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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 03/24/2021 | . | |
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The Committee on Community Affairs (Pizzo) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 119 - 275
and insert:
pursuant to sub-subparagraph (16)(b)2.

18. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws,



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11 the association shall prepare and complete, or contract for the
12 preparation and completion of, a financial report for the
13 preceding fiscal year. Within 21 days after the final financial
14 report is completed by the association or received from the
15 third party, but not later than 120 days after the end of the
16 fiscal year or other date as provided in the bylaws, the
17 association shall mail to each unit owner at the address last
18 furnished to the association by the unit owner, or hand deliver
19 to each unit owner, a copy of the most recent financial report
20 or a notice that a copy of the most recent financial report will
21 be mailed or hand delivered to the unit owner, without charge,
22 within 5 business days after receipt of a written request from
23 the unit owner. The division shall adopt rules setting forth
24 uniform accounting principles and standards to be used by all
25 associations and addressing the financial reporting requirements
26 for multicondominium associations. The rules must include, but
27 not be limited to, standards for presenting a summary of
28 association reserves, including a good faith estimate disclosing
29 the annual amount of reserve funds that would be necessary for
30 the association to fully fund reserves for each reserve item
31 based on the straight-line accounting method. This disclosure is
32 not applicable to reserves funded via the pooling method. In
33 adopting such rules, the division shall consider the number of
34 members and annual revenues of an association. Financial reports
35 shall be prepared as follows:

36 (a) An association that meets the criteria of this
37 paragraph shall prepare a complete set of financial statements
38 in accordance with generally accepted accounting principles. The
39 financial statements must be based upon the association's total



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40 annual revenues, as follows:

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

44 2. An association with total annual revenues of at least
45 \$300,000, but less than \$500,000, shall prepare reviewed
46 financial statements.

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

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

52 2. A report of cash receipts and disbursements must
53 disclose the amount of receipts by accounts and receipt
54 classifications and the amount of expenses by accounts and
55 expense classifications, including, but not limited to, the
56 following, as applicable: costs for security, professional and
57 management fees and expenses, taxes, costs for recreation
58 facilities, expenses for refuse collection and utility services,
59 expenses for lawn care, costs for building maintenance and
60 repair, insurance costs, administration and salary expenses, and
61 reserves accumulated and expended for capital expenditures,
62 deferred maintenance, and any other category for which the
63 association maintains reserves.

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

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



69 2. Reviewed or audited financial statements, if the
70 association is required to prepare compiled financial
71 statements; or
72 3. Audited financial statements if the association is
73 required to prepare reviewed financial statements.
74 (d) Unless an association invests funds pursuant to
75 paragraph (16) (b), and only if approved by a majority of the
76 voting interests present at a properly called meeting of the
77 association, an association may prepare:
78 1. A report of cash receipts and expenditures in lieu of a
79 compiled, reviewed, or audited financial statement;
80 2. A report of cash receipts and expenditures or a compiled
81 financial statement in lieu of a reviewed or audited financial
82 statement; or
83 3. A report of cash receipts and expenditures, a compiled
84 financial statement, or a reviewed financial statement in lieu
85 of an audited financial statement.
86
87 Such meeting and approval must occur before the end of the
88 fiscal year and is effective only for the fiscal year in which
89 the vote is taken, except that the approval may also be
90 effective for the following fiscal year. If the developer has
91 not turned over control of the association, all unit owners,
92 including the developer, may vote on issues related to the
93 preparation of the association's financial reports, from the
94 date of incorporation of the association through the end of the
95 second fiscal year after the fiscal year in which the
96 certificate of a surveyor and mapper is recorded pursuant to s.
97 718.104(4)(e) or an instrument that transfers title to a unit in



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98 the condominium which is not accompanied by a recorded
99 assignment of developer rights in favor of the grantee of such
100 unit is recorded, whichever occurs first. Thereafter, all unit
101 owners except the developer may vote on such issues until
102 control is turned over to the association by the developer. Any
103 audit or review prepared under this section shall be paid for by
104 the developer if done before turnover of control of the
105 association.

106 (e) If an association invests funds pursuant to paragraph
107 (16) (b), the association must prepare financial statements
108 pursuant to paragraphs (a) and (b) of this subsection.

109 (16) INVESTMENT OF ASSOCIATION FUNDS.-

110 (a) Unless otherwise prohibited in the declaration, and in
111 accordance with s. 718.112(2) (f), an association, including a
112 multicondominium association, may invest any funds in one or any
113 combination of investment products described in this subsection.

