

HB 1405

2016

1 A bill to be entitled

2 An act relating to community associations; amending
3 ss. 718.111, 719.104, and 720.303, F.S.; requiring
4 certain condominium, cooperative, and homeowners'
5 associations to provide financial reports to the
6 Division of Florida Condominiums, Timeshares, and
7 Mobile Homes under certain circumstances; deleting a
8 provision authorizing certain associations to prepare
9 a report of cash receipts and expenditures in lieu of
10 certain financial statements; providing an effective
11 date.

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

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15 Section 1. Subsection (13) of section 718.111, Florida
16 Statutes, is amended to read:

17 718.111 The association.—

18 (13) FINANCIAL REPORTING.—Within 90 days after the end of
19 the fiscal year, or annually on a date provided in the bylaws,
20 the association shall prepare and complete, or contract for the
21 preparation and completion of, a financial report for the
22 preceding fiscal year. Within 21 days after the final financial
23 report is completed by the association or received from the
24 third party, but not later than 120 days after the end of the
25 fiscal year or other date as provided in the bylaws, the
26 association shall mail to each unit owner at the address last

27 | furnished to the association by the unit owner, or hand deliver
28 | to each unit owner, a copy of the financial report or a notice
29 | that a copy of the financial report will be mailed or hand
30 | delivered to the unit owner, without charge, upon receipt of a
31 | written request from the unit owner. Upon notification by a unit
32 | owner to the division that the association has not provided the
33 | unit owner with a copy of the financial report after receipt of
34 | a written request as required under this subsection, the
35 | association must provide the unit owner with a copy of the
36 | financial report. If the association fails to do so, the
37 | association must provide the division with a copy of the
38 | financial report for the next 3 years and may not waive a
39 | financial reporting requirement as provided in paragraph (d).
40 | The division shall adopt rules setting forth uniform accounting
41 | principles and standards to be used by all associations and
42 | addressing the financial reporting requirements for
43 | multicondominium associations. The rules must include, but not
44 | be limited to, standards for presenting a summary of association
45 | reserves, including a good faith estimate disclosing the annual
46 | amount of reserve funds that would be necessary for the
47 | association to fully fund reserves for each reserve item based
48 | on the straight-line accounting method. This disclosure is not
49 | applicable to reserves funded via the pooling method. In
50 | adopting such rules, the division shall consider the number of
51 | members and annual revenues of an association. Financial reports
52 | shall be prepared as follows:

53 (a) An association that meets the criteria of this
 54 paragraph shall prepare a complete set of financial statements
 55 in accordance with generally accepted accounting principles. The
 56 financial statements must be based upon the association's total
 57 annual revenues, as follows:

58 1. An association with total annual revenues of \$150,000
 59 or more, but less than \$300,000, shall prepare compiled
 60 financial statements.

61 2. An association with total annual revenues of at least
 62 \$300,000, but less than \$500,000, shall prepare reviewed
 63 financial statements.

64 3. An association with total annual revenues of \$500,000
 65 or more shall prepare audited financial statements.

66 (b)1. An association with total annual revenues of less
 67 than \$150,000 shall prepare a report of cash receipts and
 68 expenditures.

69 ~~2. An association that operates fewer than 50 units,~~
 70 ~~regardless of the association's annual revenues, shall prepare a~~
 71 ~~report of cash receipts and expenditures in lieu of financial~~
 72 ~~statements required by paragraph (a).~~

73 2.3. A report of cash receipts and disbursements must
 74 disclose the amount of receipts by accounts and receipt
 75 classifications and the amount of expenses by accounts and
 76 expense classifications, including, but not limited to, the
 77 following, as applicable: costs for security, professional and
 78 management fees and expenses, taxes, costs for recreation

79 facilities, expenses for refuse collection and utility services,
80 expenses for lawn care, costs for building maintenance and
81 repair, insurance costs, administration and salary expenses, and
82 reserves accumulated and expended for capital expenditures,
83 deferred maintenance, and any other category for which the
84 association maintains reserves.

