

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 1122

INTRODUCER: Senator Hays

SUBJECT: Homeowners' Associations

DATE: January 28, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Caldwell	RI	<b>Pre-meeting</b>
2.			JU	
3.			AP	

**I. Summary:**

SB 1122 revises the rights and obligations of homeowners, homeowners' associations, developers of homeowners' associations, prospective purchasers in homeowners' associations, and community association managers. The bill also increases the jurisdiction of the Department of Business and Professional Regulation (department) over homeowners' associations. The bill:

- Increases the amount of the fine that an association must pay for failure to comply with a records request from "\$50 per calendar day up to 10 days" to \$500 per calendar day up to 30 days;"
- Makes the community association manager (CAM) responsible for paying the fine if failure to comply with a records request is attributable to the CAM, and provides that the CAM cannot be indemnified by the association;
- Extends the date for expiration of the reporting requirement for homeowners' association reporting from July 1, 2016, to July 1, 2026;
- Requires that the report submitted annually instead only once as required by current law;
- Repeals right of associations to foreclose on liens based on fines.
- Provides addition circumstances that would entitle the non-developer members of the association to elect the majority of the board;
- Requires the department to provide mandatory binding arbitration at the request of the homeowner in disputes involving covenants, restrictions, rule enforcement, and duties to maintain and make safe;
- Requires the department to provide training and educational programs for homeowners' association members, directors, and officers;
- Authorizes the department to enforce and ensure compliance with the provisions of ch. 720, F.S., and department rules relating to records access, financial management, and elections and to investigate any complaint made to the department against an association;
- Requires each homeowners' association to pay a \$2 fee per lot to the department to fund the regulatory program;

- Permits the department to suspend the fee if it has sufficient funding to administer the program;
- Requires the seller of a parcel to supply a prospective buyer with the association governing documents at least 7 days before closing;
- Provides that a prospective buyer may terminate the contract for purchase within three days after the receipt of the documents.
- Provides additional causes of action by non-developer association members against a developer for damages resulting from the developer's abandonment or failure to maintain and complete disclosed amenities or infrastructure and for failure to perform or comply with any duty or obligation required under the governing documents, written contract, or written agreement for purchase of the parcel; and
- Prohibits developers from using association funds for any purpose not specifically authorized in a homeowners' association budget

The bill provides an effective date of July 1, 2016.

## II. Present Situation:

### Homeowners' Associations

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners' associations, and protects the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>1</sup>

A "homeowners' association" is defined as a:

Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.<sup>2</sup>

Homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.<sup>3</sup>

Section 720.301(4), F.S., defines the terms "declaration of covenants," or "declaration," to mean:

a recorded written instrument in the nature of covenants running with the land which subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

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<sup>1</sup> See s. 720.302(1), F.S.

<sup>2</sup> Section 720.301(9), F.S.

<sup>3</sup> Section 720.302(5), F.S.

Section 720.301(8), F.S., defines the term “member” to mean “a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof.”

Section 720.301(10), F.S., defines the term “parcel owner” to mean the record owner of legal title to a parcel.

Section 720.301(11), F.S., defines the term “voting interest” to mean “the voting rights distributed to the members of the homeowners’ association, pursuant to the governing documents.”

Homeowners’ associations are administered by a board of directors whose members are elected.<sup>4</sup> The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to these documents.<sup>5</sup> The officers and members of a homeowners’ association have a fiduciary relationship to the members who are served by the association.<sup>6</sup>

### **State Regulation of Homeowners’ Associations**

Unlike condominium and cooperative associations,<sup>7</sup> which are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department), homeowners’ associations are not regulated by a state agency.

Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners’ associations:

The Legislature recognizes that it is not in the best interest of homeowners’ associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners’ associations. However, in accordance with s. 720.311, the Legislature finds that homeowners’ associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners’ associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

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<sup>4</sup> See ss. 720.303 and 720.307, F.S.

<sup>5</sup> See ss. 720.301 and 720.303, F.S.

<sup>6</sup> Section 720.303(1), F.S.

<sup>7</sup> See chs. 718 and 719, F.S., respectively.

