

By the Committees on Fiscal Policy; and Regulated Industries;
and Senator Rodriguez

594-04314-23

20231114c2

1 A bill to be entitled
2 An act relating to homeowners' associations; providing
3 a short title; amending s. 720.303, F.S.; requiring
4 that notices for board meetings specifically identify
5 agenda items; requiring an association to maintain
6 designated addresses as official records; specifying
7 what constitutes a designated address; conforming
8 provisions to changes made by the act; prohibiting
9 certain funds from being comingled with other
10 association funds; authorizing a member to request an
11 accounting from an association under certain
12 circumstances; requiring an association to provide
13 such accounting and remit unused funds to the member
14 within specified timeframes; amending s. 720.3033,
15 F.S.; providing civil penalties for certain actions by
16 officers, directors, or managers of an association;
17 revising the circumstances under which a director or
18 an officer must be removed from office after being
19 charged by information or indictment; prohibiting such
20 officers and directors with pending criminal charges
21 from accessing the official records of any
22 association; providing an exception; specifying that
23 the appointment of officers or directors by a
24 developer does not create a presumption of a conflict
25 of interest for such officers or directors; requiring
26 directors and officers of the association to disclose
27 certain activity and relationships to the association
28 within a specified timeframe; creating a rebuttable
29 presumption of a conflict of interest if certain acts

594-04314-23

20231114c2

30 occur; amending s. 720.305, F.S.; restricting certain
31 attorney fees and fines; specifying the types of
32 violations for which an association may levy fines;
33 specifying where certain notice must be delivered;
34 providing requirements for such notice; authorizing
35 parcel owners to attend certain hearings by telephone
36 or other electronic means; requiring a specified
37 notice after a hearing; conforming provisions to
38 changes made by the act; creating s. 720.3065, F.S.;
39 providing criminal penalties for certain fraudulent
40 voting activities; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. This act may be cited as the "Homeowners'
45 Associations Bill of Rights."

46 Section 2. Paragraph (c) of subsection (2) and paragraph
47 (g) of subsection (4) of section 720.303, Florida Statutes, are
48 amended, and paragraph (d) is added to subsection (8) of that
49 section, to read:

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

53 (2) BOARD MEETINGS.—

54 (c) The bylaws shall provide the following for giving
55 notice to parcel owners and members of all board meetings and,
56 if they do not do so, shall be deemed to include the following:

57 1. Notices of all board meetings must specifically identify
58 agenda items for the meetings and must be posted in a

594-04314-23

20231114c2

59 conspicuous place in the community at least 48 hours in advance
60 of a meeting, except in an emergency. In the alternative, if
61 notice is not posted in a conspicuous place in the community,
62 notice of each board meeting must be mailed or delivered to each
63 member at least 7 days before the meeting, except in an
64 emergency. Notwithstanding this general notice requirement, for
65 communities with more than 100 members, the association bylaws
66 may provide for a reasonable alternative to posting or mailing
67 of notice for each board meeting, including publication of
68 notice, provision of a schedule of board meetings, or the
69 conspicuous posting and repeated broadcasting of the notice on a
70 closed-circuit cable television system serving the homeowners'
71 association. However, if broadcast notice is used in lieu of a
72 notice posted physically in the community, the notice must be
73 broadcast at least four times every broadcast hour of each day
74 that a posted notice is otherwise required. When broadcast
75 notice is provided, the notice and agenda must be broadcast in a
76 manner and for a sufficient continuous length of time so as to
77 allow an average reader to observe the notice and read and
78 comprehend the entire content of the notice and the agenda. In
79 addition to any of the authorized means of providing notice of a
80 meeting of the board, the association may, by rule, adopt a
81 procedure for conspicuously posting the meeting notice and the
82 agenda on the association's website or an application that can
83 be downloaded on a mobile device for at least the minimum period
84 of time for which a notice of a meeting is also required to be
85 physically posted on the association property. Any rule adopted
86 must, in addition to other matters, include a requirement that
87 the association send an electronic notice to members whose e-

594-04314-23

20231114c2

88 mail addresses are included in the association's official
89 records in the same manner as is required for a notice of a
90 meeting of the members. Such notice must include a hyperlink to
91 the website or such mobile application on which the meeting
92 notice is posted. The association may provide notice by
93 electronic transmission in a manner authorized by law for
94 meetings of the board of directors, committee meetings requiring
95 notice under this section, and annual and special meetings of
96 the members to any member who has provided a facsimile number or
97 e-mail address to the association to be used for such purposes;
98 however, a member must consent in writing to receiving notice by
99 electronic transmission.

