



26 | 720.305, F.S.; restricting certain attorney fees and  
 27 | fines; specifying the types of violations for which an  
 28 | association may levy fines; providing a maximum  
 29 | aggregate fine amount; prohibiting a fine from  
 30 | becoming a lien on a parcel; revising amount of notice  
 31 | the board of administration must give a parcel owner  
 32 | before imposing a fine or suspension; specifying where  
 33 | such notice must be delivered; providing requirements  
 34 | for such notice; authorizing parcel owners to attend  
 35 | certain hearings by telephone or other electronic  
 36 | means; expanding duties of a specified committee;  
 37 | requiring a specified notice after a hearing;  
 38 | specifying how fines, suspensions, attorney fees, and  
 39 | costs are determined; requiring a detailed accounting  
 40 | of amounts due to the association be given to certain  
 41 | persons within a certain timeframe upon written  
 42 | request; providing for a complete waiver of a  
 43 | violation under certain circumstances; specifying the  
 44 | priority of payments made by a parcel owner to an  
 45 | association; prohibiting the accrual of attorney fees  
 46 | and costs after a specified time; authorizing certain  
 47 | persons to request a hearing to dispute certain fees  
 48 | and costs; providing for the waiver of certain fines  
 49 | or suspensions; requiring certain fines, fees, or  
 50 | other costs be paid by an association; conforming

51 provisions to changes made by the act; creating s.  
 52 720.3065, F.S.; providing criminal penalties for  
 53 certain fraudulent voting activities; providing an  
 54 effective date.

55

56 Be It Enacted by the Legislature of the State of Florida:

57

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

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

64 720.303 Association powers and duties; meetings of board;  
 65 official records; budgets; financial reporting; association  
 66 funds; recalls.—

67 (1) POWERS AND DUTIES.—

68 (a) An association which operates a community as defined  
 69 in s. 720.301, must be operated by an association that is a  
 70 Florida corporation. After October 1, 1995, the association must  
 71 be incorporated and the initial governing documents must be  
 72 recorded in the official records of the county in which the  
 73 community is located. An association may operate more than one  
 74 community.

75 (b)1. The officers and directors of an association have a

76 fiduciary relationship to the members who are served by the  
77 association.

78 2. An officer or a director charged by information or  
79 indictment with one of the following crimes must be removed from  
80 office, and the vacancy must be filled as provided in s.  
81 720.306(9) until the end of the officer's or director's period  
82 of suspension or the end of his or her term of office, whichever  
83 occurs first:

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

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

88 c. Destruction of or the refusal to allow inspection or  
89 copying of an official record of a homeowners' association that  
90 is accessible to parcel owners within the time periods required  
91 by general law in furtherance of any crime is tampering with  
92 physical evidence as provided in s. 918.13.

93 d. Obstruction of justice under chapter 843.

94 3. If a criminal charge is pending against the officer or  
95 director, he or she may not be appointed or elected to a  
96 position as an officer or a director of any association and may  
97 not have access to the official records of any association,  
98 except pursuant to a court order. However, if the charges are  
99 resolved without a finding of guilt, the officer or director  
100 must be reinstated for the remainder of his or her term of

101 office, if any.

102 (c) The powers and duties of an association include those  
 103 set forth in this chapter and, except as expressly limited or  
 104 restricted in this chapter, those set forth in the governing  
 105 documents.

106 (d) After control of the association is obtained by  
 107 members other than the developer, the association may institute,  
 108 maintain, settle, or appeal actions or hearings in its name on  
 109 behalf of all members concerning matters of common interest to  
 110 the members, including, but not limited to, the common areas;  
 111 roof or structural components of a building, or other  
 112 improvements for which the association is responsible;  
 113 mechanical, electrical, or plumbing elements serving an  
 114 improvement or building for which the association is  
 115 responsible; representations of the developer pertaining to any  
 116 existing or proposed commonly used facility; and protesting ad  
 117 valorem taxes on commonly used facilities. The association may  
 118 defend actions in eminent domain or bring inverse condemnation  
 119 actions. Before commencing litigation against any party in the  
 120 name of the association involving amounts in controversy in  
 121 excess of \$100,000, the association must obtain the affirmative  
 122 approval of a majority of the voting interests at a meeting of  
 123 the membership at which a quorum has been attained. This  
 124 paragraph ~~subsection~~ does not limit any statutory or common-law  
 125 right of any individual member or class of members to bring any

126 action without participation by the association.

