

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/CS/HB 657](#)

**TITLE:** Community Associations

**SPONSOR(S):** Porras

**COMPANION BILL:** [CS/SB 1498](#) (Bradley)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Housing, Agriculture & Tourism](#)

16 Y, 0 N, As CS

[Civil Justice & Claims](#)

14 Y, 1 N, As CS

[Budget](#)

[Commerce](#)

## SUMMARY

### Effect of the Bill:

The bill:

- Requires new homeowners' associations (HOAs) and condominium associations (COAs) to include "Kaufman" language in their governing documents, which language effectively subjects an HOA or COA, as applicable, to Florida's current community association laws and any future enactments.
- Requires existing HOAs and COAs to vote on whether or not to amend their governing documents to include "Kaufman" language.
- Allows HOAs to be terminated pursuant to a plan of termination that meets certain requirements and specifies that the governing documents of a dissolved HOA are deemed terminated and unenforceable.
- Specifies that HOA directors, officers, and committee members have a duty of loyalty to the HOA and its members and defines what constitutes a conflict of interest for such persons.
- Eliminates presuit mediation requirements for community associations.
- Authorizes each circuit court to create a community association court program with jurisdiction over disputes arising under the Condominium Act, Cooperative Act, or Homeowners' Association Act, which programs are to be funded by an appropriation to the Department of Business and Professional Regulation.
- Defines the term "financial statements" within the HOA Act.

### Fiscal or Economic Impact:

The House of Representatives' proposed General Appropriations Act authorizes twelve full-time equivalent positions and provides \$1,000,000 from the General Revenue Fund and \$1,210,396 from the State Courts Revenue Trust Fund to implement the provisions of the bill, contingent upon its passage.

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## ANALYSIS

### EFFECT OF THE BILL:

#### Presuit Mediation Requirements for Community Associations

The bill eliminates [presuit mediation](#) requirements for [community associations](#). (Sections [3](#), [5](#), and [8](#).)

#### Community Association Court Program

The bill allows a circuit court to create and administer a community association court program. Under the bill, a chief judge of a judicial circuit that creates a community association court program must designate at least one judge to preside over the program. The bill authorizes the chief judge to issue administrative orders concerning the community association court program. (Sections [3](#) and [10](#).)

The bill specifies that a community association court program has jurisdiction over disputes, including any related termination or enforcement proceedings, arising under Florida's Condominium Act, Cooperative Act, or

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Homeowners' Association Act. The bill authorizes a community association court program to do all of the following:

- Enforce all statutory rights of unit owners and parcel owners.
- Verify and compel compliance with all statutory requirements by community associations, boards of administration, and officers or directors of such boards.
- Order the Department of State to dissolve a community association.
- Appoint a termination trustee to manage the distribution of association assets and resolution of liabilities.
- Impose civil penalties for violations of statutory rights.
- Issue injunctive relief as appropriate.
- Award reasonable attorney fees and costs as appropriate. (Section [10](#).)

The bill requires the chief judge in each judicial circuit in which a community association court program is created to submit a report that summarizes the caseload of each community association court program and the outcomes of such caseload to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year. (Section [10](#).)

The bill requires the Office of the State Courts Administrator to establish procedure, staffing, and reporting requirements for the operation of a community association court program. (Section [10](#).)

The bill specifies that the costs associated with the creation, operation, and compliance and enforcement duties of a community association court program will be funded through a general revenue appropriation to the Department of Business and Professional Regulation. (Section [10](#).)

### **Dissolution of Homeowners' Associations**

The bill creates the Homeowners' Association Dissolution and Accountability Act under which an HOA may be terminated by a plan of termination that meets certain requirements specified by the bill. (Section [9](#).)

To initiate the process for terminating an HOA under the bill, a parcel owner must provide a petition for a plan of termination that has been signed by at least 50 percent of the voting interests of the HOA to the board of administration. Within 60 days of receiving such a petition, the bill requires the board to hold a meeting of the members, the notice for which must be made in accordance with [s. 720.303\(2\), F.S.](#)<sup>1</sup> and include the following information:

- A copy of the proposed plan of termination;
- An explanation of how the common areas and the assets of the HOA will be managed or transferred; and
- The manner in which voting will take place. (Section [9](#).)