The number of homeowners' associations or persons living in homeowners' associations in Florida is unknown. Although homeowners' associations are required to file articles of incorporation with the Division of Corporations in the Department of State, the division cannot identify corporations that are homeowners' associations under ch. 720, F.S.<sup>8</sup>

### **Division of Florida Condominiums, Timeshares, and Mobile Homes**

The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to condominium and cooperative associations that are still under developer control.<sup>9</sup> The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover, pursuant to s. 718.301, F.S. After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records pursuant to s. 718.111(12), F.S.<sup>10</sup>

As part of the division's authority to investigate complaints, s. 718.501(1), F.S., for condominium and s. 719.501(1)(c), F.S., for cooperatives, authorize the division to subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties (fines) against developers and associations.

In regards to homeowners' associations, the division's authority is limited to arbitration of recall election disputes.<sup>11</sup>

### **Inspection and Copying of Homeowners' Association Records**

Homeowners' associations are required to maintain the official records of the association.<sup>12</sup> Section 720.303(5), F.S., requires that a homeowners' association permit members to inspect and copy its official records within 10 days after a written request for access. The official records must be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. The records may be made available electronically via the Internet.

If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. The association may impose fees to cover the cost of providing copies of the official records, including, without limitation, the cost of copying. The association may also charge any reasonable costs involving personnel fees and charges at an hourly rate to cover the association's or vendors administrative costs. A member may use his or her portable device, such as a smartphone or scanner, to make a recording of a record at no cost to the member.

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<sup>8</sup> Homeowners' Association Task Force, *Final Report of the Homeowners' Association Task Force*, February 2004, page 5. A copy of the report is available on the internet at <http://www.ccfj.net/DBPRTFfinalreport.pdf> (last visited March 28, 2013).

<sup>9</sup> Section 718.501(1), F.S., and s. 719.501(1), F.S., respectively.

<sup>10</sup> Section 718.501(1), F.S. See Peter M. Dunbar, *The Condominium Concept: A Practical Guide for Officers, Owners, Realtors, Attorneys, and Directors of Florida Condominiums*, 12 ed. (2010-2011) s. 14.2.

<sup>11</sup> See s. 720.303(10)(d), F.S.

<sup>12</sup> Section 720.303(4), F.S.

Any failure by the association to comply with a request in a timely fashion creates a rebuttable presumption that the association willfully failed to do so, and entitles the requesting party to actual damages, or a minimum fine of \$50 per calendar day, for up to 10 calendar days, commencing on the eleventh business day.

### **Reporting Requirement**

Section 720.303(13), F.S., requires community association managers, or the association if there is no manager, to report the following information to the division:

- The legal name of the association.
- The Federal Employee Identification Number of the association.
- The mailing and physical addresses of the association.
- The number of parcels.
- The total amount of revenues and expenses from the annual budget of the association.

For associations in which the developer retains control, the following additional information is required:

- The legal name of the developer.
- The mailing address of the developer.
- The number of parcels the developer owns as of the date of reporting.

The reporting requirement is a continuing obligation on each association to report until the required information is submitted. An association is required to submit the required information only once.

The department is required to establish and implement an Internet-based registration system by December 1, 2013 for associations to use for reporting the required information.<sup>13</sup>

On or before December 1 of each year, the department is required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing the homeowner association data reported.

As of January 23, 2016, the department has registered 2,691,986 homeowners' associations which meet the definition in s. 720.301(9), F.S.<sup>14</sup>

The reporting requirement in s. 720.303(13), F.S., expires on July 1, 2016, unless reenacted by the Legislature.

### **Levy of Fines**

Section 720.305(2), F.S., authorizes the association to levy reasonable fines. The association may not impose a fine that exceeds \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to

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<sup>13</sup> The department's Internet portal for registration of homeowners' association is available at: <http://www.myfloridalicense.com/dbpr/hoa.html> (last visited January 23, 2016).

<sup>14</sup> See [http://www.myfloridalicense.com/dbpr/sto/file\\_download/public-records-CTMH.html](http://www.myfloridalicense.com/dbpr/sto/file_download/public-records-CTMH.html) (last visited January 23, 2016).

comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing. However, the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel.

### **Training and Education Programs**

Section 720.3033(1), F.S., requires the post-election certification of homeowners' association directors. These provisions are similar to the post-election certification requirement for members of a condominium association board in s. 718.112(2)(d)4.b., F.S.

Newly elected directors must certify in writing, within 90 days, that they have read the association's governing documents and policies, that they will work to uphold the documents and policies, and that they will faithfully discharge their fiduciary responsibility to the associations' members. A director who fails to comply with the certification requirement is suspended from the board until he or she complies. The association must maintain a copy of the certification for 5 years after the director's election.

