

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1237 Condominiums

SPONSOR(S): Judiciary Committee; Civil Justice & Claims Subcommittee; Diaz and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	14 Y, 0 N, As CS	Stranburg	Bond
2) Judiciary Committee	17 Y, 0 N, As CS	Stranburg	Camechis

SUMMARY ANALYSIS

A condominium is a form of real property ownership comprised of units that are individually owned and have an undivided share of access to common areas and a corresponding duty to pay assessments to fund the maintenance and repair of the common areas. Condominium associations are regulated by the Department of Business and Professional Regulation (DBPR).

Significantly, the bill amends current law relating to condominiums to:

- Reference criminal offenses that may apply to condominium association officers, directors, and managers;
- Prohibit contracts between the association and any company related to an officer or director and requires disclosure of potential conflicts of interest;
- Prohibit condominium association officers, directors, managers, and agents from using a debit card of the association;
- Create limits on the purchase of condominium units being foreclosed due to an association lien;
- Require retention of bids for materials, equipment or services in an association's official records;
- Allow a tenant the right of inspection of an association's bylaws and rules;
- Require an association of 150 or more units to create a website for access to association records starting July 2018;
- Require an association to provide a copy of the most recent financial report upon written request from a unit owner and penalize an association that does not provide a financial report to an owner when requested by DBPR to do so;
- Create a term limit of 8 years applicable to board members who serve 2-year terms;
- Require a recalled board member to immediately abandon office, and to return association property and records within 10 full business days;
- Require DBPR to certify arbitrators and set time requirements on conducting a hearing and rendering a decision;
- Limit the suspension of a member's ability to vote in association elections;
- Authorize the Condominium Ombudsman to review secret ballots cast at an association vote when looking for misconduct; and
- Require an association to report to DBPR the names of all financial institutions with which the association maintains accounts, which list may be obtained by any association member upon written request.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Condominiums

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., comprised of units which are individually owned and have an undivided share of access to common facilities.¹ A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located.² A declaration is similar to a constitution as it governs the relationship among the unit owners and the association. Specifically, a declaration of condominium may include covenants and restrictions concerning the use, occupancy and transfer of the units permitted by law with reference to real property.³

All unit owners are members of the condominium association, an entity responsible for the operation of the common elements owned by the unit owners, which operates or maintains real property in which unit owners have use rights.⁴ The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration."⁵ The association enacts condominium association bylaws, which govern the administration of the association, including quorum, voting rights, and election and removal of board members.⁶

Condominium associations are regulated by the Division of Florida Condominiums, Timeshares and Mobile Homes (division) of the Department of Business and Professional Regulation.

Conflicts of Interest

A contract for maintenance or management services between a party and the association must disclose any financial or ownership interest a board member or any party providing maintenance or management services to the association holds with the contracting party.⁷ Any contract that does not disclose such an interest is unenforceable.

Contracts for products and services may be signed between the association and an entity in which one or more of the association's directors are directors or officers.⁸ The same disclosures are required in the association and board member's case as are required when a not-for-profit corporation signs a contract with an entity in which one or more of the not-for-profit's directors are a director or officer. The fact of the relationship must be disclosed to the board and must be approved by a majority of board members who have no interest in the transaction.⁹

The provisions relating to contracts for products and services do not apply to contracts with employees of the association and contracts for a(n):

- Attorney;
- Accountant;
- Community association manager;
- Timeshare management firm;

¹ s. 718.103(11), F.S.

² s. 718.104(2), F.S.

³ s. 718.104(5), F.S.

⁴ s. 718.103(2), F.S.

⁵ s. 718.103(4), F.S.

⁶ s. 718.112, F.S.

⁷ s. 718.3025(1)(f), F.S.

⁸ s. 718.3026(3), F.S.

⁹ s. 617.0832, F.S.

- Engineering firm; and
- Landscape architect.¹⁰

Effect of the Bill- Conflicts of Interest

The bill creates s. 718.111(3)(b), F.S., providing that an attorney may not represent the board if the attorney also represents the management company of the association.