### ***Voting Requirements***

The bill requires a plan of termination to be approved by at least two-thirds of the total voting interests of an HOA, subject to the following conditions:

- The total voting interests must include all voting interests of the HOA for purposes of voting on a plan of termination.
- A voting interest may not be suspended for any reason when voting on a plan of termination.
- If the members of an HOA reject a plan of termination, a subsequent plan of termination may not be considered for at least 18 months after the date of the rejection. (Section [9](#).)

The bill specifies that a parcel owner desiring to reject a plan of termination must do so by voting to reject the plan in person or by proxy, or by delivering a written objection to the HOA before or at the meeting called for the purpose of voting on the plan. The bill prohibits a voting interest from being suspended for any reason for

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<sup>1</sup> [Section 720.303\(2\)\(c\), F.S.](#), specifies notice requirements for board meetings of an HOA, unless different requirements are specified in an HOA's bylaws.

purposes of signing a petition for a plan of termination or determining whether the 50 percent threshold for such petition has been met. (Section 9.)

### ***Approval by a Community Association Court Program***

If a plan of termination is approved by an HOA, the bill requires the HOA's board to submit the approved plan to the community association court program in the judicial circuit where the HOA is located, or, if none, to a court of competent jurisdiction. Within 45 days of receiving a plan of termination, the court must examine the plan and notify the HOA by mail of any procedural deficiencies or that the plan is accepted. If a plan is accepted, the termination may proceed as authorized. The bill specifies that a plan of termination is deemed to be accepted if a court fails to provide the required notice within the 45-day time period. (Section 9.)

The bill requires the board to record an approved plan of termination<sup>2</sup> that has been accepted by a court in the public records of each county in which any portion of the HOA is located. The bill specifies that a plan of termination becomes effective upon recordation,<sup>3</sup> at which point title to the HOA's property vests in a termination trustee. (Section 9.)

### ***Termination Trustee***

The bill specifies that the board serves as an HOA's termination trustee unless a different person is appointed in a plan of termination, in which case the board must transfer any HOA property to that trustee. A termination trustee is vested with the powers given by an HOA's declaration and bylaws, in addition to certain other powers specified by the bill. The bill provides that the approval of a plan of termination does not terminate an HOA's board, which must continue in existence following approval of the plan with all powers and duties the board had before approval of the plan. (Section 9.)

The bill authorizes and requires an HOA's board to take the following actions after the approval of a plan of termination, notwithstanding any provision to the contrary in the HOA's declaration or bylaws:

- Employ directors, agents, attorneys, and other professionals to liquidate or conclude the affairs of the board.
- Conduct the affairs of the HOA as necessary for the liquidation or termination of the HOA.
- Carry out contracts and collect, pay, and settle debts and claims for and against the HOA.
- Defend suits brought against the HOA.
- Sue in the name of the HOA for all sums due or owed to the HOA or to recover any HOA property.
- Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other HOA property in compliance with applicable codes.
- Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the HOA for an amount deemed to be in the best interests of the HOA, and execute bills of sale and deeds of conveyance in the name of the HOA.
- Collect and receive rents, profits, accounts receivable, income, maintenance fees, special assessments, or insurance proceeds for the HOA.
- Contract and do anything in the name of the HOA which is proper or convenient to terminate the affairs of the HOA. (Section 9.)

The bill requires all HOA assets remaining after the payment of any debts to be distributed equally among members or as otherwise provided in a plan of termination. The bill prevents a member from being subject to personal liability for unpaid obligations of the HOA beyond the member's regular assessments or special assessments, as such assessments existed before the vote approving the termination. (Section 9.)

### ***Ability to Petition a Court to Compel Compliance***

<sup>2</sup> And the consents or joinders of parcel owners thereto. (Section 7.)

<sup>3</sup> Unless a later date is specified in the plan of termination. (Section 7.)

