



866366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Regulated Industries (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Homeowners' Associations Bill of Rights."

Section 2. Subsection (1) and paragraph (g) of subsection (4) of section 720.303, Florida Statutes, are amended, and paragraph (d) is added to subsection (8) of that section, to read:



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11 720.303 Association powers and duties; meetings of board;
12 official records; budgets; financial reporting; association
13 funds; recalls.—

14 (1) POWERS AND DUTIES.—

15 (a) An association which operates a community as defined in
16 s. 720.301~~7~~ must be operated by an association that is a Florida
17 corporation. After October 1, 1995, the association must be
18 incorporated and the initial governing documents must be
19 recorded in the official records of the county in which the
20 community is located. An association may operate more than one
21 community.

22 (b)1. The officers and directors of an association have a
23 fiduciary relationship to the members who are served by the
24 association.

25 2. An officer or a director charged by information or
26 indictment with any of the following crimes must be removed from
27 office, and the vacancy must be filled as provided in s.
28 720.306(9) until the end of the officer's or director's period
29 of suspension or the end of his or her term of office, whichever
30 occurs first:

31 a. Forgery of a ballot envelope or voting certificate used
32 in a homeowners' association election as provided in s. 831.01.

33 b. Theft or embezzlement of funds of a homeowners'
34 association as provided in s. 812.014.

35 c. Destruction of or the refusal to allow inspection or
36 copying of an official record of a homeowners' association that
37 is accessible to parcel owners within the time periods required
38 by general law in furtherance of any crime. Such act constitutes
39 tampering with physical evidence as provided in s. 918.13.



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40 d. Obstruction of justice under chapter 843.
41 3. If a criminal charge is pending against the officer or
42 director, he or she may not be appointed or elected to a
43 position as an officer or a director of any association and may
44 not have access to the official records of any association,
45 except pursuant to a court order. However, if the charges are
46 resolved without a finding of guilt, the officer or director
47 must be reinstated for the remainder of his or her term of
48 office, if any.

49 (c) The powers and duties of an association include those
50 set forth in this chapter and, except as expressly limited or
51 restricted in this chapter, those set forth in the governing
52 documents.

53 (d) After control of the association is obtained by members
54 other than the developer, the association may institute,
55 maintain, settle, or appeal actions or hearings in its name on
56 behalf of all members concerning matters of common interest to
57 the members, including, but not limited to, the common areas;
58 roof or structural components of a building, or other
59 improvements for which the association is responsible;
60 mechanical, electrical, or plumbing elements serving an
61 improvement or building for which the association is
62 responsible; representations of the developer pertaining to any
63 existing or proposed commonly used facility; and protesting ad
64 valorem taxes on commonly used facilities. The association may
65 defend actions in eminent domain or bring inverse condemnation
66 actions. Before commencing litigation against any party in the
67 name of the association involving amounts in controversy in
68 excess of \$100,000, the association must obtain the affirmative



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69 approval of a majority of the voting interests at a meeting of
70 the membership at which a quorum has been attained. This
71 paragraph subsection does not limit any statutory or common-law
72 right of any individual member or class of members to bring any
73 action without participation by the association.

74 (e) A member does not have authority to act for the
75 association by virtue of being a member. An association may have
76 more than one class of members and may issue membership
77 certificates.

78 (f) An association of 15 or fewer parcel owners may enforce
79 only the requirements of those deed restrictions established
80 prior to the purchase of each parcel upon an affected parcel
81 owner or owners.

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

85 (g) A current roster of all members and their designated
86 mailing addresses and parcel identifications. A member's
87 designated mailing address is the member's property address,
88 unless the member has sent written notice to the association
89 requesting that a different mailing address be used for all
90 required notices. The association shall also maintain the e-mail
91 electronic mailing addresses and the facsimile numbers
92 designated by members for receiving notice sent by electronic
93 transmission of those members consenting to receive notice by
94 electronic transmission. A member's e-mail address is the e-mail
95 address the member provided when consenting in writing to
96 receiving notice by electronic transmission, unless the member
97 has sent written notice to the association requesting that a



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98 different e-mail address be used for all required notices. The
99 e-mail ~~electronic mailing~~ addresses and facsimile numbers
100 provided by members ~~unit owners~~ to receive notice by electronic
101 transmission must ~~shall~~ be removed from association records when
102 the member revokes consent to receive notice by electronic
103 transmission ~~is revoked~~. However, the association is not liable
104 for an erroneous disclosure of the e-mail ~~electronic mail~~
105 address or the facsimile number for receiving electronic
106 transmission of notices.

