

1                   A bill to be entitled  
2           An act relating to homeowners' associations; providing  
3           a short title; amending s. 720.303, F.S.; requiring  
4           that notices for board meetings specifically identify  
5           agenda items; requiring an association to maintain  
6           designated addresses as official records; specifying  
7           what constitutes a designated address; conforming  
8           provisions to changes made by the act; prohibiting  
9           certain funds from being commingled with other  
10          association funds; authorizing a member to request an  
11          accounting from an association under certain  
12          circumstances; requiring an association to provide  
13          such accounting and remit unused funds to the member  
14          within specified timeframes; amending s. 720.3033,  
15          F.S.; providing civil penalties for certain actions by  
16          officers, directors, or managers of an association;  
17          revising the circumstances under which a director or  
18          an officer must be removed from office after being  
19          charged by information or indictment; prohibiting such  
20          officers and directors with pending criminal charges  
21          from accessing the official records of any  
22          association; providing an exception; requiring certain  
23          directors and officers to make a specified disclosure;  
24          specifying that the appointment of officers or  
25          directors by a developer does not create a presumption

26 of a conflict of interest for such officers or  
 27 directors; requiring directors and officers of the  
 28 association to disclose certain activity and  
 29 relationships to the association within a specified  
 30 timeframe; creating a rebuttable presumption of a  
 31 conflict of interest if certain acts occur; amending  
 32 s. 720.305, F.S.; restricting certain attorney fees  
 33 and fines; specifying the types of violations for  
 34 which an association may levy fines; specifying where  
 35 certain notice must be delivered; providing  
 36 requirements for such notice; authorizing parcel  
 37 owners to attend certain hearings by telephone or  
 38 other electronic means; requiring a specified notice  
 39 after a hearing; conforming provisions to changes made  
 40 by the act; creating s. 720.3065, F.S.; providing  
 41 criminal penalties for certain fraudulent voting  
 42 activities; providing an effective date.

43  
 44 Be It Enacted by the Legislature of the State of Florida:

45  
 46 Section 1. This act may be cited as the "Homeowners'  
 47 Associations Bill of Rights."

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

51 section, to read:

52 720.303 Association powers and duties; meetings of board;  
53 official records; budgets; financial reporting; association  
54 funds; recalls.—

55 (2) BOARD MEETINGS.—

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

59 1. Notices of all board meetings must specifically  
60 identify agenda items for the meetings and must be posted in a  
61 conspicuous place in the community at least 48 hours in advance  
62 of a meeting, except in an emergency. In the alternative, if  
63 notice is not posted in a conspicuous place in the community,  
64 notice of each board meeting must be mailed or delivered to each  
65 member at least 7 days before the meeting, except in an  
66 emergency. Notwithstanding this general notice requirement, for  
67 communities with more than 100 members, the association bylaws  
68 may provide for a reasonable alternative to posting or mailing  
69 of notice for each board meeting, including publication of  
70 notice, provision of a schedule of board meetings, or the  
71 conspicuous posting and repeated broadcasting of the notice on a  
72 closed-circuit cable television system serving the homeowners'  
73 association. However, if broadcast notice is used in lieu of a  
74 notice posted physically in the community, the notice must be  
75 broadcast at least four times every broadcast hour of each day

76 | that a posted notice is otherwise required. When broadcast  
77 | notice is provided, the notice and agenda must be broadcast in a  
78 | manner and for a sufficient continuous length of time so as to  
79 | allow an average reader to observe the notice and read and  
80 | comprehend the entire content of the notice and the agenda. In  
81 | addition to any of the authorized means of providing notice of a  
82 | meeting of the board, the association may, by rule, adopt a  
83 | procedure for conspicuously posting the meeting notice and the  
84 | agenda on the association's website or an application that can  
85 | be downloaded on a mobile device for at least the minimum period  
86 | of time for which a notice of a meeting is also required to be  
87 | physically posted on the association property. Any rule adopted  
88 | must, in addition to other matters, include a requirement that  
89 | the association send an electronic notice to members whose e-  
90 | mail addresses are included in the association's official  
91 | records in the same manner as is required for a notice of a  
92 | meeting of the members. Such notice must include a hyperlink to  
93 | the website or such mobile application on which the meeting  
94 | notice is posted. The association may provide notice by  
95 | electronic transmission in a manner authorized by law for  
96 | meetings of the board of directors, committee meetings requiring  
97 | notice under this section, and annual and special meetings of  
98 | the members to any member who has provided a facsimile number or  
99 | e-mail address to the association to be used for such purposes;  
100 | however, a member must consent in writing to receiving notice by

101 | electronic transmission.