The bill authorizes a member of an HOA to petition the community association court program in the judicial circuit in which the HOA is located, or, if none exists, a court of competent jurisdiction, for an order compelling compliance with the bill's provisions if any of the following occurs:

- The board fails to call a meeting to vote on a plan of termination within the 60-day time period required by the bill.
- The board is unable, unwilling, or fails to act as termination trustee.
- The board refuses or fails to record the plan of termination or otherwise obstructs the termination process. (Section [9](#).)

The bill authorizes a court to verify compliance with the procedural requirements of a plan of termination under the bill, including all voting requirements; order the Department of State to dissolve the HOA; and appoint a termination trustee to manage the distribution of assets and resolution of liabilities of a dissolved HOA. (Section [9](#).)

The bill specifies the following actions by an HOA or an HOA's officers or directors are unlawful:

- Failing to call or notice a meeting after receipt of a valid petition for a plan of termination.
- Spending HOA funds to campaign for or against a plan of termination.
- Concealing any financial or property records relevant to a plan of termination. (Section [9](#).)

The bill provides that an officer or director who violates the above provisions is subject to:

- A civil penalty of up to \$5,000 per violation.
- Removal from office by court order.
- Personal liability for legal fees incurred by the petitioners. (Section [9](#).)

### ***Governing Documents and Easements of a Dissolved HOA***

The bill specifies that, upon the dissolution of an HOA, its governing documents which were recorded in the official records of a county are deemed terminated and unenforceable. The bill prohibits the recorded governing documents of a dissolved HOA from being construed to create any rights for the general public or any successor entity unless expressly provided by law. The bill requires the clerk of the circuit court to, upon receipt of a certified copy of an HOA's articles of dissolution, mark or otherwise indicate in the county's official records that the HOA's governing documents are terminated and inactive. (Section [1](#).)

The bill requires an exclusive easement created for the benefit of an HOA or its members to revert to the servient estate<sup>4</sup> upon dissolution of the HOA if the owner of the servient estate has continuously paid his or her ad valorem taxes on the land encumbered by the easement. Upon reversion, the bill provides that the exclusive easement is extinguished and that the owner of the servient estate regains full rights of ownership, possession, and control of the land encumbered by such easement. (Section [1](#).)

The bill prohibits an easement formerly held by an HOA from becoming a public right-of-way, trail, or access route unless a separate, valid written notice in accordance with [s. 712.06, F.S.](#), has been recorded to preserve the easement for the benefit of the public. (Section [1](#).)

These provisions in the bill do not impair or extinguish easements, covenants, or restrictions benefiting individual property owners which were separately recorded or preserved under ch. 712, F.S., the [Marketable Record Title Act](#). (Section [1](#).)

These provisions apply prospectively and retroactively to HOAs dissolved before, on, or after July 1, 2026. (Section [1](#).)

### **"Kaufman" Language**

<sup>4</sup> "Servient estate" means the real property burdened by an easement. (Section [1](#))

The bill requires each condominium association (COA) and homeowners' association (HOA) formed on or after July 1, 2026, to include certain language in its governing documents that effectively subjects the COA or HOA, as applicable, and its governing documents to the current laws governing such associations and any future amendments to those laws. This is known as "Kaufman" language. (Sections [2](#) and [6](#).)

The bill requires COAs and HOAs in existence before July 1, 2026 to hold a meeting of their members by January 1, 2027, to vote whether to amend their governing documents to include Kaufman language. The bill specifies that the decision to include Kaufman language in a COA's or HOA's governing documents requires, at a meeting of the members at which a quorum has been attained:

- The affirmative approval of a majority of the voting interests of an HOA.
- The affirmative approval of the owners of two-thirds of the units of a COA. (Sections [2](#) and [6](#).)

### **Conflict of Interest**

The bill creates a duty of loyalty for HOA directors, officers, and committee members to the association and its members. The bill specifies that:

- A conflict of interest exists when a director, officer, or committee member of an HOA has a direct or indirect financial interest in a transaction, contract, or decision under consideration by the HOA.
- Compensating or contracting with a director, officer, or committee member, or an immediate family thereof, creates a rebuttable presumption of a conflict of interest. (Section [6](#).)

