

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/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, 2026, 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 on 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 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

HB 1021/SB 1178: Community Associations

House Sponsor: Representative Vicki Lopez

Senate Sponsor: Senator Jennifer Bradley

HB 1021 addresses various aspects related to the governance of condominium and cooperative associations, as well as the practice of community association management.

Community Association Managers (CAMs):

- The bill clarifies the responsibilities and obligations of CAMs, including record retention, conflict disclosure, and financial reporting.
- CAMs are permitted to retain records for up to 20 days after contract termination to complete ending financial statements or reports.
- They are required to make records available for download on association websites or mobile apps upon request.
- Failure to maintain required accounting records constitutes a first-degree misdemeanor.

Milestone Inspections:

- The bill provides that the milestone inspection requirement also does not apply to a four-family dwelling with three or fewer habitable stories above ground.

Official Records:

- It mandates the maintenance of official records, with a good faith obligation to recover lost or destroyed records.
- Removes the requirement for a sworn affidavit accompanying records request checklists.

Insurance:

- The bill requires the Division to monitor associations' compliance with insurance or fidelity bond requirements, and allows it to impose fines for non-compliance, with the penalties set by the Division.

Association Meetings:

- Requires board meetings to be held quarterly, with agendas including opportunities for member questions.
- Special assessments no longer need to be recorded in the public record.

Electronic Voting:

- Allows cooperative associations to conduct electronic voting, with unit owner consent.

Officers and Directors:

- Officers or directors charged with criminal violations under the Condominium Act must be removed from office.

Director Education:

- Enhances educational requirements for directors, including initial and continuing education on various topics such as structural integrity reserve studies, recordkeeping, and financial literacy. Requires 4 hours of initial education for new directors.

Condominium Fines and Suspensions:

- Establishes fines and penalties for violations, ensuring compliance with association rules and regulations.

Structural Integrity Reserve Study and Reserves:

- Requires condominium and cooperative associations to notify the Division after completing structural integrity reserve studies.

- Allows boards to suspend reserve contributions if the building is deemed uninhabitable due to a natural emergency.

Financial Reporting:

- Specifies financial reporting requirements, ensuring transparency and accountability in association finances.

Hurricane Protection:

- Clarifies responsibilities, procedures, and costs associated with hurricane protection installation, maintenance, and replacement, ensuring effective management and transparency within associations.
- Requires a study on preventing water intrusion through sliding door tracks during hurricanes, with recommendations to be sent to legislative authorities.

Prohibition against SLAPP Suits and Other Prohibited Actions:

- Prohibits strategic lawsuits against public participation (SLAPP) suits and other prohibited actions against unit owners exercising their rights.

The Division's Duties and Authority:

- Expands the Division's jurisdiction to include complaints related to meetings, conflicts of interest, and written inquiries by unit owners.
- Provides appropriations and staff for the Division.

The Office of the Condominium Ombudsman:

- Changes the appointment authority for the ombudsman to the Secretary instead of the Governor, and removes the requirement for the ombudsman to be an attorney.

Limitations on Actions by Condominium and Cooperative Associations:

- Specifies limitations on actions by associations, ensuring compliance with the Condominium Act and other relevant rules.

Mixed-Use Condominiums:

- Revises definitions and provisions related to condominiums created within a portion of a building or multiple parcel building.

Developer and Non-developer Disclosures Prior to Sale:

- Updates disclosure requirements for developers and non-developer condominium unit owners, ensuring transparency for prospective buyers.

Condominium Sales or Reservation Deposits:

- Clarifies provisions related to condominium sales or reservation deposits, ensuring compliance with financial and escrow requirements.

Florida Building Commission:

- The bill directs the Florida Building Commission (FBC) to conduct a study on water intrusion prevention standards related to sliding glass door tracks, including the assessment of devices designed to prevent such intrusion. The FBC must submit its recommendations in a written report by December 1, 2024, to key government officials and relevant legislative committees overseeing chapter 718 of the Florida Statutes.

Appropriations:

- Provides appropriations of \$6.1 million in recurring and \$1.3 million in nonrecurring funds from the General Revenue Fund for implementing the act, including 65 positions.

Overall, this comprehensive bill aims to enhance transparency, accountability, and governance within condominium and cooperative associations, addressing various aspects from management and education to financial reporting and hurricane protection.

Committee on Regulated Industries

CS/CS/CS/HB 1021 — Community Associations

by Commerce Committee; State Administration & Technology Appropriations Subcommittee; Regulatory Reform & Economic Development Subcommittee; and Rep. Lopez and others (CS/CS/CS/SB 1178 by Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; Regulated Industries Committee; and Senators Bradley, Pizzo, Osgood, Rodriguez, Garcia, and Jones)

The bill relates to the governance of condominium and cooperative associations and the practice of community association management.