102 |         2. An assessment may not be levied at a board meeting  
 103 | unless the notice of the meeting includes a statement that  
 104 | assessments will be considered and the nature of the  
 105 | assessments. Written notice of any meeting at which special  
 106 | assessments will be considered or at which amendments to rules  
 107 | regarding parcel use will be considered must be mailed,  
 108 | delivered, or electronically transmitted to the members and  
 109 | parcel owners and posted conspicuously on the property or  
 110 | broadcast on closed-circuit cable television not less than 14  
 111 | days before the meeting.

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

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

124 |             (g) A current roster of all members and their designated  
 125 | mailing addresses and parcel identifications. A member's

126 designated mailing address is the member's property address,  
 127 unless the member has sent written notice to the association  
 128 requesting that a different mailing address be used for all  
 129 required notices. The association shall also maintain the e-mail  
 130 electronic mailing addresses and the facsimile numbers  
 131 designated by members for receiving notice sent by electronic  
 132 transmission of those members consenting to receive notice by  
 133 electronic transmission. A member's e-mail address is the e-mail  
 134 address the member provided when consenting in writing to  
 135 receiving notice by electronic transmission, unless the member  
 136 has sent written notice to the association requesting that a  
 137 different e-mail address be used for all required notices. The  
 138 e-mail ~~electronic mailing~~ addresses and facsimile numbers  
 139 provided by members ~~unit owners~~ to receive notice by electronic  
 140 transmission must ~~shall~~ be removed from association records when  
 141 the member revokes consent to receive notice by electronic  
 142 transmission ~~is revoked~~. However, the association is not liable  
 143 for an erroneous disclosure of the e-mail ~~electronic mail~~  
 144 address or the facsimile number for receiving electronic  
 145 transmission of notices.

146 (8) ASSOCIATION FUNDS; COMMINGLING.—

147 (d) If an association collects a deposit from a member for  
 148 any reason, including to pay for expenses that may be incurred  
 149 as a result of construction on a member's parcel, such funds  
 150 must be maintained separately and may not be commingled with any

151 other association funds. Upon completion of the member's  
 152 construction project or other reason for which the deposit was  
 153 collected, the member may request an accounting from the  
 154 association of his or her funds that were deposited, and the  
 155 association must provide such accounting to the member within 7  
 156 days after receiving the member's request. An association must  
 157 remit payment of any unused funds to the member within 30 days  
 158 after receiving notice that the member's construction project,  
 159 or other reason for which the deposit was collected, is  
 160 complete.

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

164 720.3033 Officers and directors.—

165 (3) An officer, a director, or a manager may not solicit,  
 166 offer to accept, or accept any thing ~~good~~ or service of value  
 167 for which consideration has not been provided for his or her  
 168 benefit or for the benefit of a member of his or her immediate  
 169 family from any person providing or proposing to provide goods  
 170 or services to the association. An officer, a director, or a  
 171 manager who knowingly solicits, offers to accept, or accepts any  
 172 thing or service of value or kickback for which consideration  
 173 has not been provided for his or her own benefit or that of his  
 174 or her immediate family from any person providing or proposing  
 175 to provide goods or services to the association is subject to

176 monetary damages under s. 617.0834. If the board finds that an  
 177 officer or a director has violated this subsection, the board  
 178 shall immediately remove the officer or director from office.  
 179 The vacancy shall be filled according to law until the end of  
 180 the officer's or director's term of office. However, an officer,  
 181 a director, or a manager may accept food to be consumed at a  
 182 business meeting with a value of less than \$25 per individual or  
 183 a service or good received in connection with trade fairs or  
 184 education programs.

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

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

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

192 3. Destruction of or the refusal to allow inspection or  
 193 copying of an official record of a homeowners' association which  
 194 is accessible to parcel owners within the time periods required  
 195 by general law, in furtherance of any crime. Such act  
 196 constitutes tampering with physical evidence as provided in s.  
 197 918.13.

