

By Senator Gruters

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1 A bill to be entitled
 2 An act relating to community association management;
 3 amending ss. 718.111, 718.405, 719.106, and 720.303,
 4 F.S.; requiring certain community associations to
 5 contract with a community association management firm;
 6 requiring the community association management firm to
 7 possess all applicable licenses; providing that
 8 association board members, officers, and directors
 9 have a duty to ensure such community association
 10 management firm or community association manager is
 11 properly licensed; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Paragraph (g) of subsection (3) of section
 16 718.111, Florida Statutes, is amended to read:

17 718.111 The association.—

18 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
 19 SUE, AND BE SUED; CONFLICT OF INTEREST.—

20 (g) If an association contracts with a community
 21 association manager or a community association management firm,
 22 the community association manager or community association
 23 management firm must possess all applicable licenses required by
 24 part VIII of chapter 468. An association with total annual
 25 revenues of \$500,000 or more must contract with a community
 26 association management firm. Each board member or officer ~~All~~
 27 ~~board members or officers~~ of an association that contracts with
 28 a community association manager or a community association
 29 management firm has ~~have~~ a duty to ensure that the community

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30 association manager or community association management firm is
31 properly licensed before entering into a contract.

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

34 718.405 Multicondominiums; multicondominium associations.—

35 (6) An association operating a multicondominium must
36 contract with a community association management firm. The
37 community association management firm must possess all
38 applicable licenses required by part VIII of chapter 468. Each
39 board member or officer of an association that contracts with a
40 community association manager or a community association
41 management firm has a duty to ensure that the community
42 association manager or community association management firm is
43 properly licensed before entering into a contract.

44 Section 3. Paragraph (a) of subsection (1) of section
45 719.106, Florida Statutes, is amended to read:

46 719.106 Bylaws; cooperative ownership.—

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

50 (a) *Administration.*—

51 1. The form of administration of the association shall be
52 described, indicating the titles of the officers and board of
53 administration and specifying the powers, duties, manner of
54 selection and removal, and compensation, if any, of officers and
55 board members. In the absence of such a provision, the board of
56 administration shall be composed of five members, unless the
57 cooperative has five or fewer units. The board shall be composed
58 ~~consist~~ of not fewer than three members in cooperatives with

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59 five or fewer units that are not-for-profit corporations. In a
60 residential cooperative association of more than 10 units, co-
61 owners of a unit may not serve as members of the board of
62 directors at the same time unless the co-owners own more than
63 one unit or unless there are not enough eligible candidates to
64 fill the vacancies on the board at the time of the vacancy. In
65 the absence of provisions to the contrary, the board of
66 administration shall have a president, a secretary, and a
67 treasurer, who shall perform the duties of those offices
68 customarily performed by officers of corporations. Unless
69 prohibited in the bylaws, the board of administration may
70 appoint other officers and grant them those duties it deems
71 appropriate. Unless otherwise provided in the bylaws, the
72 officers shall serve without compensation and at the pleasure of
73 the board. Unless otherwise provided in the bylaws, the members
74 of the board shall serve without compensation.

75 2. A person who has been suspended or removed by the
76 division under this chapter, or who is delinquent in the payment
77 of any monetary obligation due to the association, is not
78 eligible to be a candidate for board membership and may not be
79 listed on the ballot. A director or officer charged by
80 information or indictment with a felony theft or embezzlement
81 offense involving the association's funds or property is
82 suspended from office. The board shall fill the vacancy
83 according to general law until the end of the period of the
84 suspension or the end of the director's term of office,
85 whichever occurs first. However, if the charges are resolved
86 without a finding of guilt or without acceptance of a plea of
87 guilty or nolo contendere, the director or officer shall be

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88 reinstated for any remainder of his or her term of office. A
89 member who has such criminal charges pending may not be
90 appointed or elected to a position as a director or officer. A
91 person who has been convicted of any felony in this state or in
92 any United States District Court, or who has been convicted of
93 any offense in another jurisdiction which would be considered a
94 felony if committed in this state, is not eligible for board
95 membership unless such felon's civil rights have been restored
96 for at least 5 years as of the date such person seeks election
97 to the board. The validity of an action by the board is not
98 affected if it is later determined that a board member is
99 ineligible for board membership due to having been convicted of
100 a felony.