100 2. An assessment may not be levied at a board meeting
101 unless the notice of the meeting includes a statement that
102 assessments will be considered and the nature of the
103 assessments. Written notice of any meeting at which special
104 assessments will be considered or at which amendments to rules
105 regarding parcel use will be considered must be mailed,
106 delivered, or electronically transmitted to the members and
107 parcel owners and posted conspicuously on the property or
108 broadcast on closed-circuit cable television not less than 14
109 days before the meeting.

110 3. Directors may not vote by proxy or by secret ballot at
111 board meetings, except that secret ballots may be used in the
112 election of officers. This subsection also applies to the
113 meetings of any committee or other similar body, when a final
114 decision will be made regarding the expenditure of association
115 funds, and to any body vested with the power to approve or
116 disapprove architectural decisions with respect to a specific

594-04314-23

20231114c2

117 parcel of residential property owned by a member of the
118 community.

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

122 (g) A current roster of all members and their designated
123 mailing addresses and parcel identifications. A member's
124 designated mailing address is the member's property address,
125 unless the member has sent written notice to the association
126 requesting that a different mailing address be used for all
127 required notices. The association shall also maintain the e-mail
128 ~~electronic mailing~~ addresses and the facsimile numbers
129 designated by members for receiving notice sent by electronic
130 transmission of those members consenting to receive notice by
131 electronic transmission. A member's e-mail address is the e-mail
132 address the member provided when consenting in writing to
133 receiving notice by electronic transmission, unless the member
134 has sent written notice to the association requesting that a
135 different e-mail address be used for all required notices. The
136 e-mail ~~electronic mailing~~ addresses and facsimile numbers
137 provided by members ~~unit owners~~ to receive notice by electronic
138 transmission must ~~shall~~ be removed from association records when
139 the member revokes consent to receive notice by electronic
140 transmission ~~is revoked~~. However, the association is not liable
141 for an erroneous disclosure of the e-mail ~~electronic mail~~
142 address or the facsimile number for receiving electronic
143 transmission of notices.

144 (8) ASSOCIATION FUNDS; COMMINGLING.—

145 (d) If an association collects a deposit from a member for

594-04314-23

20231114c2

146 any reason, including to pay for expenses that may be incurred
147 as a result of construction on a member's parcel, such funds
148 must be maintained separately and may not be comingled with any
149 other association funds. Upon completion of the member's
150 construction project, or other reason for which the deposit was
151 collected, the member may request an accounting from the
152 association of his or her funds that were deposited, and the
153 association must provide such accounting to the member within 7
154 days after receiving the member's request. An association must
155 remit payment of any unused funds to the member within 30 days
156 after receiving notice that the member's construction project,
157 or other reason for which the deposit was collected, is
158 complete.

159 Section 3. Subsections (3) and (4) of section 720.3033,
160 Florida Statutes, are amended, and subsection (6) is added to
161 that section, to read:

162 720.3033 Officers and directors.—

163 (3) An officer, a director, or a manager may not solicit,
164 offer to accept, or accept any thing ~~good~~ or service of value
165 for which consideration has not been provided for his or her
166 benefit or for the benefit of a member of his or her immediate
167 family from any person providing or proposing to provide goods
168 or services to the association. An officer, a director, or a
169 manager who knowingly solicits, offers to accept, or accepts any
170 thing or service of value or kickback for which consideration
171 has not been provided for his or her own benefit or that of his
172 or her immediate family, from any person providing or proposing
173 to provide goods or services to the association, is subject to
174 monetary damages under s. 617.0834. If the board finds that an

594-04314-23

20231114c2

175 officer or a director has violated this subsection, the board
176 shall immediately remove the officer or director from office.
177 The vacancy shall be filled according to law until the end of
178 the officer's or director's term of office. However, an officer,
179 a director, or a manager may accept food to be consumed at a
180 business meeting with a value of less than \$25 per individual or
181 a service or good received in connection with trade fairs or
182 education programs.

183 (4) (a) A director or an officer charged by information or
184 indictment with any of the following crimes must be removed from
185 office:

186 1. Forgery of a ballot envelope or voting certificate used
187 in a homeowners' association election as provided in s. 831.01.

