

By Senator Ring

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1 A bill to be entitled
2 An act relating to community associations; amending
3 ss. 718.112, 719.106, and 720.306, F.S.; authorizing a
4 condominium, cooperative, and homeowners' association
5 to conduct elections by electronic voting under
6 certain conditions; authorizing the Secretary of State
7 to study and adopt rules governing the use of
8 electronic voting systems for certain purposes;
9 creating ss. 718.128, 719.129, and 720.317, F.S.;
10 requiring an association to select an independent
11 third party as an inspector of elections for certain
12 purposes; providing duties of the inspector; providing
13 a definition; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (4) is added to section 718.112,
18 Florida Statutes, to read:

19 718.112 Bylaws.—

20 (4) ELECTRONIC VOTING.—

21 (a) The association may conduct elections by electronic
22 voting if the following requirements are met:

23 1. The association receives confirmation from at least one
24 member that he or she will be voting electronically.

25 2. The association provides each member who will be voting
26 electronically with:

27 a. A method to securely authenticate the member's identity
28 to the electronic voting system.

29 b. A method to secure a member's vote from, among other

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30 things, malicious software and the ability of others to remotely
31 monitor or control the electronic voting platform.

32 c. A method to securely communicate with the electronic
33 voting system.

34 d. A method to securely review an electronic ballot before
35 its transmission to the electronic voting system.

36 e. A method to securely transmit an electronic ballot to
37 the electronic voting system which ensures the secrecy and
38 integrity of each ballot.

39 f. A method to allow members to verify the authenticity of
40 receipts sent from the electronic voting system.

41 g. A method to confirm, at least 14 days before the voting
42 deadline, that a member's electronic voting platform can
43 successfully communicate with the electronic voting system.

44 h. In the event of a disruption of the electronic voting
45 system, the ability to vote by mail or to deliver a ballot in
46 person.

47 3. The association ensures that the electronic voting
48 system is:

49 a. Accessible to members with disabilities;

50 b. Secure from, among other things, malicious software and
51 the ability of others to remotely monitor or control the system;

52 c. Able to securely authenticate a member's identity;

53 d. Able to securely communicate with each member's
54 electronic voting platform;

55 e. Able to securely authenticate the validity of each
56 electronic ballot to ensure that the ballot is not altered in
57 transit;

58 f. Able to securely transmit a receipt from the electronic

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59 voting system to each member who casts an electronic ballot;

60 g. Able to securely and permanently separate any
61 authentication or identifying information from the electronic
62 ballot, rendering it impossible to tie a ballot to a specific
63 member;

64 h. Able to securely allow a member to confirm that his or
65 her ballot has been received and counted; and

66 i. Able to store electronic ballots in a secure manner,
67 keeping them accessible to election officials for recount,
68 inspection, and review purposes.

69 4. The Secretary of State has approved the electronic
70 voting system in accordance with the procedures for
71 certification of voting systems.

72 (b) The Secretary of State may study and adopt rules
73 governing the use of electronic voting systems to determine
74 whether they are capable of complying with subparagraphs (a)2.
75 and 3.

76 Section 2. Section 718.128, Florida Statutes, is created to
77 read:

78 718.128 Inspector of elections.—

79 (1) The association shall select an independent third party
80 or parties to serve as an inspector of elections. The number of
81 inspectors of elections must be one or three.

82 (2) An inspector of elections may be a member of the
83 association, but may not be a director or a candidate for
84 director or be related to a director or a candidate for
85 director. An inspector of elections may not be a person,
86 business entity, or subdivision of a business entity that is
87 currently employed by or under contract with the association for

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88 any compensable services, unless expressly authorized by the
89 governing documents of the association.

90 (3) The inspector or inspectors of elections shall:

91 (a) Determine the number of memberships entitled to vote
92 and the voting power of each member.

93 (b) Determine the authenticity, validity, and effect of
94 proxies, if any.

95 (c) Receive ballots, including those submitted through an
96 electronic voting system pursuant to s. 720.306(11).

97 (d) Hear and determine all challenges and questions arising
98 out of or in connection with the right to vote.

99 (e) Count and tabulate all votes, including those submitted
100 through an electronic voting system pursuant to s. 718.112(4).

101 (f) Determine when the polls must close, consistent with
102 the governing documents.

103 (g) Determine the tabulated results of the election.

104 (h) Perform any acts as may be proper to conduct the
105 election with fairness to all members in accordance with this
106 section and all applicable rules of the association regarding
107 the conduct of the election which are not in conflict with this
108 chapter.

109 (4) An inspector of elections shall perform all duties
110 impartially, in good faith, to the best of his or her ability,
111 and as expeditiously as is practical. If there are three
112 inspectors of elections, the decision or act of a majority must
113 be effective in all respects as the decision or act of all. A
114 report made by the inspector or inspectors of elections is prima
115 facie evidence of the facts stated in the report.

