The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL:	CS/SB 1498
INTRODUCER:	Regulated Industries Committee and Senator Bradley
SUBJECT:	Community Associations
DATE:	February 3, 2026 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.			AEG	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1498 revises the definition of the term "video conference" to provide that only condominium association meetings that are open to the unit owners must be recorded if conducted by video conference and maintained as an official record of the association. Current law requires all meetings that are conducted by video conference to be recorded and maintained as an official record of the association.

Generally, a structural integrity reserve study (SIRS) is a study of specified components in a building for the purpose of determining the components' estimated useful life and the amount of funds that should be reserved for future maintenance or replacement components. A SIRS is required for condominium or cooperative buildings that are three or more habitable stories in height. Under current law, the developer of a condominium or cooperative must prepare a turnover inspection report consisting of a SIRS before non-developer unit owners assume control of the majority of the members of the board of the association.

The bill revises the turnover inspection report requirements for condominiums and cooperatives to delete a building height requirement of three or more stories in height. The bill conforms the SIRS and the turnover inspection requirements by deleting the reference to building height because the turnover inspection requirements apply to all buildings on the condominium or cooperative property, as applicable, regardless of the height of the buildings.

The bill also revises the provisions requiring condominium and cooperative associations existing on or before July 1, 2022, that are controlled by non-developer unit owners, to have a SIRS completed by December 31, 2026, for each building on the condominium or cooperative property that is three stories or higher in height. The bill revises these provisions to conform to the SIRS requirements which apply to buildings that are "three habitable stories or higher in height."

Relating to electronic voting in condominium associations, the bill revises the provisions authorizing the delivery of ballots by email, to further provide that the electronic voting provisions apply to voting by email, independent website, application, or Internet web portal. The bill makes conforming changes throughout statute regulating electronic voting in condominium associations.

The bill duplicates a provision from the Condominium Act to explicitly state that the official records of homeowners' associations are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times.

The bill requires condominium and homeowners' associations to provide law enforcement agencies and prosecuting agencies, such as state attorneys and state and local prosecutors, with records requested by those agencies in response to a subpoena or written request for records. Under the bill, condominium and homeowners' associations are required to assist law enforcement agencies and prosecuting agencies in their investigations to the extent permissible by law. Current law provides a comparable provision requiring homeowners' associations to respond to a subpoena from law enforcement. This bill expands that provision to include prosecuting agencies and adds a requirement to respond to a written request for records.

The bill also creates a misdemeanor of the second-degree criminal violation if a director, member of the board of the association, or a community association manager willfully and knowingly fails to provide a copy of records, or otherwise fails to make the records available for inspection and copying, to a law enforcement agency or prosecuting agency after receipt of a subpoena or written request.

The bill conforms the criminal prohibitions for violating condominium and homeowners' association provisions related to the right of a unit owner to inspect and copy official records of condominium and homeowners' associations.

The bill revises several provisions in ch. 720, F.S., relating to homeowners' associations to codify the holding in the recent court case, *Avatar v. Gundel*, which struck down a provision in a homeowners' association's governing documents that imposed mandatory assessments for "expenses" to fund profits for developer-controlled recreational facilities, by:

- Prohibiting provisions in governing documents requiring association members to pay an assessment for a mandatory membership in a club under the control of the developer or an owner other than the association as against public policy;
- Redefining the term "common area" to include any area for which the developer or other owner requires the association to pay assessments or amenity fees for use or maintenance, and recreational facilities in the governing documents;

- Redefining the term "governing documents" to include all covenants that run with the land and are binding on the association or its members;
- Providing that assessments payable to the developer may not exceed a member's proportional share of expenses set forth in the annual budget of the association;
- Clarifying that the association and its members may sue the developer or other owner of a common area;
- Requiring, after turnover, that the developer or other owner of a common area convey title to the association for any common area not already in the association's name;
- Requiring the owner of a common area or recreational facility to annually prepare the required financial reports that conform to the same type of financial statement that the association serving the residential subdivision is required to prepare or cause to be prepared under s. 720.303(7)(a), F.S., which specifies, based on the association's annual revenue, the type of financial detail the association's annual financial statements must provide;
- Requiring delivery of the financial report and a written notice that a copy of the financial report is available upon request at no charge to the parcel owner; and
- Requiring delivery of the financial report to be made by mail to each lot or parcel owner in the subdivision, publication in a publication regularly distributed within the subdivision, and posting in prominent locations in the subdivision.

The bill takes effect July 1, 2026.

II. Present Situation:

Condominium and Cooperative Associations

Chapters 718 and 719, F.S.

Chapter 718, F.S., relating to condominiums, and ch. 719, F.S., relating to cooperatives, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,[1] recordkeeping requirements, including which records are accessible to the members of the association,[2] and financial reporting.[3] Timeshare condominiums are generally governed by ch. 721, F.S., the "Florida Vacation Plan and Timesharing Act."