The bill requires an HOA director, officer, or committee member with a conflict of interest to disclose the nature and extent of the interest in writing to the board of the HOA before any discussion or vote on the matter. The bill prohibits the interested director, officer, or committee member from participating in any discussion or vote on the matter. (Section [6](#).)

The bill provides that a transaction involving a conflict of interest is voidable by an HOA unless the transaction was approved by a majority of the voting interests of the HOA after full disclosure by the interested director, officer, or committee member. (Section [6](#).)

The bill's provisions relating to conflicts of interest may not be waived or limited in an HOA's governing documents. (Section [6](#).)

### **Official Records**

The bill amends the HOA Act to define the term "financial statements," which statements the HOA must, under current law, retain as part of its official records. Specifically, under the bill, the term "financial statements" means a comprehensive report prepared in accordance with generally accepted accounting principles which accurately reflects the financial condition and operation of an HOA for a specified reporting period. This report must include, at a minimum, a balance sheet; an income and expense statement; a budget comparison; and a complete set of bank statements, including copies of check images for all disbursements the HOA made during the reporting period, for each bank account belonging to the HOA. (Section [4](#).)

### **Miscellaneous Provisions**

The bill conforms cross-references due to changes made by the act. (Sections [11](#), [12](#), [13](#), [14](#), [15](#), [16](#), [17](#), [18](#), [19](#), [20](#), and [21](#).)

The bill has an effective date of July 1, 2026. (Section [22](#).)

## **FISCAL OR ECONOMIC IMPACT:**

### **STATE GOVERNMENT:**

The proposed House of Representatives' General Appropriations Act authorizes twelve full-time equivalent positions, with associated salary rate of 1,257,504, and provides \$1,000,000 in recurring funds from the General

Revenue Fund, as well as \$1,170,196 in recurring funds and \$40,200 in nonrecurring funds from the State Courts Revenue Trust Fund to implement the community association court program, contingent upon passage of the bill. The funds are provided for two additional judgeships in the Eleventh Judicial Circuit, and one judgeship each in the Thirteenth and Seventeenth Judicial Circuits, as well as associated staff. If future needs associated with implementing community association court programs exceed available resources, the State Court System may request additional funding through the traditional Legislative Budget Request process outlined in [s. 216.023, F.S.](#)

#### PRIVATE SECTOR:

The bill may have an indeterminate positive impact on community associations and their members to the extent that the community association court program results in more resolved disputes. The bill may also have an indeterminate impact on homeowners' associations that wish to dissolve and terminate. A request for a formal analysis was submitted to the Department of Business and Professional Regulation on December 17, 2025.

## RELEVANT INFORMATION

#### SUBJECT OVERVIEW:

##### Community Associations

A community association is a residential association in which membership is a condition of ownership of a unit in a planned unit development, or of a lot for a home or a mobile home, or of a townhouse, villa, condominium, cooperative, or other residential unit which is part of a residential development scheme and which is authorized to impose a fee which may become a lien on the parcel.<sup>5</sup>

The table below summarizes the three major types of community associations recognized in Florida,<sup>6</sup> the Florida laws that govern them, and the type of ownership specific to each association:

Community Association	Ownership Structure	Governed By
<a href="#">Condominium Association</a>	"Condominium" means that form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements. <sup>7</sup>	Ch. 718, F.S.
<a href="#">Cooperative Association</a>	"Cooperative" means that 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 cooperative association and a lease or other evidence of title or possession granted by the cooperative association as the owner of all the cooperative property. <sup>8</sup>	Ch. 719, F.S.
<a href="#">Homeowners' Association</a>	"Homeowners' association" means a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is	Ch. 720, F.S.

