

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

51 and costs; providing for the waiver of certain fines
 52 or suspensions; requiring certain fines, fees, or
 53 other costs be paid by an association; conforming
 54 provisions to changes made by the act; creating s.
 55 720.3065, F.S.; providing criminal penalties for
 56 certain fraudulent voting activities; providing an
 57 effective date.

58

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

60

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

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

67 720.303 Association powers and duties; meetings of board;
 68 official records; budgets; financial reporting; association
 69 funds; recalls.—

70 (1) POWERS AND DUTIES.—

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

76 community is located. An association may operate more than one
 77 community.

78 (b)1. The officers and directors of an association have a
 79 fiduciary relationship to the members who are served by the
 80 association.

81 2. An officer or a director charged by information or
 82 indictment with one of the following crimes must be removed from
 83 office, and the vacancy must be filled as provided in s.
 84 720.306(9) until the end of the officer's or director's period
 85 of suspension or the end of his or her term of office, whichever
 86 occurs first:

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

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

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

96 d. Obstruction of justice under chapter 843.

97 3. If a criminal charge is pending against the officer or
 98 director, he or she may not be appointed or elected to a
 99 position as an officer or a director of any association and may
 100 not have access to the official records of any association,

101 except pursuant to a court order. However, if the charges are
102 resolved without a finding of guilt, the officer or director
103 must be reinstated for the remainder of his or her term of
104 office, if any.

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

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

126 | the membership at which a quorum has been attained. This
127 | paragraph ~~subsection~~ does not limit any statutory or common-law
128 | right of any individual member or class of members to bring any
129 | action without participation by the association.

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

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

138 | (4) OFFICIAL RECORDS.—The association shall maintain each
139 | of the following items, when applicable, which constitute the
140 | official records of the association:

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

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

163 (8) ASSOCIATION FUNDS; COMMINGLING.—

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

176 or other reason for which the deposit was collected, is
 177 complete.

178 Section 3. Subsection (3) of section 720.3033, Florida
 179 Statutes, is amended, and subsection (6) is added to that
 180 section, to read:

181 720.3033 Officers and directors.—

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

201 an ordinary business expense or not supported by consideration
202 of like value. If the board finds that an officer or a director
203 has violated this subsection, the board shall immediately remove
204 the officer or director from office. The vacancy shall be filled
205 according to law until the end of the officer's or director's
206 term of office. However, an officer, a director, or a manager
207 may accept food to be consumed at a business meeting with a
208 value of less than \$25 per individual or a service or good
209 received in connection with trade fairs or education programs.

210 (6) (a) Each director and officer of an association who is
211 appointed by the developer must disclose to the association his
212 or her relationship to the developer each calendar year in which
213 he or she serves as a director or an officer. Such director or
214 officer must disclose any activity that may reasonably be
215 construed to be a conflict of interest in compliance with
216 paragraph (b).

217 (b) At least 14 days before voting on an issue or entering
218 into a contract that is the subject of a conflict of interest,
219 each director and officer of the association must disclose to
220 the association any activity that may be reasonably construed to
221 be a conflict of interest. A rebuttable presumption of a
222 conflict of interest exists if any of the following acts occur
223 without prior disclosure to the association:

224 1. A director or an officer, or a relative of a director
225 or an officer, enters into a contract for goods or services with

226 the association.

227 2. A director or an officer, or a relative of a director
 228 or an officer, holds an interest in a corporation, limited
 229 liability company, partnership, limited liability partnership,
 230 or other business entity that conducts business with the
 231 association or proposes to enter into a contract or other
 232 transaction with the association.

233 Section 4. Subsections (1), (2), and (5) of section
 234 720.305, Florida Statutes, are amended, and subsection (7) is
 235 added to that section to read:

236 720.305 Obligations of members; remedies at law or in
 237 equity; levy of fines and suspension of use rights.—

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

245 (a) The association;

246 (b) A member;

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

250 (d) Any tenants, guests, or invitees occupying a parcel or

251 using the common areas.

252

253 The prevailing party in any such litigation is entitled to
254 recover reasonable attorney fees and costs as provided in
255 paragraph (2) (e). A member prevailing in an action between the
256 association and the member under this section, in addition to
257 recovering his or her reasonable attorney fees, may recover
258 additional amounts as determined by the court to be necessary to
259 reimburse the member for his or her share of assessments levied
260 by the association to fund its expenses of the litigation. This
261 relief does not exclude other remedies provided by law. This
262 section does not deprive any person of any other available right
263 or remedy.

264 (2) An association may levy reasonable fines for
265 violations of the declaration, association's bylaws, or
266 reasonable rules of the association. A fine may not exceed \$100
267 per violation against any member or any member's tenant, guest,
268 or invitee for the failure of the owner of the parcel or its
269 occupant, licensee, or invitee to comply with any provision of
270 the declaration, the association bylaws, or reasonable rules of
271 the association unless otherwise provided in the governing
272 documents. A fine may be levied by the board for each day of a
273 continuing violation, with a single notice and opportunity for
274 hearing, except that the fine may not exceed \$1,000 in the
275 aggregate ~~unless otherwise provided in the governing documents.~~

276 A fine ~~of less than \$1,000~~ may not become a lien against a
277 parcel. In any action to recover a fine, the prevailing party is
278 entitled to reasonable attorney fees and costs from the
279 nonprevailing party as provided in paragraph (e) ~~determined by~~
280 ~~the court.~~

281 (a) An association may suspend, for a reasonable period of
282 time, the right of a member, or a member's tenant, guest, or
283 invitee, to use common areas and facilities for the failure of
284 the owner of the parcel or its occupant, licensee, or invitee to
285 comply with any provision of the declaration, the association
286 bylaws, or reasonable rules of the association. This paragraph
287 does not apply to that portion of common areas used to provide
288 access or utility services to the parcel. A suspension may not
289 prohibit an owner or tenant of a parcel from having vehicular
290 and pedestrian ingress to and egress from the parcel, including,
291 but not limited to, the right to park.