The department does not provide training or educational programs for certification of homeowners' association board members. Instead, the department offers a listing on its Internet site of providers. Most of the listed providers offer the training or education at no cost.<sup>15</sup> For condominium and cooperative association, the department offers a similar listing of providers for the comparable certification requirement for board members of those associations. However, the department also offers several educational publications for condominiums and cooperative associations.<sup>16</sup>

### **Transition of Association Control**

Section 720.307, F.S., provides the situations in which the parcel owners other than the developer are entitled to elect at least a majority of the members of the board of directors:

- Three months after 90 percent of the parcels that will be operated ultimately by the association have been conveyed to purchasers; or
- When such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.
- When the developer has abandoned or deserted his or her responsibility to maintain and complete the amenities or infrastructure disclosed in the governing documents. There is a rebuttable presumption that the developer has abandoned and deserted the property if the developer has unpaid assessments or guaranteed amounts under s. 720.308, F.S., for a period of more than two years;

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<sup>15</sup> See <http://www.myfloridalicense.com/dbpr/lsc/documents/HOAListofApprovedProviders2015.pdf> (last visited January 23, 2016).

<sup>16</sup> See <http://www.myfloridalicense.com/dbpr/lsc/condominiums/CondoEducation.html> (last visited January 23, 2016).

- When the developer files a petition seeking protection in bankruptcy under chapter 7 of the federal Bankruptcy Code;
- When the developer loses title to the property either through a foreclosure action or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities first arising after the date of such assignment; and
- When a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members.

Section 720.307(2), F.S., provides that non-developer parcel owners are entitled to elect at least one member of the board of directors once 50 percent of the parcels in all phases of the community have been conveyed to members.

Builders, contractors, or others who purchase a parcel for the purpose of constructing improvements on the parcel for resale are not considered members other than the developer.<sup>17</sup>

### **Dispute Resolution**

Section 720.311, F.S., provides a process to resolve disputes between associations and members.

The critical difference between mediation and arbitration is that in the mediation process the parties to the dispute make all the decisions and resolve the disputes. The mediator only facilitates this resolution. Under arbitration, the neutral third-party arbitrator resolves the dispute.

The department must conduct mandatory binding arbitration of recall election and election disputes between a member and an association using the procedures for resolving condominium disputes in ss. 718.112(2)(j) and 718.1255 and rules adopted by the division. Election disputes and recall disputes are not eligible for presuit mediation. At the conclusion of the proceeding, the department must charge the parties a fee that adequately covers all costs and expenses incurred by the department in conducting the proceeding. The petitioner's is also required to remit an initial filing fee of at least \$200 to the department. These fees are a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding must recover its reasonable costs and attorney fees in an amount found reasonable by the arbitrator.

Section 720.311, F.S., also provides a detailed process for presuit mediation of certain disputes. The following types of disputes between an association and a parcel owner subject to presuit mediation, i.e., the parties must attempt to resolve the dispute by mediation before filing a law suit in court:

- Disputes regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes;
- Disputes regarding amendments to the association documents;
- Disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings; and
- Disputes regarding access to the official records of the association.

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<sup>17</sup> Section 720.307(1), F.S.

The following types of disputes are not subject the presuit mediation requirement:

- The collection of any assessments, fines, or other financial obligations, including attorney fees and costs, or any action to enforce a prior mediation settlement; and
- Any dispute where emergency relief is required.

Persons who fail or refuse to participate in the entire presuit mediation process may not recover attorney fees and costs in subsequent litigation relating to the dispute. The prevailing party is also entitled to seek recovery of all costs and attorney fees incurred in the presuit mediation process in any subsequent arbitration or litigation proceeding for any issue or dispute that is not resolved at presuit mediation.

Mediators and arbitrators of homeowners' association disputes must be certified as a circuit court civil mediator or arbitrator.

### **Publication of False and Misleading Information**

Section 720.402, F.S., creates a cause of action against the developer for persons who reasonably rely on false or misleading statements in advertising and promotional materials, including, but not limited to, a contract of purchase, the declaration of covenants, exhibits to a declaration of covenants, brochures, and newspaper advertising. After the closing of the transaction, the purchaser has a cause of action against the developer for damages under this section from the time of closing until one year after the later date of the events specified in s. 720.402(1)(a)-(d), F.S., which includes the closing of the transaction and the completion by the developer of the common areas and recreational facilities. In any action for relief under this section, the prevailing party may recover reasonable attorney fees. Developers are prohibited from spending association funds in the defense of any suit under this section.