<sup>5</sup> [S. 468.431\(1\), F.S.](#)

<sup>6</sup> Other community associations recognized in Florida include vacation and timeshare plans. See [ch. 721, F.S.](#)

<sup>7</sup> [S. 718.103\(12\), F.S.](#)

<sup>8</sup> [S. 719.103\(12\), F.S.](#)

	authorized to impose assessments that, if unpaid, may become a lien on the parcel. <sup>9</sup>	
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### **Presuit Mediation Requirements for Community Associations**

Under Florida law, certain disputes between a homeowners' association (HOA) and a parcel owner are subject to presuit mediation before the dispute is filed in court.<sup>10</sup> The disputes subject to presuit mediation include disputes regarding:

- The use of or changes to a parcel or the common areas and other covenant enforcement disputes.
- Amendments to an association's documents.
- Meetings of the board and committees appointed by the board.
- Member meetings *not* including election or recall disputes.
- Access to the official records of the association.<sup>11</sup>

Presuit mediation proceedings for community associations must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and such proceedings are privileged and confidential to the same extent as court-ordered mediation.<sup>12</sup>

The failure of a party to respond to a demand or response for presuit mediation, agree upon a mediator, make payment of fees and costs within the time established by the mediator, or appear for a scheduled mediation session without the approval of the mediator entitles the other party to proceed in court and seek an award of the costs and fees associated with the mediation.<sup>13</sup> A party's failure or refusal to participate in the mediation process bars the recovery of any fees and costs by such party in subsequent litigation relating to the dispute.<sup>14</sup>

### **Conflict of Interest for HOA Directors and Officers**

The Florida Homeowners' Association Act<sup>15</sup> requires directors and officers of an HOA to disclose to the HOA any activity that may be reasonably construed to be a conflict of interest at least 14 days before voting on an issue or entering into a contract that is the subject of the conflict.<sup>16</sup> A rebuttable presumption of a conflict of interest exists if any of the following acts occur without prior disclosure to the HOA:

- A director or an officer, or a relative of a director or an officer, enters into a contract for goods or services with the HOA.
- A director or an officer, or a relative of a director or an officer, holds an interest in a corporation, limited liability company, partnership, limited liability partnership, or other business entity that conducts business with the HOA or proposes to enter into a contract or other transaction with the HOA.<sup>17</sup>

### **Official Records**

The HOA Act requires an HOA to maintain specified documents, which constitute the HOA's official records, for at least 7 years, unless the HOA's governing documents require retention for a longer time period. Such documents include copies of the HOA's governing documents and:

- The minutes of all board and member meetings.

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<sup>9</sup> [S. 720.301\(9\), F.S.](#) The term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to statute.

<sup>10</sup> See [s. 720.311, F.S.](#)

<sup>11</sup> [S. 720.311\(2\)\(a\), F.S.](#)

<sup>12</sup> *Id.*

<sup>13</sup> [S. 720.311\(2\)\(b\), F.S.](#)

<sup>14</sup> *Id.*

<sup>15</sup> Ch. 720, F.S.

<sup>16</sup> [S. 720.3033\(6\)\(b\), F.S.](#)

<sup>17</sup> [S. 720.3033\(6\)\(b\)1.-2., F.S.](#)

- A current roster of all members and their designated mailing addresses and parcel identifications.
- All of the HOA's insurance policies or a copy thereof.
- A current copy of all contracts to which the HOA is a party.
- All tax returns, financial statements,<sup>18</sup> and financial reports of the HOA.
- A copy of the disclosure summary.
- Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least one year after the date of the election, vote, or meeting.
- All other written records of the HOA not specifically named which are related to the HOA's operation.<sup>19</sup>

Further, an HOA with 100 or more parcels must post specified documents on its website or make such documents available through an application that can be downloaded on a mobile device.<sup>20</sup>

The official records must generally be maintained within this state and made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the HOA is located within 10 business days after receipt by the board or its designee of a written request from the parcel owner; such a requirement may be met by having a copy of the official records available for inspection or copying in the community, by making the records available to a parcel owner electronically via the Internet, or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.<sup>21</sup> If the HOA has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages, and an HOA must allow a member to use a portable device to make an electronic copy of the official records without charging a fee to a member for the use of such a portable device.<sup>22</sup>

Where an HOA fails to provide access to the records within 10 business days after receipt of a written request to inspect the records from a parcel owner, there is a rebuttable presumption that the HOA willfully failed to comply with the HOA Act's records access requirements.<sup>23</sup> A member denied access to official records is entitled to recover from the HOA his or her actual damages or minimum damages for such a willful failure, with the minimum damages set at \$50 per calendar day, up to 10 days.<sup>24</sup> Criminal penalties may also apply to certain willful and knowing misconduct pertaining to an HOA's official records.<sup>25</sup>