85 (c) An association may prepare, without a meeting of or
86 approval by the unit owners:

87 1. Compiled, reviewed, or audited financial statements, if
88 the association is required to prepare a report of cash receipts
89 and expenditures;

90 2. Reviewed or audited financial statements, if the
91 association is required to prepare compiled financial
92 statements; or

93 3. Audited financial statements if the association is
94 required to prepare reviewed financial statements.

95 (d) If approved by a majority of the voting interests
96 present at a properly called meeting of the association, an
97 association may prepare:

98 1. A report of cash receipts and expenditures in lieu of a
99 compiled, reviewed, or audited financial statement;

100 2. A report of cash receipts and expenditures or a
101 compiled financial statement in lieu of a reviewed or audited
102 financial statement; or

103 3. A report of cash receipts and expenditures, a compiled
104 financial statement, or a reviewed financial statement in lieu

105 of an audited financial statement.

106

107 Such meeting and approval must occur before the end of the
108 fiscal year and is effective only for the fiscal year in which
109 the vote is taken, except that the approval may also be
110 effective for the following fiscal year. If the developer has
111 not turned over control of the association, all unit owners,
112 including the developer, may vote on issues related to the
113 preparation of the association's financial reports, from the
114 date of incorporation of the association through the end of the
115 second fiscal year after the fiscal year in which the
116 certificate of a surveyor and mapper is recorded pursuant to s.
117 718.104(4)(e) or an instrument that transfers title to a unit in
118 the condominium which is not accompanied by a recorded
119 assignment of developer rights in favor of the grantee of such
120 unit is recorded, whichever occurs first. Thereafter, all unit
121 owners except the developer may vote on such issues until
122 control is turned over to the association by the developer. Any
123 audit or review prepared under this section shall be paid for by
124 the developer if done before turnover of control of the
125 association. An association may not waive the financial
126 reporting requirements of this section for more than 3
127 consecutive years.

128 Section 2. Subsection (4) of section 719.104, Florida
129 Statutes, is amended to read:

130 719.104 Cooperatives; access to units; records; financial

131 reports; assessments; purchase of leases.—

132 (4) FINANCIAL REPORT.—

133 (a) Within 90 days following the end of the fiscal or
134 calendar year or annually on such date as provided in the bylaws
135 of the association, the board of administration shall prepare
136 and complete, or contract with a third party to prepare and
137 complete, a financial report covering the preceding fiscal or
138 calendar year. Within 21 days after the financial report is
139 completed by the association or received from the third party,
140 but no later than 120 days after the end of the fiscal year,
141 calendar year, or other date provided in the bylaws, the
142 association shall provide each member with a copy of the annual
143 financial report or a written notice that a copy of the
144 financial report is available upon request at no charge to the
145 member. Upon notification by a member to the division that the
146 association has not provided the member with a copy of the
147 financial report upon request as required under this subsection,
148 the association must provide the member with a copy of the
149 financial report. If the association fails to do so, the
150 association must provide the division with a copy of the
151 financial report for the next 3 years and may not waive a
152 financial reporting requirement as provided in paragraph (b) or
153 paragraph (e). The division shall adopt rules setting forth
154 uniform accounting principles, standards, and reporting
155 requirements.

156 (b) Except as provided in paragraph (c), an association

157 | whose total annual revenues meet the criteria of this paragraph
158 | shall prepare or cause to be prepared a complete set of
159 | financial statements according to the generally accepted
160 | accounting principles adopted by the Board of Accountancy. The
161 | financial statements shall be as follows:

162 | 1. An association with total annual revenues between
163 | \$150,000 and \$299,999 shall prepare a compiled financial
164 | statement.

165 | 2. An association with total annual revenues between
166 | \$300,000 and \$499,999 shall prepare a reviewed financial
167 | statement.

