



217604

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
05/02/2023 04:43 PM	.	05/04/2023 10:25 AM
	.	

Senator Rodriguez moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Homeowners'
Associations Bill of Rights."

Section 2. Paragraph (c) of subsection (2) and paragraph
(g) of subsection (4) of section 720.303, Florida Statutes, are
amended, and paragraph (d) is added to subsection (8) of that
section, to read:

720.303 Association powers and duties; meetings of board;



12 official records; budgets; financial reporting; association
13 funds; recalls.—

14 (2) BOARD MEETINGS.—

15 (c) The bylaws shall provide the following for giving
16 notice to parcel owners and members of all board meetings and,
17 if they do not do so, shall be deemed to include the following:

18 1. Notices of all board meetings must specifically identify
19 agenda items for the meetings and must be posted in a
20 conspicuous place in the community at least 48 hours in advance
21 of a meeting, except in an emergency. In the alternative, if
22 notice is not posted in a conspicuous place in the community,
23 notice of each board meeting must be mailed or delivered to each
24 member at least 7 days before the meeting, except in an
25 emergency. Notwithstanding this general notice requirement, for
26 communities with more than 100 members, the association bylaws
27 may provide for a reasonable alternative to posting or mailing
28 of notice for each board meeting, including publication of
29 notice, provision of a schedule of board meetings, or the
30 conspicuous posting and repeated broadcasting of the notice on a
31 closed-circuit cable television system serving the homeowners'
32 association. However, if broadcast notice is used in lieu of a
33 notice posted physically in the community, the notice must be
34 broadcast at least four times every broadcast hour of each day
35 that a posted notice is otherwise required. When broadcast
36 notice is provided, the notice and agenda must be broadcast in a
37 manner and for a sufficient continuous length of time so as to
38 allow an average reader to observe the notice and read and
39 comprehend the entire content of the notice and the agenda. In
40 addition to any of the authorized means of providing notice of a



217604

41 meeting of the board, the association may, by rule, adopt a
42 procedure for conspicuously posting the meeting notice and the
43 agenda on the association's website or an application that can
44 be downloaded on a mobile device for at least the minimum period
45 of time for which a notice of a meeting is also required to be
46 physically posted on the association property. Any rule adopted
47 must, in addition to other matters, include a requirement that
48 the association send an electronic notice to members whose e-
49 mail addresses are included in the association's official
50 records in the same manner as is required for a notice of a
51 meeting of the members. Such notice must include a hyperlink to
52 the website or such mobile application on which the meeting
53 notice is posted. The association may provide notice by
54 electronic transmission in a manner authorized by law for
55 meetings of the board of directors, committee meetings requiring
56 notice under this section, and annual and special meetings of
57 the members to any member who has provided a facsimile number or
58 e-mail address to the association to be used for such purposes;
59 however, a member must consent in writing to receiving notice by
60 electronic transmission.

61 2. An assessment may not be levied at a board meeting
62 unless the notice of the meeting includes a statement that
63 assessments will be considered and the nature of the
64 assessments. Written notice of any meeting at which special
65 assessments will be considered or at which amendments to rules
66 regarding parcel use will be considered must be mailed,
67 delivered, or electronically transmitted to the members and
68 parcel owners and posted conspicuously on the property or
69 broadcast on closed-circuit cable television not less than 14



217604

70 days before the meeting.

71 3. Directors may not vote by proxy or by secret ballot at
72 board meetings, except that secret ballots may be used in the
73 election of officers. This subsection also applies to the
74 meetings of any committee or other similar body, when a final
75 decision will be made regarding the expenditure of association
76 funds, and to any body vested with the power to approve or
77 disapprove architectural decisions with respect to a specific
78 parcel of residential property owned by a member of the
79 community.

80 (4) OFFICIAL RECORDS.—The association shall maintain each
81 of the following items, when applicable, which constitute the
82 official records of the association:

83 (g) A current roster of all members and their designated
84 mailing addresses and parcel identifications. A member's
85 designated mailing address is the member's property address,
86 unless the member has sent written notice to the association
87 requesting that a different mailing address be used for all
88 required notices. The association shall also maintain the e-mail
89 electronic mailing addresses and the facsimile numbers
90 designated by members for receiving notice sent by electronic
91 transmission of those members consenting to receive notice by
92 electronic transmission. A member's e-mail address is the e-mail
93 address the member provided when consenting in writing to
94 receiving notice by electronic transmission, unless the member
95 has sent written notice to the association requesting that a
96 different e-mail address be used for all required notices. The
97 e-mail electronic mailing addresses and facsimile numbers
98 provided by members ~~unit owners~~ to receive notice by electronic



217604

99 transmission must ~~shall~~ be removed from association records when
100 the member revokes consent to receive notice by electronic
101 transmission is revoked. However, the association is not liable
102 for an erroneous disclosure of the e-mail ~~electronic mail~~
103 address or the facsimile number for receiving electronic
104 transmission of notices.