116 (5) As used in this section, the term "independent third

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117 party" includes, but is not limited to, a volunteer poll worker
118 with the supervisor of elections, a licensee of the Board of
119 Accountancy, or a notary public.

120 Section 3. Paragraph (m) is added to subsection (1) of
121 section 719.106, Florida Statutes, to read:

122 719.106 Bylaws; cooperative ownership.—

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

126 (m) Electronic voting.—

127 1. The association may conduct elections by electronic
128 voting if the following requirements are met:

129 a. The association receives confirmation from at least one
130 member that he or she will be voting electronically.

131 b. The association provides each member who will be voting
132 electronically with:

133 (I) A method to securely authenticate the member's identity
134 to the electronic voting system.

135 (II) A method to secure a member's vote from, among other
136 things, malicious software and the ability of others to remotely
137 monitor or control the electronic voting platform.

138 (III) A method to securely communicate with the electronic
139 voting system.

140 (IV) A method to securely review an electronic ballot
141 before its transmission to the electronic voting system.

142 (V) A method to securely transmit an electronic ballot to
143 the electronic voting system which ensures the secrecy and
144 integrity of each ballot.

145 (VI) A method to allow members to verify the authenticity

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146 of receipts sent from the electronic voting system.

147 (VII) A method to confirm, at least 14 days before the
148 voting deadline, that a member's electronic voting platform can
149 successfully communicate with the electronic voting system.

150 (VIII) In the event of a disruption of the electronic
151 voting system, the ability to vote by mail or to deliver a
152 ballot in person.

153 c. The association ensures that the electronic voting
154 system is:

155 (I) Accessible to members with disabilities;

156 (II) Secure from, among other things, malicious software
157 and the ability of others to remotely monitor or control the
158 system;

159 (III) Able to securely authenticate a member's identity;

160 (IV) Able to securely communicate with each member's
161 electronic voting platform;

162 (V) Able to securely authenticate the validity of each
163 electronic ballot to ensure that the ballot is not altered in
164 transit;

165 (VI) Able to securely transmit a receipt from the
166 electronic voting system to each member who casts an electronic
167 ballot;

168 (VII) Able to securely and permanently separate any
169 authentication or identifying information from the electronic
170 ballot, rendering it impossible to tie a ballot to a specific
171 member;

172 (VIII) Able to securely allow a member to confirm that his
173 or her ballot has been received and counted; and

174 (IX) Able to store electronic ballots in a secure manner,

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175 keeping them accessible to election officials for recount,
176 inspection, and review purposes.

177 d. The Secretary of State has approved the electronic
178 voting system in accordance with the procedures for
179 certification of voting systems.

180 2. The Secretary of State may study and adopt rules
181 governing the use of electronic voting systems to determine
182 whether they are capable of complying with sub-subparagraphs
183 1.b. and c.

184 Section 4. Section 719.129, Florida Statutes, is created to
185 read:

186 719.129 Inspector of elections.—

187 (1) The association shall select an independent third party
188 or parties to serve as an inspector of elections. The number of
189 inspectors of elections must be one or three.

190 (2) An inspector of elections may be a member of the
191 association, but may not be a director or a candidate for
192 director or be related to a director or a candidate for
193 director. An inspector of elections may not be a person,
194 business entity, or subdivision of a business entity that is
195 currently employed by or under contract with the association for
196 any compensable services, unless expressly authorized by the
197 governing documents of the association.

198 (3) The inspector or inspectors of elections shall:

199 (a) Determine the number of memberships entitled to vote
200 and the voting power of each member.

201 (b) Determine the authenticity, validity, and effect of
202 proxies, if any.

203 (c) Receive ballots, including those submitted through an

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204 electronic voting system pursuant to s. 720.306(11).

205 (d) Hear and determine all challenges and questions arising
206 out of or in connection with the right to vote.

207 (e) Count and tabulate all votes, including those submitted
208 through an electronic voting system pursuant to s.
209 719.106(1) (m) .

210 (f) Determine when the polls must close, consistent with
211 the governing documents.

212 (g) Determine the tabulated results of the election.

213 (h) Perform any acts as may be proper to conduct the
214 election with fairness to all members in accordance with this
215 section and all applicable rules of the association regarding
216 the conduct of the election that are not in conflict with this
217 chapter.

218 (4) An inspector of elections shall perform all duties
219 impartially, in good faith, to the best of the inspector of
220 election's ability, and as expeditiously as is practical. If
221 there are three inspectors of elections, the decision or act of
222 a majority must be effective in all respects as the decision or
223 act of all. A report made by the inspector or inspectors of
224 elections is prima facie evidence of the facts stated in the
225 report.