107 (8) ASSOCIATION FUNDS; COMMINGLING.—

108 (d) If an association collects a deposit from a member for
109 any reason, including to pay for expenses that may be incurred
110 as a result of construction on a member's parcel, such funds
111 must be maintained separately and may not be comingled with any
112 other association funds. Upon completion of the member's
113 construction project, or other reason for which the deposit was
114 collected, the member may request an accounting from the
115 association of his or her funds that were deposited, and the
116 association must provide such accounting to the member within 7
117 days after receiving the member's request. An association must
118 remit payment of any unused funds to the member within 30 days
119 after receiving notice that the member's construction project,
120 or other reason for which the deposit was collected, is
121 complete.

122 Section 3. Subsection (3) of section 720.3033, Florida
123 Statutes, is amended, and subsection (6) is added to that
124 section, to read:

125 720.3033 Officers and directors.—

126 (3) An officer, a director, or a manager may not solicit,



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127 offer to accept, or accept any thing ~~good~~ or service of value
128 for which consideration has not been provided for his or her
129 benefit or for the benefit of a member of his or her immediate
130 family from any person providing or proposing to provide goods
131 or services to the association. An officer, a director, or a
132 manager who knowingly solicits, offers to accept, or accepts any
133 thing or service of value or kickback in violation of this
134 subsection in an amount less than \$1,000 commits a misdemeanor
135 of the first degree, punishable as provided in s. 775.082 or s.
136 775.083. If such value or kickback is \$1,000 or more, the
137 officer, director, or manager commits a felony of the third
138 degree, punishable as provided in s. 775.082, s. 775.083, or s.
139 775.084, and is subject to a civil penalty under s.
140 718.501(1)(d). If the board finds that an officer or a director
141 has violated this subsection, the board shall immediately remove
142 the officer or director from office. The vacancy shall be filled
143 according to law until the end of the officer's or director's
144 term of office. However, an officer, a director, or a manager
145 may accept food to be consumed at a business meeting with a
146 value of less than \$25 per individual or a service or good
147 received in connection with trade fairs or education programs.

148 (6) Directors and officers of an association must disclose
149 to the association any activity that may reasonably be construed
150 to be a conflict of interest at least 14 days before voting on
151 an issue or entering into a contract that is the subject of the
152 conflict. A rebuttable presumption of a conflict of interest
153 exists if any of the following acts occur without prior
154 disclosure to the association:

155 (a) A director or an officer, or a relative of a director



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156 or an officer, enters into a contract for goods or services with
157 the association.

158 (b) A director or an officer, or a relative of a director
159 or an officer, holds an interest in a corporation, limited
160 liability corporation, partnership, limited liability
161 partnership, or other business entity that conducts business
162 with the association or proposes to enter into a contract or
163 other transaction with the association.

164 Section 4. Subsections (1), (2), and (5) of section
165 720.305, Florida Statutes, are amended, and subsection (7) is
166 added to that section, to read:

167 720.305 Obligations of members; remedies at law or in
168 equity; levy of fines and suspension of use rights.—

169 (1) Each member and the member's tenants, guests, and
170 invitees, and each association, are governed by, and must comply
171 with, this chapter, the governing documents of the community,
172 and the rules of the association. Actions at law or in equity,
173 or both, to redress alleged failure or refusal to comply with
174 these provisions may be brought by the association or by any
175 member against:

176 (a) The association;

177 (b) A member;

178 (c) Any director or officer of an association who willfully
179 and knowingly fails to comply with these provisions; and

180 (d) Any tenants, guests, or invitees occupying a parcel or
181 using the common areas.

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183 The prevailing party in any such litigation is entitled to
184 recover reasonable attorney fees and costs as provided in



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185 paragraph (2) (e). A member prevailing in an action between the
186 association and the member under this section, in addition to
187 recovering his or her reasonable attorney fees, may recover
188 additional amounts as determined by the court to be necessary to
189 reimburse the member for his or her share of assessments levied
190 by the association to fund its expenses of the litigation. This
191 relief does not exclude other remedies provided by law. This
192 section does not deprive any person of any other available right
193 or remedy.

194 (2) An association may levy reasonable fines for violations
195 of the declaration, association's bylaws, or reasonable rules of
196 the association. A fine may not exceed \$100 per violation
197 against any member or any member's tenant, guest, or invitee for
198 the failure of the owner of the parcel or its occupant,
199 licensee, or invitee to comply with any provision of the
200 declaration, the association bylaws, or reasonable rules of the
201 association unless otherwise provided in the governing
202 documents. A fine may be levied by the board for each day of a
203 continuing violation, with a single notice and opportunity for
204 hearing, except that the fine may not exceed \$1,000 in the
205 aggregate ~~unless otherwise provided in the governing documents~~.
206 A fine ~~of less than \$1,000~~ may not become a lien against a
207 parcel. In any action to recover a fine, the prevailing party is
208 entitled to reasonable attorney fees and costs from the
209 nonprevailing party as provided in paragraph (e) ~~determined by~~
210 ~~the court~~.

