

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WITHDRAWN	___	(Y/N)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	_____	

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1 Committee/Subcommittee hearing bill: Housing, Agriculture &  
2 Tourism Subcommittee

3 Representative Berfield offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 **Section 1. Subsection (4) of section 468.4334, Florida**

8 **Statutes, is amended to read:**

9 468.4334 Professional practice standards; liability;  
10 community association manager requirements; return of records  
11 after termination of contract.—

12 (4) A community association manager or a community  
13 association management firm shall return all community  
14 association official records within its possession to the  
15 community association within 20 business days after termination  
16 of a contractual agreement to provide community association

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## Amendment No. 1

17 management services to the community association or receipt of a  
18 written request for return of the official records, whichever  
19 occurs first. A notice of termination of a contractual agreement  
20 to provide community association management services must be  
21 sent by certified mail, return receipt requested, or in the  
22 manner required under such contractual agreement. The community  
23 association manager or community association management firm may  
24 retain, for up to 20 business days, those records necessary to  
25 complete an ending financial statement or report. If an  
26 association fails to provide access to or retention of the  
27 accounting records to prepare an ending financial statement or  
28 report, the community association manager or community  
29 association management firm is relieved from any further  
30 responsibility or liability relating to the preparation of such  
31 ending financial statement or report. Failure of a community  
32 association manager or a community association management firm  
33 to timely return all of the official records within its  
34 possession to the community association creates a rebuttable  
35 presumption that the community association manager or community  
36 association management firm willfully failed to comply with this  
37 subsection. A community association manager or a community  
38 association management firm that fails to timely return  
39 community association records is subject to suspension of its  
40 license under s. 468.436, and a civil penalty of \$1,000 per day  
41 for up to 10 business days, assessed beginning on the 21st

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Published On: 3/28/2025 6:01:20 PM

Amendment No. 1

42 business day after termination of a contractual agreement to  
43 provide community association management services to the  
44 community association or receipt of a written request from the  
45 association for return of the records, whichever occurs first.  
46 However, for a timeshare plan governed by ~~created under~~ chapter  
47 721, s. 721.14(4) applies ~~the time periods provided in s.~~  
48 ~~721.14(4)(b) apply.~~

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

51 468.4335 Conflicts of interest.—

52 (7) This section does not apply to a community association  
53 manager or a community association management firm that manages  
54 a timeshare plan governed by chapter 721 who provides disclosure  
55 under s. 721.13(13)(c)1.

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

58 468.438 Timeshare management firms.—

59 (3) A timeshare management firm and any individual  
60 licensed under this part who is employed by a timeshare  
61 management firm are governed by s. 721.13 and not by the  
62 provisions of s. 468.4335.

63 **Section 4. Paragraph (e) of subsection (1) and subsections**  
64 **(4), (10), and (13) of section 721.13, Florida Statutes, are**  
65 **amended to read:**

66 721.13 Management.—

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Published On: 3/28/2025 6:01:20 PM

Amendment No. 1

67 (1)

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

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

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Published On: 3/28/2025 6:01:20 PM

Amendment No. 1

92 requests the mailing must reimburse the owners' association in  
93 advance for the owners' association's actual costs in performing  
94 the mailing. It is ~~shall be~~ a violation of this chapter ~~and, if~~  
95 ~~applicable, of part VIII of chapter 468,~~ for the board of  
96 administration or the manager or management firm to refuse to  
97 mail any material requested by the purchaser to be mailed,  
98 provided the sole purpose of the materials is to advance  
99 legitimate owners' association business. If the purpose of the  
100 mailing is a proxy solicitation to recall one or more board  
101 members elected by the owners or to discharge the manager or  
102 management firm and the managing entity does not mail the  
103 materials within 30 days after receipt of a request from a  
104 purchaser, the circuit court in the county where the timeshare  
105 plan is located may, upon application from the requesting  
106 purchaser, summarily order the mailing of the materials solely  
107 related to the recall of one or more board members elected by  
108 the owners or the discharge of the manager or management firm.  
109 The court shall dispose of an application on an expedited basis.  
110 In the event of such an order, the court may order the managing  
111 entity to pay the purchaser's costs, including attorney's fees  
112 reasonably incurred to enforce the purchaser's rights, unless  
113 the managing entity can prove it refused the mailing in good  
114 faith because of a reasonable basis for doubt about the  
115 legitimacy of the mailing.