105 (8) ASSOCIATION FUNDS; COMMINGLING.-

106 (d) If an association collects a deposit from a member for
107 any reason, including to pay for expenses that may be incurred
108 as a result of construction on a member's parcel, such funds
109 must be maintained separately and may not be commingled with any
110 other association funds. Upon completion of the member's
111 construction project or other reason for which the deposit was
112 collected, the member may request an accounting from the
113 association of his or her funds that were deposited, and the
114 association must provide such accounting to the member within 7
115 days after receiving the member's request. An association must
116 remit payment of any unused funds to the member within 30 days
117 after receiving notice that the member's construction project,
118 or other reason for which the deposit was collected, is
119 complete.

120 Section 3. Subsections (3) and (4) of section 720.3033,
121 Florida Statutes, are amended, and subsection (6) is added to
122 that section, to read:

123 720.3033 Officers and directors.-

124 (3) An officer, a director, or a manager may not solicit,
125 offer to accept, or accept any thing ~~good~~ or service of value
126 for which consideration has not been provided for his or her
127 benefit or for the benefit of a member of his or her immediate



217604

128 family from any person providing or proposing to provide goods
129 or services to the association. An officer, a director, or a
130 manager who knowingly solicits, offers to accept, or accepts any
131 thing or service of value or kickback for which consideration
132 has not been provided for his or her own benefit or that of his
133 or her immediate family from any person providing or proposing
134 to provide goods or services to the association is subject to
135 monetary damages under s. 617.0834. If the board finds that an
136 officer or a director has violated this subsection, the board
137 shall immediately remove the officer or director from office.
138 The vacancy shall be filled according to law until the end of
139 the officer's or director's term of office. However, an officer,
140 a director, or a manager may accept food to be consumed at a
141 business meeting with a value of less than \$25 per individual or
142 a service or good received in connection with trade fairs or
143 education programs.

144 (4) (a) A director or an officer charged by information or
145 indictment with any of the following crimes must be removed from
146 office:

147 1. Forgery of a ballot envelope or voting certificate used
148 in a homeowners' association election as provided in s. 831.01.

149 2. Theft or embezzlement involving the association's funds
150 or property as provided in s. 812.014.

151 3. Destruction of or the refusal to allow inspection or
152 copying of an official record of a homeowners' association which
153 is accessible to parcel owners within the time periods required
154 by general law, in furtherance of any crime. Such act
155 constitutes tampering with physical evidence as provided in s.
156 918.13.



217604

157 4. Obstruction of justice as provided in chapter 843.

158 ~~(b) a felony theft or embezzlement offense involving the~~
159 ~~association's funds or property is removed from office. The~~
160 board shall fill the vacancy as provided in s. 720.306(9)
161 ~~according to general law~~ until the end of the period of the
162 suspension or the end of the director's term of office,
163 whichever occurs first. If such criminal charge is pending
164 against the officer or director, he or she may not be appointed
165 or elected to a position as an officer or a director of any
166 association and may not have access to the official records of
167 any association, except pursuant to a court order. However, if
168 the charges are resolved without a finding of guilt or without
169 acceptance of a plea of guilty or nolo contendere, the director
170 or officer shall be reinstated for any remainder of his or her
171 term of office. ~~A member who has such criminal charges pending~~
172 ~~may not be appointed or elected to a position as a director or~~
173 ~~officer.~~

174 (6) (a) Directors and officers of an association who are
175 appointed by the developer must disclose to the association
176 their relationship to the developer each calendar year in which
177 they serve as a director or an officer. Directors and officers
178 appointed by the developer must disclose any other activity that
179 may reasonably be construed to be a conflict of interest
180 pursuant to paragraph (b). A developer's appointment of an
181 officer or director does not create a presumption that the
182 officer or director has a conflict of interest with regard to
183 the performance of his or her official duties.

184 (b) Directors and officers must disclose to the association
185 any activity that may be reasonably construed to be a conflict



186 of interest at least 14 days before voting on an issue or
187 entering into a contract that is the subject of the conflict. A
188 rebuttable presumption of a conflict of interest exists if any
189 of the following acts occur without prior disclosure to the
190 association:

191 1. A director or an officer, or a relative of a director or
192 an officer, enters into a contract for goods or services with
193 the association.