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively.

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S,"[4] the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common

[1] *See* ss. 718.112(2) and 719.106(2)(c), F.S., for condominium and cooperative associations, respectively.
[2] *See* ss. 718.111(12) and 719.104(2), F.S., for condominium and cooperative associations, respectively.
[3] *See* ss. 718.111(13) and 719.104(4), F.S., for condominium and cooperative associations, respectively.
[4] Section 718.103(11), F.S.

elements, and members of the condominium association.[5] For unit owners, membership in the association is an unalienable right and required condition of unit ownership.[6]

A condominium association is administered by a board of directors referred to as a "board of administration."[7] The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.[8]

Cooperatives

Section 719.103(12), F.S., defines a "cooperative" to mean:

> [T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.[9] The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.[10]

Homeowners' Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.[11]

A "homeowners' association" is defined as a:[12]

> Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of

[5] *See* s. 718.103, F.S., for the terms used in the Condominium Act.
[6] *Id.*
[7] Section 718.103(4), F.S.
[8] Section 718.103(2), F.S.
[9] *See Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3d DCA 2019), *review dismissed* 2020 WL 3442763 (Fla. 2020).
[10] *See* ss. 719.106(1)(g) and 719.107, F.S.
[11] *See* s. 720.302(1), F.S.
[12] Section 720.301(9), F.S.

> parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.[13]

Homeowners' associations are administered by a board of directors that is elected by the members of the association.[14] The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.[15] The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.[16]

Unlike condominium associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

> The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, [F.S.,] the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407[, F.S.], are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation has limited regulatory authority over homeowners' associations. The division's authority is limited to the arbitration of recall election disputes.[17]

The governing documents of a homeowners' association are:[18]

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[13] Section 720.302(5), F.S.
[14] *See* ss. 720.303 and 720.307, F.S.
[15] *See* ss. 720.301 and 720.303, F.S.
[16] Section 720.303(1), F.S.
[17] Section 720.306(9)(c), F.S.
[18] Section 720.301(8), F.S.

- The recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and
- The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.

Section 720.301(3), F.S., defines a "community" as the real property that is or will be subject to a declaration of covenants which is recorded in the county where the property is located. The term "includes all real property, including undeveloped phases, that is or was the subject of a development-of-regional-impact development order, together with any approved modification thereto."

Milestone Inspections

Section 553.899, F.S., requires residential condominium and cooperative buildings that are three habitable stories or more in height, as determined by the Florida Building Code, to have a milestone inspection by December 31 of the year in which the building reaches 30 years of age. However, if a building reaches 30 years of age before July 1, 2022, the initial milestone inspection must be performed before December 31, 2024. If a building reaches 30 years of age on or after July 1, 2022, and before December 31, 2024, the building's milestone inspection must be performed before December 31, 2025. The local enforcement agency[19] will provide written notice of the required inspection to the association.[20]

Local enforcement agencies that are responsible with enforcing the milestone inspection requirements may set a 25-year inspection requirement if justified by local environmental conditions, including proximity to seawater.[21] Local enforcement agencies may also extend the inspection deadline for a building upon a petition showing good cause that the owner or owners of the buildings have entered into a contract with an architect or engineer to perform the milestone inspection services and the milestone inspection cannot reasonably be completed before the deadline.[22]

Single-family, two-family, three-family, and four-family dwellings with three or fewer stories above ground are exempt from the milestone inspection requirements.

The milestone inspection requirement applies to buildings that in whole or in part are subject to the condominium or cooperative forms of ownership, such as mixed-ownership buildings. Consequently, all owners of a mixed-ownership building in which portions of the building are subject to the condominium or cooperative form of ownership are responsible for ensuring compliance and must share the costs of the inspection.

[19] Section 553.71(5), F.S., defines the term "local enforcement agency" to mean "an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities."
[20] Section 553.899(3), F.S.
[21] Section 553.899(3)(b), F.S.
[22] Section 553.899(3)(c), F.S.

The purpose of a milestone inspection is to determine the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determine the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building.[23] The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the firesafety code.[24] The milestone inspection services may be provided by a team of professionals with an architect or engineer acting as a registered design professional in responsible charge with all work and reports signed and sealed by the appropriate qualified team member.[25]

In addition, s. 553.899, F.S.:

- Requires that a phase one milestone inspection must commence within 180 days after an association receives a written notice from the local enforcement agency.
- Requires that a phase two milestone inspection must be performed if any substantial deterioration is identified during phase one.[26]
- Provides the minimum contents of a milestone inspection report.
- Requires inspection report results to be provided to local building officials and the affected association.
- Requires that the contract between an association that is subject to the milestone inspection requirement and a community association manager (CAM) or CAM firm must require compliance with those requirements as directed by the board.
- Requires the local enforcement agency to review and determine if a building is safe for human occupancy if an association fails to submit proof that repairs for substantial deterioration have been scheduled or begun within at least 365 days after the local enforcement agency receives a phase two inspection report.