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Published On: 3/28/2025 6:01:20 PM

## Amendment No. 1

116 (10) Any failure of the managing entity to faithfully  
117 discharge the fiduciary duty to purchasers imposed by this  
118 section or to otherwise comply with ~~the provisions of this~~  
119 section ~~is shall be~~ a violation of this chapter ~~and of part VIII~~  
120 ~~of chapter 468.~~

121 (13) (a) Notwithstanding any provisions of chapter 607,  
122 chapter 617, or chapter 718, an officer, director, or agent of  
123 an owners' association, including a timeshare management firm  
124 and any individual licensed under part VIII of chapter 468  
125 employed by the timeshare management firm, shall discharge its  
126 ~~his or her~~ duties in good faith, with the care an ordinarily  
127 prudent person in a like position would exercise under similar  
128 circumstances, and in a manner it ~~he or she~~ reasonably believes  
129 to be in the interests of the owners' association. An officer,  
130 director, or agent of an owners' association, including a  
131 timeshare management firm and any individual licensed under part  
132 VIII of chapter 468 employed by the timeshare management firm,  
133 are shall be exempt from liability for monetary damages in the  
134 same manner as provided in s. 617.0834 unless such officer,  
135 director, ~~or~~ agent, or firm breached or failed to perform its  
136 ~~his or her~~ duties and the breach of, or failure to perform, its  
137 ~~his or her~~ duties constitutes a violation of criminal law as  
138 provided in s. 617.0834; constitutes a transaction from which  
139 the officer or director derived an improper personal benefit,  
140 either directly or indirectly; or constitutes recklessness or an

Amendment No. 1

141 act or omission that was in bad faith, with malicious purpose,  
142 or in a manner exhibiting wanton and willful disregard of human  
143 rights, safety, or property.

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

148 (c)1. If a timeshare management firm or an owners'  
149 association provides goods or services through a parent,  
150 affiliate, or subsidiary of the timeshare management firm, the  
151 fact that a related party provides goods or services must be  
152 disclosed annually to the members of that owners' association as  
153 an explanatory note to the annual budget pursuant to subsection  
154 (3)(c)1., in the management contract, by mail sent to each  
155 owner's notice address, in the notice of an annual or special  
156 meeting of the owners, by posting on the website of the  
157 applicable timeshare plan, or by any owner communication used by  
158 the managing entity.

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

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

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Published On: 3/28/2025 6:01:20 PM

Amendment No. 1

166 721.14 Discharge of managing entity.-

167 (2) In the event the manager or management firm is  
168 discharged, the board of administration of the owners'  
169 association shall remain responsible for operating and  
170 maintaining the timeshare plan pursuant to the timeshare  
171 instrument and s. 721.13(1). If the board of administration  
172 fails to do so, any timeshare owner may apply to the circuit  
173 court within the jurisdiction of which the accommodations and  
174 facilities lie for the appointment of a receiver to manage the  
175 affairs of the owners' association and the timeshare plan. At  
176 least 30 days before applying to the circuit court, the  
177 timeshare owner shall mail to the owners' association and post  
178 in a conspicuous place on the timeshare property a notice  
179 describing the intended action. If a receiver is appointed, the  
180 owners' association shall be responsible as a common expense of  
181 the timeshare plan, for payment of the salary and expenses of  
182 the receiver, relating to the discharge of her or his duties and  
183 obligations as receiver, together with the receiver's court  
184 costs, and reasonable attorney's fees. The receiver shall have  
185 all powers and duties of a duly constituted board of  
186 administration and shall serve until discharged by the circuit  
187 court.

188 **Section 6.** This act shall take effect July 1, 2025.  
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Published On: 3/28/2025 6:01:20 PM



Amendment No. 1

191

**T I T L E   A M E N D M E N T**

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Remove line 23 and insert:

193

goods and services through specified