

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Porras offered the following:

3
4 **Amendment (with directory and title amendments)**

5 Remove lines 179-481 and insert:

6 (b)1. By January 1, 2025, an association that has 100
7 parcels or more shall post a current digital copy of the
8 documents specified in subparagraph 3. on its website or make
9 such documents available through an application that can be
10 downloaded on a mobile device.

11 2. The association's website or application must be
12 accessible through the Internet and must contain a subpage, web
13 portal, or other protected electronic location that is
14 inaccessible to the general public and accessible only to parcel
15 owners and employees of the association.

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16 3. A current copy of the following documents must be
17 posted in digital format on the association's website or
18 application:

19 a. The articles of incorporation of the association and
20 each amendment thereto.

21 b. The recorded bylaws of the association and each
22 amendment thereto.

23 c. The declaration of covenants and a copy of each
24 amendment thereto.

25 d. The current rules of the association.

26 e. A list of all current executory contracts or documents
27 to which the association is a party or under which the
28 association or the parcel owners have an obligation or
29 responsibility and, after bidding for the related materials,
30 equipment, or services has closed, a list of bids received by
31 the association within the past year.

32 f. The annual budget required by subsection (6) and any
33 proposed budget to be considered at the annual meeting.

34 g. The financial report required by subsection (7) and any
35 monthly income or expense statement to be considered at a
36 meeting.

37 h. The association's current insurance policies.

38 i. The certification of each director as required by s.
39 720.3033(1) (a) .

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40 j. All contracts or transactions between the association
41 and any director, officer, corporation, firm, or association
42 that is not an affiliated homeowners' association or any other
43 entity in which a director of an association is also a director
44 or officer and has a financial interest.

45 k. Any contract or document regarding a conflict of
46 interest or possible conflict of interest as provided in ss.
47 468.436(2)(b)6. and 720.3033(2).

48 l. Notice of any scheduled meeting of members and the
49 agenda for the meeting, as required by s. 720.306, no later than
50 14 days before such meeting. The notice must be posted in plain
51 view on the homepage of the website or application, or on a
52 separate subpage of the website or application labeled "Notices"
53 which is conspicuously visible and linked from the homepage. The
54 association must also post on its website or application any
55 document to be considered and voted on by the members during the
56 meeting or any document listed on the meeting agenda at least 7
57 days before the meeting at which such document or information
58 within the document will be considered.

59 m. Notice of any board meeting, the agenda, and any other
60 document required for such meeting as required by subsection
61 (3), which must be posted on the website or application no later
62 than the date required for notice under subsection (3).

63 4. Upon written request by a parcel owner, the association
64 must provide the parcel owner with a username and password and

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65 access to the protected sections of the association's website or
66 application which contains the official documents of the
67 association.

68 5. The association shall ensure that the information and
69 records described in paragraph (5)(d), which are not allowed to
70 be accessible to parcel owners, are not posted on the
71 association's website or application. If protected information
72 or information restricted from being accessible to parcel owners
73 is included in documents that are required to be posted on the
74 association's website or application, the association must
75 ensure the information is redacted before posting the documents.
76 Notwithstanding the foregoing, the association or its authorized
77 agent is not liable for disclosing information that is protected
78 or restricted under paragraph (5)(d) unless such disclosure was
79 made with a knowing or intentional disregard of the protected or
80 restricted nature of such information.

81 (c) The association shall adopt written rules governing
82 the method or policy by which the official records of the
83 association are to be retained and for how long such records
84 must be retained pursuant to paragraph (a). Such information
85 must be made available to the parcel owners through the
86 association's website or application.