Within 45 days after receiving a milestone inspection report, the condominium or cooperative association must distribute a copy of an inspector-prepared summary of the inspection report to each condominium unit owner or cooperative unit owner. The inspector-prepared summary must be provided to unit owners, regardless of the findings or recommendations in the report, by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under ch. 718, F.S., or ch. 719, F.S., as applicable, and by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission. The association must also post a copy of the inspector-prepared summary in a conspicuous place on the condominium or cooperative property and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website.

[23] Section 553.899(2)(a), F.S.
[24] *Id.*
[25] *Id.*
[26] Section 533.899(2)(b), F.S., defines "substantial structural deterioration" to mean "substantial structural distress or substantial structural weakness that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration."

Reserves and Structural Integrity Reserve Studies – Condominiums and Cooperatives

Budgets and Reserves

In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. Reserve accounts must include, but not be limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds $25,000 or the inflation-adjusted amount annually determined by the division.[27]

The amount to be reserved must be computed using a formula based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. Replacement reserve assessments may be adjusted annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance.[28]

Members of unit-owner-controlled associations may waive reserves upon a majority vote of the total voting interests of the association. However, for a budget adopted on or after December 31, 2024, unit-owner-controlled condominium and cooperative associations that must obtain a structural integrity reserve study (SIRS) may not waive reserves. Associations that are required to obtain a SIRS also may not opt to provide less reserves or no reserves than are required for the structural integrity items. Those reserves may not be used for any other purpose than their intended purpose.[29]

A SIRS is a study of the reserve funds required for future major repairs and replacement of the common elements based on a visual inspection. A SIRS is required for condominium buildings that are three or more stories in height.[30]

Before turnover of control to the unit owners, ss. 718.301(4)(p) and 719.301(4)(p), F.S., require the developer to perform a turnover inspection performed by a licensed professional engineer or architect, or a reserve specialist or professional reserve analyst certified by the Community Associations Institute or the Association of Professional Reserve Analysts. These provisions apply to all condominium buildings regardless of when the certificate of occupancy was issued or the height of the building.

However, the SIRS requirement in ss. 718.112(2)(g)6. and 719.106(1)(k)6., F.S., reference a contradictory requirement for a turnover SIRS under ss. 718.301(4)(p) and 719.301(4)(p), F.S., for "each building on the condominium property that is three stories or higher in height."

[27] *See* s. 718.112(2)(f) and 719.106(1)(j), F.S., relating to reserves requirements for condominium and cooperative associations, respectively.
[28] *Id.*
[29] Sections 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively.
[30] *See* ss. 718.112(2)(g) and 719.106(1)(k), F.S., relating to SIRS requirements for condominium and cooperative associations, respectively.

Structural Integrity Reserve Studies

Regarding the funding of reserves for the continued maintenance and repair of condominium and cooperative buildings, ss. 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively, associations that are required to have a SIRS may not waive reserves for the SIRS items or use such reserves for other purposes.

Sections 718.112(2)(g) and 719.106(1)(k), F.S., relating to condominium and cooperative associations, respectively:

- Require condominium associations and cooperative associations to complete a structural integrity reserve study every 10 years for each building in an association that is three habitable stories or higher in height, as determined by the Florida Building Code.
- Require condominium and cooperative associations existing on or before July 1, 2022, that are controlled by non-developer unit owners, to have a SIRS completed by December 31, 2026, for each building on the condominium property that is three stories or higher in height. An association that completes a milestone inspection by December 31, 2026, may complete the SIRS at the same time.
  - This provision is inconsistent with the other SIRS provisions in ss. 718.112(2)(g) and 719.106(1)(k), F.S., relating to condominium and cooperative associations, respectively, which apply the SIRS requirements to each building on the condominium or cooperative property that is three habitable stories or higher in height.
- Require that the study include a visual inspection and state the estimated remaining useful life and the estimated replacement cost of the following items (structural integrity items): roof, structure, fireproofing and fire protection systems, plumbing, electrical systems, waterproofing, windows and exterior doors, and any item with a deferred maintenance or replacement cost that exceeds $10,000.
- Require the visual inspection be performed or verified by a person licensed as an engineer, an architect, reserve specialist, or professional reserve analyst certified by the Community Associations Institute or the Association of Professional Reserve Analysts. However, any qualified person or entity may perform the other components of a SIRS.
- Provide that the SIRS may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost or deferred maintenance expense cannot be determined or for which the estimate of useful life is greater than 25 years, but the study may recommend a deferred maintenance amount for such items.
- Exempt from the SIRS requirement are:
  - Buildings less than three stories in height;
  - Single-family, two-family, three-family, or four-family dwellings with three or fewer habitable stories above ground; and
  - Any portion or component of a building that has not been submitted to the condominium or cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the condominium or cooperative association.

