

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/HB 791 — Residential Properties

by Finance and Tax Committee; Civil Justice Subcommittee; and Rep. Moraitis, Fitzenhagan, and others (CS/CS/CS/SB 748 by Fiscal Policy Committee; Judiciary Committee; Regulated Industries Committee; and Senator Ring)

The bill relates to the governance of condominium, cooperative, and homeowners' associations (community associations).

The bill permits corporations not for profit to use a copy, facsimile, or other reliable reproduction of the original proxy for any purpose for which the original proxy could be used if it is a complete reproduction of the entire proxy. In current law, community associations may be corporations for profit or corporations not for profit.

For condominium associations, the bill:

- Provides that, in cases where damage to condominium property is not the result of an insurable event, the maintenance provisions of the declaration or bylaws determine whether the association or the unit owners are responsible for the repair or replacement;
- Provides that, for the period before turnover of control, the developer's vote to reduce or waive the funding of reserves is based on the developers voting interests allocated to its units;
- Permits the condominium association to file a lien on unpaid administrative late fees; and
- Extends from July 1, 2016 to July 1, 2018 the date before which condominium parcels must be purchased to qualify as a bulk assignee or bulk buyer.

For cooperative associations, the bill provides that neither the authorized designee of the cooperative association or persons residing in the home of the board's designee may sit on the committee charged with determining whether to confirm or reject the fine or suspension levied by the board.

For homeowners' associations, the bill prohibits designees of the board and persons who reside with the designee of the board from sitting on the committee charged with reviewing fines and penalties against members of the association.

For condominium and cooperative associations, the bill provides that the priority provisions for applying a homeowner's payments to a monetary obligation in ss. 718.116(3) and 719.108, (3), F.S., respectively, apply notwithstanding any negotiated instrument resolving a dispute on the debt or any purported accord and satisfaction.

For condominium and homeowners' associations, the bill provides that, when voting rights are suspended, the total number of voting interests of the association must be reduced by the number of suspended voting interests when calculating the total percentage or number required to take or approve any action, and that the suspended voting interests may not be used for any purpose.

For condominium, cooperative, and homeowners' associations, the bill:

- Permits associations to provide electronic notice of unit owner and board meetings without having specific authority in the bylaws of the association for giving notice by electronic transmission;
- Creates a mechanism for Internet-based online voting in condominium, cooperative, and homeowners' associations;
- Permits associations to file a lien on unpaid administrative late fees; and
- Clarifies that it is the board of the association that levies any fines and that the role of the impartial committee is limited to determining whether to confirm or reject the fine or suspension levied by the board.

Regarding homeowners' associations, the bill provides that:

- The board may not levy a fine exceeding \$100, unless otherwise provided in the association's governing documents;
- Members that fail to pay a fine may be suspended from the board of directors or barred from running for a seat on the board;
- Chapter 720, F.S., may be cited as the "Homeowners' Association Act;" and
- The association's failure to timely provide notice of the recording of the amendment does not affect the validity or enforceability of the amendment.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 39-0; House 98-17