188 2. Theft or embezzlement involving the association's funds
189 or property as provided in s. 812.014.

190 3. Destruction of or the refusal to allow inspection or
191 copying of an official record of a homeowners' association which
192 is accessible to parcel owners within the time periods required
193 by general law, in furtherance of any crime. Such act
194 constitutes tampering with physical evidence as provided in s.
195 918.13.

196 4. Obstruction of justice under chapter 843.

197 ~~(b) a felony theft or embezzlement offense involving the~~
198 ~~association's funds or property is removed from office. The~~
199 board shall fill the vacancy as provided in s. 720.306(9)
200 ~~according to general law~~ until the end of the period of the
201 suspension or the end of the director's term of office,
202 whichever occurs first. If such criminal charge is pending
203 against the officer or director, he or she may not be appointed

594-04314-23

20231114c2

204 or elected to a position as an officer or a director of any
205 association and may not have access to the official records of
206 any association, except pursuant to a court order. However, if
207 the charges are resolved without a finding of guilt or without
208 acceptance of a plea of guilty or nolo contendere, the director
209 or officer shall be reinstated for any remainder of his or her
210 term of office. ~~A member who has such criminal charges pending~~
211 ~~may not be appointed or elected to a position as a director or~~
212 ~~officer.~~

213 (6) (a) Directors and officers of an association who are
214 appointed by the developer must disclose to the association
215 their relationship to the developer each calendar year in which
216 they serve as a director or an officer. Directors and officers
217 appointed by the developer must disclose any other activity that
218 may reasonably be construed to be a conflict of interest
219 pursuant to paragraph (b). A developer's appointment of an
220 officer or director does not create a presumption that the
221 officer or director has a conflict of interest with regard to
222 the performance of his or her official duties.

223 (b) Directors and officers must disclose to the association
224 any activity that may be reasonably construed to be a conflict
225 of interest at least 14 days before voting on an issue or
226 entering into a contract that is the subject of the conflict. A
227 rebuttable presumption of a conflict of interest exists if any
228 of the following acts occur without prior disclosure to the
229 association:

230 1. A director or an officer, or a relative of a director or
231 an officer, enters into a contract for goods or services with
232 the association.

594-04314-23

20231114c2

233 2. A director or an officer, or a relative of a director or
234 an officer, holds an interest in a corporation, limited
235 liability company, partnership, limited liability partnership,
236 or other business entity that conducts business with the
237 association or proposes to enter into a contract or other
238 transaction with the association.

239 Section 4. Subsections (1), (2), and (5) of section
240 720.305, Florida Statutes, are amended to read:

241 720.305 Obligations of members; remedies at law or in
242 equity; levy of fines and suspension of use rights.—

243 (1) Each member and the member's tenants, guests, and
244 invitees, and each association, are governed by, and must comply
245 with, this chapter, the governing documents of the community,
246 and the rules of the association. Actions at law or in equity,
247 or both, to redress alleged failure or refusal to comply with
248 these provisions may be brought by the association or by any
249 member against:

250 (a) The association;

251 (b) A member;

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

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

256
257 The prevailing party in any such litigation is entitled to
258 recover reasonable attorney fees and costs as provided in
259 paragraph (2) (e). A member prevailing in an action between the
260 association and the member under this section, in addition to
261 recovering his or her reasonable attorney fees, may recover

594-04314-23

20231114c2

262 additional amounts as determined by the court to be necessary to
263 reimburse the member for his or her share of assessments levied
264 by the association to fund its expenses of the litigation. This
265 relief does not exclude other remedies provided by law. This
266 section does not deprive any person of any other available right
267 or remedy.

268 (2) An association may levy reasonable fines for violations
269 of the declaration, association's bylaws, or reasonable rules of
270 the association. A fine may not exceed \$100 per violation
271 against any member or any member's tenant, guest, or invitee for
272 the failure of the owner of the parcel or its occupant,
273 licensee, or invitee to comply with any provision of the
274 declaration, the association bylaws, or reasonable rules of the
275 association unless otherwise provided in the governing
276 documents. A fine may be levied by the board for each day of a
277 continuing violation, with a single notice and opportunity for
278 hearing, except that the fine may not exceed \$1,000 in the
279 aggregate unless otherwise provided in the governing documents.
280 A fine of less than \$1,000 may not become a lien against a
281 parcel. In any action to recover a fine, the prevailing party is
282 entitled to reasonable attorney fees and costs from the
283 nonprevailing party as determined by the court.