Within 45 days of completion of a SIRS, condominium and cooperative associations must provide unit owners with a notice that the study is available for inspection and copying. The notice may be provided electronically.[31]

[31] Sections 718.112(2)(g)10. and 719.106(1)(k)10., F.S., relating to condominium and cooperative associations, respectively.

Additional Issues

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Recording Board meeting Conducted by Video Conferences – Condominiums

Present Situation

Videoconferences and Condominium Association Meetings

Section 718.112, F.S., provides for the conduct of meetings of the board of administration, committee meetings, meetings of the unit owners, and budget meetings.

Section 718.103(33), F.S., defines the term "videoconference" to mean a real-time audio- and video-based meeting between two or more people in different locations using video-enabled and audio-enabled devices. The notice for any meeting that will be conducted by video conference must have a hyperlink and call-in conference telephone number for unit owners to attend the meeting and must have a physical location where unit owners can also attend the meeting in person. All meetings conducted by video conference must be recorded, and such recording must be maintained as an official record of the association.

Section 718.112(2)(b)5., F.S., provides that a board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present. Associations must use a speaker so that the conversation of members may be heard by the board or committee members attending in person as well as by any unit owners present at a meeting.

Section 718.112(2)(c), F.S., relating to meetings of the board of administration, and s. 718.112(2)(d), F.S., relating to unit owner meetings, require, if the meeting is to be conducted via videoconference, the notice of the meeting to:

- State that such meeting will be via videoconference; and
- Include a hyperlink and a conference telephone number for unit owners to attend the meeting via videoconference, as well as the address of the physical location where the unit owners can attend the meeting in-person.

Additionally, these sections also provide that, if the meeting is conducted via videoconference, the meeting must be recorded and the recording maintained as an official record.

Effect of Proposed Changes

The bill amends s. 718.103(33), F.S., to revise the definition of the term "video conference" to provide that only meetings that are open to the unit owners must be recorded if conducted by video conference and maintained as an official record of the association.

Turnover Inspection Reports – Condominiums and Cooperatives

Present Situation

Section 718.112(2)(g)6., F.S., provides that a condominium developer must have a turnover inspection report in compliance with ss. 718.301(4)(p) and (q), F.S., which consists of a SIRS for each building on the condominium property that is three stories or higher in height. Section 719.106(1)(k)6., F.S., provides an identical SIRS requirement in cooperative associations.

However, under ss. 718.301(4)(p) and (q), F.S., the SIRS requirements for a turnover inspection apply to all buildings on the condominium property regardless of the height of the buildings. Sections 719.301(4)(p) and (q), F.S., provide an identical provision for turnover inspection by developers of cooperative associations.

Effect of Proposed Changes

The bill revises the turnover inspection requirement in s. 718.112(2)(g)6., F.S., to delete the building height requirement for turnover inspection reports under ss. 718.301(4)(p) and (q), F.S., because the SIRS requirements for a turnover inspection report applies to all buildings regardless of the height of the buildings. The bill makes the identical revision in s. 719.106(k)6., F.S., for cooperative associations.

SIRS - Condominiums and Cooperatives

Present Situation

As noted above, condominium and cooperative associations existing on or before July 1, 2022, that are controlled by non-developer unit owners, are required to have a SIRS completed by December 31, 2026, for each building on the condominium property that is three stories or higher in height. An association that completes a milestone inspection by December 31, 2026, may complete the SIRS at the same time.

This provision is inconsistent with the other SIRS provisions in ss. 718.112(2)(g) and 719.106(1)(k), F.S., relating to condominium and cooperative associations, respectively, which apply the SIRS requirements to each building on the condominium or cooperative property that is three habitable stories or higher in height.

Effect of Proposed Changes

The bill amends ss. 718.112(2)(g)7. and 719.106(1)(k)7., F.S. to conform the SIRS requirement in these subparagraphs to the other provisions in these sections which apply to buildings that are "three habitable stories or higher in height."

Electronic Voting – Condominiums

Present Situation

Section 718.128, F.S., allows condominium associations to conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, electronically or in writing, to online voting. To conduct online voting, an association must:

- Provide each unit owner with a method to authenticate the unit owner's identity to the online voting system.
- For elections of the board, provide a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot.
- Provide a method to confirm, at least 14 days before the voting deadline, that the unit owner's electronic device can successfully communicate with the online voting system.