211 (a) An association may suspend, for a reasonable period of
212 time, the right of a member, or a member's tenant, guest, or
213 invitee, to use common areas and facilities for the failure of



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214 the owner of the parcel or its occupant, licensee, or invitee to
215 comply with any provision of the declaration, the association
216 bylaws, or reasonable rules of the association. This paragraph
217 does not apply to that portion of common areas used to provide
218 access or utility services to the parcel. A suspension may not
219 prohibit an owner or tenant of a parcel from having vehicular
220 and pedestrian ingress to and egress from the parcel, including,
221 but not limited to, the right to park.

222 (b) A fine or suspension levied for a violation by the
223 board of administration may not be imposed unless the board
224 first provides at least 30 ~~14~~ days' notice to the parcel owner
225 at his or her designated mailing or e-mail address in the
226 association's official records and, if applicable, any occupant,
227 licensee, or invitee of the parcel owner, sought to be fined or
228 suspended and ~~an opportunity for~~ a hearing before a committee of
229 at least three members appointed by the board who are not
230 officers, directors, or employees of the association, or the
231 spouse, parent, child, brother, or sister of an officer,
232 director, or employee. The notice must include a description of
233 the alleged violation, the specific action required to cure such
234 violation, and the date and location of the hearing. A parcel
235 owner has the right to attend a hearing by telephone or other
236 electronic means.

237 (c) If the committee, by majority vote, does not approve a
238 proposed fine or suspension, the proposed fine or suspension may
239 not be imposed. If the committee, by majority vote, determines
240 that a violation does not exist, then no other action may be
241 taken related to that alleged violation. The role of the
242 committee is limited to determining whether a violation exists



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243 and whether to approve ~~confirm~~ or reject the fine or suspension
244 levied by the board.

245 (d) After the hearing, the committee shall provide written
246 notice to the parcel owner at his or her designated mailing or
247 e-mail address in the association's official records and, if
248 applicable, any occupant, licensee, or invitee of the parcel
249 owner, of the committee's findings related to the violation,
250 including any applicable fines or suspensions that the committee
251 approved or rejected, and how the parcel owner or any occupant,
252 licensee, or invitee of the parcel owner may cure the violation.

253 (e) Fines, suspensions, attorney fees, and costs are
254 imposed as follows:

255 1. If a violation is found by the committee, but is cured
256 before the hearing, a fine or suspension may not be imposed and
257 attorney fees and costs may not be awarded.

258 2. If a violation is found and the proposed fine or
259 suspension levied by the board is approved by the committee, the
260 committee must decide, by majority vote, a date that the fine
261 payment is due, which date must be at least 30 days after
262 delivery of the written notice required in paragraph (d).

263 3. If a violation is found and the proposed fine or
264 suspension levied by the board is approved by the committee, but
265 the violation is cured within 30 days after delivery of the
266 written notice required in paragraph (d), the fine must be
267 reduced by 50 percent, any applicable suspensions must be
268 lifted, and attorney fees and costs may not be awarded.

269 4. If a violation is found and the proposed fine or
270 suspension levied by the board is approved by the committee and
271 the violation is not cured or the fine is not paid within 30



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272 days after delivery of the written notice required in paragraph
273 (d), reasonable attorney fees and costs may be awarded to the
274 association.

275 (f) A parcel owner or any occupant, licensee, or invitee of
276 the parcel owner may, at any time, make a written request for a
277 detailed accounting of any amounts he or she owes to the
278 association, and the board shall provide such information within
279 10 days after receipt of the written request. Failure by the
280 board to respond to a written request for a detailed accounting
281 constitutes a complete waiver of the violation.

282 (g) Upon receipt of a payment for any outstanding fines
283 from a parcel owner or any occupant, licensee, or invitee of the
284 parcel owner, the board must apply the payment first to the fine
285 before satisfying any other amounts due to the association.
286 Attorney fees and costs may not continue to accrue after a
287 parcel owner or any occupant, licensee, or invitee of the parcel
288 owner pays the fine.

289 (h) A parcel owner or any occupant, licensee, or invitee of
290 the parcel owner may request a hearing before the board to
291 dispute the reasonableness of the attorney fees and costs
292 awarded to the association 5 days after notice of the approved
293 fine is provided to the parcel owner and, if applicable, to any
294 occupant, licensee, or invitee of the parcel owner. The
295 association must provide written notice of such fine or
296 suspension by mail or hand delivery to the parcel owner and, if
297 applicable, to any occupant, licensee, or invitee of the parcel
298 owner.

299 (5) All suspensions imposed under ~~pursuant to~~ subsection
300 (3) or subsection (4) must be approved at a properly noticed



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301 board meeting. Upon approval, the board association must send
302 written notice to notify the parcel owner and, if applicable,
303 the parcel's occupant, licensee, or invitee by mail or hand
304 delivery to the parcel owner's designated mailing or e-mail
305 address in the association's official records.