101 3. When a unit owner files a written inquiry by certified
102 mail with the board of administration, the board shall respond
103 in writing to the unit owner within 30 days of receipt of the
104 inquiry. The board's response shall either give a substantive
105 response to the inquirer, notify the inquirer that a legal
106 opinion has been requested, or notify the inquirer that advice
107 has been requested from the division. If the board requests
108 advice from the division, the board shall, within 10 days of its
109 receipt of the advice, provide in writing a substantive response
110 to the inquirer. If a legal opinion is requested, the board
111 shall, within 60 days after the receipt of the inquiry, provide
112 in writing a substantive response to the inquirer. The failure
113 to provide a substantive response to the inquirer as provided
114 herein precludes the board from recovering attorney's fees and
115 costs in any subsequent litigation, administrative proceeding,
116 or arbitration arising out of the inquiry. The association may,

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117 through its board of administration, adopt reasonable rules and
118 regulations regarding the frequency and manner of responding to
119 the unit owners' inquiries, one of which may be that the
120 association is obligated to respond to only one written inquiry
121 per unit in any given 30-day period. In such case, any
122 additional inquiry or inquiries must be responded to in the
123 subsequent 30-day period, or periods, as applicable.

124 4. An association with total annual revenues of \$500,000 or
125 more must contract with a community association management firm.
126 The community association management firm must possess all
127 applicable licenses required by part VIII of chapter 468.

128 5. Each board member or officer of an association that
129 contracts with a community association manager or a community
130 association management firm has a duty to ensure that the
131 community association manager or community association
132 management firm is properly licensed before entering into a
133 contract.

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

136 720.303 Association powers and duties; meetings of board;
137 official records; budgets; financial reporting; association
138 funds; recalls.—

139 (1) POWERS AND DUTIES.—An association that operates a
140 community as defined in s. 720.301 must be operated by an
141 association that is a Florida corporation. After October 1,
142 1995, the association must be incorporated and the initial
143 governing documents must be recorded in the official records of
144 the county in which the community is located. An association may
145 operate more than one community. An association with total

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146 annual revenues of \$500,000 or more must contract with a
147 community association management firm. The community association
148 management firm must possess all applicable licenses required by
149 part VIII of chapter 468. The officers and directors of an
150 association are subject to s. 617.0830 and have a fiduciary
151 relationship to the members who are served by the association.
152 Each officer and director of an association that contracts with
153 a community association manager or a community association
154 management firm has a duty to ensure that the community
155 association manager or community association management firm is
156 properly licensed before entering into a contract. The powers
157 and duties of an association include those set forth in this
158 chapter and, except as expressly limited or restricted in this
159 chapter, those set forth in the governing documents. After
160 control of the association is obtained by members other than the
161 developer, the association may institute, maintain, settle, or
162 appeal actions or hearings in its name on behalf of all members
163 concerning matters of common interest to the members, including,
164 but not limited to, the common areas; roof or structural
165 components of a building, or other improvements for which the
166 association is responsible; mechanical, electrical, or plumbing
167 elements serving an improvement or building for which the
168 association is responsible; representations of the developer
169 pertaining to any existing or proposed commonly used facility;
170 and protest of ad valorem taxes on commonly used facilities. The
171 association may defend actions in eminent domain or bring
172 inverse condemnation actions. Before commencing litigation
173 against any party in the name of the association involving
174 amounts in controversy in excess of \$100,000, the association

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175 must obtain the affirmative approval of a majority of the voting
176 interests at a meeting of the membership at which a quorum has
177 been attained. This subsection does not limit any statutory or
178 common-law right of any individual member or class of members to
179 bring any action without participation by the association. A
180 member does not have authority to act for the association by
181 virtue of being a member. An association may have more than one
182 class of members and may issue membership certificates. An
183 association of 15 or fewer parcel owners may enforce only the
184 requirements of those deed restrictions established prior to the
185 purchase of each parcel upon an affected parcel owner or owners.

186 Section 5. This act shall take effect January 1, 2027.