The bill amends s. 718.111(9), F.S., to prohibit a board member, manager or management company from purchasing a unit at a foreclosure sale resulting from the association's foreclosure on its lien for unpaid assessments or taking title by deed in lieu of foreclosure. Timeshare condominiums are exempted from this provision.

The bill creates s. 718.112(2)(p), F.S., prohibiting an association from employing or contracting with any service provider that is owned or operated by a board member, any person that has a financial relationship with a board member, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer. This restriction does not apply to a service provider in which a board member or officer, or relative within the third degree of consanguinity by blood or marriage of the board member or officer, owns less than 1 percent of the equity shares of the service provider. Timeshare condominiums are exempted from this provision.

The bill creates s. 718.3025(5), F.S., prohibiting a party contracting to provide maintenance or management services to an association, or a board member of such a party, purchasing a property subject to a lien by the association. If a party contracting to provide maintenance or management services to an association, or a board member of such a party, owns 50 percent or more of the units in the condominium, the contract with the party providing maintenance or management services may be cancelled by a majority vote of the unit owners other than the contracting party or officer or board member of such party. Timeshare condominiums are exempted from this provision.

The bill creates s. 718.3027, F.S., providing procedures for noticing potential conflicts of interest. The bill provides that an officer or director of an association, and their relatives, must disclose to the board any activity that may be construed as a conflict of interest. A rebuttable presumption of a conflict of interest exists if, without prior notice:

- Any director, officer, or relative of a director or officer enters into a contract for goods or services with the association; or
- Any director, officer, or relative holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract with the association.

Timeshare condominiums are exempted from this provision.

If a director, officer, or relative of a director or officer proposes to engage in an activity that is a conflict of interest, the proposed activity must be listed on the meeting agenda and all contracts and transactional documents for the proposed activity must be attached to the meeting agenda. The board must provide all these documents to the unit owners as well. The interested director or officer may attend the meeting at which the contract is considered and may make a presentation to the board regarding the activity. After the presentation, the director, officer, or relative must leave the room. Any director or officer who has an interest in the contract must recuse himself or herself from the vote.

If the board rejects the proposed contract, the director, officer, or relative must notify the board in writing of his or her intent not to pursue the contract further or the director or officer must withdraw from office. If the board finds that a director or officer has not notified it of his or her intent to pursue the

¹⁰ s. 718.3026(2)(a), F.S.
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contract further, the officer or director is deemed removed from office, and the vacancy must be filled according to general law.

Any contract entered into between any director, officer, or relative that is not properly noticed before consideration is voidable. The contract is terminated upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association.

For purposes of the section, the bill defines "relative" as a relative within the third degree of consanguinity by blood or marriage.

Official Records

Condominium associations are currently required to maintain official records, which include:

- A copy of the plans, permits, warranties, and other items provided by the developer;
- A copy of the articles of incorporation, declaration, bylaws of and rules of the association;
- Meeting minutes
- A roster of all unit owners or members, including the electronic mailing addresses and fax numbers of unit owners consenting to receive notice by electronic transmission;
- A copy of any contracts to which the association is part or through which the association or the unit owners or members have an obligation;
- Accounting records for the association;
- All contracts for work to be performed; and
- All other written records which are related to the operation of the association.¹¹

Effect of the Bill- Official Records

The bill adds bids for materials, equipment, or services to the list of official records of the association.

Access to Records

A condominium association is required to maintain and provide access to the official records for inspection by any association member or the authorized representative of the member at reasonable times.¹² The right to inspect includes the right to make or obtain copies at the expense of the member.

Currently, state law does not require a condominium association to maintain a website. Some associations have websites for members to access information and documents regarding the association.

Effect of the Bill- Access to Records

The bill provides that the reasonable expenses in copying an association's official books and records may be owed by the member's authorized representative. The bill also authorizes the tenant of an association member's unit to inspect and copy the bylaws and rules of an association.