87 (5) INSPECTION AND COPYING OF RECORDS.—

88 (a) Unless otherwise provided by law or the governing
89 documents of the association, the official records must ~~shall~~ be

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90 maintained within the state for at least 7 years and ~~shall~~ be
91 made available to a parcel owner for inspection or photocopying
92 within 45 miles of the community or within the county in which
93 the association is located within 10 business days after receipt
94 by the board or its designee of a written request from the
95 parcel owner. This subsection may be complied with by having a
96 copy of the official records available for inspection or copying
97 in the community or, ~~at the option of the association,~~ by making
98 the records available to a parcel owner electronically via the
99 Internet or by allowing the records to be viewed in electronic
100 format on a computer screen and printed upon request. If the
101 association has a photocopy machine available where the records
102 are maintained, it must provide parcel owners with copies on
103 request during the inspection if the entire request is limited
104 to no more than 25 pages. An association shall allow a member or
105 his or her authorized representative to use a portable device,
106 including a smartphone, tablet, portable scanner, or any other
107 technology capable of scanning or taking photographs, to make an
108 electronic copy of the official records in lieu of the
109 association's providing the member or his or her authorized
110 representative with a copy of such records. The association may
111 not charge a fee to a member or his or her authorized
112 representative for the use of a portable device.

113 (b)-(a) The failure of an association to provide access to
114 the records within 10 business days after receipt of a written

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115 request submitted by certified mail, return receipt requested,
116 creates a rebuttable presumption that the association willfully
117 failed to comply with this subsection.

118 (c) ~~(b)~~ A member who is denied access to official records
119 is entitled to the actual damages or minimum damages for the
120 association's willful failure to comply with this subsection.
121 The minimum damages are to be \$50 per calendar day up to 10
122 days, the calculation to begin on the 11th business day after
123 receipt of the written request.

124 (d) Any director or member of the board or association or
125 a community association manager who knowingly, willfully, and
126 repeatedly violates paragraph (a), with the intent of causing
127 harm to the association or one or more of its members, commits a
128 misdemeanor of the second degree, punishable as provided in s.
129 775.082 or s. 775.083. For purposes of this paragraph, the term
130 "repeatedly" means two or more violations within a 12-month
131 period.

132 (e) Any person who knowingly and intentionally defaces or
133 destroys accounting records during the period in which such
134 records are required to be maintained, or who knowingly or
135 intentionally fails to create or maintain accounting records
136 that are required to be created or maintained, with the intent
137 of causing harm to the association or one or more of its
138 members, commits a misdemeanor of the first degree, punishable
139 as provided in s. 775.082 or s. 775.083.

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140 (f) Any person who willfully and knowingly refuses to
141 release or otherwise produce association records with the intent
142 to avoid or escape detection, arrest, trial, or punishment for
143 the commission of a crime, or to assist another person with such
144 avoidance or escape, commits a felony of the third degree,
145 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

146 (g)-(e) The association may adopt reasonable written rules
147 governing the frequency, time, location, notice, records to be
148 inspected, and manner of inspections, but may not require a
149 parcel owner to demonstrate any proper purpose for the
150 inspection, state any reason for the inspection, or limit a
151 parcel owner's right to inspect records to less than one 8-hour
152 business day per month. The association may impose fees to cover
153 the costs of providing copies of the official records, including
154 the costs of copying and the costs required for personnel to
155 retrieve and copy the records if the time spent retrieving and
156 copying the records exceeds one-half hour and if the personnel
157 costs do not exceed \$20 per hour. Personnel costs may not be
158 charged for records requests that result in the copying of 25 or
159 fewer pages. The association may charge up to 25 cents per page
160 for copies made on the association's photocopier. If the
161 association does not have a photocopy machine available where
162 the records are kept, or if the records requested to be copied
163 exceed 25 pages in length, the association may have copies made
164 by an outside duplicating service and may charge the actual cost

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165 of copying, as supported by the vendor invoice. The association
166 shall maintain an adequate number of copies of the recorded
167 governing documents, to ensure their availability to members and
168 prospective members. Notwithstanding this subsection ~~paragraph~~,
169 the following records are not accessible to members or parcel
170 owners:

171 1. Any record protected by the lawyer-client privilege as
172 described in s. 90.502 and any record protected by the work-
173 product privilege, including, but not limited to, a record
174 prepared by an association attorney or prepared at the
175 attorney's express direction which reflects a mental impression,
176 conclusion, litigation strategy, or legal theory of the attorney
177 or the association and which was prepared exclusively for civil
178 or criminal litigation or for adversarial administrative
179 proceedings or which was prepared in anticipation of such
180 litigation or proceedings until the conclusion of the litigation
181 or proceedings.

182 2. Information obtained by an association in connection
183 with the approval of the lease, sale, or other transfer of a
184 parcel.

