

Committee on Regulated Industries

CS/CS/HB 1203 — Homeowners' Associations

by Commerce Committee; Regulatory Reform & Economic Development Subcommittee; and Reps. Esposito, Anderson, Porras, and others (CS/SB 7044 by Rules Committee; Regulated Industries Committee; and Senators Bradley, Garcia, Rodriguez, and Avila)

The bill relates to the governance of homeowners' associations and the practice of the community association managers who manage those communities.

Community Association Managers

Regarding community association managers (CAMs) and CAM firms, the bill requires CAMs and CAM firms to:

- Annually attend at least one member meeting or board meeting of the association;
- Provide to community association members certain information, including the contact person, contact information, and the hours of availability;
- Provide the community's members upon request a copy of the contract between the association and the CAM or CAM firm;
- Annually complete at least 10 hours of continuing education; and
- Biennially complete at least five hours of continuing education that pertains to homeowners' associations, three hours of which must relate to recordkeeping.

Official Records

The bill requires homeowners' associations to:

- Effective January 1, 2025, associations with 100 or more parcels, maintain a digital copy of specified official records for download on the association's website or through an application on a mobile device.
- Provide a copy of records or otherwise make the records available that are subpoenaed by a law enforcement agency within five days of receiving a subpoena.
- Maintain official records for at least seven years, unless the governing documents of the association require a longer period of time.

Criminal Violations

The bill provides the following criminal penalties related to homeowners' associations:

- Second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and repeatedly violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association with the intent of causing harm to the association or one or more of its members;
- First degree misdemeanor for knowingly and intentionally defacing or destroying required accounting records, or knowingly and intentionally failing to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;

- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape; and
- Third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept a kickback.

The bill also expands the current criminal prohibitions against fraudulent voting activity to provide it is a first degree misdemeanor for:

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

Any officer or director charged with a criminal violation under ch. 720, F.S., must be removed from office and a vacancy declared.

Assisting Law Enforcement

The bill requires associations, if subpoenaed, to provide a copy of the requested records within five business days of receiving the subpoena and to assist law enforcement in any investigation to the extent permissible by law.

Financial Reporting

The bill:

- Requires associations with 1,000 or more parcels to have audited financial statements; and
- Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.

Requirement to Provide Accounting

The bill allows association parcel owners to make a written request for a detailed accounting of any amounts owed to the association. If the association fails to provide the accounting within 15 business days of a written request, any outstanding fines of the requester are waived if the fine is more than 30 days past due and the association did not give prior written notice of the fines. It also prohibits parcel owners from requesting another detailed accounting within 90 days of such a request.

Education - Officers and Directors

The bill revises the education requirements for the directors of homeowners' associations to:

- Require a newly elected or appointed director to, within 90 days after being elected or appointment to submit a certificate of having completed the educational curriculum.
- Require that the educational curriculum include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
- Require a director of an association that has:
 - o Fewer than 2,500 parcels to complete at least four hours of continuing education annually.
 - o 2,500 or more parcels must complete at least eight hours of continuing education annually.

Enforcement of Covenants and Rules

The bill requires associations or an architectural, construction improvement, or other similar committee to:

- Provide written notice to the parcel owner of the rule or covenant relied upon when denying the request for the construction of a structure or other improvement;
- Not place limits on the interior of a structure or require review of HVAC, refrigeration, heating, or ventilating system not visible from a parcel's frontage, an adjacent parcel, common area, or community golf course, if a substantially similar system has been previously approved; and
- Not prevent a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or an adjacent parcel, an adjacent common area, or a community golf course.

Fines, Suspensions, and Liens

Associations must have a hearing before a committee to review a fine or suspension issued by the board, and the bill:

- Requires the 14-day notice of the parcel owner's right to a hearing to be in writing;
- Requires the hearing to be held within 90 days of the notice of hearing;
- Allows the committee to hold the hearing by telephone or other electronic means;
- Requires written findings related to the violation to be provided within seven days of the hearing, the date the fine must be paid or the suspension fulfilled;
- Requires the date by which the fine must be paid to be at least 30 days after delivery of the written notice of the committee's decision; or
- Prohibits attorney fees and costs based on actions taken by the board before the date set for the fine to be paid;
- Allows that, if a violation and the proposed fine or suspension is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the association, but may not begin to accrue until after the payment date of the fine or the appeal time has expired.

The bill prohibits homeowners' associations from issuing a fine or suspension for:

- Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.

- Leaving holiday decorations or lights up longer than indicated in the governing documents, unless such decorations or lights are left up for longer than one week after the association provides written notice of the violation to the parcel owner.

The bill also provides that homeowners' associations may not prohibit a homeowner or others from parking:

- A personal vehicle, including a pickup truck, in the property owner's driveway or in any other area where they have a right to park.
- A work vehicle, which is not a commercial motor vehicle, in the property owner's driveway.
- Their assigned first responder vehicle on public roads or rights-of-way within the homeowners' association.

In addition, the governing documents may not prohibit a property owner from:

- Inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the homeowners' association or does not have a professional or occupational license.
- Operating a vehicle in conformance with state traffic laws, on public roads or rights-of-way or the property owner's parcel, unless the vehicle is a commercial motor vehicle.

Electronic Voting

The bill allows members of a homeowners' association to consent to electronic voting by using an electronic means of consent. Current law requires written consent to vote electronically.

Assessments

The bill permits only simple interest, not compound interest, to accrue on assessments and installments on assessments that are not paid when due.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.

Vote: Senate 40-0; House 110-0