226 (5) As used in this section, the term "independent third
227 party" includes, but is not limited to, a volunteer poll worker
228 with the supervisor of elections, a licensee of the Board of
229 Accountancy, or a notary public.

230 Section 5. Subsection (11) is added to section 720.306,
231 Florida Statutes, to read:

232 720.306 Meetings of members; voting and election

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233 procedures; amendments.—

234 (11) ELECTRONIC VOTING.—

235 (a) The association may conduct elections by electronic
236 voting if the following requirements are met:

237 1. The association receives confirmation from at least one
238 member that he or she will be voting electronically.

239 2. The association provides each member who will be voting
240 electronically with:

241 a. A method to securely authenticate the member's identity
242 to the electronic voting system.

243 b. A method to secure a member's vote from, among other
244 things, malicious software and the ability of others to remotely
245 monitor or control the electronic voting platform.

246 c. A method to securely communicate with the electronic
247 voting system.

248 d. A method to securely review an electronic ballot before
249 its transmission to the electronic voting system.

250 e. A method to securely transmit an electronic ballot to
251 the electronic voting system which ensures the secrecy and
252 integrity of each ballot.

253 f. A method to allow members to verify the authenticity of
254 receipts sent from the electronic voting system.

255 g. A method to confirm, at least 14 days before the voting
256 deadline, that a member's electronic voting platform can
257 successfully communicate with the electronic voting system.

258 h. In the event of a disruption of the electronic voting
259 system, the ability to vote by mail or to deliver a ballot in
260 person.

261 3. The association ensures that the electronic voting

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262 system is:

263 a. Accessible to members with disabilities;

264 b. Secure from, among other things, malicious software and
265 the ability of others to remotely monitor or control the system;

266 c. Able to securely authenticate a member's identity;

267 d. Able to securely communicate with each member's
268 electronic voting platform;

269 e. Able to securely authenticate the validity of each
270 electronic ballot to ensure that the ballot is not altered in
271 transit;

272 f. Able to securely transmit a receipt from the electronic
273 voting system to each member who casts an electronic ballot;

274 g. Able to securely and permanently separate any
275 authentication or identifying information from the electronic
276 ballot, rendering it impossible to tie a ballot to a specific
277 member;

278 h. Able to securely allow a member to confirm that his or
279 her ballot has been received and counted; and

280 i. Able to store electronic ballots in a secure manner,
281 keeping them accessible to election officials for recount,
282 inspection, and review purposes.

283 4. The Secretary of State has approved the electronic
284 voting system in accordance with the procedures for
285 certification of voting systems.

286 (b) The Secretary of State may study and adopt rules
287 governing the use of electronic voting systems to determine
288 whether they are capable of complying with subparagraphs (a)2.
289 and 3.

290 Section 6. Section 720.317, Florida Statutes, is created to

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291 read:

292 720.317 Inspector of elections.-

293 (1) The association shall select an independent third party
294 or parties to serve as an inspector of elections. The number of
295 inspectors of elections must be one or three.

296 (2) An inspector of elections may be a member of the
297 association, but may not be a director or a candidate for
298 director or be related to a director or a candidate for
299 director. An inspector of elections may not be a person,
300 business entity, or subdivision of a business entity that is
301 currently employed by or under contract with the association for
302 any compensable services, unless expressly authorized by the
303 governing documents of the association.

304 (3) The inspector or inspectors of elections shall:

305 (a) Determine the number of memberships entitled to vote
306 and the voting power of each member.

307 (b) Determine the authenticity, validity, and effect of
308 proxies, if any.

309 (c) Receive ballots, including those submitted through an
310 electronic voting system pursuant to s. 720.306(11).

311 (d) Hear and determine all challenges and questions arising
312 out of or in connection with the right to vote.

313 (e) Count and tabulate all votes, including those submitted
314 through an electronic voting system pursuant to s. 720.306(11).

315 (f) Determine when the polls must close, consistent with
316 the governing documents.

317 (g) Determine the tabulated results of the election.

318 (h) Perform any acts as may be proper to conduct the
319 election with fairness to all members in accordance with this

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320 section and all applicable rules of the association regarding
321 the conduct of the election that are not in conflict with this
322 chapter.

323 (4) An inspector of elections shall perform all duties
324 impartially, in good faith, to the best of his or her ability,
325 and as expeditiously as is practical. If there are three
326 inspectors of elections, the decision or act of a majority must
327 be effective in all respects as the decision or act of all. A
328 report made by the inspector or inspectors of elections is prima
329 facie evidence of the facts stated in the report.

330 (5) As used in this section, the term "independent third
331 party" includes, but is not limited to, a volunteer poll worker
332 with the supervisor of elections, a licensee of the Board of
333 Accountancy, or a notary public.

334 Section 7. This act shall take effect July 1, 2015.