### **Community Association Management**

Community association managers are regulated and licensed pursuant to part VIII of ch. 468, F.S. To be licensed, a community association manager must satisfactorily complete an examination for licensure.

Section 468.431(2), F.S., defines "community association management" to mean:

any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of \$100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, determining the number of days required for statutory notices, determining amounts due to the association, collecting amounts due to the association before the filing of a civil action, calculating the votes required for a quorum or to approve a proposition or amendment, completing forms related to the management of a community association that have been created by statute or

by a state agency, drafting meeting notices and agendas, calculating and preparing certificates of assessment and estoppel certificates, responding to requests for certificates of assessment and estoppel certificates, negotiating monetary or performance terms of a contract subject to approval by an association, drafting prearbitration demands, coordinating or performing maintenance for real or personal property and other related routine services involved in the operation of a community association, and complying with the association's governing documents and the requirements of law as necessary to perform such practices.

A license is not required for persons who perform clerical or ministerial functions under the direct supervision and control of a licensed manager or who only perform the maintenance of a community association and do not assist in any of the management services.<sup>18</sup>

### **III. Effect of Proposed Changes:**

#### **Inspection and Copying of Homeowners' Association Records**

The bill amends s. 720.303(5), F.S., to increase the amount of the fine for failure to comply with a records request from "\$50 per calendar day up to 10 days" to "\$500 per calendar day up to 30 days." The bill also provides that the community association manager (manager) is responsible for paying the fine if failure to comply with a records request is attributable to the manager. The bill also prohibits the association from reimbursing or indemnifying the manager.

#### **Reporting Requirement**

The bill amends the homeowners' association reporting requirement in s. 720.303(13), F.S., to extend the expiration of the requirement from July 1, 2016 to July 1, 2026. The bill increases the frequency of the report by requiring that the report must be submitted annually by the manager, or the association if there is not manager. It requires that the report must be resubmitted when there is a material change from last report.

#### **Levy of Fines**

The bill amends s. 720.305(2), F.S., to repeal the right of an association to impose a lien on a parcel for an unpaid fine.

#### **Transition of Association Control**

The bill amends s. 720.307(1), F.S., to provide the following additional events which would entitle the non-developer parcel owners to elect the majority of the members of the board:

- For homeowners' associations with fewer than 100 lots, members who are not the developer may elect at least a majority of the board of director members three months after 75 percent of the parcels in all phases in the community have been conveyed to members;
- For homeowners' associations with fewer than 200 lots, 10 years after the governing documents are filed with the local government; or

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<sup>18</sup> Section 468.431(2), F.S.

- For homeowners' associations with more than 200 lots, the earlier of 20 years after the governing documents have been filed with the local government or three months after 90 percent of the parcels have been conveyed to the members or three months after 90 percent of the parcels in all phases of the community are conveyed to the members.

### **Dispute Resolution**

The bill amends s. 720.311(1), F.S., to require the department to provide binding arbitration at the request of the homeowner for disputes involving covenants, restrictions, rule enforcement, and duties to maintain and make safe, and disputes involving the official records.

The bill also amends s. 720.311(2)(d), F.S., to permit county court certified mediators and arbitrators to conduct homeowners' association disputes.

### **Training and Education Programs**

The bill creates s. 720.318, F.S., to require the department to provide training and educational programs for homeowners' association members, directors, and officers. The training and educational programs may include web-based electronic media, live training, and seminars in various locations throughout the state.

The bill requires the department to review and approve training and educational programs that are offered by providers. It requires the department to maintain a current list of approved programs and providers and make the list available to homeowners' associations in a reasonable and cost-effective manner.

### **Authority of the Department**

The bill creates s. 720.319, F.S., to authorize the department to enforce and ensure compliance with the provisions of ch. 720, F.S., and to adopt department rules relating to records access, financial management, and elections. It also authorizes the department to investigate any complaint made to the department against a homeowners' association.

The bill requires each homeowners' association to pay a \$2 fee per lot to the department to fund the regulatory program. The fee must be submitted with the annual report. The department may suspend the fee if it has sufficient funding to administer the program. The term "lot" is not defined in ch. 720, F.S.<sup>19</sup>

### **Prospective Purchasers**

The bill amends s. 720.401, F.S., to require that the seller of a parcel must supply a prospective buyer with the association governing documents at least seven days before closing. The following documents must be provided to the prospective purchaser:

- The declaration of covenants;
- Articles and bylaws;

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<sup>19</sup> See s. 720.301(11), F.S., which defines the term "parcel" to include an unplatted lot.