127 (e) A member does not have authority to act for the  
128 association by virtue of being a member. An association may have  
129 more than one class of members and may issue membership  
130 certificates.

131 (f) An association of 15 or fewer parcel owners may  
132 enforce only the requirements of those deed restrictions  
133 established prior to the purchase of each parcel upon an  
134 affected parcel owner or owners.

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

138 (g) A current roster of all members and their designated  
139 mailing addresses and parcel identifications. A member's  
140 designated mailing address is the member's property address,  
141 unless the member has sent written notice to the association  
142 requesting that a different mailing address be used for all  
143 required notices. The association shall also maintain the e-mail  
144 ~~electronic mailing~~ addresses and the facsimile numbers  
145 designated by members for receiving notice sent by electronic  
146 transmission of those members consenting to receive notice by  
147 electronic transmission. A member's e-mail address is the e-mail  
148 address the member provided when consenting in writing to  
149 receiving notice by electronic transmission unless the member  
150 has sent written notice to the association requesting that a

151 different e-mail address be used for all required notices. The  
152 e-mail ~~electronic mailing~~ addresses and facsimile numbers  
153 provided by ~~members unit owners~~ to receive notice by electronic  
154 transmission ~~must shall~~ be removed from association records when  
155 the member ~~revokes~~ consent to receive notice by electronic  
156 transmission ~~is revoked~~. However, the association is not liable  
157 for an erroneous disclosure of the e-mail ~~electronic mail~~  
158 address or the facsimile number for receiving electronic  
159 transmission of notices.

160 (8) ASSOCIATION FUNDS; COMMINGLING.—

161 (d) If an association collects a deposit from a member for  
162 any reason, including to pay for expenses that may be incurred  
163 as a result of construction on a member's parcel, such funds  
164 must be maintained separately and may not be comingled with any  
165 other association funds. Upon completion of the member's  
166 construction project, or other reason for which the deposit was  
167 collected, the member may request an accounting from the  
168 association of his or her funds that were deposited and the  
169 association must provide such accounting to the member within 7  
170 days after the member's request. An association must remit  
171 payment of any and all unused funds to the member within 30 days  
172 after receiving notice that the member's construction project,  
173 or other reason for which the deposit was collected, is  
174 complete.

175 Section 3. Subsection (3) of section 720.3033, Florida

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176 Statutes, is amended, and subsection (6) is added to that  
177 section, to read:

178 720.3033 Officers and directors.—

179 (3) An officer, a director, or a manager may not solicit,  
180 offer to accept, or accept any thing ~~good~~ or service of value  
181 for which consideration has not been provided for his or her  
182 benefit or for the benefit of a member of his or her immediate  
183 family from any person providing or proposing to provide goods  
184 or services to the association. An officer, a director, or a  
185 manager who knowingly solicits, offers to accept, or accepts any  
186 thing or service of value or kickback in an amount less than  
187 \$1,000 commits a misdemeanor of the first degree, punishable as  
188 provided in s. 775.082 or s. 775.083, or if such value or  
189 kickback is \$1,000 or more the officer, director, or manager  
190 commits a felony of the third degree, punishable as provided in  
191 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil  
192 penalty under s. 718.501(1)(d). For purposes of this subsection,  
193 the term "kickback" means remuneration, whether in cash or in  
194 kind, paid by or on behalf of a person providing or offering to  
195 provide goods or services to an association, the purpose of  
196 which is to influence the performance of an act or omission by  
197 such association, when the remuneration is not tax deductible as  
198 an ordinary business expense or not supported by consideration  
199 of like value. If the board finds that an officer or a director  
200 has violated this subsection, the board shall immediately remove

201 the officer or director from office. The vacancy shall be filled  
202 according to law until the end of the officer's or director's  
203 term of office. However, an officer, a director, or a manager  
204 may accept food to be consumed at a business meeting with a  
205 value of less than \$25 per individual or a service or good  
206 received in connection with trade fairs or education programs.

207 (6) Directors and officers of an association must disclose  
208 to the association any activity that may reasonably be construed  
209 to be a conflict of interest at least 14 days before voting on  
210 an issue or entering into a contract that is the subject of the  
211 conflict. A rebuttable presumption of a conflict of interest  
212 exists if any of the following acts occur without prior  
213 disclosure to the association:

214 (a) A director or an officer, or a relative of a director  
215 or an officer, enters into a contract for goods or services with  
216 the association.

217 (b) A director or an officer, or a relative of a director  
218 or an officer, holds an interest in a corporation, limited  
219 liability company, partnership, limited liability partnership,  
220 or other business entity that conducts business with the  
221 association or proposes to enter into a contract or other  
222 transaction with the association.

