245 section 719.106, Florida Statutes, to read:

246 719.106 Bylaws; cooperative ownership.-

247 (1) MANDATORY PROVISIONS.-The bylaws or other cooperative
248 documents shall provide for the following, and if they do not,
249 they shall be deemed to include the following:

250 (n) Building inspections.-An association must ensure
251 compliance with the Florida Building Code.

252 1. As to a residential cooperative building that is four
253 stories or more in height and located within a one-half mile
254 radius of the Gulf of Mexico or Atlantic coast shoreline of the
255 state, once the building reaches 30 years of age, and every 5
256 years thereafter, the board of administration must have the
257 building inspected by a licensed architect or engineer
258 authorized to practice in this state.

259 2. In accordance with the requirements of paragraph (c),
260 the board of administration shall convene a board meeting within
261 21 days after the date of receipt of the inspection report to

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262 vote on a plan to repair the cooperative building if the
263 inspection report indicates that repairs are needed.

264 3. Within 5 days after the date of receipt of the
265 inspection report, the board of administration shall:

266 a. Provide a copy of the report to the local authority
267 having jurisdiction; and

268 b. Make the report available for inspection by any
269 association member or an authorized representative of such
270 member as required under s. 719.104(2).

271 4. The association shall maintain a copy of the inspection
272 report as part of the association's official records in
273 accordance with s. 719.104(2).

274 Section 6. Present paragraph (n) of subsection (4) of
275 section 720.303, Florida Statutes, is redesignated as paragraph
276 (o) and a new paragraph (n) is added to that subsection, and
277 subsection (1) of that section is amended, to read:

278 720.303 Association powers and duties; meetings of board;
279 official records; budgets; financial reporting; association
280 funds; recalls.—

281 (1) POWERS AND DUTIES.—

282 (a) An association which operates a community as defined in
283 s. 720.301, must be operated by an association that is a Florida
284 corporation. After October 1, 1995, the association must be
285 incorporated and the initial governing documents must be
286 recorded in the official records of the county in which the
287 community is located. An association may operate more than one
288 community. The officers and directors of an association have a
289 fiduciary relationship to the members who are served by the
290 association. The powers and duties of an association include

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291 those set forth in this chapter and, except as expressly limited
292 or restricted in this chapter, those set forth in the governing
293 documents. After control of the association is obtained by
294 members other than the developer, the association may institute,
295 maintain, settle, or appeal actions or hearings in its name on
296 behalf of all members concerning matters of common interest to
297 the members, including, but not limited to, the common areas;
298 roof or structural components of a building, or other
299 improvements for which the association is responsible;
300 mechanical, electrical, or plumbing elements serving an
301 improvement or building for which the association is
302 responsible; representations of the developer pertaining to any
303 existing or proposed commonly used facility; and protesting ad
304 valorem taxes on commonly used facilities. The association may
305 defend actions in eminent domain or bring inverse condemnation
306 actions. Before commencing litigation against any party in the
307 name of the association involving amounts in controversy in
308 excess of \$100,000, the association must obtain the affirmative
309 approval of a majority of the voting interests at a meeting of
310 the membership at which a quorum has been attained. This
311 subsection does not limit any statutory or common-law right of
312 any individual member or class of members to bring any action
313 without participation by the association. A member does not have
314 authority to act for the association by virtue of being a
315 member. An association may have more than one class of members
316 and may issue membership certificates. An association of 15 or
317 fewer parcel owners may enforce only the requirements of those
318 deed restrictions established prior to the purchase of each
319 parcel upon an affected parcel owner or owners.

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320 (b) An association must ensure compliance with the Florida
321 Building Code.

322 1. As to a building for which the association is
323 responsible, which is four stories or more in height and located
324 within one-half mile radius of the Gulf of Mexico or Atlantic
325 coast shoreline of the state, once the building reaches 30 years
326 of age, and every 5 years thereafter, the board of
327 administration must have the building inspected by a licensed
328 architect or engineer authorized to practice in this state.

329 2. In accordance with the requirements of subsection (2),
330 the board of administration shall convene a board meeting within
331 21 days after the date of receipt of the inspection report to
332 vote on a plan to repair the building if the inspection report
333 indicates that repairs are needed.

334 3. Within 5 days after the date of receipt of the
335 inspection report, the board of administration shall:

336 a. Provide a copy of the report to the local authority
337 having jurisdiction; and

338 b. Make the report available for inspection by any parcel
339 owner as required under subsection (5).

340 4. The association shall maintain a copy of the inspection
341 report as part of the association's official records in
342 accordance with subsection (5).

343 (4) OFFICIAL RECORDS.—The association shall maintain each
344 of the following items, when applicable, which constitute the
345 official records of the association:

346 (n) A copy of the inspection report as described in
347 paragraph (1)(b).

348 Section 7. Paragraph (u) is added to subsection (4) of

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349 section 720.307, Florida Statutes, to read:

350 720.307 Transition of association control in a community.—

351 With respect to homeowners' associations:

352 (4) At the time the members are entitled to elect at least
353 a majority of the board of directors of the homeowners'
354 association, the developer shall, at the developer's expense,
355 within no more than 90 days deliver the following documents to
356 the board:

357 (u) If a building for which the association is responsible
358 requires an inspection under s. 720.303(1)(b) before a developer
359 relinquishes control of the association, the developer must
360 comply with s. 720.303(1)(b) and provide a copy of any such
361 inspection reports to the association when the developer
362 relinquishes control of the association.

363 Section 8. This act shall take effect July 1, 2022.