

By Senator Hays

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1 A bill to be entitled
2 An act relating to homeowners' associations; amending
3 s. 720.303, F.S.; requiring the community association
4 manager or management firm, or the association itself,
5 to provide a specified initial report to the Division
6 of Florida Condominiums, Timeshares, and Mobile Homes
7 in the Department of Business and Professional
8 Regulation by a specified date and to provide the
9 report annually thereafter; requiring the department
10 to establish and implement a registration system
11 through an Internet website which meets specified
12 reporting requirements; revising the date by which the
13 department is required to prepare an initial report
14 and to present it to the Governor and the Legislature;
15 extending the expiration date of a provision; amending
16 s. 720.307, F.S.; revising the events in which members
17 other than the developer become entitled to elect at
18 least a majority of the members of the board of
19 directors of the homeowners' association; amending s.
20 720.311, F.S.; providing that election disputes and
21 recall disputes are eligible for presuit mediation;
22 authorizing the department to arbitrate certain
23 disputes related to homeowners' associations;
24 authorizing a mediator or arbitrator to conduct
25 mediation or arbitration if he or she has been
26 certified as a county court civil mediator or
27 arbitrator, pursuant to the requirements of the
28 Florida Supreme Court; creating s. 720.317, F.S.;
29 requiring the department to provide training and

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30 educational programs for homeowners' association
31 members, directors, and officers; providing that the
32 training may, at the department's discretion, include
33 certain methods; authorizing the department to review
34 and approve training and educational programs for
35 members, directors, and officers; requiring the
36 department to maintain a current list of approved
37 programs and providers and to make the list available
38 to homeowners' associations in a reasonable and cost-
39 effective manner; requiring homeowners' associations
40 to pay a specified fee per lot each year to cover the
41 cost of the training and educational programs;
42 creating s. 720.318, F.S.; authorizing the department
43 to enforce and ensure compliance with the provisions
44 of this chapter and rules relating to specified
45 topics; providing that the department has jurisdiction
46 to investigate complaints relating to homeowners'
47 associations; amending s. 720.401, F.S.; requiring a
48 seller of a parcel for which membership in a
49 homeowners' association is a condition of ownership to
50 provide a prospective buyer with specified association
51 documents; requiring a seller to provide a prospective
52 buyer with such documents within a specified
53 timeframe; authorizing a prospective buyer to
54 terminate their contract for purchase within a
55 specified timeframe; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Subsection (13) of section 720.303, Florida
60 Statutes, is amended to read:

61 720.303 Association powers and duties; meetings of board;
62 official records; budgets; financial reporting; association
63 funds; recalls.—

64 (13) REPORTING REQUIREMENT.—The community association
65 manager or management firm, or the association when there is no
66 community association manager or management firm, shall report
67 to the division by November 22, 2015 ~~2013~~, and each year
68 thereafter, in a manner and form prescribed by the division.

69 (a) The report shall include the association's:

- 70 1. Legal name.
- 71 2. Federal employer identification number.
- 72 3. Mailing and physical addresses.
- 73 4. Total number of parcels.
- 74 5. Total amount of revenues and expenses from the
75 association's annual budget.

76 (b) For associations in which control of the association
77 has not been transitioned to nondeveloper members, as set forth
78 in s. 720.307, the report shall also include the developer's:

- 79 1. Legal name.
- 80 2. Mailing address.
- 81 3. Total number of parcels owned on the date of reporting.

82 (c) The reporting requirement provided in this subsection
83 shall be a continuing obligation on each association until the
84 required information is reported to the division.

85 (d) By October 1, 2015 ~~2013~~, the department shall establish
86 and implement a registration system through an Internet website
87 that provides for the reporting requirements of paragraphs (a)

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88 and (b).

89 (e) The department shall prepare an annual report of the
90 data reported pursuant to this subsection and present it to the
91 Governor, the President of the Senate, and the Speaker of the
92 House of Representatives by December 1, 2016 ~~2013~~, and each year
93 thereafter.

94 (f) The division shall adopt rules pursuant to ss.
95 120.536(1) and 120.54 to implement the provisions of this
96 subsection.

97 (g) This subsection shall expire on July 1, 2026 ~~2016~~,
98 unless reenacted by the Legislature.

99 Section 2. Subsection (1) of section 720.307, Florida
100 Statutes, is amended to read:

101 720.307 Transition of association control in a community.-
102 With respect to homeowners' associations:

103 (1) Members other than the developer are entitled to elect
104 at least a majority of the members of the board of directors of
105 the homeowners' association when the earlier of the following
106 events occurs:

107 (a) For a homeowners' association consisting of fewer than
108 100 lots, 3 months after 75 percent of the parcels in all phases
109 of the community which will ultimately be operated by the
110 homeowners' association have been conveyed to members;

111 (b) For a homeowners' association consisting of more than
112 100 lots, 3 ~~three~~ months after 90 percent of the parcels in all
113 phases of the community which ~~that~~ will ultimately be operated
114 by the homeowners' association have been conveyed to members;

115 (c) ~~(b)~~ Such other percentage of the parcels has been
116 conveyed to members, or such other date or event has occurred,

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117 as is set forth in the governing documents in order to comply
118 with the requirements of any governmentally chartered entity
119 with regard to the mortgage financing of parcels;

120 (d)~~(e)~~ Upon the developer abandoning or deserting its
121 responsibility to maintain and complete the amenities or
122 infrastructure as disclosed in the governing documents. There is
123 a rebuttable presumption that the developer has abandoned and
124 deserted the property if the developer has unpaid assessments or
125 guaranteed amounts under s. 720.308 for a period of more than 2
126 years;