185 3. Information an association obtains in a gated community
186 in connection with guests' visits to parcel owners or community
187 residents.

188 4. Personnel records of association or management company
189 employees, including, but not limited to, disciplinary, payroll,

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190 health, and insurance records. For purposes of this
191 subparagraph, the term "personnel records" does not include
192 written employment agreements with an association or management
193 company employee or budgetary or financial records that indicate
194 the compensation paid to an association or management company
195 employee.

196 5. Medical records of parcel owners or community
197 residents.

198 6. Social security numbers, driver license numbers, credit
199 card numbers, electronic mailing addresses, telephone numbers,
200 facsimile numbers, emergency contact information, any addresses
201 for a parcel owner other than as provided for association notice
202 requirements, and other personal identifying information of any
203 person, excluding the person's name, parcel designation, mailing
204 address, and property address. Notwithstanding the restrictions
205 in this subparagraph, an association may print and distribute to
206 parcel owners a directory containing the name, parcel address,
207 and all telephone numbers of each parcel owner. However, an
208 owner may exclude his or her telephone numbers from the
209 directory by so requesting in writing to the association. An
210 owner may consent in writing to the disclosure of other contact
211 information described in this subparagraph. The association is
212 not liable for the disclosure of information that is protected
213 under this subparagraph if the information is included in an

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214 official record of the association and is voluntarily provided
215 by an owner and not requested by the association.

216 7. Any electronic security measure that is used by the
217 association to safeguard data, including passwords.

218 8. The software and operating system used by the
219 association which allows the manipulation of data, even if the
220 owner owns a copy of the same software used by the association.
221 The data is part of the official records of the association.

222 9. All affirmative acknowledgments made pursuant to s.
223 720.3085(3)(c)3.

224 (h)~~(d)~~ The association or its authorized agent is not
225 required to provide a prospective purchaser or lienholder with
226 information about the residential subdivision or the association
227 other than information or documents required by this chapter to
228 be made available or disclosed. The association or its
229 authorized agent may charge a reasonable fee to the prospective
230 purchaser or lienholder or the current parcel owner or member
231 for providing good faith responses to requests for information
232 by or on behalf of a prospective purchaser or lienholder, other
233 than that required by law, if the fee does not exceed \$150 plus
234 the reasonable cost of photocopying and any attorney fees
235 incurred by the association in connection with the response.

236 (i) If an association receives a subpoena for records from
237 a law enforcement agency, the association must provide a copy of
238 such records or otherwise make the records available for

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239 inspection and copying to a law enforcement agency within 5
240 business days after receipt of the subpoena, unless otherwise
241 specified by the law enforcement agency or subpoena. An
242 association must assist a law enforcement agency in its
243 investigation to the extent permissible by law.

244 (6) BUDGETS.—

245 (f) After one or more reserve accounts are established,
246 the membership of the association, upon a majority vote at a
247 meeting at which a quorum is present, may provide for no
248 reserves or less reserves than required by this section. If a
249 meeting of the parcel unit owners has been called to determine
250 whether to waive or reduce the funding of reserves and such
251 result is not achieved or a quorum is not present, the reserves
252 as included in the budget go into effect. After the turnover,
253 the developer may vote its voting interest to waive or reduce
254 the funding of reserves. Any vote taken pursuant to this
255 subsection to waive or reduce reserves is applicable only to one
256 budget year.

257 (7) FINANCIAL REPORTING.—Within 90 days after the end of
258 the fiscal year, or annually on the date provided in the bylaws,
259 the association shall prepare and complete, or contract with a
260 third party for the preparation and completion of, a financial
261 report for the preceding fiscal year. Within 21 days after the
262 final financial report is completed by the association or
263 received from the third party, but not later than 120 days after

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264 the end of the fiscal year or other date as provided in the
265 bylaws, the association shall, within the time limits set forth
266 in subsection (5), provide each member with a copy of the annual
267 financial report or a written notice that a copy of the
268 financial report is available upon request at no charge to the
269 member. Financial reports shall be prepared as follows:

270 (a) An association that meets the criteria of this
271 paragraph shall prepare or cause to be prepared a complete set
272 of financial statements in accordance with generally accepted
273 accounting principles as adopted by the Board of Accountancy.
274 The financial statements shall be based upon the association's
275 total annual revenues, as follows:

276 1. An association with total annual revenues of \$150,000
277 or more, but less than \$300,000, shall prepare compiled
278 financial statements.

