

By Senator McClain

9-00598-25

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1                   A bill to be entitled  
2           An act relating to timeshare management firms;  
3           amending s. 468.4334, F.S.; conforming provisions to  
4           changes made by the act; amending s. 468.4335, F.S.;  
5           revising applicability for provisions governing  
6           conflicts of interest between community association  
7           managers or community association management firms and  
8           certain persons with a financial interest in such  
9           associations; amending s. 468.438, F.S.; providing  
10          construction; amending s. 721.13, F.S.; deleting a  
11          provision requiring managing entities that perform  
12          community association management to comply with  
13          certain provisions related to community association  
14          management firms; requiring timeshare management firms  
15          and individuals employed by timeshare management firms  
16          to discharge their duties in good faith; exempting  
17          such firms and individuals from liability for monetary  
18          damages; requiring the board of administration of a  
19          timeshare condominium to meet once per year; providing  
20          an exception; requiring disclosure of certain  
21          information annually to certain persons if a timeshare  
22          management firm or an owners' association provides  
23          goods and services through arrangements with specified  
24          entities; providing construction; reenacting s.  
25          721.14(2), F.S., relating to discharge of a managing  
26          entity, to incorporate the amendment made to s.  
27          721.13, F.S., in a reference thereto; providing an  
28          effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Subsection (4) of section 468.4334, Florida  
33 Statutes, is amended to read:

34 468.4334 Professional practice standards; liability;  
35 community association manager requirements; return of records  
36 after termination of contract.—

37 (4) A community association manager or a community  
38 association management firm shall return all community  
39 association official records within its possession to the  
40 community association within 20 business days after termination  
41 of a contractual agreement to provide community association  
42 management services to the community association or receipt of a  
43 written request for return of the official records, whichever  
44 occurs first. A notice of termination of a contractual agreement  
45 to provide community association management services must be  
46 sent by certified mail, return receipt requested, or in the  
47 manner required under such contractual agreement. The community  
48 association manager or community association management firm may  
49 retain, for up to 20 business days, those records necessary to  
50 complete an ending financial statement or report. If an  
51 association fails to provide access to or retention of the  
52 accounting records to prepare an ending financial statement or  
53 report, the community association manager or community  
54 association management firm is relieved from any further  
55 responsibility or liability relating to the preparation of such  
56 ending financial statement or report. Failure of a community  
57 association manager or a community association management firm  
58 to timely return all of the official records within its

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59 possession to the community association creates a rebuttable  
60 presumption that the community association manager or community  
61 association management firm willfully failed to comply with this  
62 subsection. A community association manager or a community  
63 association management firm that fails to timely return  
64 community association records is subject to suspension of its  
65 license under s. 468.436, and a civil penalty of \$1,000 per day  
66 for up to 10 business days, assessed beginning on the 21st  
67 business day after termination of a contractual agreement to  
68 provide community association management services to the  
69 community association or receipt of a written request from the  
70 association for return of the records, whichever occurs first.  
71 However, for a timeshare plan governed by ~~created under~~ chapter  
72 721, s. 721.14(4) applies ~~the time periods provided in s.~~  
73 ~~721.14(4)(b) apply.~~

74 Section 2. Subsection (7) is added to section 468.4335,  
75 Florida Statutes, to read:

76 468.4335 Conflicts of interest.—

77 (7) This section does not apply to a community association  
78 manager or a community association management firm that manages  
79 a timeshare plan governed by chapter 721.

80 Section 3. Subsection (3) is added to section 468.438,  
81 Florida Statutes, to read:

82 468.438 Timeshare management firms.—

83 (3) A timeshare management firm and any individual licensed  
84 under this part who is employed by a timeshare management firm  
85 are governed by s. 721.13.

86 Section 4. Paragraph (e) of subsection (1) and subsections  
87 (4), (10), and (13) of section 721.13, Florida Statutes, are

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88 amended to read:

89 721.13 Management.—

90 (1)

91 ~~(c) Any managing entity performing community association~~  
92 ~~management must comply with part VIII of chapter 468.~~

93 (4) The managing entity shall maintain among its records  
94 and provide to the division upon request a complete list of the  
95 names and addresses of all purchasers and owners of timeshare  
96 units in the timeshare plan. The managing entity shall update  
97 this list no less frequently than quarterly. Pursuant to  
98 paragraph (3)(d), the managing entity may not publish this  
99 owner's list or provide a copy of it to any purchaser or to any  
100 third party other than the division. However, the managing  
101 entity shall mail to those persons listed on the owner's list  
102 materials provided by any purchaser, upon the written request of  
103 that purchaser, if the purpose of the mailing is to advance  
104 legitimate owners' association business, such as a proxy  
105 solicitation for any purpose, including the recall of one or  
106 more board members elected by the owners or the discharge of the  
107 manager or management firm. The use of any proxies solicited in  
108 this manner must comply with the provisions of the timeshare  
109 instrument and this chapter. A mailing requested for the purpose  
110 of advancing legitimate owners' association business shall occur  
111 within 30 days after receipt of a request from a purchaser. The  
112 board of administration of the owners' association shall be  
113 responsible for determining the appropriateness of any mailing  
114 requested pursuant to this subsection. The purchaser who  
115 requests the mailing must reimburse the owners' association in  
116 advance for the owners' association's actual costs in performing