127 (e)~~(d)~~ Upon the developer filing a petition seeking
128 protection under chapter 7 of the federal Bankruptcy Code;

129 (f)~~(e)~~ Upon the developer losing title to the property
130 through a foreclosure action or the transfer of a deed in lieu
131 of foreclosure, unless the successor owner has accepted an
132 assignment of developer rights and responsibilities first
133 arising after the date of such assignment; ~~or~~

134 (g)~~(f)~~ Upon a receiver for the developer being appointed by
135 a circuit court and not being discharged within 30 days after
136 such appointment, unless the court determines within 30 days
137 after such appointment that transfer of control would be
138 detrimental to the association or its members; ~~or~~

139 (h) For a homeowners' association consisting of fewer than
140 200 lots, 10 years after the governing documents of the
141 homeowners' association were filed with the local government; or

142 (i) For a homeowners' association consisting of more than
143 200 lots, the earlier of 20 years after the governing documents
144 of the homeowners' association were filed with the local
145 government or 3 months after 90 percent of the parcels in all

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146 phases of the community which will ultimately be operated by the
 147 homeowners' association have been conveyed to members.

148
 149 For purposes of this section, the term "members other than the
 150 developer" does ~~shall~~ not include builders, contractors, or
 151 others who purchase a parcel for the purpose of constructing
 152 improvements thereon for resale.

153 Section 3. Subsection (1) and paragraph (d) of subsection
 154 (2) of section 720.311, Florida Statutes, are amended to read:

155 720.311 Dispute resolution.—

156 (1) The Legislature finds that alternative dispute
 157 resolution has made progress in reducing court dockets and
 158 trials and in offering a more efficient, cost-effective option
 159 to litigation. The filing of any petition for arbitration or the
 160 serving of a demand for presuit mediation as provided for in
 161 this section shall toll the applicable statute of limitations.
 162 Any recall dispute filed with the department pursuant to s.
 163 720.303(10) shall be conducted by the department in accordance
 164 with the provisions of ss. 718.112(2)(j) and 718.1255 and the
 165 rules adopted by the division. In addition, the department shall
 166 conduct mandatory binding arbitration of election disputes
 167 between a member and an association pursuant to s. 718.1255 and
 168 rules adopted by the division. ~~Neither Election disputes and nor~~
 169 ~~recall disputes are eligible for presuit mediation; these~~
 170 ~~disputes shall be arbitrated by the department. The department~~
 171 may arbitrate disputes involving covenants, restrictions, and
 172 rule enforcement pursuant to the declaration of covenants and
 173 rules and regulations of the homeowners' association; duties to
 174 maintain and make safe pursuant to the declaration of covenants,

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175 rules and regulations, and other governing documents; assessment
176 disputes; and disputes involving the official records of the
177 homeowners' association. At the conclusion of the proceeding,
178 the department shall charge the parties a fee in an amount
179 adequate to cover all costs and expenses incurred by the
180 department in conducting the proceeding. Initially, the
181 petitioner shall remit a filing fee of at least \$200 to the
182 department. The fees paid to the department shall become a
183 recoverable cost in the arbitration proceeding, and the
184 prevailing party in an arbitration proceeding shall recover its
185 reasonable costs and attorney's fees in an amount found
186 reasonable by the arbitrator. The department shall adopt rules
187 to effectuate the purposes of this section.

188 (2)

189 (d) A mediator or arbitrator is ~~shall be~~ authorized to
190 conduct mediation or arbitration under this section only if he
191 or she has been certified as a county court or circuit court
192 civil mediator or arbitrator, respectively, pursuant to the
193 requirements established by the Florida Supreme Court.
194 Settlement agreements resulting from mediation do ~~shall~~ not have
195 precedential value in proceedings involving parties other than
196 those participating in the mediation to support either a claim
197 or defense in other disputes.

198 Section 4. Section 720.317, Florida Statutes, is created to
199 read:

200 720.317 Training and educational programs.—The department
201 shall provide training and educational programs for homeowners'
202 association members, directors, and officers. The training, at
203 the department's discretion, must include web-based electronic

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204 media, live training, and seminars in various locations
205 throughout the state. The department may review and approve
206 training and educational programs for members, directors, and
207 officers offered by providers. The department shall maintain a
208 current list of approved programs and providers and shall make
209 the list available to homeowners' associations in a reasonable
210 and cost-effective manner. Homeowners' associations shall pay to
211 the department a fee of \$2 per lot each year to cover the cost
212 of homeowners' association training and educational programs
213 provided under this section.

214 Section 5. Section 720.318, Florida Statutes, is created to
215 read:

216 720.318 Authority of the department.—The department may
217 enforce and ensure compliance with the provisions of this
218 chapter and rules relating to records access, financial
219 management, and elections of homeowners' associations and may
220 investigate any complaint made to the department against a
221 homeowners' association.

222 Section 6. Present subsection (2) of section 720.401,
223 Florida Statutes, is redesignated as subsection (3), and a new
224 subsection (2) is added to that section, to read:

225 720.401 Prospective purchasers subject to association
226 membership requirement; disclosure required; covenants;
227 assessments; contract cancellation.—

228 (2) A seller of a parcel for which membership in a
229 homeowners' association is a condition of ownership must provide
230 a prospective buyer with the association governing documents,
231 including the declaration of covenants, articles and bylaws,
232 rules and regulations, and operating budget for the current

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233 year, and any amendment to such documents. The seller must
234 provide the prospective buyer with such documents at least 7
235 days before closing. The prospective buyer may terminate the
236 contract for purchase within 3 days after receipt of such
237 documents.

238 Section 7. This act shall take effect July 1, 2015.