168 | 3. An association with total annual revenues of \$500,000
169 | or more shall prepare an audited financial statement.

170 | 4. The requirement to have the financial statement
171 | compiled, reviewed, or audited does not apply to an association
172 | if a majority of the voting interests of the association present
173 | at a duly called meeting of the association have voted to waive
174 | this requirement for the fiscal year. In an association in which
175 | turnover of control by the developer has not occurred, the
176 | developer may vote to waive the audit requirement for the first
177 | 2 years of operation of the association, after which time waiver
178 | of an applicable audit requirement shall be by a majority of
179 | voting interests other than the developer. The meeting shall be
180 | held prior to the end of the fiscal year, and the waiver shall
181 | be effective for only one fiscal year. An association may not
182 | waive the financial reporting requirements of this section for

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183 more than 3 consecutive years.

184 (c)1. An association with total annual revenues of less
185 than \$150,000 shall prepare a report of cash receipts and
186 expenditures.

187 ~~2. An association in a community of fewer than 50 units,~~
188 ~~regardless of the association's annual revenues, shall prepare a~~
189 ~~report of cash receipts and expenditures in lieu of the~~
190 ~~financial statements required by paragraph (b), unless the~~
191 ~~declaration or other recorded governing documents provide~~
192 ~~otherwise.~~

193 2.3. A report of cash receipts and expenditures must
194 disclose the amount of receipts by accounts and receipt
195 classifications and the amount of expenses by accounts and
196 expense classifications, including the following, as applicable:
197 costs for security, professional, and management fees and
198 expenses; taxes; costs for recreation facilities; expenses for
199 refuse collection and utility services; expenses for lawn care;
200 costs for building maintenance and repair; insurance costs;
201 administration and salary expenses; and reserves, if maintained
202 by the association.

203 (d) If at least 20 percent of the unit owners petition the
204 board for a greater level of financial reporting than that
205 required by this section, the association shall duly notice and
206 hold a membership meeting within 30 days after receipt of the
207 petition to vote on raising the level of reporting for that
208 fiscal year. Upon approval by a majority of the voting interests

209 represented at a meeting at which a quorum of unit owners is
210 present, the association shall prepare an amended budget or
211 shall adopt a special assessment to pay for the financial report
212 regardless of any provision to the contrary in the declaration
213 or other recorded governing documents. In addition, the
214 association shall provide within 90 days after the meeting or
215 the end of the fiscal year, whichever occurs later:

216 1. Compiled, reviewed, or audited financial statements, if
217 the association is otherwise required to prepare a report of
218 cash receipts and expenditures;

219 2. Reviewed or audited financial statements, if the
220 association is otherwise required to prepare compiled financial
221 statements; or

222 3. Audited financial statements, if the association is
223 otherwise required to prepare reviewed financial statements.

224 (e) If approved by a majority of the voting interests
225 present at a properly called meeting of the association, an
226 association may prepare or cause to be prepared:

227 1. A report of cash receipts and expenditures in lieu of a
228 compiled, reviewed, or audited financial statement;

229 2. A report of cash receipts and expenditures or a
230 compiled financial statement in lieu of a reviewed or audited
231 financial statement; or

232 3. A report of cash receipts and expenditures, a compiled
233 financial statement, or a reviewed financial statement in lieu
234 of an audited financial statement.