### **Optional Termination for Condominium Associations**

Under the Florida Condominium Act,<sup>26</sup> the condominium form of ownership may be terminated for all or a portion of the condominium's property pursuant to a plan of termination that meets certain requirements and is approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) within the Department of Business and Professional Regulation (DBPR).<sup>27</sup>

Florida law requires a plan of termination for a condominium association to be approved by at least 80 percent of the total voting interests of the condominium.<sup>28</sup> If five percent or more of the total voting interests of the condominium association rejects a plan of termination by negative vote or by providing written objections, however, the plan of termination may not proceed.<sup>29</sup>

<sup>18</sup> The term "financial statements" is presently undefined within the HOA Act.

<sup>19</sup> S. [720.303, F.S.](#)

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Ch. 718, F.S.

<sup>27</sup> [S. 718.117\(3\), F.S.](#)

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

The termination of a condominium association is subject to the following conditions:

- The total voting interests of the condominium must include all voting interests for the purpose of considering a plan of termination.
- A voting interest of the condominium may not be suspended for any reason when voting on termination.
- If five percent or more of the total voting interests of the condominium reject a plan of termination, a subsequent plan of termination may not be considered for 24 months after the date of the rejection.<sup>30</sup>

Once a plan of termination is approved by a condominium association, the plan must be submitted to the Division. The Division must examine the plan of termination to determine its procedural sufficiency and, within 45 days of receiving the plan, the Division must notify the condominium association by mail of any procedural deficiencies or that the plan is accepted.<sup>31</sup> If the Division does not provide notice within the 45-day time period, the plan of termination is presumed to be accepted.<sup>32</sup> If the Division determines that the requisite conditions have been met and that the plan complies with procedural requirements, the Division must approve the termination, at which point the termination may proceed as authorized.<sup>33</sup>

The approval of a plan of termination does not terminate a condominium association, which shall continue to exist with all of the powers and duties it had before the plan was approved. Notwithstanding any provision to the contrary in a condominium association's declaration or bylaws, after approval of a plan of termination, the condominium association's board must:

- Employ directors, agents, attorneys, and other professionals to liquidate or conclude its affairs.
- Conduct the affairs of the association as necessary for the liquidation or termination.
- Carry out contracts and collect, pay, and settle debts and claims for and against the association.
- Defend suits brought against the association.
- Sue in the name of the association for all sums due or owed to the association or to recover any of its property.
- Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other condominium property in compliance with applicable codes.
- Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the association for an amount deemed to be in the best interests of the association, and execute bills of sale and deeds of conveyance in the name of the association.
- Collect and receive rents, profits, accounts receivable, income, maintenance fees, special assessments, or insurance proceeds for the association.
- Contract and do anything in the name of the association which is proper or convenient to terminate the affairs of the association.<sup>34</sup>

### **Impairment of Contracts and Community Association Law**

The U.S. Constitution and the Florida Constitution prohibit states from passing any law "impairing the obligation of contracts."<sup>35</sup> The Florida Supreme Court has interpreted the language under the Florida Constitution to mean, as a general rule, the Legislature is prohibited from enacting any law that impairs vested rights under a contract between private parties.<sup>36</sup>

<sup>30</sup> [S. 718.117\(3\)\(a\), F.S.](#)

<sup>31</sup> [S. 718.117\(3\)\(e\), F.S.](#)

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> [S. 718.117\(6\), F.S.](#)

<sup>35</sup> U.S. CONST. art. I, § 10, cl. 1; FLA. CONST. art. I, § 10.

<sup>36</sup> See *Dewberry v. Auto-Owners Ins. Co.*, 363 So. 2d 1077, 1080 (Fla. 1978). See also Eric Glazer and Louis Goetz, *Florida Community Association Law: Contracts Clause Application in an Ever-Changing Legislative Landscape* (Sep./Oct. 2015), Fla. Bar Journal, Vol. 89 No. 8, <https://www.floridabar.org/the-florida-bar-journal/florida-community-association-law-contacts-clause-application-in-an-ever-changing-legislative-landscape/> (last visited Feb. 6, 2026).