The online voting method used by an association must be:

- Able to authenticate the unit owner's identity.
- Able to authenticate the validity of each electronic vote to ensure that the vote is not altered in transit.
- Able to transmit a receipt from the online voting system to each unit owner who casts an electronic vote.
- For elections of the board of administration, able to permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific unit owner.
- Able to store and keep electronic votes accessible to election officials for recount, inspection, and review purposes.

If a unit owner votes electronically, they must be counted as being in attendance at the meeting for purposes of determining a quorum.[32]

If the board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting. Association boards must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after giving consent.[33]

Associations that authorize online voting must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting. The board resolution to authorize online voting must provide that unit owners receive notice of the opportunity to vote through an online voting system, must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after giving consent.[34] A unit owner’s option to vote online is valid until the unit owner opts out of online voting according to the procedures established by the board.[35]

[32] Section 718.128(3), F.S.
[33] Section 718.128(3), F.S.
[34] Section 718.128(4), F.S.
[35] Section 718.128(5), F.S.

If at least 25 percent of the voting interests of a condominium petition the board to adopt a resolution for electronic voting for the next scheduled election, the board must hold a meeting within 21 days after receipt of the petition to adopt such resolution. The board must receive the petition within 180 days after the date of the last scheduled annual meeting.[36]
If the association has not adopted electronic voting in accordance with ss. 718.128(1)-(6), F.S., the association must designate an e-mail address for receipt of electronically transmitted ballots. Electronically transmitted ballots must meet the following requirements:[37]

- Allow a unit owner to electronically transmit a ballot to the e-mail address designated by the association without complying with s. 718.112(2)(d)4.,F.S., or the rules providing for the secrecy of ballots adopted by the division.[38]
- The association must count completed ballots that are electronically transmitted to the designated e-mail address.

A ballot that is electronically transmitted to the association must include all of the following:[39]

- A space for the unit owner to type in his or her unit number.
- A space for the unit owner to type in his or her first and last name, which also functions as the signature of the unit owner for purposes of signing the ballot.
- Include a statement in capitalized letters and in a font size larger than any other font size used in the e-mail from the association to the unit owner that waiving the secrecy of their ballot is their choice and they do not have to waive the secrecy of their ballot in order to vote, but that the unit owner will waive the secrecy of their ballot by transmitting this completed ballot electronically.

Effect of Proposed Changes

The bill amends s. 718.128, F.S., to revise the provisions authorizing the delivery of ballots by email, to further provide that the electronic voting provisions apply to voting by email, independent website, application, or Internet web portal. The bill makes conforming changes throughout this section.

The bill corrects the cross-reference in s. 718.128(7)(b), F.S., to s. 718.112(2)(d)3., F.S., which references the secrecy of ballots, in place of s. 718.112(2)(d)4., F.S., which relates to notice requirements for meetings.

Access to Official Records – Condominium and Homeowners' Associations

Present Situation

Condominium and homeowners' associations must maintain specified official records.[40] Certain of these records must be accessible to the members of an association when a member of the

[36] Section 718.128(6), F.S.
[37] Sections 718.128(7(a) and (b)), F.S.
[38] Section 718.112(2)(d)4., F.S., relates to meeting notices. Section 718.112(2)(d)3.,F.S., provides that elections must be by secret ballot.
[39] Section 718.128(7)(c), F.S.
[40] Section 718.111(12)(a), F.S., relating to condominium associations, and s. 720.303(4), F.S., relating to homeowners' associations.

association or a representative of the owners makes a written request to inspect and copy the records.[41] Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.[42]

Criminal Prohibitions

Section 718.112(2)(c)2., F.S., provides that a director or member of the board of a condominium association or a community association manager who "willfully and knowingly or intentionally violates" the provisions related to the right of a unit owner to inspect and copy official records of the association commits a misdemeanor of the second degree[43] and must be removed from office and a vacancy declared.[44]

However, s. 720.303(5)(d), F.S., provides that any director or member of the board of a homeowners' association or a community association manager who knowingly and willfully, and repeatedly violates the provision related to the right of a unit owner to inspect and copy official records of the association, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the second degree. The term "repeatedly" is defined to mean two or more violations within a 12-month period.

Section 718.112(2)(c)4., F.S., provides that a person who willfully and knowingly or intentionally refuses to release or otherwise produce condominium association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree[45] and must be removed from office and a vacancy declared.

Section 720.303(5)(f), F.S., provides that any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree.