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117 the mailing. It is ~~shall be~~ a violation of this chapter ~~and, if~~  
118 ~~applicable, of part VIII of chapter 468,~~ for the board of  
119 administration or the manager or management firm to refuse to  
120 mail any material requested by the purchaser to be mailed,  
121 provided the sole purpose of the materials is to advance  
122 legitimate owners' association business. If the purpose of the  
123 mailing is a proxy solicitation to recall one or more board  
124 members elected by the owners or to discharge the manager or  
125 management firm and the managing entity does not mail the  
126 materials within 30 days after receipt of a request from a  
127 purchaser, the circuit court in the county where the timeshare  
128 plan is located may, upon application from the requesting  
129 purchaser, summarily order the mailing of the materials solely  
130 related to the recall of one or more board members elected by  
131 the owners or the discharge of the manager or management firm.  
132 The court shall dispose of an application on an expedited basis.  
133 In the event of such an order, the court may order the managing  
134 entity to pay the purchaser's costs, including attorney's fees  
135 reasonably incurred to enforce the purchaser's rights, unless  
136 the managing entity can prove it refused the mailing in good  
137 faith because of a reasonable basis for doubt about the  
138 legitimacy of the mailing.

139 (10) Any failure of the managing entity to faithfully  
140 discharge the fiduciary duty to purchasers imposed by this  
141 section or to otherwise comply with ~~the provisions of this~~  
142 section is ~~shall be~~ a violation of this chapter ~~and of part VIII~~  
143 ~~of chapter 468.~~

144 (13) (a) Notwithstanding any provisions of chapter 607,  
145 chapter 617, or chapter 718, an officer, director, or agent of

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146 an owners' association, including a timeshare management firm  
147 and any individual licensed under part VIII of chapter 468  
148 employed by the timeshare management firm, shall discharge its  
149 ~~his or her~~ duties in good faith, with the care an ordinarily  
150 prudent person in a like position would exercise under similar  
151 circumstances, and in a manner it ~~he or she~~ reasonably believes  
152 to be in the interests of the owners' association. An officer,  
153 director, or agent of an owners' association, including a  
154 timeshare management firm and any individual licensed under part  
155 VIII of chapter 468 employed by the timeshare management firm,  
156 are ~~shall be~~ exempt from liability for monetary damages in the  
157 same manner as provided in s. 617.0834 unless such officer,  
158 director, ~~or~~ agent, or firm breached or failed to perform its  
159 ~~his or her~~ duties and the breach of, or failure to perform, its  
160 ~~his or her~~ duties constitutes a violation of criminal law as  
161 provided in s. 617.0834; constitutes a transaction from which  
162 the officer or director derived an improper personal benefit,  
163 either directly or indirectly; or constitutes recklessness or an  
164 act or omission that was in bad faith, with malicious purpose,  
165 or in a manner exhibiting wanton and willful disregard of human  
166 rights, safety, or property.

167 (b) Notwithstanding chapter 718, the board of  
168 administration of a timeshare condominium is required to meet  
169 only once each year, unless additional board meetings are called  
170 pursuant to a timeshare instrument.

171 (c)1. If a timeshare management firm that is an agent of an  
172 owners' association or an owners' association provides goods or  
173 services through arrangements with a parent, affiliate, or  
174 subsidiary of the timeshare management firm, the existence of

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175 such arrangements must be disclosed annually to the members of  
176 that owners' association as part of the common expense budgeting  
177 process, as an explanatory note to the annual budget, or  
178 otherwise.

179 2. A timeshare management firm and any individual licensed  
180 under part VIII of chapter 468 employed by the timeshare  
181 management firm are governed by this section and s. 468.438.

182 Section 5. For the purpose of incorporating the amendment  
183 made by this act to section 721.13, Florida Statutes, in a  
184 reference thereto, subsection (2) of section 721.14, Florida  
185 Statutes, is reenacted to read:

186 721.14 Discharge of managing entity.—

187 (2) In the event the manager or management firm is  
188 discharged, the board of administration of the owners'  
189 association shall remain responsible for operating and  
190 maintaining the timeshare plan pursuant to the timeshare  
191 instrument and s. 721.13(1). If the board of administration  
192 fails to do so, any timeshare owner may apply to the circuit  
193 court within the jurisdiction of which the accommodations and  
194 facilities lie for the appointment of a receiver to manage the  
195 affairs of the owners' association and the timeshare plan. At  
196 least 30 days before applying to the circuit court, the  
197 timeshare owner shall mail to the owners' association and post  
198 in a conspicuous place on the timeshare property a notice  
199 describing the intended action. If a receiver is appointed, the  
200 owners' association shall be responsible as a common expense of  
201 the timeshare plan, for payment of the salary and expenses of  
202 the receiver, relating to the discharge of her or his duties and  
203 obligations as receiver, together with the receiver's court

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204 costs, and reasonable attorney's fees. The receiver shall have  
205 all powers and duties of a duly constituted board of  
206 administration and shall serve until discharged by the circuit  
207 court.

208 Section 6. This act shall take effect July 1, 2025.