279 2. An association with total annual revenues of at least
280 \$300,000, but less than \$500,000, shall prepare reviewed
281 financial statements.

282 3. An association with total annual revenues of \$500,000
283 or more shall prepare audited financial statements.

284 4. An association with 1,000 parcels or more shall prepare
285 audited financial statements, notwithstanding the association's
286 total annual revenues.

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287 (d) If approved by a majority of the voting interests
288 present at a properly called meeting of the association, an
289 association may prepare or cause to be prepared:

290 1. A report of cash receipts and expenditures in lieu of a
291 compiled, reviewed, or audited financial statement;

292 2. A report of cash receipts and expenditures or a
293 compiled financial statement in lieu of a reviewed or audited
294 financial statement; or

295 3. A report of cash receipts and expenditures, a compiled
296 financial statement, or a reviewed financial statement in lieu
297 of an audited financial statement.

298

299 An association may not prepare a financial statement pursuant to
300 this paragraph for consecutive fiscal years.

301 (13) DEBIT CARDS.-

302 (a) An association and its officers, directors, employees,
303 and agents may not use a debit card issued in the name of the
304 association, or billed directly to the association, for the
305 payment of any association expenses.

306 (b) A person who uses a debit card issued in the name of
307 the association, or billed directly to the association, for any
308 expense that is not a lawful obligation of the association
309 commits theft as provided under s. 812.014.

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311 For the purposes of this subsection, the term "lawful obligation
312 of the association" means an obligation that has been properly
313 preapproved by the board and is reflected in the meeting minutes
314 or the written budget.

315 Section 4. Subsections (1) and (3) and paragraph (a) of
316 subsection (4) of section 720.3033, Florida Statutes, are
317 amended to read:

318 720.3033 Officers and directors.—

319 (1)(a) Within 90 days after being elected or appointed to
320 the board, each director ~~shall certify in writing to the~~
321 ~~secretary of the association that he or she has read the~~
322 ~~association's declaration of covenants, articles of~~
323 ~~incorporation, bylaws, and current written rules and policies;~~
324 ~~that he or she will work to uphold such documents and policies~~
325 ~~to the best of his or her ability; and that he or she will~~
326 ~~faithfully discharge his or her fiduciary responsibility to the~~
327 ~~association's members. Within 90 days after being elected or~~
328 ~~appointed to the board, in lieu of such written certification,~~
329 ~~the newly elected or appointed director must ~~may~~ submit a~~
330 certificate of having satisfactorily completed the educational
331 curriculum administered by a department-approved division-
332 approved education provider.

333 1. The newly elected or appointed director must complete
334 the department-approved education for newly elected or appointed
335 directors within 90 days after being elected or appointed.

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336 2. The certificate of completion is valid for a maximum of
337 4 years.

338 3. At least every 4 years, a director must complete the
339 education specific to newly elected or appointed directors.

340 4. The department-approved educational curriculum specific
341 to newly elected or appointed directors must include training
342 relating to financial literacy and transparency, recordkeeping,
343 levying of fines, and notice and meeting requirements.

344 5. In addition to the educational curriculum specific to
345 newly elected or appointed directors:

346 a. A director of an association that has fewer than 2,500
347 parcels must complete at least 4 hours of continuing education
348 annually.

349 b. A director of an association that has 2,500 parcels or
350 more must complete at least 8 hours of continuing education
351 annually within 1 year before or 90 days after the date of
352 election or appointment.

353 ~~(b) The written certification or educational certificate~~
354 ~~is valid for the uninterrupted tenure of the director on the~~
355 ~~board. A director who does not timely file the written~~
356 ~~certification or educational certificate is shall be suspended~~
357 ~~from the board until he or she complies with the requirement.~~
358 ~~The board may temporarily fill the vacancy during the period of~~
359 ~~suspension.~~

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360 (c) The association shall retain each director's ~~written~~
361 ~~certification or~~ educational certificate for inspection by the
362 members for 5 years after the director's election. However, the
363 failure to have the written certification or educational
364 certificate on file does not affect the validity of any board
365 action.