292 (b) A fine or suspension levied for a violation by the
293 board of administration may not be imposed unless the board
294 first provides at least 30 ~~14~~ days' notice to the parcel owner
295 at his or her designated mailing or e-mail address in the
296 association's official records and, if applicable, any occupant,
297 licensee, or invitee of the parcel owner, sought to be fined or
298 suspended and ~~an opportunity for~~ a hearing before a committee of
299 at least three members appointed by the board who are not
300 officers, directors, or employees of the association, or the

301 spouse, parent, child, brother, or sister of an officer,
 302 director, or employee. The notice must include a description of
 303 the alleged violation, the specific action required to cure such
 304 violation, and the date and location of the hearing. A parcel
 305 owner has the right to attend a hearing by telephone or other
 306 electronic means.

307 (c) If the committee, by majority vote, does not approve a
 308 proposed fine or suspension, the proposed fine or suspension may
 309 not be imposed. If the committee, by majority vote, determines
 310 that a violation does not exist then no other action may be
 311 taken related to that alleged violation. The role of the
 312 committee is limited to determining whether a violation exists
 313 and whether to approve ~~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,
 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 (e) Fines, suspensions, attorney fees, and costs are
 324 imposed as follows:

325 1. If a violation is found by the committee, but is cured

326 before the hearing, a fine or suspension may not be imposed and
327 attorney fees and costs may not be awarded.

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

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

339 4. If a violation is found and the proposed fine or
340 suspension levied by the board is approved by the committee and
341 the violation is not cured or the fine is not paid within 30
342 days after delivery of the written notice required in paragraph
343 (d), reasonable attorney fees and costs may be awarded to the
344 association.

345 (f) A parcel owner or any occupant, licensee, or invitee
346 of the parcel owner may, at any time, make a written request for
347 a detailed accounting of any amounts he or she owes to the
348 association and the board shall provide such information within
349 10 days after receipt of the written request. Failure by the
350 board to respond to a written request for a detailed accounting

351 constitutes a complete waiver of the violation.

352 (g) Upon receipt of a payment for any outstanding fines
353 from a parcel owner or any occupant, licensee, or invitee of the
354 parcel owner, the board must apply the payment first to the fine
355 before satisfying any other amounts due to the association.

356 Attorney fees and costs may not continue to accrue after a
357 parcel owner or any occupant, licensee, or invitee of the parcel
358 owner pays the fine.

359 (h) A parcel owner or any occupant, licensee, or invitee
360 of the parcel owner may request a hearing before the board to
361 dispute the reasonableness of the attorney fees and costs
362 awarded to the association 5 days after notice of the approved
363 fine is provided to the parcel owner and, if applicable, to any
364 occupant, licensee, or invitee of the parcel owner. The
365 association must provide written notice of such fine or
366 suspension by mail or hand delivery to the parcel owner and, if
367 applicable, to any occupant, licensee, or invitee of the parcel
368 owner.

369 (5) All suspensions imposed under ~~pursuant to~~ subsection
370 (3) or subsection (4) must be approved at a properly noticed
371 board meeting. Upon approval, the board ~~association~~ must send
372 written notice to ~~notify~~ the parcel owner and, if applicable,
373 the parcel's occupant, licensee, or invitee by mail or hand
374 delivery to the parcel owner's designated mailing or e-mail
375 address in the association's official records.

376 (7) The failure of the association or committee to comply
 377 with this section constitutes a waiver of all fines or
 378 suspensions imposed or proposed for a violation. Any fines,
 379 fees, or other costs incurred by a parcel owner or any occupant,
 380 licensee, or invitee of the parcel owner which is related to a
 381 fine that is waived under this subsection must also be waived or
 382 paid by the association if such fine, fee, or other cost is not
 383 waivable.

384 Section 5. Section 720.3065, Florida Statutes, is created
 385 to read:

386 720.3065 Fraudulent voting activities relating to
 387 association elections; penalties.—Each of the following acts is
 388 a fraudulent voting activity relating to association elections
 389 and constitutes a misdemeanor of the first degree, punishable as
 390 provided in s. 775.082 or s. 775.083:

391 (1) Willfully and falsely swearing to or affirming an oath
 392 or affirmation, or willfully procuring another person to falsely
 393 swear to or affirm an oath or affirmation, in connection with or
 394 arising out of voting activities.

395 (2) Perpetrating or attempting to perpetrate, or aiding in
 396 the perpetration of, fraud in connection with a vote cast, to be
 397 cast, or attempted to be cast.

398 (3) Preventing a member from voting or preventing a member
 399 from voting as he or she intended by fraudulently changing or
 400 attempting to change a ballot, ballot envelope, vote, or voting

401 certificate of the member.

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

405 (5) Giving or promising, directly or indirectly, anything
406 of value to another member with the intent to buy the vote of
407 that member or another member or to corruptly influence that
408 member or another member in casting his or her vote. This
409 paragraph does not apply to any food served which is to be
410 consumed at an election rally or a meeting or to any item of
411 nominal value which is used as an election advertisement,
412 including a campaign message designed to be worn by a member.

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

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