Section 720.303(5)(i), F.S., provides that, if a homeowners' association receives a subpoena for records from a law enforcement agency, the association must provide a copy of such records or otherwise make the records available for inspection and copying to a law enforcement agency within 5 business days after receipt of the subpoena, unless otherwise specified by the law

[41] Section 718.111(12)(c), F.S., relating to condominium associations, and s. 720.303(5), F.S., relating to homeowners' associations.
[42] Section 718.111(12)(c)5., F.S., relating to condominium associations, and s. 720.303(5)(g), F.S., relating to homeowners' associations.
[43] Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed $500.
[44] See s. 718.112(2)(q), F.S., relating to condominium associations, and s. 720.3033(4), F.S., relating to homeowners' associations, provide that an officer or director of a condominium or homeowners' association, respectively, who is charged by information or indictment of violating any of the criminal prohibitions in the applicable chapter must be removed from office.
[45] Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed $5,000.

enforcement agency or subpoena. In addition, associations must assist a law enforcement agency with investigations to the extent permissible by law. Chapter 718, F.S., does not have a comparable provision for condominium associations.

Effect of Proposed Changes

The bill revises several provisions in chs. 718 and 720, F.S., to conform criminal provisions related to denying an owner's right to inspect and copy official records of condominium and homeowners' associations, respectively.

The criminal prohibition in s. 718.111(12)(c)2., F.S., relating to condominium associations, is amended by the bill to provide that a director or member of the board or association or a community association manager who willfully and knowingly violates access to official records requirements in this paragraph commits a misdemeanor of the second degree. The bill deletes the requirement that the violation must be intentional.

The comparable provision for homeowners' associations in s. 720.303(5)(d), F.S., is amended by the bill to delete the requirements that a person must repeatedly violate the access to official records requirements in this subsection. The bill also deletes the provision defining the term "repeatedly" to mean two or more times within a 12-month period.

The criminal prohibition in s. 718.111(12)(c)4., F.S., relating to condominium associations, is amended by the bill to provide that a person commits a misdemeanor of the second degree if they willfully and knowingly refuse to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape. The bill deletes the requirement that the violation must be intentional.

The comparable criminal prohibition in s. 720.303(5)(f), F.S., relating to homeowners, is substantively identical to s. 718.111(12)(c)4., F.S., as amended by the bill.

The bill amends s. 720.303(5)(a), F.S., to provide that the official records of homeowners' associations are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times.

The bill amends s. 720.303(5)(i)1., F.S., to require homeowners' associations to provide law enforcement agencies and prosecuting agencies as defined in s. 112.531, F.S., with records requested by those agencies in response to a subpoena or written request for records. Current law only requires homeowners' associations to provide records in response to a subpoena from a law enforcement agency. Under the bill, associations must provide the records within 5 business days after receipt of the subpoena, unless otherwise specified by the law enforcement agency, prosecuting agency, or subpoena or written request, and must assist a law enforcement agency and a prosecting agency in its investigation to the extent permissible by law.

The bill also creates s. 720.303(5)(i)2., F.S., to provide that a director or member of the board or association or a community association manager who willfully and knowingly fails to provide a

copy of records, or otherwise fails to make the records available for inspection and copying, to a law enforcement agency or prosecuting agency commits a misdemeanor of the second degree.

The bill creates s. 718.111(12)(c)6.a., F.S., to provide a requirement for condominium associations that is identical to that provided by the bill in s. 720.303(5)(i)1., F.S.
The bill also creates s. 718.111(12)(c)6.b., F.S., to provide a criminal prohibition in the context of condominium associations that is identical to that provided by the bill in s. 720.303(5)(i)2., F.S., for homeowners' associations.

Homeowners' Association Amenities and Assessments

Present Situation

Definitions

The governing documents of a homeowners' association describe the manner in which expenses are shared.

Section 720.301(1), F.S., defines the term "assessment" or "amenity fee" to mean

> …a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.

Section 720.308(1), F.S., provides that assessments levied to members must be in the member's proportional share.

Section 720.301(2), F.S., defines the term "common area" means all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members, including, regardless of whether title has been conveyed to the association:

- Real property the use of which is dedicated to the association or its members by a recorded plat; or
- Real property committed by a declaration of covenants to be leased or conveyed to the association.

Section 720.301(8), F.S., defines the term "governing documents" to mean:

- The recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and
- The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.

Financial Reporting for Common Areas and Recreational Facilities

Section 720.3086, F.S., requires the developer of a subdivision or the owners of the common areas, recreational facilities, and other properties serving the lots or parcels to complete an

annual financial report of the receipts of mandatory maintenance or amenity fees received and an itemized listing of the resulting expenditures. Within 60 days following the end of each fiscal year, the report must be made public by:

- Mailing it to each lot or parcel owner in the subdivision;
- Publishing it in a publication regularly distributed within the subdivision; or
- Posting it in prominent locations in the subdivision.

Section 720.3086, F.S., does not apply to amounts paid to homeowners associations pursuant to ch. 617, F.S., relating to corporations not for profit, ch. 718, F.S., relating to condominium associations, ch. 719, F.S., relating to cooperative associations, ch. 721, F.S., relating to vacation and timeshare plans, or ch. 723, F.S., relating to mobile home park tenancies, or to amounts paid to local governmental entities, including special districts.