194 2. A director or an officer, or a relative of a director or
195 an officer, holds an interest in a corporation, limited
196 liability company, partnership, limited liability partnership,
197 or other business entity that conducts business with the
198 association or proposes to enter into a contract or other
199 transaction with the association.

200 Section 4. Subsections (1), (2), and (5) of section
201 720.305, Florida Statutes, are amended to read:

202 720.305 Obligations of members; remedies at law or in
203 equity; levy of fines and suspension of use rights.-

204 (1) Each member and the member's tenants, guests, and
205 invitees, and each association, are governed by, and must comply
206 with, this chapter, the governing documents of the community,
207 and the rules of the association. Actions at law or in equity,
208 or both, to redress alleged failure or refusal to comply with
209 these provisions may be brought by the association or by any
210 member against:

211 (a) The association;

212 (b) A member;

213 (c) Any director or officer of an association who willfully
214 and knowingly fails to comply with these provisions; and



217604

215 (d) Any tenants, guests, or invitees occupying a parcel or
216 using the common areas.

217
218 The prevailing party in any such litigation is entitled to
219 recover reasonable attorney fees and costs as provided in
220 paragraph (2) (e). A member prevailing in an action between the
221 association and the member under this section, in addition to
222 recovering his or her reasonable attorney fees, may recover
223 additional amounts as determined by the court to be necessary to
224 reimburse the member for his or her share of assessments levied
225 by the association to fund its expenses of the litigation. This
226 relief does not exclude other remedies provided by law. This
227 section does not deprive any person of any other available right
228 or remedy.

229 (2) An association may levy reasonable fines for violations
230 of the declaration, association bylaws, or reasonable rules of
231 the association. A fine may not exceed \$100 per violation
232 against any member or any member's tenant, guest, or invitee for
233 the failure of the owner of the parcel or its occupant,
234 licensee, or invitee to comply with any provision of the
235 declaration, the association bylaws, or reasonable rules of the
236 association unless otherwise provided in the governing
237 documents. A fine may be levied by the board for each day of a
238 continuing violation, with a single notice and opportunity for
239 hearing, except that the fine may not exceed \$1,000 in the
240 aggregate unless otherwise provided in the governing documents.
241 A fine of less than \$1,000 may not become a lien against a
242 parcel. In any action to recover a fine, the prevailing party is
243 entitled to reasonable attorney fees and costs from the



244 nonprevailing party as determined by the court.

245 (a) An association may suspend, for a reasonable period of
246 time, the right of a member, or a member's tenant, guest, or
247 invitee, to use common areas and facilities for the failure of
248 the owner of the parcel or its occupant, licensee, or invitee to
249 comply with any provision of the declaration, the association
250 bylaws, or reasonable rules of the association. This paragraph
251 does not apply to that portion of common areas used to provide
252 access or utility services to the parcel. A suspension may not
253 prohibit an owner or tenant of a parcel from having vehicular
254 and pedestrian ingress to and egress from the parcel, including,
255 but not limited to, the right to park.

256 (b) A fine or suspension levied by the board of
257 administration may not be imposed unless the board first
258 provides at least 14 days' notice to the parcel owner at his or
259 her designated mailing or e-mail address in the association's
260 official records and, if applicable, any occupant, licensee, or
261 invitee of the parcel owner, sought to be fined or suspended and
262 ~~an opportunity for~~ a hearing before a committee of at least
263 three members appointed by the board who are not officers,
264 directors, or employees of the association, or the spouse,
265 parent, child, brother, or sister of an officer, director, or
266 employee. The notice must include a description of the alleged
267 violation, the specific action required to cure such violation,
268 if applicable, and the date and location of the hearing. A
269 parcel owner has the right to attend a hearing by telephone or
270 other electronic means.

271 (c) If the committee, by majority vote, does not approve a
272 proposed fine or suspension, the proposed fine or suspension may



273 not be imposed. The role of the committee is limited to
274 determining whether to confirm or reject the fine or suspension
275 levied by the board.

276 (d) After the hearing, the committee shall provide written
277 notice to the parcel owner at his or her designated mailing or
278 e-mail address in the association's official records and, if
279 applicable, any occupant, licensee, or invitee of the parcel
280 owner, of the committee's findings related to the violation,
281 including any applicable fines or suspensions that the committee
282 approved or rejected, and how the parcel owner or any occupant,
283 licensee, or invitee of the parcel owner may cure the violation,
284 if applicable.