366 (d) The department shall adopt rules to implement and
367 administer the educational curriculum and continuing education
368 requirements under this subsection.

369 (3) An officer, a director, or a manager may not solicit,
370 offer to accept, or accept a kickback. As used in this
371 subsection, the term "kickback" means any thing or service of
372 value for which consideration has not been provided for an
373 officer's, a director's, or a manager's ~~his or her~~ benefit or
374 for the benefit of a member of his or her immediate family from
375 any person providing or proposing to provide goods or services
376 to the association. An officer, a director, or a manager who
377 knowingly solicits, offers to accept, or accepts a ~~any thing or~~
378 ~~service of value or~~ kickback commits a felony of the third
379 degree, punishable as provided in s. 775.082, s. 775.083, or s.
380 775.084, and for which consideration has not been provided for
381 ~~his or her own benefit or that of his or her immediate family~~
382 ~~from any person providing or proposing to provide goods or~~
383 ~~services to the association~~ is subject to monetary damages under
384 s. 617.0834. If the board finds that an officer or a director

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385 | has violated this subsection, the board shall immediately remove
386 | the officer or director from office. The vacancy shall be filled
387 | according to law until the end of the officer's or director's
388 | term of office. However, an officer, a director, or a manager
389 | may accept food to be consumed at a business meeting with a
390 | value of less than \$25 per individual or a service or good
391 | received in connection with trade fairs or education programs.

392 | (4) (a) A director or an officer charged by information or
393 | indictment with any of the following crimes must be removed from
394 | office and a vacancy declared:

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

397 | 2. Theft or embezzlement involving the association's funds
398 | or property as provided in s. 812.014.

399 | 3. Destruction of or the refusal to allow inspection or
400 | copying of an official record of a homeowners' association which
401 | is accessible to parcel owners within the time periods required
402 | by general law, in furtherance of any crime. Such act
403 | constitutes tampering with physical evidence as provided in s.
404 | 918.13.

405 | 4. Obstruction of justice as provided in chapter 843.

406 | 5. Any criminal violation under this chapter.

407 |
408 | -----

409 | **D I R E C T O R Y A M E N D M E N T**

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410 Remove lines 94-96 and insert:

411 Section 3. Subsections (4) and (5), paragraph (f) of
412 subsection (6), and paragraphs (a) and (d) of subsection (7) of
413 section 720.303, Florida Statutes, are amended, and subsection
414 (13) is added to that section, to read:

415

416 -----

417 **T I T L E A M E N D M E N T**

418 Remove lines 11-39 and insert:

419 years; requiring a certain association to post certain
420 documents on its website or make such documents
421 available through an application by a date certain;
422 providing requirements for an association's website or
423 application; providing requirements for notices posted
424 on an association's website or application; requiring
425 an association to provide certain information to
426 parcel owners upon request; requiring an association
427 to ensure certain information and records are not
428 accessible on the website or application; providing
429 that an association or its agent is not liable for the
430 disclosure of certain information; requiring an
431 association to adopt certain rules; providing criminal
432 penalties; requiring an association to provide or make
433 available subpoenaed records within a certain
434 timeframe; requiring an association to assist in a law

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435 enforcement investigation as allowed by law; requiring
436 certain associations to prepare audited financial
437 statements; prohibiting associations from preparing
438 financial statements for consecutive fiscal years;
439 prohibiting certain persons from using a debit card
440 issued in the name of the association for certain
441 purposes; providing a criminal penalty; defining the
442 term "lawful obligation of the association"; amending
443 s. 720.3033, F.S.; providing education requirements
444 for newly elected or appointed directors; providing
445 requirements for the educational curriculum; requiring
446 certain directors to complete a certain number of
447 hours of continuing education annually; requiring the
448 Department of Business and Professional Regulation to
449 adopt certain rules; providing criminal penalties for
450 certain actions by an officer, a director, or a
451 manager of an association; defining the term
452 "kickback"; requiring a vacancy to be declared if a
453 director or an officer is charged by information for
454 any criminal violation under the chapter; amending s.
455 720.3035, F.S.;