The bill requires an association with 150 or more units that does not manage timeshare units to provide certain documents on the association's website. The website must be independently owned and operated by the association or operated by a third-party provider with whom the association has the right to operate a web page dedicated to the association's activities, notices, and records. The association must provide an owner, upon request, with a username and password to the protected sections of the association's website that contain any notices, records, or documents that must be electronically provided.

¹¹ s. 718.111(12)(a), F.S.

¹² s. 718.111(12)(c), F.S.

The following documents must be placed on the website:

- The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration;
- The recorded bylaws of the association and each amendment to the bylaws;
- The articles of incorporation of the association, or other documents creating the association, and each amendment thereto. The copy posted must be the same as the documents filed with the Department of State;
- The rules of the association;
- Any management agreement, lease, or other contract to which the association is party or through which the association or the unit owners have an obligation or responsibility. Summaries of bids for materials, equipment, or services must be maintained on the website for 1 year;
- The annual budget and any proposed budget to be considered at the annual meeting;
- The financial report and any proposed financial report to be considered at a meeting;
- The certification of each director;
- All contracts or transactions between the association and any director, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested;
- Any contract or document regarding a conflict of interest or possible conflict of interest;
- The notice of any unit owner meeting and the agenda for the meeting, posted at least 14 days before the meeting. The notice must be posted in plain view on the front page of the website or on a separate subpage of the website labeled "Notices" which is conspicuously visible and linked from the front page; and
- Any documents to be considered during a meeting or listed on the agenda for a meeting. These must be posted at least 7 days before the meeting where the document will be considered.

An association must ensure that information and records that members are not permitted to access are not placed on its website. If protected information is included in documents that are required to be placed on the website, the association must redact such information before placing the documents online.

In order to implement the website requirement, DBPR must include in its next condominium association annual fee statement a notice informing condominium associations of 150 or more units of the requirement to create a website for association documents that is operational no later than July 1, 2018.

Financial Reporting

In accordance with s. 718.111(13), F.S., within 90 days after the end of the fiscal year or calendar year, or annually on a date provided in the bylaws, the association is required to prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or calendar year, or other date as provided in the bylaws, the association must hand deliver or mail each member a copy of the financial report or a notice that a copy of the financial report is available upon request without charge, upon receipt of a written request from the member.

Current law requires different levels of financial reporting by the association determined by the annual revenues of the association. Current law requires that an association:

- With total annual revenues under \$150,000 must prepare a report of cash receipts and expenditures;¹³

¹³ s. 718.111(13)(b)1, F.S.
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- With total annual revenues of \$150,000 or more, but less than \$300,000, must prepare compiled financial statements;¹⁴
- With total annual revenues of \$300,000 or more, but less than \$500,000, must prepare reviewed financial statements;¹⁵ and
- With total annual revenues of \$500,000 or more must prepare audited financial statements.¹⁶

An association that operates fewer than 50 units, regardless of annual revenues, must prepare a report of cash receipts and expenditures in lieu of more formal statements.¹⁷

By approval of a majority of voting interests present at a properly called meeting of the association, an association may choose to prepare financial statements in accordance with the requirements of any bracket of lower annual revenue.¹⁸ The meeting and vote must occur before the end of the fiscal year and is effective for the fiscal year in which the vote is taken and may be effective for the following fiscal year.¹⁹ An association may not waive its financial reporting requirements for more than three consecutive years.²⁰

Effect of Bill- Financial Reporting

The bill amends s. 718.111(13), F.S., to specify that that the association must provide the unit owner with the most recent financial report. The bill also provides that the association must provide a copy of the most recent financial report within 5 business days after the receipt of a written request for the report by a member.

The bill provides that a unit owner may contact the division to report an association's failure to provide a copy of the financial report within the required time. Upon determination by the division that the association has failed to provide the financial report in a timely manner, the division is required to give notice to the association that it must provide a copy of the most recent financial report to the unit owner and the division within 5 business days. If the association fails to comply with the division's request, the association may not waive the financial reporting requirement as provided in s. 718.111(13)(d), F.S. A financial report received by the division must be maintained and a copy provided to an association member upon request.

