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LEGISLATIVE ACTION

Senate

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House

The Committee on Regulated Industries (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 156

and insert:

revenues of \$750,000 or more and consisting of 100 or more units
must contract with a community association management firm or a
community association manager certified by the Community
Association Managers International Certification Board as a
Certified Manager of Community Associations or by the Community
Associations Institute as an Association Management Specialist



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or a Professional Community Association Manager. Each board member or officer ~~All board members or officers~~ of an association that contracts with a community association manager or a community association management firm has ~~have~~ a duty to ensure that the community association manager or community association management firm is properly licensed and certified before entering into a contract.

Section 2. Subsection (6) is added to section 718.405, Florida Statutes, to read:

718.405 Multicondominiums; multicondominium associations.—

(6) An association operating a multicondominium with total annual revenues of \$750,000 or more and consisting of 100 or more units must contract with a community association management firm or a community association manager certified by the Community Association Managers International Certification Board as a Certified Manager of Community Associations or by the Community Associations Institute as an Association Management Specialist or a Professional Community Association Manager. The community association manager or community association management firm must possess all applicable licenses required by part VIII of chapter 468. Each board member or officer of an association that contracts with a community association manager or a community association management firm has a duty to ensure that the community association manager or community association management firm is properly licensed and certified before entering into a contract.

Section 3. Paragraph (a) of subsection (1) of section 719.106, Florida Statutes, is amended to read:

719.106 Bylaws; cooperative ownership.—



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(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(a) *Administration.*—

1. The form of administration of the association shall be described, indicating the titles of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and board members. In the absence of such a provision, the board of administration shall be composed of five members, unless the cooperative has five or fewer units. The board shall be composed ~~consist~~ of not fewer than three members in cooperatives with five or fewer units that are not-for-profit corporations. In a residential cooperative association of more than 10 units, co-owners of a unit may not serve as members of the board of directors at the same time unless the co-owners own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. In the absence of provisions to the contrary, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of those offices customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them those duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

2. A person who has been suspended or removed by the



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division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property is suspended from office. The board shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. A member who has such criminal charges pending may not be appointed or elected to a position as a director or officer. A person who has been convicted of any felony in this state or in any United States District Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony.

3. When a unit owner files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry. The board's response shall either give a substantive



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response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the division. If the board requests advice from the division, the board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may, through its board of administration, adopt reasonable rules and regulations regarding the frequency and manner of responding to the unit owners' inquiries, one of which may be that the association is obligated to respond to only one written inquiry per unit in any given 30-day period. In such case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

4. An association with total annual revenues of \$750,000 or more and consisting of 100 or more units must contract with a community association management firm or a community association manager certified by the Community Association Managers International Certification Board as a Certified Manager of Community Associations or by the Community Associations Institute as an Association Management Specialist or a Professional Community Association Manager. The community association manager or community association management firm must possess all applicable licenses required by part VIII of



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chapter 468.

5. Each board member or officer of an association that contracts with a community association manager or a community association management firm has a duty to ensure that the community association manager or community association management firm is properly licensed and certified before entering into a contract.

Section 4. Subsection (1) of section 720.303, Florida Statutes, is amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(1) POWERS AND DUTIES.—An association that operates a community as defined in s. 720.301 must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community. An association with total annual revenues of \$750,000 or more and consisting of 100 or more parcels must contract with a community association management firm or a community association manager certified by the Community Association Managers International Certification Board as a Certified Manager of Community Associations or by the Community Associations Institute as an Association Management Specialist or a Professional Community Association Manager. The community association manager or community association firm must possess all applicable licenses required by part VIII of chapter 468. The officers and directors of an association are subject to



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s. 617.0830 and have a fiduciary relationship to the members who are served by the association. Each officer and director of an association that contracts with a community association manager or a community association management firm has a duty to ensure that the community association manager or community association management firm is properly licensed and certified before entering into a contract. The powers

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 11

and insert:

contract with a community association management firm or a community association manager certified by the Community Association Managers International Certification Board as a Certified Manager of Community Associations or by the Community Associations Institute as an Association Management Specialist or a Professional Community Association Manager; requiring the community association management firm or certified community association manager to possess all applicable licenses; providing that association board members, officers, and directors have a duty to ensure such community association management firm or community association manager is properly licensed; requiring that such community associations managers also be certified; providing an effective date.