Community Association Managers

The bill requires community association managers (CAMs) and CAM firms to return all community association records in their possession within 20 business days of termination of a services agreement or a written request whichever occurs first, with license suspension and civil penalties for noncompliance, except that the time frames applicable to timeshare plans apply to the records of a timeshare plan.

The bill provides conflict of interest disclosure requirements and a process for associations to follow when approving contracts with CAMs and CAM firms, or a relative, that may present a conflict of interest. The requirements are similar to the conflicts of interest provisions for condominium associations and their officers and directors, including:

- Providing that, if the association receives and considers a bid to provide a good or service that exceeds \$2,500, other than community association management services, from a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or a relative of such persons, the association must also solicit multiple bids from other third-party providers of such good or service.
- Requiring that the proposed activity that may be a conflict of interest must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the board's meeting agenda and entered into the meeting minutes.
- Requiring the board must approve the contracts with a potential conflict of interest, and all management contracts, by an affirmative vote of two-thirds of all directors present.

Milestone Inspections

Currently, single-family, two-family, and three-family dwellings are exempt from the milestone inspection requirements. The bill exempts four-family dwellings with three or fewer habitable stories above ground.

Official Records – Condominiums

Regarding access to the official records of a condominium association, the bill:

- Provides that, if records are lost or destroyed, there is a good faith obligation to obtain and recover the records as is reasonably possible.

- Allows e-mail addresses and facsimile numbers to be accessible to unit owners if consent to receive notice by electronic transmission has been provided.
- Prohibits the sale or sharing of such personal information to third parties.
- Effective January 1, 2026, decreases from 150 units to 25 units the threshold requirement for an association to maintain specified records available on the association's website or on a mobile device.
- Requires official records to be provided to the unit owner at no charge if the Division of Condominium, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) subpoenas records an association has failed to timely provide in response to a unit owner's written request.
- Requires associations to maintain additional financial records (e.g., invoices and other documentation that substantiates any receipt or expenditure).
- Requires associations to respond to a records request with a checklist of all records provided.
- Authorizes the division to request access to an association's website to investigate complaints related to unit owner access to official records on such website.

Criminal Violations – Condominiums

The bill provides the following criminal penalties related to condominium associations, and the official records of the association:

- 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;
- First degree misdemeanor for knowingly and intentionally defacing or destroying required accounting records, or 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 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;
- Third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept a kickback; and
- First degree misdemeanor for engaging in specified fraudulent voting activity, and knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

The bill provides that officers and directors charged with a criminal violation under ch. 718, F.S., are deemed removed from office and a vacancy declared.

Budgets, Financial Reporting, and Reserves – Condominiums and Cooperatives

Regarding condominium association budgets, financial reporting, and reserves, the bill:

- Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.
- Requires associations to provide unit owners with a notice that the structural integrity reserve study (SIRS) is available for inspection and copying within 45 days of completion of the study. The notice may be provided electronically.
- Allows associations to temporarily pause the funding of reserves or a reduce reserve funding if the entire condominium building is uninhabitable due to a natural emergency, as determined by the local enforcement agency, upon majority approval of the members.

Condominium and cooperative associations must notify the division within 45 days after the SIRS is completed. By January 1, 2025, the division must create a database of associations that have completed the SIRS. After December 31, 2024, the division must include in its annual report a list of all associations that have completed the SIRS.

Meetings of Condominium Associations

The bill requires:

- Associations of 10 or more units to meet quarterly and four times each year the agenda must allow members to ask questions concerning the status of construction or repair projects, revenues and expenditures, and other condominium issues; and
- The notice for meetings on assessments must include the cost and purpose of assessments and a copy of any proposed contract.

Director Education – Condominiums

The bill provides education requirements for the officers and directors of condominium associations to require:

- Newly elected or appointed directors to submit both the written certification that they have read the association’s governing documents, will work to uphold the documents to the best of their ability and faithfully discharge their duties, and submit a certificate of completion of an approved condominium education course;
- Four hours of training which includes instruction on milestone inspections, SIRS, elections, recordkeeping, financial literacy and transparency, levying of fines, and meeting requirements;
- Directors to annually complete at least one hour of continuing education about recent changes to the condominium laws and rules during the past year; and
- Directors, excluding directors for a timeshare condominium, to certify, on a form provided by the division, that all directors have completed the required written certification and educational certificate requirements.

Voting in Condominium and Cooperative Associations

Regarding voting in condominium and cooperative associations, the bill:

- Requires associations to notify a condominium unit owner or member that his or her voting rights may be suspended due to nonpayment of a fee or other monetary obligation at least 90 days before an election.
- Allows cooperative and condominium unit owners to consent to electronic voting in elections by using an electronic means of consent.
- Provides that if the condominium and cooperative board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless the unit owner opts out.