306 (7) The failure of the association or committee to comply
307 with this section constitutes a waiver of all fines or
308 suspensions imposed or proposed for a violation. Any fine, fee,
309 or other cost incurred by a parcel owner or any occupant,
310 licensee, or invitee of the parcel owner which is related to a
311 fine that is waived under this subsection must also be waived or
312 paid by the association if such fine, fee, or other cost is not
313 waivable.

314 Section 5. Section 720.3065, Florida Statutes, is created
315 to read:

316 720.3065 Fraudulent voting activities relating to
317 association elections; penalties.—Each of the following acts is
318 a fraudulent voting activity relating to association elections
319 and constitutes a misdemeanor of the first degree, punishable as
320 provided in s. 775.082 or s. 775.083:

321 (1) Willfully and falsely swearing to or affirming an oath
322 or affirmation, or willfully procuring another person to falsely
323 swear to or affirm an oath or affirmation, in connection with or
324 arising out of voting activities.

325 (2) Perpetrating or attempting to perpetrate, or aiding in
326 the perpetration of, fraud in connection with a vote cast, to be
327 cast, or attempted to be cast.

328 (3) Preventing a member from voting or preventing a member
329 from voting as he or she intended by fraudulently changing or



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330 attempting to change a ballot, ballot envelope, vote, or voting
331 certificate of the member.

332 (4) Menacing, threatening, or using bribery or any other
333 corruption to attempt, directly or indirectly, to influence,
334 deceive, or deter a member when the member is voting.

335 (5) Giving or promising, directly or indirectly, anything
336 of value to another member with the intent to buy the vote of
337 that member or another member or to corruptly influence that
338 member or another member in casting his or her vote. This
339 subsection does not apply to any food served which is to be
340 consumed at an election rally or a meeting or to any item of
341 nominal value which is used as an election advertisement,
342 including a campaign message designed to be worn by a member.

343 (6) Using or threatening to use, directly or indirectly,
344 force, violence, or intimidation or any tactic of coercion or
345 intimidation to induce or compel a member to vote or refrain
346 from voting in an election or on a particular ballot measure.

347 Section 6. This act shall take effect October 1, 2023.

348
349 ===== T I T L E A M E N D M E N T =====

350 And the title is amended as follows:

351 Delete everything before the enacting clause
352 and insert:

353 A bill to be entitled
354 An act relating to homeowners' associations; providing
355 a short title; amending s. 720.303, F.S.; requiring
356 certain officers or directors of an association to be
357 removed from office under certain circumstances;
358 specifying how a vacancy on the association board must



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359 be filled; providing restrictions on certain officers
360 and directors; specifying when an officer or director
361 is required to be reinstated; requiring an association
362 to maintain designated addresses as official records;
363 specifying what constitutes a designated address;
364 conforming provisions to changes made by the act;
365 prohibiting certain funds from being comingled with
366 other association funds; authorizing a member to
367 request an accounting from an association under
368 certain circumstances; requiring an association to
369 provide such accounting and remit unused funds to the
370 member within specified timeframes; amending s.
371 720.3033, F.S.; providing criminal and civil penalties
372 for certain actions by officers, directors, or
373 managers of an association; requiring directors and
374 officers of the association to disclose certain
375 activity to the association within a specified
376 timeframe; creating a rebuttable presumption of a
377 conflict of interest if certain acts occur; amending
378 s. 720.305, F.S.; restricting certain attorney fees
379 and fines; specifying the types of violations for
380 which an association may levy fines; providing a
381 maximum aggregate fine amount; prohibiting a fine from
382 becoming a lien on a parcel; revising the amount of
383 notice the board of administration must give a parcel
384 owner before imposing a fine or suspension; specifying
385 where such notice must be delivered; providing
386 requirements for such notice; authorizing parcel
387 owners to attend certain hearings by telephone or



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388 other electronic means; expanding duties of a
389 specified committee; requiring a specified notice
390 after a hearing; specifying how fines, suspensions,
391 attorney fees, and costs are determined; requiring
392 that a detailed accounting of amounts due to the
393 association be given to certain persons within a
394 certain timeframe upon written request; providing for
395 a complete waiver of a violation under certain
396 circumstances; specifying the priority of payments
397 made by a parcel owner to an association; prohibiting
398 the accrual of attorney fees and costs after a
399 specified time; authorizing certain persons to request
400 a hearing to dispute certain fees and costs; providing
401 for the waiver of certain fines or suspensions;
402 requiring that certain fines, fees, or other costs be
403 paid by an association; conforming provisions to
404 changes made by the act; creating s. 720.3065, F.S.;
405 providing criminal penalties for certain fraudulent
406 voting activities; providing an effective date.