114 (b) If an association invests funds in any type of
115 investment product other than a depository account described in
116 s. 215.47(1) (h), the association must meet all of the following
117 requirements:

118 1. The board must obtain prior approval by a majority vote
119 of the unit owners or all nondeveloper voting interests at a
120 duly called meeting of the association before investing funds in
121 investment products other than a depository account described in
122 s. 215.47(1) (h).

123 2. The board must develop a written investment policy
124 statement and such statement must be annually approved during a
125 budget meeting. An investment policy statement must, at minimum,
126 address:



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- 127 a. Liquidity;
- 128 b. Safety;
- 129 c. Yield;
- 130 d. Short-term and long-term goals;
- 131 e. Authorized investments;
- 132 f. The mix of investments allowed; and
- 133 g. The limits of authority relative to investment
- 134 transactions.

135 3. The board must select an investment adviser who is
136 registered under s. 517.12 and who is not related by affinity or
137 consanguinity to any board member or unit owner. Any investment
138 fees and commissions may be paid from the invested reserve funds
139 or operating funds. The investment adviser selected by the board
140 shall invest any funds not deposited into a depository account
141 described in s. 215.47(1)(h) by the board and shall comply with
142 the prudent investor rule in s. 518.11. The investment adviser
143 shall act as a fiduciary to the association in compliance with
144 the standards set forth in the Employee Retirement Income
145 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
146 of conflict with other provisions of law authorizing
147 investments, the investment and fiduciary standards set forth in
148 this subparagraph shall prevail.

149 4. At least once each calendar year, the association shall
150 provide the investment adviser with the association's investment
151 policy statement, the most recent reserve study report or a good
152 faith estimate disclosing the annual amount of reserve funds
153 which would be necessary for the association to fully fund
154 reserves for each reserve item, and the financial reports
155 prepared pursuant to subsection (13). The investment adviser



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156 shall annually review these documents and provide the
157 association with a portfolio allocation model that is suitably
158 structured to match projected reserve fund and liability
159 liquidity requirements. There must be at least 36 months of
160 projected reserves in cash or cash equivalents available to the
161 association at all times.

162 (c) Portfolios managed by the investment adviser may
163 contain any type of investment necessary to meet the objectives
164 in the investment policy statement; however, portfolios may not
165 contain stocks, securities, or other obligations that the State
166 Board of Administration is prohibited from investing in under
167 ss. 215.471, 215.4725, and 215.473 or that state agencies are
168 prohibited from investing in under s. 215.472, as determined by
169 the investment adviser.

170 (d) The investment adviser shall:

171 1. Annually provide the association with a written
172 certification of compliance with this section; and

173 2. Submit monthly, quarterly, and annual reports to the
174 association which are prepared in accordance with investment
175 industry standards.

176 (e) Any principal, earnings, or interest managed under this
177 subsection must be available at no cost or charge to the
178 association within 15 business days after delivery of the
179 association's written or electronic request.

181 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

182 And the directory clause is amended as follows:

183 Delete line 43

184 and insert:



185 718.111, Florida Statutes, is amended, and paragraph (e) is
186 added to subsection (13) of that section and subsection (16) is
187

188 ===== T I T L E A M E N D M E N T =====

189 And the title is amended as follows:

190 Delete lines 6 - 35

191 and insert:

192 requiring associations that make certain investments
193 to prepare financial statements in a specified manner;
194 authorizing associations to invest funds in specified
195 investment products; requiring certain association
196 boards to obtain prior approval before investing funds
197 in certain investment products, annually develop an
198 investment policy statement, and select an investment
199 adviser who meets specified requirements; authorizing
200 investment fees and commissions to be paid from
201 invested reserve funds or operating funds; requiring
202 investment advisers to invest certain operating or
203 reserve funds in compliance with a specified rule;
204 requiring investment advisers to act as association
205 fiduciaries; providing construction; requiring that
206 certain funds be held in specified accounts; requiring
207 associations to provide their investment adviser with
208 certain documents at least annually; requiring
209 investment advisers to annually review such documents
210 and provide the association with a portfolio
211 allocation model that meets specified requirements;
212 providing that portfolios may not contain certain
213 investments; requiring investment advisers to annually



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214 provide to the association a certain certification and
215 to periodically submit certain reports; requiring that
216 certain funds be made available to associations within
217 a certain timeframe after they submit a written or
218 electronic request; amending s. 718.3026, F.S.;