Hurricane Protections – Condominiums

The bill revises the requirements for the installation of hurricane protection in a condominium building, including:

- Creating a uniform definition for “hurricane protection;”
- Requiring condominium declarations to delineate the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections, exterior doors, windows, and glass apertures;
- Providing a uniform procedure for approval of hurricane protection; and
- Providing that unit owners are not responsible for the cost of removal and reinstallation of hurricane protection if the removal is necessary to repair condominium property.

SLAPP and Defamation Suits

The bill revises the prohibitions against “strategic lawsuits against public participation” or “SLAPP suits,” which occur when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association.

The bill includes condominium associations in the SLAPP suit prohibition, and protects unit owners who report complaints to government agencies or law enforcement, or make public statements critical of the operation or management of an association by prohibiting associations from:

- Retaliating against unit owners, by increasing assessments, threatening to bring an action for possession or other civil action; and
- Spending association funds in support of defamation, libel, or tortious interference actions against a unit owner.

Condominium Officers and Directors

The bill provides that the attendance of an officer or director at a meeting of the board is sufficient to constitute a quorum for the meeting and for any vote taken in his or her absence when the director is required to leave the room during the discussion and the taking of a vote on a contract in which the director, or his relative, has an interest.

Division of Condominium, Timeshares, and Mobile Homes

The bill expands the division's post-turnover jurisdiction to include:

- Procedures and records related to financial issues, including annual financial reporting, assessments for common expenses, fines, and commingling funds;
- Elections, including election and voting requirements, and recall of board members;
- The maintenance of and unit owner access to association records;
- The procedural aspects of meetings, such as unit owner meetings, quorums, voting requirements, proxies, board of administration meetings, and budget meetings;
- Disclosure of conflicts of interest;
- Removal of a board director or officer under ch. 718, F.S.;
- The procedural completion of structural integrity reserve studies; and
- Any written inquiries by unit owners to the association.

In addition, the bill:

- Requires that the division must refer to local law enforcement authorities any person it believes has engaged any criminal activity.
- Provides that the division and the office of the condominium ombudsman may attend and observe any meeting of the board or any unit owner meeting, for the purpose of performing the duties of the division or the office of the ombudsman.

The division must submit findings by January 1, 2025, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, of its review and recommendations of the website or application requirements for official records.

Condominium Ombudsman

The bill provides for the appointment of the Condominium Ombudsman by the DBPR secretary instead of the Governor, and deletes the requirement that the ombudsman must be an attorney.

Limitations on Actions by Condominium and Cooperative Associations

The bill provides that the statute of limitations and statute of repose for certain actions available to a condominium association or a cooperative association, will not begin to run until the unit owners have elected a majority of the members of the board of administration.

Pre-Sale Disclosures and Requirements

The bill revises the form in which the prospective purchaser of a condominium unit acknowledges receipt of specified documents to include a copy of the most recent annual financial statement and annual budget of the condominium association.

Effective October 1, 2024, the bill also:

- Includes the annual financial statement and annual budget of the condominium association among the documents a nondeveloper seller of a unit must give to a prospective purchaser of a unit.
- Allows developers of nonresidential condominiums the option of delivering to the escrow agent a surety bond or an irrevocable letter of credit with specified conditions, and
- Revises escrow requirements for developers.

Condominiums Within a Portion of a Building or Within a Multiple Parcel Building

The bill revises the definition for the term “condominium property” to mean “the lands, leaseholds, improvements, any personal property, and all easements and rights appurtenant thereto, regardless of whether contiguous, which are subjected to condominium ownership.”

Effective October 1, 2024, the bill provide disclosure requirements for the creation of condominiums within a portion of a building or within a multiple parcel building. The association of a condominium created within a portion of a building or within a multiple parcel building has the right to inspect and copy the books and records upon which the costs for maintaining and operating the shared facilities are based and to receive an annual budget with respect to such costs.

Florida Building Commission – Water Intrusion Study

The bill also requires the Florida Building Commission to submit a report by December 1, 2024, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees and appropriate substantive committees with jurisdiction over ch. 718, F.S., of its review of the standards to prevent water intrusion through the tracks of sliding glass doors.

Appropriation

For Fiscal Year 2024-2025, the bill appropriates \$6,122,390 in recurring and \$1,293,879 in nonrecurring funds from the General Revenue Fund to the Department of Business and Professional Regulation, and 65 full-time equivalent positions with an associated salary rate, for the purpose of implementing the provisions of this bill.

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 111-0