223 Section 4. Subsections (1), (2), and (5) of section  
224 720.305, Florida Statutes, are amended, and subsection (7) is  
225 added to that section to read:

226 720.305 Obligations of members; remedies at law or in  
 227 equity; levy of fines and suspension of use rights.—

228 (1) Each member and the member's tenants, guests, and  
 229 invitees, and each association, are governed by, and must comply  
 230 with, this chapter, the governing documents of the community,  
 231 and the rules of the association. Actions at law or in equity,  
 232 or both, to redress alleged failure or refusal to comply with  
 233 these provisions may be brought by the association or by any  
 234 member against:

235 (a) The association;

236 (b) A member;

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

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

242  
 243 The prevailing party in any such litigation is entitled to  
 244 recover reasonable attorney fees and costs as provided in  
 245 paragraph (2) (e). A member prevailing in an action between the  
 246 association and the member under this section, in addition to  
 247 recovering his or her reasonable attorney fees, may recover  
 248 additional amounts as determined by the court to be necessary to  
 249 reimburse the member for his or her share of assessments levied  
 250 by the association to fund its expenses of the litigation. This

251 relief does not exclude other remedies provided by law. This  
252 section does not deprive any person of any other available right  
253 or remedy.

254 (2) An association may levy reasonable fines for  
255 violations of the declaration, association's bylaws, or  
256 reasonable rules of the association. A fine may not exceed \$100  
257 per violation against any member or any member's tenant, guest,  
258 or invitee for the failure of the owner of the parcel or its  
259 occupant, licensee, or invitee to comply with any provision of  
260 the declaration, the association bylaws, or reasonable rules of  
261 the association unless otherwise provided in the governing  
262 documents. A fine may be levied by the board for each day of a  
263 continuing violation, with a single notice and opportunity for  
264 hearing, except that the fine may not exceed \$1,000 in the  
265 aggregate ~~unless otherwise provided in the governing documents~~.  
266 A fine ~~of less than \$1,000~~ may not become a lien against a  
267 parcel. In any action to recover a fine, the prevailing party is  
268 entitled to reasonable attorney fees and costs from the  
269 nonprevailing party as provided in paragraph (e) ~~determined by~~  
270 ~~the court~~.

271 (a) An association may suspend, for a reasonable period of  
272 time, the right of a member, or a member's tenant, guest, or  
273 invitee, to use common areas and facilities for the failure of  
274 the owner of the parcel or its occupant, licensee, or invitee to  
275 comply with any provision of the declaration, the association

276 bylaws, or reasonable rules of the association. This paragraph  
277 does not apply to that portion of common areas used to provide  
278 access or utility services to the parcel. A suspension may not  
279 prohibit an owner or tenant of a parcel from having vehicular  
280 and pedestrian ingress to and egress from the parcel, including,  
281 but not limited to, the right to park.

282 (b) A fine or suspension levied for a violation by the  
283 board of administration may not be imposed unless the board  
284 first provides at least 30 ~~14~~ days' notice to the parcel owner  
285 at his or her designated mailing or e-mail address in the  
286 association's official records and, if applicable, any occupant,  
287 licensee, or invitee of the parcel owner, sought to be fined or  
288 suspended and ~~an opportunity for~~ a hearing before a committee of  
289 at least three members appointed by the board who are not  
290 officers, directors, or employees of the association, or the  
291 spouse, parent, child, brother, or sister of an officer,  
292 director, or employee. The notice must include a description of  
293 the alleged violation, the specific action required to cure such  
294 violation, and the date and location of the hearing. A parcel  
295 owner has the right to attend a hearing by telephone or other  
296 electronic means.

297 (c) If the committee, by majority vote, does not approve a  
298 proposed fine or suspension, the proposed fine or suspension may  
299 not be imposed. If the committee, by majority vote, determines  
300 that a violation does not exist then no other action may be

301 taken related to that alleged violation. The role of the  
302 committee is limited to determining whether a violation exists  
303 and whether to approve ~~confirm~~ or reject the fine or suspension  
304 levied by the board.

305 (d) After the hearing, the committee shall provide written  
306 notice to the parcel owner at his or her designated mailing or  
307 e-mail address in the association's official records and, if  
308 applicable, any occupant, licensee, or invitee of the parcel  
309 owner, of the committee's findings related to the violation,  
310 including any applicable fines or suspensions that the committee  
311 approved or rejected, and how the parcel owner or any occupant,  
312 licensee, or invitee of the parcel owner may cure the violation.

