

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           certain officers or directors be removed from office  
5           for a certain time period under certain circumstances;  
6           requiring an association to maintain designated  
7           mailing and e-mail addresses as official records;  
8           specifying what constitutes a designated address;  
9           prohibiting certain funds from being comingled with  
10          other association funds; authorizing a member to  
11          request an accounting from an association under  
12          certain circumstances; requiring an association to  
13          provide such accounting and remit unused funds to the  
14          member within specified timeframes; amending s.  
15          720.3033, F.S.; providing criminal and civil penalties  
16          for certain actions by an officer, a director, or a  
17          manager of the association; providing requirements to  
18          report certain conflicts of interest; amending s.  
19          720.305, F.S.; restricting certain attorney fees and  
20          fines; specifying the types of violations for which an  
21          association may levy fines; providing a maximum fine  
22          amount; prohibiting fines from being aggregated;  
23          revising amount of notice the board of administration  
24          must give a parcel owner before imposing a fine or  
25          suspension; specifying where such notice must be

26 delivered; providing requirements for such notice;  
 27 authorizing parcel owners to attend certain hearings  
 28 by telephone or other electronic means; expanding  
 29 duties of a specified committee; requiring a specified  
 30 notice after a hearing; specifying how fines,  
 31 suspensions, attorney fees, and costs are determined;  
 32 requiring a detailed accounting of amounts due to the  
 33 association be given to certain persons within a  
 34 certain timeframe upon written request; providing for  
 35 a complete waiver of a violation under certain  
 36 circumstances; specifying the priority of payments  
 37 made by a parcel owner to an association; prohibiting  
 38 the accrual of attorney fees and costs after a  
 39 specified time; authorizing certain persons to request  
 40 a hearing to dispute certain fees and costs; providing  
 41 for the waiver of certain fines or suspensions;  
 42 requiring certain fines, fees, or other costs be paid  
 43 by an association; conforming provisions to changes  
 44 made by the act; creating ss. 720.3065, F.S.;  
 45 providing criminal penalties for certain fraudulent  
 46 voting activities; providing an effective date.

47

48 Be It Enacted by the Legislature of the State of Florida:

49

50 Section 1. This act may be cited as the "Homeowners'

51 Associations Bill of Rights."

52 Section 2. Subsection (1), and paragraph (g) of subsection  
 53 (4), are amended, and paragraph (d) is added to subsection (8),  
 54 to read:

55 720.303 Association powers and duties; meetings of board;  
 56 official records; budgets; financial reporting; association  
 57 funds; recalls.—

58 (1) POWERS AND DUTIES.—

59 (a) An association which operates a community as defined  
 60 in s. 720.301, must be operated by an association that is a  
 61 Florida corporation. After October 1, 1995, the association must  
 62 be incorporated and the initial governing documents must be  
 63 recorded in the official records of the county in which the  
 64 community is located. An association may operate more than one  
 65 community.

66 (b)1. The officers and directors of an association have a  
 67 fiduciary relationship to the members who are served by the  
 68 association.

69 2. An officer or a director charged by information or  
 70 indictment with one of the following crimes must be removed from  
 71 office, and the vacancy must be filled as provided in s.  
 72 720.306(9) until the end of the officer's or director's period  
 73 of suspension or the end of his or her term of office, whichever  
 74 occurs first:

75 a. Forgery of a ballot envelope or voting certificate used

76 | in a homeowners' association election under s. 831.01.

77 | b. Theft or embezzlement of funds of a homeowners'  
 78 | association under s. 812.014.

79 | c. Destruction of or the refusal to allow inspection or  
 80 | copying of an official record of a homeowners' association that  
 81 | is accessible to parcel owners within the time periods required  
 82 | by general law in furtherance of any crime as tampering with  
 83 | physical evidence under s. 918.13.

84 | d. Obstruction of justice under chapter 843.

85 | 3. If a criminal charge is pending against the officer or  
 86 | director, he or she may not be appointed or elected to a  
 87 | position as an officer or a director of any association and may  
 88 | not have access to the official records of any association,  
 89 | except pursuant to a court order. However, if the charges are  
 90 | resolved without a finding of guilt, the officer or director  
 91 | must be reinstated for the remainder of his or her term of  
 92 | office, if any.

93 | (c) The powers and duties of an association include those  
 94 | set forth in this chapter and, except as expressly limited or  
 95 | restricted in this chapter, those set forth in the governing  
 96 | documents.

97 | (d) After control of the association is obtained by  
 98 | members other than the developer, the association may institute,  
 99 | maintain, settle, or appeal actions or hearings in its name on  
 100 | behalf of all members concerning matters of common interest to

101 the members, including, but not limited to, the common areas;  
 102 roof or structural components of a building, or other  
 103 improvements for which the association is responsible;  
 104 mechanical, electrical, or plumbing elements serving an  
 105 improvement or building for which the association is  
 106 responsible; representations of the developer pertaining to any  
 107 existing or proposed commonly used facility; and protesting ad  
 108 valorem taxes on commonly used facilities. The association may  
 109 defend actions in eminent domain or bring inverse condemnation  
 110 actions. Before commencing litigation against any party in the  
 111 name of the association involving amounts in controversy in  
 112 excess of \$100,000, the association must obtain the affirmative  
 113 approval of a majority of the voting interests at a meeting of  
 114 the membership at which a quorum has been attained. This  
 115 paragraph ~~subsection~~ does not limit any statutory or common-law  
 116 right of any individual member or class of members to bring any  
 117 action without participation by the association.