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

199 ~~(b) a felony theft or embezzlement offense involving the~~  
 200 ~~association's funds or property is removed from office. The~~



201 board shall fill the vacancy as provided in s. 720.306(9)  
202 ~~according to general law~~ until the end of the period of the  
203 suspension or the end of the director's term of office,  
204 whichever occurs first. If such criminal charge is pending  
205 against the officer or director, he or she may not be appointed  
206 or elected to a position as an officer or a director of any  
207 association and may not have access to the official records of  
208 any association, except pursuant to a court order. However, if  
209 the charges are resolved without a finding of guilt or without  
210 acceptance of a plea of guilty or nolo contendere, the director  
211 or officer shall be reinstated for any remainder of his or her  
212 term of office. ~~A member who has such criminal charges pending~~  
213 ~~may not be appointed or elected to a position as a director or~~  
214 ~~officer.~~

215 (6) (a) Directors and officers of an association who are  
216 appointed by the developer must disclose to the association  
217 their relationship to the developer each calendar year in which  
218 they serve as a director or an officer. Directors and officers  
219 appointed by the developer must disclose any other activity that  
220 may reasonably be construed to be a conflict of interest  
221 pursuant to paragraph (b). A developer's appointment of an  
222 officer or director does not create a presumption that the  
223 officer or director has a conflict of interest with regard to  
224 the performance of his or her official duties.

225 (b) Directors and officers must disclose to the

226 association any activity that may be reasonably construed to be  
 227 a conflict of interest at least 14 days before voting on an  
 228 issue or entering into a contract that is the subject of the  
 229 conflict. A rebuttable presumption of a conflict of interest  
 230 exists if any of the following acts occur without prior  
 231 disclosure to the association:

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

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

241 Section 4. Subsections (1), (2), and (5) of section  
 242 720.305, Florida Statutes, are amended to read:

243 720.305 Obligations of members; remedies at law or in  
 244 equity; levy of fines and suspension of use rights.—

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

251 member against:

252 (a) The association;

253 (b) A member;

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

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

259

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

271 (2) An association may levy reasonable fines for  
 272 violations of the declaration, association bylaws, or reasonable  
 273 rules of the association. A fine may not exceed \$100 per  
 274 violation against any member or any member's tenant, guest, or  
 275 invitee for the failure of the owner of the parcel or its

276 occupant, licensee, or invitee to comply with any provision of  
277 the declaration, the association bylaws, or reasonable rules of  
278 the association unless otherwise provided in the governing  
279 documents. A fine may be levied by the board for each day of a  
280 continuing violation, with a single notice and opportunity for  
281 hearing, except that the fine may not exceed \$1,000 in the  
282 aggregate unless otherwise provided in the governing documents.  
283 A fine of less than \$1,000 may not become a lien against a  
284 parcel. In any action to recover a fine, the prevailing party is  
285 entitled to reasonable attorney fees and costs from the  
286 nonprevailing party as determined by the court.

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

298 (b) A fine or suspension levied by the board of  
299 administration may not be imposed unless the board first  
300 provides at least 14 days' notice to the parcel owner at his or

301 her designated mailing or e-mail address in the association's  
302 official records and, if applicable, any occupant, licensee, or  
303 invitee of the parcel owner, sought to be fined or suspended and  
304 ~~an opportunity for~~ a hearing before a committee of at least  
305 three members appointed by the board who are not officers,  
306 directors, or employees of the association, or the spouse,  
307 parent, child, brother, or sister of an officer, director, or  
308 employee. The notice must include a description of the alleged  
309 violation, the specific action required to cure such violation,  
310 if applicable, and the date and location of the hearing. A  
311 parcel owner has the right to attend a hearing by telephone or  
312 other electronic means.

313 (c) If the committee, by majority vote, does not approve a  
314 proposed fine or suspension, the proposed fine or suspension may  
315 not be imposed. The role of the committee is limited to  
316 determining whether to confirm or reject the fine or suspension  
317 levied by the board.

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

326 if applicable.

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

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

343 Section 5. Section 720.3065, Florida Statutes, is created  
 344 to read:

345 720.3065 Fraudulent voting activities relating to  
 346 association elections; penalties.—Each of the following acts is  
 347 a fraudulent voting activity relating to association elections  
 348 and constitutes a misdemeanor of the first degree, punishable as  
 349 provided in s. 775.082 or s. 775.083:

350 (1) Willfully and falsely swearing to or affirming an oath

351 or affirmation, or willfully procuring another person to falsely  
352 swear to or affirm an oath or affirmation, in connection with or  
353 arising out of voting activities.

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

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

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

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

372 (6) Using or threatening to use, directly or indirectly,  
373 force, violence, or intimidation or any tactic of coercion or  
374 intimidation to induce or compel a member to vote or refrain  
375 from voting in an election or on a particular ballot measure.

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