235 Section 3. Subsection (7) of section 720.303, Florida
 236 Statutes, is amended to read:

237 720.303 Association powers and duties; meetings of board;
 238 official records; budgets; financial reporting; association
 239 funds; recalls.—

240 (7) FINANCIAL REPORTING.—Within 90 days after the end of
 241 the fiscal year, or annually on the date provided in the bylaws,
 242 the association shall prepare and complete, or contract with a
 243 third party for the preparation and completion of, a financial
 244 report for the preceding fiscal year. Within 21 days after the
 245 final financial report is completed by the association or
 246 received from the third party, but not later than 120 days after
 247 the end of the fiscal year or other date as provided in the
 248 bylaws, the association shall, within the time limits set forth
 249 in subsection (5), provide each member with a copy of the annual
 250 financial report or a written notice that a copy of the
 251 financial report is available upon request at no charge to the
 252 member. Upon notification by a member to the division that the
 253 association has not provided the member with a copy of the
 254 financial report upon request as required under this subsection,
 255 the association must provide the member with a copy of the
 256 financial report. If the association fails to do so, the
 257 association must provide the division with a copy of the
 258 financial report for the next 3 years and may not waive a
 259 financial reporting requirement as provided in paragraph (d).
 260 Financial reports shall be prepared as follows:

261 (a) An association that meets the criteria of this
262 paragraph shall prepare or cause to be prepared a complete set
263 of financial statements in accordance with generally accepted
264 accounting principles as adopted by the Board of Accountancy.
265 The financial statements shall be based upon the association's
266 total annual revenues, as follows:

267 1. An association with total annual revenues of \$150,000
268 or more, but less than \$300,000, shall prepare compiled
269 financial statements.

270 2. An association with total annual revenues of at least
271 \$300,000, but less than \$500,000, shall prepare reviewed
272 financial statements.

273 3. An association with total annual revenues of \$500,000
274 or more shall prepare audited financial statements.

275 (b)1. An association with total annual revenues of less
276 than \$150,000 shall prepare a report of cash receipts and
277 expenditures.

278 ~~2. An association in a community of fewer than 50 parcels,~~
279 ~~regardless of the association's annual revenues, may prepare a~~
280 ~~report of cash receipts and expenditures in lieu of financial~~
281 ~~statements required by paragraph (a) unless the governing~~
282 ~~documents provide otherwise.~~

283 2.3. A report of cash receipts and disbursement must
284 disclose the amount of receipts by accounts and receipt
285 classifications and the amount of expenses by accounts and
286 expense classifications, including, but not limited to, the

287 following, as applicable: costs for security, professional, and
288 management fees and expenses; taxes; costs for recreation
289 facilities; expenses for refuse collection and utility services;
290 expenses for lawn care; costs for building maintenance and
291 repair; insurance costs; administration and salary expenses; and
292 reserves if maintained by the association.

293 (c) If 20 percent of the parcel owners petition the board
294 for a level of financial reporting higher than that required by
295 this section, the association shall duly notice and hold a
296 meeting of members within 30 days of receipt of the petition for
297 the purpose of voting on raising the level of reporting for that
298 fiscal year. Upon approval of a majority of the total voting
299 interests of the parcel owners, the association shall prepare or
300 cause to be prepared, shall amend the budget or adopt a special
301 assessment to pay for the financial report regardless of any
302 provision to the contrary in the governing documents, and shall
303 provide within 90 days of the meeting or the end of the fiscal
304 year, whichever occurs later:

305 1. Compiled, reviewed, or audited financial statements, if
306 the association is otherwise required to prepare a report of
307 cash receipts and expenditures;

308 2. Reviewed or audited financial statements, if the
309 association is otherwise required to prepare compiled financial
310 statements; or

311 3. Audited financial statements if the association is
312 otherwise required to prepare reviewed financial statements.

313 (d) If approved by a majority of the voting interests
314 present at a properly called meeting of the association, an
315 association may prepare or cause to be prepared:

316 1. A report of cash receipts and expenditures in lieu of a
317 compiled, reviewed, or audited financial statement;

318 2. A report of cash receipts and expenditures or a
319 compiled financial statement in lieu of a reviewed or audited
320 financial statement; or

321 3. A report of cash receipts and expenditures, a compiled
322 financial statement, or a reviewed financial statement in lieu
323 of an audited financial statement.

324 Section 4. This act shall take effect July 1, 2016.