



217604

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

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;



217604

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

(2) BOARD MEETINGS.—

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

1. Notices of all board meetings must specifically identify agenda items for the meetings and must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the association bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In 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

days before the meeting.

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

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

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



217604

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

(8) ASSOCIATION FUNDS; COMMINGLING.—

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

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

720.3033 Officers and directors.—

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



217604

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

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

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

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

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



217604

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

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

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

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

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

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

(a) The association;

(b) A member;

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



217604

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

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

(2) An association may levy reasonable fines for violations of the declaration, association bylaws, or reasonable rules of the association. A fine may not exceed \$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 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, except that 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. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the



217604

nonprevailing party as determined by the court.

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

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

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



217604

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

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

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

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

Section 5. Section 720.3065, Florida Statutes, is created



217604

to read:

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

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

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

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

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

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

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



217604

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

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to homeowners' associations; providing
a short title; amending s. 720.303, F.S.; requiring
that notices for board meetings specifically identify
agenda items; requiring an association to maintain
designated addresses as official records; specifying
what constitutes a designated address; conforming
provisions to changes made by the act; prohibiting
certain funds from being commingled with other
association funds; authorizing a member to request an
accounting from an association under certain
circumstances; requiring an association to provide
such accounting and remit unused funds to the member
within specified timeframes; amending s. 720.3033,
F.S.; providing civil penalties for certain actions by
officers, directors, or managers of an association;
revising the circumstances under which a director or
an officer must be removed from office after being
charged by information or indictment; prohibiting such
officers and directors with pending criminal charges



217604

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