

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 545 Fines Levied by Homeowners' Associations

SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Arrington and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 872

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	15 Y, 0 N, As CS	Wright	Anstead
2) Civil Justice Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel. An HOA must maintain official records of the HOA, which must include a current roster of all members and their mailing addresses and parcel identifications.

HOAs may levy fines for failing to comply with any provision in the HOA's governing documents. No fine may exceed \$100 per violation, although a fine may be levied on the basis of each day of a continuing violation provided that fine does not exceed **\$1,000** in the aggregate.

The bill lowers:

- Lowers the maximum aggregate fine amount to **\$500**.
- Allows an HOA member to designate an address other than the parcel address to be used for HOA notices of fine or suspension.
- Requires an HOA to dismiss a fine or suspension if the violation is cured within 14 days of receipt of a notice of fine or suspension.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel.¹

Only HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S., the Homeowners' Association Act (HOA Act). Like a condominium, an HOA is administered by an elected board of directors. The powers and duties of an HOA include the powers and duties provided in the HOA Act, and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.²

An HOA must maintain official records of the HOA, which must include a current roster of all members and their mailing addresses and parcel identifications.³

No state agency has direct oversight over HOAs. However, Florida law provides for a limited mandatory binding arbitration program, administered by the Division of Condominiums, Timeshares and Mobile Homes, within the Department of Business and Professional Regulation, for certain election and recall disputes.⁴

HOA Fines

Owners, tenants, and guests must comply with an HOA's declaration, bylaws, and rules. HOAs may levy fines against or suspend the right of a parcel owner, occupant, or a guest of an owner or occupant, to use the common areas⁵ or any other association property for failing to comply with any provision in the HOA's governing documents. A suspension for failing to comply with an HOA's declaration, bylaws, or rules may not be for an unreasonable amount of time.⁶

No fine may exceed \$100 per violation, although a fine may be levied on the basis of each day of a continuing violation provided that fine does not exceed **\$1,000** in the aggregate. However, a fine may exceed \$1,000 if the HOA's governing documents authorize it. Fines may not become a lien on the property unless the fines exceed \$1,000.⁷

Before an HOA levies a fine or a suspension, it must give the person receiving the fine or suspension at least 14 days' notice of an opportunity for a hearing. A fine and suspension committee of at least three members selected by the board must hold a hearing to reject or approve the fine or suspension. Board directors, officers, and employees of the HOA and family of such people may not serve on the committee. The committee must approve the fine or suspension by majority vote otherwise the proposed fine or suspension may not be imposed.⁸

¹ S. 720.301(9), F.S.

² See *generally* ch. 720, F.S.

³ S. 720.303(4), F.S.

⁴ S. 720.311, F.S.

⁵ This does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. S. 720.305(2)(a), F.S.

⁶ S. 720.305, F.S.

⁷ S. 720.305(2), F.S.

⁸ *Id.*

A fine is due five days after written notice of the approved fine is provided to the parcel owner, occupant, or guest. Written notice of the fine or suspension must be provided to the person by mail or hand delivery.⁹

Effect of the Bill

The bill lowers:

- Lowers the maximum aggregate fine amount to **\$500**.
- Allows an HOA member to designate an address other than the parcel address to be used for HOA notices of fine or suspension.
- Requires an HOA to dismiss a fine or suspension if the violation is cured within 14 days of receipt of a notice of fine or suspension.

B. SECTION DIRECTORY:

Section 1: Amends s. 720.305, F.S.; relating to fines levied by homeowners' associations.

Section 2: Provides an effective date.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may lower the amount that homeowners pay in fines to HOAs.

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.

⁹ *Id.*

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 28, 2023, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Returned the current minimum fine amount which may become a lien to \$1,000.
- Allows an HOA member to designate an address other than the parcel address to be used for HOA notices of fine or suspension.
- Requires an HOA to dismiss a fine or suspension if the violation is cured within 14 days of receipt of a notice of fine or suspension.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.