285 (e) If the proposed fine or suspension levied by the board
286 is approved by the committee by a majority vote, the fine
287 payment is due 5 days after notice of the approved fine required
288 under paragraph (d) is provided to the parcel owner and, if
289 applicable, to any occupant, licensee, or invitee of the parcel
290 owner. The association must provide written notice of such fine
291 or suspension by mail or hand delivery to the parcel owner and,
292 if applicable, to any occupant, licensee, or invitee of the
293 parcel owner.

294 (5) All suspensions imposed under ~~pursuant to~~ subsection
295 (3) or subsection (4) must be approved at a properly noticed
296 board meeting. Upon approval, the board ~~association~~ must send
297 written notice to ~~notify~~ the parcel owner and, if applicable,
298 the parcel's occupant, licensee, or invitee by mail or hand
299 delivery to the parcel owner's designated mailing or e-mail
300 address in the association's official records.

301 Section 5. Section 720.3065, Florida Statutes, is created



217604

302 to read:

303 720.3065 Fraudulent voting activities relating to
304 association elections; penalties.—Each of the following acts is
305 a fraudulent voting activity relating to association elections
306 and constitutes a misdemeanor of the first degree, punishable as
307 provided in s. 775.082 or s. 775.083:

308 (1) Willfully and falsely swearing to or affirming an oath
309 or affirmation, or willfully procuring another person to falsely
310 swear to or affirm an oath or affirmation, in connection with or
311 arising out of voting activities.

312 (2) Perpetrating or attempting to perpetrate, or aiding in
313 the perpetration of, fraud in connection with a vote cast, to be
314 cast, or attempted to be cast.

315 (3) Preventing a member from voting or preventing a member
316 from voting as he or she intended by fraudulently changing or
317 attempting to change a ballot, ballot envelope, vote, or voting
318 certificate of the member.

319 (4) Menacing, threatening, or using bribery or any other
320 corruption to attempt, directly or indirectly, to influence,
321 deceive, or deter a member when the member is voting.

322 (5) Giving or promising, directly or indirectly, anything
323 of value to another member with the intent to buy the vote of
324 that member or another member or to corruptly influence that
325 member or another member in casting his or her vote. This
326 subsection does not apply to any food served which is to be
327 consumed at an election rally or a meeting or to any item of
328 nominal value which is used as an election advertisement,
329 including a campaign message designed to be worn by a member.

330 (6) Using or threatening to use, directly or indirectly,



217604

331 force, violence, or intimidation or any tactic of coercion or
332 intimidation to induce or compel a member to vote or refrain
333 from voting in an election or on a particular ballot measure.

334 Section 6. This act shall take effect October 1, 2023.

335

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

337 And the title is amended as follows:

338 Delete everything before the enacting clause

339 and insert:

340

A bill to be entitled

341 An act relating to homeowners' associations; providing

342 a short title; amending s. 720.303, F.S.; requiring

343 that notices for board meetings specifically identify

344 agenda items; requiring an association to maintain

345 designated addresses as official records; specifying

346 what constitutes a designated address; conforming

347 provisions to changes made by the act; prohibiting

348 certain funds from being commingled with other

349 association funds; authorizing a member to request an

350 accounting from an association under certain

351 circumstances; requiring an association to provide

352 such accounting and remit unused funds to the member

353 within specified timeframes; amending s. 720.3033,

354 F.S.; providing civil penalties for certain actions by

355 officers, directors, or managers of an association;

356 revising the circumstances under which a director or

357 an officer must be removed from office after being

358 charged by information or indictment; prohibiting such

359 officers and directors with pending criminal charges



360 from accessing the official records of any
361 association; providing an exception; requiring certain
362 directors and officers to make a specified disclosure;
363 specifying that the appointment of officers or
364 directors by a developer does not create a presumption
365 of a conflict of interest for such officers or
366 directors; requiring directors and officers of the
367 association to disclose certain activity and
368 relationships to the association within a specified
369 timeframe; creating a rebuttable presumption of a
370 conflict of interest if certain acts occur; amending
371 s. 720.305, F.S.; restricting certain attorney fees
372 and fines; specifying the types of violations for
373 which an association may levy fines; specifying where
374 certain notice must be delivered; providing
375 requirements for such notice; authorizing parcel
376 owners to attend certain hearings by telephone or
377 other electronic means; requiring a specified notice
378 after a hearing; conforming provisions to changes made
379 by the act; creating s. 720.3065, F.S.; providing
380 criminal penalties for certain fraudulent voting
381 activities; providing an effective date.