In contrast, every homeowners' association is required to prepare an annual budget that sets out the annual operating expenses. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association must provide each member with:

- A copy of the annual financial report; or
- A written notice that a copy of the financial report is available upon request at no charge to the member.

The financial statements for homeowners' associations[46] must be based upon the association's total annual revenues, as follows:[47]

- An association with total annual revenues of $150,000 or more, but less than $300,000, shall prepare compiled financial statements.
- An association with total annual revenues of at least $300,000, but less than $500,000, must prepare reviewed financial statements.
- An association with total annual revenues of $500,000 or more must prepare audited financial statements.
- An association with at least 1,000 parcels must prepare audited financial statements, notwithstanding the association's total annual revenues.

Avatar Properties, Inc. v. Gundel

The recent case of *Avatar Properties, Inc. v. Gundel*[48] *(Avatar)* involved the developer of a community that required homeowners to pay "club" assessments that included (1) actual expense assessments and (2) a club membership fee that generated pure profit for the developer. Homeowners could have their homes be foreclosed if they failed to pay any of these fees. The club was not controlled by the homeowners' association. The court case revolved around the question of whether such mandatory assessments for "expenses" could include funds that

[46] Section 718.111(13), F.S., provides comparable requirements for financial statements by condominium associations.
[47] See National Council of Nonprofits, *What is a Review or Compilation?* at https://www.councilofnonprofits.org/running-nonprofit/nonprofit-audit-guidec/what-review-or-compilation (last visited Jan. 31, 2026), explaining the different types of financial statements.
[48] *Avatar Properties, Inc., v. Gundel*, 372 So.3d 715 (Fla. 6th DCA 2023).

ultimately result in profits for a third party which operates recreational facilities in the community, such as club houses, restaurants, and pools.

In *Avatar*, the court held that ch. 720, F.S., applies to the community structure at issue, and the statutory limits on assessments govern what can be imposed on homeowners because, under s. 720.308, F.S., assessments are allowed only for a proportionate share of actual expenses, not for a guaranteed profit to the developer.

Although the court held in *Avatar* for the nondeveloper homeowners seeking to have the fees generating profits struck down, there remains some uncertainty regarding the legality of such fees due to the varied nature of these contractual relationships throughout the state in different associations.

Effect of Proposed Changes

The bill revises several provisions in ch. 720, F.S., relating to homeowners' association, to codify the holding in Avatar v. Gundel, which struck down a provision in an association's governing documents that imposed mandatory assessments for "expenses" to fund profits for developer-controlled recreational facilities in the community.

Definitions

The bill amends s. 720.301(2), F.S., to revise the definition of the term "common area" to include:

- Real property for which the developer or other owner of common areas has required, in the governing documents or otherwise, the association or its members to pay assessments or amenity fees for use or maintenance; and
- Recreational facilities and other properties serving the parcels which the governing documents allow the owner of a parcel to access, use, or enjoy as a benefit of parcel ownership.

The bill amends s. 720.301(8), F.S., to revise the definition of the term "governing documents" to include all covenants running with the land that are binding on the association or its members.

Applicability of Ch. 720, F.S.

The bill amends s. 720.3052(3)(b), F.S., to revise the exemption from the applicability of ch. 720, F.S., for commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use to provide that this exemption does not affect the applicability of ch. 720, F.S., to any residential parcel, common area, and the developer or other owner of a common area.

Right to Sue

The bill amends s. 720.305(1), F.S., to provide that an association or any of its members has the right to initiate actions at law or equity, or both, to redress an alleged failure or refusal to comply with the provisions of ch. 720, F.S., against the developer or other owner of a common area

regardless of whether the developer or other owner of common areas is a member of the association. Current law only references the right to sue the association, a member, any director or officer of an association who willfully and knowingly fails to comply with these provisions, and any tenants, guests, or invitees occupying a parcel or using the common areas.

Transition of Association Control

The bill amends s. 720.307(4), F.S., relating to the documents that a developer must, at their own expense, deliver to the board of directors of the homeowners' association within 90 days after the time the members are entitled to elect at least a majority of the board of directors. The bill amends this provision to require the developer or other owner of any common area to convey to the association all deeds to common area property owned by the association and for any common area not already titled in the association's name. Current law only references the delivery by developers of deeds for association property.

The bill requires the developer to deliver to the association all tangible property for which the association or its members, through assessments or other mandatory payments under the governing documents, are responsible for the cost of operation and maintenance. Current law only requires the developer to deliver all tangible property of the association.

The bill also amends s. s. 720.307(4)(t), F.S., relating to the financial records, including financial statements, that the developer must deliver to the association after turnover of control of the association to the non-developer parcel owners, to include financial records for common areas.