The bill also creates s. 718.71, F.S., requiring an association to provide an annual report to DBPR containing the names of all the financial institutions with which the association maintains accounts. A copy of this report may be obtained by any association member upon written request.

Term Limits for Board Members

Current law generally requires a board member's term in office to expire at the annual meeting. A condominium association may provide for 2-year terms if allowed by the bylaws or articles of incorporation.²¹ Coowners of a unit may not both serve as members of the board at the same time unless they own more than one unit or there are not enough candidates to fill the vacancies on the board at the time of the vacancy. There are no term limits for board members in current law.

¹⁴ s. 718.111(13)(a)1, F.S.

¹⁵ s. 718.111(13)(a)2, F.S.

¹⁶ s. 718.111(13)(a)3, F.S.

¹⁷ s. 718.111(13)(b)2, F.S.

¹⁸ s. 718.111(13)(d), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ s. 718.112(2)(d)2, F.S.

Effect of the Bill- Term Limits for Board Members

The bill amends s. 718.112(2)(d)2., F.S., to provide that a board member may not serve more than 4 consecutive 2-year terms. A board member may have this term limit waived by the affirmative vote of two-thirds of the total voting interests of the association. The term limit may also be waived if there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancies. Timeshare condominiums are exempted from this provision.

Board Member Recall

Current law allows any member of an association board to be recalled and removed from office by a majority of all the voting interests.²² If a recall is approved by a majority of all voting interests at a meeting or by an agreement in writing, the board must notice and hold a board meeting within 5 business days. At that meeting the board must determine whether to certify the recall.²³ If the board does not certify the recall, the board must file a petition for arbitration with the division within 5 business days.²⁴ If the arbitrator certifies the recall, the recall will be effective on the mailing of the final order of arbitration to the association.²⁵ A board member that is recalled must turn over any and all property and records of the association in the member's possession within 5 business days after the recall.²⁶ If a board fails to duly notice a meeting to certify a recall or fails to file the required petition, the recall is deemed effective and the recalled member must turn over any and all property and records of the association immediately.²⁷

Effect of the Bill- Board Member Recall

The bill amends s. 718.112(2)(j), F.S., relating to the recall process for board members. The bill deletes the certification process for the association board of directors. Upon vote of a general membership meeting or serving of a copy of an agreement in writing by a majority of all voting interests, a board member is recalled from the member's seat. The recalled board member must return all property and records of the association in the board member's possession within 10 business days after the vote or serving of the agreement.

The bill also deletes the arbitration provision in s. 718.112(2)(j)3., F.S., since a board of directors may no longer choose not to certify a recall vote or agreement. The bill also removes other references to the certification process from s. 718.112(2)(j), F.S., and corrects cross references changed by the removal of s. 718.112(2)(j)3., F.S.

Enhanced Penalties for Activities Related to Condominium Associations

Fraud in the board election process has significantly impacted some associations. A grand jury report from Miami-Dade County cited to an association election fraught with fraudulent activity.²⁸ An election monitor for the association received three sealed envelopes with ballots: one from a unit owner so frustrated with the prior boards that she decided to run for a board seat, one from the board of directors, and one from the management company. The envelopes were stamped based on which source provided the envelope. As the election monitor opened the envelope, he discovered there were instances of double voting. The candidate asked owners whom she had collected ballots from to come and these owners subsequently identified their true ballots and ballots with forged signatures. The ballots with forged signatures were all notarized by one person on one date. This notary later admitted

²² s. 718.112(2)(j), F.S.

²³ s. 718.112(2)(j)1, F.S.

²⁴ s. 718.112(2)(j)3, F.S.

²⁵ *Id.*

²⁶ ss. 718.112(2)(j)1, 2, and 3, F.S.

²⁷ s. 718.112(2)(j)4, F.S.

²⁸ Final Report of the Miami-Dade County Grand Jury, pp.21-23. A copy of the document is on file with the Civil Justice & Claims Subcommittee.

that the ballots were not signed in her presence. Additionally, the directors submitted ballots purportedly from absentee unit owners. These envelopes, purportedly from owners not living in the condominium, were not postmarked.