284 (a) An association may suspend, for a reasonable period of
285 time, the right of a member, or a member's tenant, guest, or
286 invitee, to use common areas and facilities for the failure of
287 the owner of the parcel or its occupant, licensee, or invitee to
288 comply with any provision of the declaration, the association
289 bylaws, or reasonable rules of the association. This paragraph
290 does not apply to that portion of common areas used to provide

594-04314-23

20231114c2

291 access or utility services to the parcel. A suspension may not
292 prohibit an owner or tenant of a parcel from having vehicular
293 and pedestrian ingress to and egress from the parcel, including,
294 but not limited to, the right to park.

295 (b) A fine or suspension levied by the board of
296 administration may not be imposed unless the board first
297 provides at least 14 days' notice to the parcel owner at his or
298 her designated mailing or e-mail address in the association's
299 official records and, if applicable, any occupant, licensee, or
300 invitee of the parcel owner, sought to be fined or suspended and
301 ~~an opportunity for~~ a hearing before a committee of at least
302 three members appointed by the board who are not officers,
303 directors, or employees of the association, or the spouse,
304 parent, child, brother, or sister of an officer, director, or
305 employee. The notice must include a description of the alleged
306 violation, the specific action required to cure such violation,
307 if applicable, and the date and location of the hearing. A
308 parcel owner has the right to attend a hearing by telephone or
309 other electronic means.

310 (c) If the committee, by majority vote, does not approve a
311 proposed fine or suspension, the proposed fine or suspension may
312 not be imposed. The role of the committee is limited to
313 determining whether to confirm or reject the fine or suspension
314 levied by the board.

315 (d) After the hearing, the committee shall provide written
316 notice to the parcel owner at his or her designated mailing or
317 e-mail address in the association's official records and, if
318 applicable, any occupant, licensee, or invitee of the parcel
319 owner, of the committee's findings related to the violation,

594-04314-23

20231114c2

320 including any applicable fines or suspensions that the committee
321 approved or rejected, and how the parcel owner or any occupant,
322 licensee, or invitee of the parcel owner may cure the violation,
323 if applicable.

324 (e) If the proposed fine or suspension levied by the board
325 is approved by the committee by a majority vote, the fine
326 payment is due 5 days after notice of the approved fine required
327 under paragraph (d) is provided to the parcel owner and, if
328 applicable, to any occupant, licensee, or invitee of the parcel
329 owner. The association must provide written notice of such fine
330 or suspension by mail or hand delivery to the parcel owner and,
331 if applicable, to any occupant, licensee, or invitee of the
332 parcel owner.

333 (5) All suspensions imposed under pursuant to subsection
334 (3) or subsection (4) must be approved at a properly noticed
335 board meeting. Upon approval, the board association must send
336 written notice to notify the parcel owner and, if applicable,
337 the parcel's occupant, licensee, or invitee by mail or hand
338 delivery to the parcel owner's designated mailing or e-mail
339 address in the association's official records.

340 Section 5. Section 720.3065, Florida Statutes, is created
341 to read:

342 720.3065 Fraudulent voting activities relating to
343 association elections; penalties.—Each of the following acts is
344 a fraudulent voting activity relating to association elections
345 and constitutes a misdemeanor of the first degree, punishable as
346 provided in s. 775.082 or s. 775.083:

347 (1) Willfully and falsely swearing to or affirming an oath
348 or affirmation, or willfully procuring another person to falsely

594-04314-23

20231114c2

349 swear to or affirm an oath or affirmation, in connection with or
350 arising out of voting activities.

351 (2) Perpetrating or attempting to perpetrate, or aiding in
352 the perpetration of, fraud in connection with a vote cast, to be
353 cast, or attempted to be cast.

354 (3) Preventing a member from voting or preventing a member
355 from voting as he or she intended by fraudulently changing or
356 attempting to change a ballot, ballot envelope, vote, or voting
357 certificate of the member.

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

361 (5) Giving or promising, directly or indirectly, anything
362 of value to another member with the intent to buy the vote of
363 that member or another member or to corruptly influence that
364 member or another member in casting his or her vote. This
365 subsection does not apply to any food served which is to be
366 consumed at an election rally or a meeting or to any item of
367 nominal value which is used as an election advertisement,
368 including a campaign message designed to be worn by a member.

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

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