118 (e) A member does not have authority to act for the  
 119 association by virtue of being a member. An association may have  
 120 more than one class of members and may issue membership  
 121 certificates.

122 (f) An association of 15 or fewer parcel owners may  
 123 enforce only the requirements of those deed restrictions  
 124 established prior to the purchase of each parcel upon an  
 125 affected parcel owner or owners.

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

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

151 (8) ASSOCIATION FUNDS; COMMINGLING.—

152 (d) If an association collects a deposit from a member to  
 153 pay for expenses that may be incurred as a result of  
 154 construction on a member's parcel, or other reason for such  
 155 deposit, such funds must be maintained separately and may not be  
 156 comingled with any other association funds. Upon completion of  
 157 the member's construction project, or any other reason for such  
 158 deposit, the member may request an accounting from the  
 159 association of such funds that were deposited and the  
 160 association must provide an accounting to the member within 7  
 161 days after the member's request. An association must remit  
 162 payment of any and all unused funds to the member within 30 days  
 163 after receiving notice that the member's construction project,  
 164 or any other reason for which a deposit was collected, is  
 165 complete.

166 Section 3. Subsection (3) is amended, and subsection (6)  
 167 is added, of section 720.3033, Florida Statutes, to read:

168 720.3033 Officers and directors.—

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

176 thing or service of value or kickback commits a misdemeanor of  
 177 the first degree, punishable as provided in s. 775.082 or s.  
 178 775.083, for amounts less than \$1,000 and a felony of the third  
 179 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 180 775.084, for amounts \$1,000 or more, and is subject to a civil  
 181 penalty pursuant to s. 718.501(1)(d). If the board finds that an  
 182 officer or a director has violated this subsection, the board  
 183 shall immediately remove the officer or director from office.  
 184 The vacancy shall be filled according to law until the end of  
 185 the officer's or director's term of office. However, an officer,  
 186 a director, or a manager may accept food to be consumed at a  
 187 business meeting with a value of less than \$25 per individual or  
 188 a service or good received in connection with trade fairs or  
 189 education programs.

190 (6) Directors and officers of an association must disclose  
 191 to the association any activity that may reasonably be construed  
 192 to be a conflict of interest at least 14 days prior to voting on  
 193 the subject of such conflict or entering into such contract. A  
 194 rebuttable presumption of a conflict of interest exists if any  
 195 of the following occurs without prior disclosure to the  
 196 association:

197 (a) A director or an officer, or a relative of a director  
 198 or an officer, enters into a contract for goods or services with  
 199 the association.

200 (b) A director or an officer, or a relative of a director



201 or an officer, holds an interest in a corporation, limited  
 202 liability corporation, partnership, limited liability  
 203 partnership, or other business entity that conducts business  
 204 with the association or proposes to enter into a contract or  
 205 other transaction with the association.

206 Section 4. Subsections (1), (2), and (5) of section  
 207 720.305, Florida Statutes, are amended, and subsection (7) is  
 208 added to that section to read:

209 720.305 Obligations of members; remedies at law or in  
 210 equity; levy of fines and suspension of use rights.—

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

218 (a) The association;

219 (b) A member;

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

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

225

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

237 (2) An association may levy reasonable fines for  
 238 violations of the declaration, association's bylaws, or  
 239 reasonable rules of the association. A fine may not exceed \$100  
 240 per violation against any member or any member's tenant, guest,  
 241 or invitee for the failure of the owner of the parcel or its  
 242 occupant, licensee, or invitee to comply with any provision of  
 243 the declaration, the association bylaws, or reasonable rules of  
 244 the association unless otherwise provided in the governing  
 245 documents; however, a fine may not exceed \$1,000 per violation.  
 246 ~~A fine may be levied by the board for each day of a continuing~~  
 247 ~~violation, with a single notice and opportunity for hearing,~~  
 248 ~~except that the fine may not exceed \$1,000 in the aggregate~~  
 249 ~~unless otherwise provided in the governing documents.~~ A fine of  
 250 ~~less than~~ \$1,000 or less may not become a lien against a parcel

251 and fines may not be aggregated to create a lien against a  
 252 parcel. In any action to recover a fine, the prevailing party is  
 253 entitled to reasonable attorney fees and costs from the  
 254 nonprevailing party as provided in paragraph (e) ~~determined by~~  
 255 ~~the court.~~

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

267 (b) A fine or suspension levied for a violation by the  
 268 board of administration may not be imposed unless the board  
 269 first provides at least 30 ~~14~~ days' notice to the parcel owner  
 270 at his or her designated mailing or e-mail address in the  
 271 association's official records and, if applicable, any occupant,  
 272 licensee, or invitee of the parcel owner, sought to be fined or  
 273 suspended and ~~an opportunity for~~ a hearing before a committee of  
 274 at least three members appointed by the board who are not  
 275 officers, directors, or employees of the association, or the

276 spouse, parent, child, brother, or sister of an officer,  
 277 director, or employee. The notice must include a description of  
 278 the alleged violation, the specific action required to cure such  
 279 violation, and the date and location of the hearing. A parcel  
 280 owner has the right to attend a hearing by telephone or other  
 281 electronic means.