The grand jury report suggested in response to this story and other stories of fraud in board member elections that fraudulent activity in connection with the election of board members for the association should be subject to criminal liability.²⁹ The report also suggested that destruction of official records of the association and other violations should be subject to criminal liability.³⁰

Effect of the Bill- Enhanced Penalties for Activities Related to Condominium Associations

The bill amends s. 718.111(1), F.S., to enhance penalties for multiple actions relating to the activities of a condominium association. An officer, director, or manager of a condominium association may not accept a kickback from any person providing or proposing to provide goods or services to the association. The bill also provides for criminal penalties, if applicable, for accepting any kickbacks.

The bill enumerates that certain activities are punishable as crimes. Forgery of a ballot envelope used in a condominium association election or voting certificate is punishable as forgery pursuant to s. 831.01, F.S. Theft or embezzlement of the funds of a condominium association are punishable as theft pursuant to s. 812.014, F.S. Destruction of any official record of a condominium association in furtherance of a crime is punishable as tampering with evidence pursuant to s. 918.13, F.S., or as obstruction of justice pursuant to s. 843.02, F.S.

Any officer or director charged by information or indictment with one of these crimes must be removed from office and the vacancy filled for the remainder of the term or suspension for criminal charges by the election of a new officer or director. An officer or director may not be appointed or elected to a position as an officer or director of any association while a criminal charge is pending against that officer or director. If the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

Arbitration and Mediation of Disputes

Current law provides an alternative dispute resolution program for disputes between condominium unit owners and condominium associations. The program is primarily funded through the annual fee paid by associations. The primary mechanism for dispute resolution is through nonbinding arbitration of disputes by arbitrators who are full-time employees of DBPR. There are also provisions for mediation.

Effect of the Bill- Arbitration and Mediation of Disputes

The bill amends s. 718.1255(4), F.S., to authorize DBPR to certify attorneys as arbitrators who DBPR may contract with for an arbitration hearing. Certification by the Department requires that an attorney:

- Be a member in good standing with the Florida Bar for at least 5 years; and
- Have mediated or arbitrated at least 10 disputes involving condominiums in Florida during the 3 years immediately preceding the date of application for certification; or
- Have mediated or arbitrated at least 30 disputes in any subject area in Florida during the 3 years immediately preceding the date of application; or
- Attain board certification in real estate law or condominium and planned development law from the Florida Bar.

Arbitrator certification is good for 1 year. An arbitrator who does not maintain the minimum qualifications for initial certification may not have his or her certification renewed. The Department must

²⁹ *Id.* at 24.

³⁰ *Id.* at 24.

contract with a certified arbitrator for an arbitration hearing unless there is no certified arbitrator available within 50 miles of the arbitration hearing.

The bill provides that the division must assign an arbitrator or contract with an arbitrator when it determines that a dispute exists and serve a copy of the petition on all respondents to the arbitration. The arbitrator must conduct a hearing within 30 days of being assigned or contracted unless the petition is withdrawn or a continuance is granted. The arbitrator must render a decision within 30 days after the hearing and present the decision to the parties in writing. If an arbitrator fails to render a written decision within 30 days after the hearing, the Department may cancel the arbitrator's certification.

Rights and Obligations of Owners and Occupants

Current law authorizes an association to impose regular and special assessments and levy fines against owners or members who violate the association's rules or other governing documents.³¹ If a unit or member is more than 90 days delinquent in paying an imposed monetary obligation, an association may suspend that unit or member's voting rights.³² The notice and hearing requirement in s. 718.303(3), F.S., does not apply to a suspension of voting rights imposed for delinquency of an imposed monetary obligation.³³

Effect of the Bill- Rights and Obligations of Owners and Occupants

The bill amends s. 718.303(5), F.S., to provide that an association may suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association only if the obligation is 90 days delinquent and totals more than \$1000. The association must provide proof of such obligation to the unit owner or member 30 days before the suspension takes effect.