The governing documents of a community association are essentially contracts between a community association and its members. The governing documents of an association include:

- The recorded declaration of covenants for the community and all duly adopted amendments, supplements, and exhibits thereto; and
- The articles of incorporation and bylaws of the association and all duly adopted amendments thereto.<sup>37</sup>

For community associations, the general rule against the impairment of contracts means that a new or amended statute may not be applied to an association's governing documents if the new or amended statute impairs a vested right guaranteed by the governing documents.<sup>38</sup> A statute impairs the governing documents if it creates a new obligation, imposes a new penalty, or diminishes a vested right.<sup>39</sup> A vested right is a right derived from an association's governing documents, whereas a statutory right is derived from state statute.<sup>40</sup>

### **"Kaufman" Language**

Notwithstanding the general rule against the impairment of contracts, an exception exists if an association's governing documents incorporate future legislative enactments. To accomplish this, the governing documents must contain language in substantially the following form: "This association and the association's governing documents are governed by the Florida Homeowners' Association Act [or the Condominium Act, as applicable], **as amended from time to time.**" The phrase "as amended from time to time" effectively incorporates future legislative enactments and is known as Kaufman language.<sup>41</sup>

If the governing documents of an association have Kaufman language, a new or amended statute under Florida's community association laws does not impair the governing documents and may apply to the association, as the governing documents have already incorporated any future changes to those laws.

### **Marketable Record Title Act**

Before the passage of the Marketable Record Title Act's (MRTA) in 1963, a title examination involved reviewing all documents relating to a parcel of property recorded in the public records of a county from the oldest public records – which could in some cases date back to a land grant from the king of Spain<sup>42</sup> – to the most recent.<sup>43</sup> This usually required the purchase of a title abstract and a review and analysis of every document and title transaction<sup>44</sup> listed in the abstract.<sup>45</sup>

MRTA simplified the title examination process by confirming a piece of real property's marketability based on a 30-year marketable record period and a consideration of certain statutory exceptions, rather than on a perfect record from the oldest public records. MRTA provides that any person with legal capacity to own land who has been vested with any estate in land of record for 30 years or more has marketable record title to such land free and clear of all claims other than those specified in statute or otherwise preserved.<sup>46</sup>

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<sup>37</sup> [S. 720.301\(8\), F.S.](#)

<sup>38</sup> See *Cohn v. The Grand Condominium Ass'n, Inc.*, 62 So. 3d 1120 (Fla. 2011); see also *Pomponio v. Claridge of Pompano Condo, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

<sup>39</sup> See *R.A.M. of South Fla., Inc., v. WCI Communities, Inc.*, 869 So. 2d 1210 (Fla. 2d DCA 2004) (quoting *Div. of Workers' Comp. v. Brevada*, 420 So. 2d 887, 891 (Fla. 1st DCA 1982)).

<sup>40</sup> See *R.A.M. of South Fla.*, 869 So. 2d at 1210. See also Eric Glazer, *Florida Community Association Law*, Fla. Bar Journal (Sep./Oct. 2015), Vol. 89 No. 8.

<sup>41</sup> See *Kaufman v. Shere*, 347 So. 2d 627 (Fla. 3d DCA 1977), cert. den., 355 So. 2d 517 (Fla. 1978).

<sup>42</sup> See The Florida Bar, *Florida Real Property Title Examination and Insurance* ch. 2, (8th ed. 2016).

<sup>43</sup> Gregory M. Cook, *The Marketable Record Title Act Made Easy*, 66 Fl. Bar J. 55 (Oct. 1992), <https://www.floridabar.org/the-florida-bar-journal/the-marketable-record-title-act-made-easy/> (last visited Feb. 3, 2026).

<sup>44</sup> "Title transaction" means any recorded instrument or court proceeding affecting title to any estate or interest in land and describing the land sufficiently to identify its location and boundaries. [S. 712.01\(7\), F.S.](#)

<sup>45</sup> Cook, *supra* note 43.