282 (c) If the committee, by majority vote, does not approve a  
 283 proposed fine or suspension, the proposed fine or suspension may  
 284 not be imposed. If the committee, by majority vote, determines  
 285 that a violation does not exist then no other action may be  
 286 taken related to that alleged violation. The role of the  
 287 committee is limited to determining whether a violation exists  
 288 and whether to approve ~~confirm~~ or reject the fine or suspension  
 289 levied by the board.

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

298 (e) Fines, suspensions, attorney fees, and costs are  
 299 imposed as follows:

300 1. If a violation is found by the committee, but is cured

301 before the hearing, a fine or suspension may not be imposed and  
 302 attorney fees and costs may not be awarded.

303 2. If a violation is found and the proposed fine or  
 304 suspension levied by the board is approved by the committee, the  
 305 committee must decide, by majority vote, a date that the fine  
 306 payment is due, which date must be at least 30 days after  
 307 delivery of the written notice required in paragraph (d).

308 3. If a violation is found and the proposed fine or  
 309 suspension levied by the board is approved by the committee, but  
 310 the violation is cured within 30 days after delivery of the  
 311 written notice required in paragraph (d), the fine must be  
 312 reduced by 50 percent, any applicable suspensions must be  
 313 lifted, and attorney fees and costs may not be awarded.

314 4. If a violation is found and the proposed fine or  
 315 suspension levied by the board is approved by the committee and  
 316 the violation is not cured or the fine is not paid within 30  
 317 days after delivery of the written notice required in paragraph  
 318 (d), reasonable attorney fees and costs may be awarded to the  
 319 association.

320 (f) A parcel owner or any occupant, licensee, or invitee  
 321 of the parcel owner may, at any time, make a written request for  
 322 a detailed accounting of any amounts he or she owes to the  
 323 association and the board shall provide such information within  
 324 10 days after receipt of the written request. Failure by the  
 325 board to respond to a written request for a detailed accounting

326 constitutes a complete waiver of the violation.

327 (g) Upon receipt of a payment for any outstanding fines  
 328 from a parcel owner or any occupant, licensee, or invitee of the  
 329 parcel owner, the board must apply the payment first to the fine  
 330 before satisfying any other amounts due to the association.

331 Attorney fees and costs may not continue to accrue after a  
 332 parcel owner or any occupant, licensee, or invitee of the parcel  
 333 owner pays the fine.

334 (h) A parcel owner or any occupant, licensee, or invitee  
 335 of the parcel owner may request a hearing before the board to  
 336 dispute the reasonableness of the attorney fees and costs  
 337 awarded to the association 5 days after notice of the approved  
 338 fine is provided to the parcel owner and, if applicable, to any  
 339 occupant, licensee, or invitee of the parcel owner. The  
 340 association must provide written notice of such fine or  
 341 suspension by mail or hand delivery to the parcel owner and, if  
 342 applicable, to any occupant, licensee, or invitee of the parcel  
 343 owner.

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

351 (7) The failure of the association or committee to comply  
 352 with this section constitutes a waiver of all fines or  
 353 suspensions imposed or proposed for a violation. Any fines,  
 354 fees, or other costs incurred by a parcel owner or any occupant,  
 355 licensee, or invitee of the parcel owner which is related to a  
 356 fine that is waived under this subsection must also be waived or  
 357 paid by the association if such fine, fee, or other cost is not  
 358 waivable.

359 Section 5. Section 720.3065, Florida Statutes, is created  
 360 to read:

361 720.3065 Fraudulent voting activities relating to  
 362 association elections; penalties.—

363 (1) Each of the following acts is a fraudulent voting  
 364 activity relating to association elections and constitutes a a  
 365 misdemeanor of the first degree, punishable as provided in s.  
 366 775.082 or s. 775.083:

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

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

374 (c) Preventing a member from voting, or preventing a  
 375 member from voting as he or she intended, by fraudulently

376 changing or attempting to change a ballot, ballot envelope,  
 377 vote, or voting certificate of the member.

378 (d) Menacing, threatening, or using bribery or any other  
 379 corruption to attempt, directly or indirectly, to influence,  
 380 deceive, or deter a member when voting.

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

389 (f) Using or threatening to use, either directly or  
 390 indirectly, force, violence, or intimidation or any tactic of  
 391 coercion or intimidation to induce or compel a member to vote or  
 392 refrain from voting in an election or on any particular ballot  
 393 measure.

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