313 (e) Fines, suspensions, attorney fees, and costs are  
314 imposed as follows:

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

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

323 3. If a violation is found and the proposed fine or  
324 suspension levied by the board is approved by the committee, but  
325 the violation is cured within 30 days after delivery of the

326 written notice required in paragraph (d), the fine must be  
327 reduced by 50 percent, any applicable suspensions must be  
328 lifted, and attorney fees and costs may not be awarded.

329 4. If a violation is found and the proposed fine or  
330 suspension levied by the board is approved by the committee and  
331 the violation is not cured or the fine is not paid within 30  
332 days after delivery of the written notice required in paragraph  
333 (d), reasonable attorney fees and costs may be awarded to the  
334 association.

335 (f) A parcel owner or any occupant, licensee, or invitee  
336 of the parcel owner may, at any time, make a written request for  
337 a detailed accounting of any amounts he or she owes to the  
338 association and the board shall provide such information within  
339 10 days after receipt of the written request. Failure by the  
340 board to respond to a written request for a detailed accounting  
341 constitutes a complete waiver of the violation.

342 (g) Upon receipt of a payment for any outstanding fines  
343 from a parcel owner or any occupant, licensee, or invitee of the  
344 parcel owner, the board must apply the payment first to the fine  
345 before satisfying any other amounts due to the association.  
346 Attorney fees and costs may not continue to accrue after a  
347 parcel owner or any occupant, licensee, or invitee of the parcel  
348 owner pays the fine.

349 (h) A parcel owner or any occupant, licensee, or invitee  
350 of the parcel owner may request a hearing before the board to

351 dispute the reasonableness of the attorney fees and costs  
352 awarded to the association 5 days after notice of the approved  
353 fine is provided to the parcel owner and, if applicable, to any  
354 occupant, licensee, or invitee of the parcel owner. The  
355 association must provide written notice of such fine or  
356 suspension by mail or hand delivery to the parcel owner and, if  
357 applicable, to any occupant, licensee, or invitee of the parcel  
358 owner.

359 (5) All suspensions imposed under ~~pursuant to~~ subsection  
360 (3) or subsection (4) must be approved at a properly noticed  
361 board meeting. Upon approval, the board association must send  
362 written notice to ~~notify~~ the parcel owner and, if applicable,  
363 the parcel's occupant, licensee, or invitee by mail or hand  
364 delivery to the parcel owner's designated mailing or e-mail  
365 address in the association's official records.

366 (7) The failure of the association or committee to comply  
367 with this section constitutes a waiver of all fines or  
368 suspensions imposed or proposed for a violation. Any fines,  
369 fees, or other costs incurred by a parcel owner or any occupant,  
370 licensee, or invitee of the parcel owner which is related to a  
371 fine that is waived under this subsection must also be waived or  
372 paid by the association if such fine, fee, or other cost is not  
373 waivable.

374 Section 5. Section 720.3065, Florida Statutes, is created  
375 to read:

376        720.3065 Fraudulent voting activities relating to  
377 association elections; penalties.—Each of the following acts is  
378 a fraudulent voting activity relating to association elections  
379 and constitutes a misdemeanor of the first degree, punishable as  
380 provided in s. 775.082 or s. 775.083:

381        (1) Willfully and falsely swearing to or affirming an oath  
382 or affirmation, or willfully procuring another person to falsely  
383 swear to or affirm an oath or affirmation, in connection with or  
384 arising out of voting activities.

385        (2) Perpetrating or attempting to perpetrate, or aiding in  
386 the perpetration of, fraud in connection with a vote cast, to be  
387 cast, or attempted to be cast.

388        (3) Preventing a member from voting or preventing a member  
389 from voting as he or she intended by fraudulently changing or  
390 attempting to change a ballot, ballot envelope, vote, or voting  
391 certificate of the member.

392        (4) Menacing, threatening, or using bribery or any other  
393 corruption to attempt, directly or indirectly, to influence,  
394 deceive, or deter a member when voting.

395        (5) Giving or promising, directly or indirectly, anything  
396 of value to another member with the intent to buy the vote of  
397 that member or another member or to corruptly influence that  
398 member or another member in casting his or her vote. This  
399 paragraph does not apply to any food served which is to be  
400 consumed at an election rally or a meeting or to any item of

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401 nominal value which is used as an election advertisement,  
402 including a campaign message designed to be worn by a member.

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

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