<sup>46</sup> *Id.*; See also [S. 712.03, F.S.](#)

After 30 years, MRTA automatically extinguishes all estates, interests, claims, or charges existing due to any act, title transaction, event, or omission occurring before the effective date of the root of title<sup>47</sup> and not statutorily excepted from extinguishment.<sup>48</sup> Subject to certain exceptions,<sup>49</sup> all extinguished estates, interests, claims, or charges become null and void.<sup>50</sup>

### ***Preserving Interests Under MRTA***

MRTA provides a mechanism for an interested party to preserve from extinguishment a right or interest the party holds. Additionally, a community association may preserve and protect a community covenant or restriction<sup>51</sup> by filing:

- A written notice in the form required by MRTA;<sup>52</sup>
- A summary notice complying with certain statutory specifications relating to notice of association information;<sup>53</sup> or
- An amendment to a community covenant or restriction indexed under the association's legal name and referencing the information to be preserved.<sup>54</sup>

Such an action creates a new marketable record period, preventing extinguishment of the interests and rights contained in the notice or community covenant or restriction amendment for 30 years from the date of filing.<sup>55</sup>

### **RECENT LEGISLATION:**

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	<a href="#">CS/CS/HB 983</a>	Porras/ <i>Arrington</i>	Amended provisions in the Homeowners' Association Act. Died in the House.
2024	<a href="#">CS/CS/CS/HB 1021</a>	Lopez, V./ <i>Bradley</i>	Amended provisions in the Condominium Act, Cooperative Act, and Homeowners' Association Act. Approved by the Governor.
2023	<a href="#">CS/CS/HB 919</a>	Porras, Fernandez-Barquin/ <i>Rodriguez</i>	Amended provisions in the Condominium Act, Cooperative Act, and Homeowners' Association Act. Approved by the Governor.

<sup>47</sup> "Root of title" means any title transaction purporting to create or transfer the estate claimed by any person which is the last title transaction to have been recorded at least 30 years before the time when marketability is being determined. The effective date of the root of title is the date it was recorded. [S. 712.01\(6\), F.S.](#)

<sup>48</sup> [S. 712.04, F.S.](#)

<sup>49</sup> See [s. 712.03, F.S.](#)

<sup>50</sup> [S. 712.04, F.S.](#)

<sup>51</sup> "Community covenant or restriction" means any agreement or limitation contained in a document recorded in the public records of the county where the property lies which subjects the parcel to any use restriction enforceable by a community association or authorizes a community association to impose a charge or assessment against the parcel or parcel owner. [S. 712.01, F.S.](#)

<sup>52</sup> [S. 712.05\(2\)\(a\), F.S.](#)

<sup>53</sup> [S. 712.05\(2\)\(b\), F.S.](#)

<sup>54</sup> *Id.*

<sup>55</sup> [S. 712.05\(3\), F.S.](#)

## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Housing, Agriculture &amp; Tourism Subcommittee</a>	16 Y, 0 N, As CS	1/21/2026	Curtin	Fletcher
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>• Provided that the governing documents of an HOA are terminated and unenforceable upon dissolution.</li> <li>• Applies the bill's requirements for HOAs to include or vote to include "Kaufman language" in their governing documents to condominium associations.</li> <li>• Created a duty of loyalty for directors, officers, and committee members to an HOA and its members, and created conflict of interest disclosure requirements for such directors, officers, and committee members.</li> <li>• Prohibited an owner's voting interest from being suspended for any reason for purposes of signing a petition for a plan of termination.</li> <li>• Made certain other clarifying, technical changes.</li> </ul>			
<a href="#">Civil Justice &amp; Claims Subcommittee</a>	14 Y, 1 N, As CS	2/3/2026	Jones	Mawn
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>• Defined the term "financial statements" within the HOA Act.</li> <li>• Increased the percentage of owners who must sign a petition for a plan of termination of an HOA.</li> <li>• Increased the percentage of voting interests necessary to approve an amendment adding "Kaufman Language" to the governing documents of a COA or an HOA.</li> <li>• Made technical, conforming changes.</li> </ul>			
<a href="#">Budget Committee</a>			Pridgeon	Saag
<a href="#">Commerce Committee</a>				

**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**