The bill creates s. 718.303(8), F.S., providing that a receiver may not exercise voting rights of any unit owner whose unit is placed in receivership for the benefit of the association.

Condominium Association Ombudsman

The Office of the Condominium Ombudsman was established to be a neutral resource for unit owners, board members, condominium associations, and others. The ombudsman is authorized to prepare and issue reports and recommendation to the Governor, DBPR, the division, the Advisory Council on Condominiums, the President of the Senate, and the Speaker of the House of Representatives on any matter or subject within the jurisdiction of the division.³⁴ In addition, the ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by unit owners, associations, and managers.³⁵

The ombudsman also acts as a liaison among the division, unit owners, boards of directors, board members, community association managers, and other affected parties and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities. The ombudsman is authorized to monitor and review procedures and disputes concerning condominium elections and meeting, including recommending that the division pursue enforcement action in any manner where there is reasonable cause to believe that election misconduct has occurred.

³¹ s. 718.303, F.S.

³² s. 718.303(5), F.S.

³³ *Id.*

³⁴ s. 718.5012(3), F.S.

³⁵ s. 718.5012(6), F.S.

Effect of the Bill- Condominium Association Ombudsman

The bill amends s. 718.5012(5), F.S., to add a provision that the ombudsman has the authority to review secret ballots cast at a vote of an association when reviewing election misconduct.

Effect of the Bill- Miscellaneous

The bill prohibits an association, or any officer, director, employee, or agent of an association from using a debit card issued in the name of the association, or which is billed directly to the association, for the payment of any expense that the association incurs. The use of a debit card issued in the name of the association or billed directly to the association for any expense that is not a lawful obligation of the association is punishable as credit card fraud pursuant to s. 817.61, F.S.

The bill provides an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1 amends s. 718.111, F.S., relating to condominium associations.

Section 2 provides requirements for DBPR to notice condominium associations of the website requirement.

Section 3 amends s. 718.112, F.S., relating to bylaws.

Section 4 amends s. 718.1255, F.S., relating to alternative dispute resolution, voluntary mediation, mandatory nonbinding arbitration, and legislative findings.

Section 5 amends s. 718.3025, F.S., relating to agreements for operation, maintenance, or management of condominiums.

Section 6 creates s. 718.3027, F.S., relating to conflicts of interest.

Section 7 amends s. 718.303, F.S., relating to obligations of owners and occupants and remedies.

Section 8 amends s. 718.5012, F.S., relating to the Ombudsman and his powers and duties.

Section 9 creates s. 718.71, F.S., relating to financial reporting.

Section 10 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

There does not appear to be any fiscal impact on the Department of Business and Professional Regulation.³⁶

³⁶ DBPR analysis dated March 17, 2017.
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires that a condominium association of greater than 150 units must create a website. The cost is unknown. The remainder of the bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not appear to create rulemaking authority or a need for rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not make similar amendments to the provisions affecting cooperative associations.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2017, the Civil Justice & Claims Subcommittee adopted six amendments and reported the bill favorably as a committee substitute. The first five amendments exempted timeshare condominiums from provisions regarding sale of a unit in foreclosure pursuant to an association's lien, term limits for association board members, conflicts of interests for service providers, agreements for operation, maintenance, or management of condominiums, and conflicts of interest for association board members. The bill as filed allowed a tenant the same right to inspect and copy the official books and records of the association as a unit owner. The sixth amendment limits this right to the bylaws and rules of the association.

On April 20, 2017, the Judiciary Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Added references to applicable criminal penalties in current law;
- Removed provisions creating new criminal penalties for actions relating to official records of a condominium association and fraudulent voting activities;
- Prohibited the issuance or use of a debit card in the association's name or billed to the association for association expenses;

- Provided that use of a debit card in the association's name or billed to the association for an expense that is not the legal obligation of the association is punishable as credit card fraud;
- Provided requirements for DBPR to notice condominium associations of the website requirement for associations of 150 or more units; and
- Provided that a relative of a board member or officer is a person within the third degree of consanguinity by blood or marriage for purposes of conflict of interests provision.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.