

1 A bill to be entitled
2 An act relating to timeshare plan management; amending
3 s. 468.4334, F.S.; conforming provisions to changes
4 made by the act; amending s. 468.4335, F.S.; revising
5 applicability for provisions governing conflicts of
6 interest between community association managers or
7 community association management firms and certain
8 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.

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

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
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
 84 licensed under this part who is employed by a timeshare
 85 management firm 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**
 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
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
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
172 an owners' association or an owners' association provides goods
173 or services through arrangements with a parent, affiliate, or
174 subsidiary of the timeshare management firm, the existence of
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
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.