- Rules and regulations;
- The current year operating budget; and
- Any amendment to these documents.

The bill provides that a prospective buyer may terminate the contract for purchase within 3 days after the receipt of the documents.

### **Developer Prohibitions**

The bill amends s. 720.402, F.S., to provide additional causes of action by nondeveloper association members against a developer. It provides that a nondeveloper parcel owner has the following causes of action against the developer:

- For damages resulting from the developer's abandonment or failure to maintain and complete amenities or infrastructure disclosed in the governing documents, written contract, or written agreement for purchase of the parcel; and
- For the developer's failure to perform or comply with any duty or obligation required under the governing documents, written contract, or written agreement for purchase of the parcel.

The bill also prohibits developers from using association funds for any purpose not specifically authorized in a homeowners' association budget adopted in accordance with the governing documents and s. 720.303, F.S., which provides the powers and duties of a homeowners' association. It also gives homeowners and the association a cause of action for use of association funds by a developer. Current law in s. 720.402(2), F.S., prohibits a developer from spending association funds in defense of a suit under s. 720.402, F.S.

The bill provides that this provision is intended to clarify existing law and applies to all homeowners' associations existing on July 1, 2016 and created thereafter.

### **Effective Date**

The bill provides and effective date of July 1, 2016.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill would impose several requirements on the governance and administration of homeowners' associations. The bill may affect existing homeowners' associations governing documents. The governing documents of homeowners' associations are generally considered to be contracts.<sup>20</sup> To the extent that the provisions of this bill may be applied retroactively, provisions of the bill may prompt concerns regarding the unconstitutional impairment of contract.

Article I, Section 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. As early as 1880, the federal courts recognized that the contract clause does not override the police power of the states to establish regulations to promote the health, safety, and morals of the community.<sup>21</sup> The severity of the impairment is a key issue when evaluating whether a state law impairs a contract.<sup>22</sup> In *Exxon Corp. v Eageron*, 462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

Article I, section 10 of the Florida Constitution also prohibits the state from enacting laws impairing the obligation of contracts. While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers.<sup>23</sup> This exception extends to laws that are reasonable and necessary to serve and important public purpose,<sup>24</sup> to include protecting the public's health, safety or welfare.<sup>25</sup> For a statute to offend the constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect.<sup>26</sup>

Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts.<sup>27</sup>

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

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<sup>20</sup> See *Venetian Isles Homeowners' Assoc., Inc., v. Albrecht*, 823 So.2d 813 (Fla. 2<sup>nd</sup> D.C.A. 2002) and *Cudjoe Gardens Property Owners Assoc., Inc. v. Patne*, 779 So.2d 598 (Fla. 3<sup>rd</sup> D.C.A. 2001).

<sup>21</sup> *Stone v. Mississippi*, 101 U.S. 814 (1880).

<sup>22</sup> *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

<sup>23</sup> *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So.2d 681 (Fla. 1980).

<sup>24</sup> *Yellow Cab Co. v. Dade County*, 412 So.2d 395 (Fla. 3<sup>rd</sup> DCA 1982), petition den. 424 So.2d 764 (Fla. 1982).

<sup>25</sup> *Khoury v Carvel Homes South, Inc.*, 403 So.2d 1043 (Fla. 1<sup>st</sup> DCA 1981), petition den. 412 So.2d 467 (Fla. 1981).

<sup>26</sup> *Tri-Properties, Inc. v. Moonspinner Condominium Association, Inc.*, 447 So.2d 965 (Fla. 1<sup>st</sup> DCA 1984).

<sup>27</sup> *Pomponio v Claridge of Pompano Condominium, Inc.*, 378 So.2d 774 (Fla. 1979).

**B. Private Sector Impact:**

The bill requires each homeowners' association to pay a \$2 fee per parcel to the department to fund the regulatory program. Associations may also incur an expense for the requirement to submit the annual report required by s. 720.303(13), F.S.

**C. Government Sector Impact:**

The bill requires each homeowners' association to pay a \$2 fee per parcel to the department to fund the regulatory program. The department may incur indeterminate costs related to the development of the education and training program, the dispute resolution program, the investigation of complaints, and the enforcement of ch. 720, F.S., as provided by the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 718.509, 720.303, 720.305, 720.307, 720.311, 720.401, and 720.402.

This bill creates sections 720.318 and 720.319 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.