

By the Committee on Regulated Industries; and Senator McClain

580-03182-25

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A bill to be entitled
An act relating to timeshare management firms;
amending s. 468.4334, F.S.; conforming provisions to
changes made by the act; amending s. 468.4335, F.S.;
revising applicability for provisions governing
conflicts of interest between community association
managers or community association management firms and
certain persons with a financial interest in such
associations; amending s. 468.438, F.S.; providing
construction; amending s. 721.13, F.S.; deleting a
provision requiring managing entities that perform
community association management to comply with
certain provisions related to community association
management firms; requiring timeshare management firms
and individuals employed by timeshare management firms
to discharge their duties in good faith; exempting
such firms and individuals from liability for monetary
damages; requiring the board of administration of a
timeshare condominium to meet once per year; providing
an exception; requiring disclosure of certain
information annually to certain persons if a timeshare
management firm or an owners' association provides
goods and services through arrangements with specified
entities; providing construction; reenacting s.
721.14(2), F.S., relating to discharge of a managing
entity, to incorporate the amendment made to s.
721.13, F.S., in a reference thereto; providing an
effective date.

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

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

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

(4) A community association manager or a community association management firm shall return all community association official records within its possession to the community association within 20 business days after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request for return of the official records, whichever occurs first. A notice of termination of a contractual agreement to provide community association management services must be sent by certified mail, return receipt requested, or in the manner required under such contractual agreement. The community association manager or community association management firm may retain, for up to 20 business days, those records necessary to complete an ending financial statement or report. If an association fails to provide access to or retention of the accounting records to prepare an ending financial statement or report, the community association manager or community association management firm is relieved from any further responsibility or liability relating to the preparation of such ending financial statement or report. Failure of a community association manager or a community association management firm to timely return all of the official records within its

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

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

468.4335 Conflicts of interest.—

(7) This section does not apply to a community association manager or a community association management firm that manages a timeshare plan governed by chapter 721 and that must provide disclosure under s. 721.13(13)(c)1.

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

468.438 Timeshare management firms.—

(3) A timeshare management firm and any individual licensed under this part who is employed by a timeshare management firm are governed by s. 721.13 and not by s. 468.4335.

Section 4. Paragraph (e) of subsection (1) and subsections

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(4), (10), and (13) of section 721.13, Florida Statutes, are amended to read:

721.13 Management.—

(1)

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

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

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

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

145 (13) (a) Notwithstanding ~~any provisions of~~ chapter 607,

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chapter 617, or chapter 718, an officer, a director, or an agent
of an owners' association, including a timeshare management firm
and any individual licensed under part VIII of chapter 468
employed by the timeshare management firm, shall discharge its
~~his or her~~ duties in good faith, with the care an ordinarily
prudent person in a like position would exercise under similar
circumstances, and in a manner it ~~he or she~~ reasonably believes
to be in the interests of the owners' association. An officer, a
director, or an agent of an owners' association, including a
timeshare management firm and any individual licensed under part
VIII of chapter 468 employed by the timeshare management firm,
are ~~shall be~~ exempt from liability for monetary damages in the
same manner as provided in s. 617.0834 unless such officer,
director, ~~or~~ agent, or firm breached or failed to perform its
~~his or her~~ duties and the breach of, or failure to perform, its
~~his or her~~ duties constitutes a violation of criminal law as
provided in s. 617.0834; constitutes a transaction from which
the officer or director derived an improper personal benefit,
either directly or indirectly; or constitutes recklessness or an
act or omission that was in bad faith, with malicious purpose,
or in a manner exhibiting wanton and willful disregard of human
rights, safety, or property.

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

(c)1. If a timeshare management firm or an owners'
association provides goods or services through a parent, an
affiliate, or a subsidiary of a timeshare management firm, the

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fact that a related party provides goods or services must be disclosed annually to the members of that owners' association as an explanatory note to the annual budget pursuant to subparagraph (3)(c)1. or in the management contract, or by mail sent to each owner's notice address, in the notice of an annual or special meeting of the owners, by posting on the website of the applicable timeshare plan, or by any owner communication used by the managing entity.

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

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

721.14 Discharge of managing entity.—

(2) In the event the manager or management firm is discharged, the board of administration of the owners' association shall remain responsible for operating and maintaining the timeshare plan pursuant to the timeshare instrument and s. 721.13(1). If the board of administration fails to do so, any timeshare owner may apply to the circuit court within the jurisdiction of which the accommodations and facilities lie for the appointment of a receiver to manage the affairs of the owners' association and the timeshare plan. At least 30 days before applying to the circuit court, the timeshare owner shall mail to the owners' association and post in a conspicuous place on the timeshare property a notice describing the intended action. If a receiver is appointed, the

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owners' association shall be responsible as a common expense of the timeshare plan, for payment of the salary and expenses of the receiver, relating to the discharge of her or his duties and obligations as receiver, together with the receiver's court costs, and reasonable attorney's fees. The receiver shall have all powers and duties of a duly constituted board of administration and shall serve until discharged by the circuit court.

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