Prohibited Clauses in Association Documents

The bill amends s. 720.3075(1), F.S., which declares that the public policy of Florida prohibits the enforcement of certain types of clauses in association documents, to include prohibitions against enforcing provisions that:

- Require the association or its members to pay an assessment for mandatory membership in a club under the control and ownership of the developer or any person other than the association, and which provide that nonpayment of such mandatory fee is enforceable by the developer, or any person other than the association, by a lien on any individual parcel; and
- Prohibit or restrict the association or any of its members from filing or prospectively waiving the ability to protest or seek any remedy for a violation of ch. 720, F.S.

Assessments

The bill creates s. 720.308(1)(e), F.S., to provide that assessments payable to the developer or other owner of a common area shall not exceed the member's proportional share of the expenses set forth in the annual budget approved by the association.

Financial Report for Common Areas and Recreational Facilities

The bill amends s. 720.3086, F.S., to revise the requirements for the financial statements that owners of common areas and recreational facilities and other properties serving the lots or parcels must annually provide to parcel or lot owners. The bill requires that the financial report

must conform to the same type of financial statement that the association serving the residential subdivision is required to prepare or cause to be prepared under s. 720.303(7)(a), F.S.

The bill also requires the owners of common areas and recreational facilities to deliver to parcel and lot owners the financial report and a written notice that a copy of the financial report is available upon request at no charge to the parcel owner. The delivery must be made by mail to each lot or parcel owner in the subdivision, publication in a publication regularly distributed within the subdivision, and posting in prominent locations in the subdivision. Current law only requires the financial report to be delivered by mail or by posting on in prominent locations in the subdivision. Current law also does not require the delivery of a written notice stating that a copy of the financial report is available upon request at no charge to the parcel or lot owner.

Effective Date

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.103, 718.111, 718.112, 718.128, 719.106, 720.301, 720.302, 720.303, 720.305, 720.307, 720.3075, 720.308, and 720.3086.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 3, 2026:
The committee substitute:

- Corrects the cross-reference in s. 718.128(7)(b), F.S., to s. 718.112(2)(d)3., F.S., from s. 718.112(2)(d)4., F.S.
- Amends the criminal prohibition in s. 718.111(12)(c)2., F.S.
- Amends the criminal prohibition in s. 718.112(2)(c)4., F.S.
- Creates s. 718.111(12)(c)6.a., F.S., to require homeowners' associations to provide law enforcement agencies and prosecuting agencies as defined in s. 112.531, F.S., with records requested by those agencies in response to a subpoena or written request for records.
- Creates s. 718.111(12)(c)6.b., F.S., to provide that a director or member of the board or association or a community association manager who willfully and knowingly fails to provide a copy of records, or to otherwise fails to make the records available for inspection and copying, to a law enforcement agency or prosecuting agency commits a misdemeanor of the second degree.
- Amends s. 720.303(5)(a), F.S., to provide that the official records of homeowners' associations are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times.
- Amends the criminal prohibition in s. 720.303(5)(d), F.S.
- Amends the criminal prohibition in s. 720.303(5)(f), F.S.
- Amends s. 720.303(5)(i)1., F.S., to require homeowners' associations to provide law enforcement agencies and prosecuting agencies as defined in s. 112.531, F.S., with records requested by those agencies in response to a subpoena or written request for records.

- Creates s. 720.303(5)(i)2., F.S., to provide that a director or member of the board or association or a community association manager who willfully and knowingly fails to provide a copy of records, or to otherwise make the records available for inspection and copying, to a law enforcement agency or prosecuting agency commits a misdemeanor of the second degree.
- Amends s. 720.301(2), F.S., to revise the definition of the term "common area."
- Amends s. 720.301(8), F.S., to revise the definition of the term "governing documents."
- Amends s. 720.3052(3)(b), F.S., to revise an exemption from the applicability of ch. 720, F.S.
- Amends s. 720.305(1), F.S., to provide that an association or any of its members has the right to initiate actions at law or equity, or both, to redress alleged an failure or refusal to comply with the provisions of ch. 720, F.S., against the developer or other owner of a common area regardless of whether the developer or other owner of common areas is a member of the association.
- Amends s. 720.307(4), F.S., to revise the documents that a developer must deliver to the board of directors of the homeowners' association after turnover of control of the association to the non-developer homeowners.
- Amends s. 720.3075(1), F.S., to revise the prohibition against the enforcement of certain types of clauses in association documents.
- Creates s. 720.308(1)(e), F.S., to provide that assessments payable to the developer or other owner of a common area shall not exceed the member's proportional share of the expenses set forth in the annual budget approved by the association.
- Amends s. 720.3086, F.S., to revise the requirements for the financial statements that owners of common areas and recreational facilities and other properties serving the lots or parcels must annually provide to parcel or lot owners.

B. Amendments:

None.