

1 A bill to be entitled
2 An act relating to homeowners' associations; creating
3 s. 189.101, F.S.; authorizing a local governing
4 authority to enforce deed restrictions on certain
5 property that is not part of a homeowners'
6 association; amending s. 720.303, F.S.; requiring a
7 community association manager or management firm, or
8 an association itself, to provide a specified report
9 to the Division of Florida Condominiums, Timeshares,
10 and Mobile Homes of the Department of Business and
11 Professional Regulation every 3 years beginning on a
12 specified date; extending the date by which the
13 department must establish and implement a registration
14 system; requiring the department to provide a data
15 report by a specified date; extending the expiration
16 date of such reporting requirements; amending s.
17 720.311, F.S.; authorizing the department to arbitrate
18 certain homeowners' association-related disputes at
19 its discretion; authorizing a mediator or arbitrator
20 to conduct mediation or arbitration only if he or she
21 has been certified as a county court or circuit court
22 civil mediator or arbitrator pursuant to the
23 requirements of the Florida Supreme Court; creating s.
24 720.317, F.S.; requiring the department to provide
25 training and educational programs for homeowners'
26 association members, directors, and officers;

27 | authorizing the training to be presented using certain
 28 | methods; authorizing the department to review and
 29 | approve such training and educational programs;
 30 | requiring the department to maintain a current list of
 31 | approved programs and providers and to make the list
 32 | available to the associations in a reasonable and
 33 | cost-effective manner; creating s. 720.318, F.S.;
 34 | authorizing the department to enforce and ensure
 35 | compliance with certain provisions and rules;
 36 | providing that the department has complete
 37 | jurisdiction to investigate complaints relating to
 38 | homeowners' associations; creating s. 720.319, F.S.;
 39 | providing a limitation on certain homeowner fees for a
 40 | transfer of title; providing an effective date.

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

44 | Section 1. Section 189.101, Florida Statutes, is created
 45 | to read:

46 | 189.101 Deed restrictions.—A local governing authority may
 47 | enforce a deed restriction on a property within the district if
 48 | the property is not part of a homeowners' association and the
 49 | restriction was included on the deed at the time of the
 50 | property's construction. A deed restriction added after
 51 | construction that was not intended to be placed on every parcel
 52 | in that community may not be enforced by a local governing

53 authority.

54 Section 2. Subsection (13) of section 720.303, Florida
55 Statutes, is amended to read:

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

59 (13) REPORTING REQUIREMENT.—The community association
60 manager or management firm, or the association when there is no
61 community association manager or management firm, shall report
62 to the division by November 22, 2016 ~~2013~~, and every 3 years
63 thereafter, in a manner and form prescribed by the division.

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

- 65 1. Legal name.
- 66 2. Federal employer identification number.
- 67 3. Mailing and physical addresses.
- 68 4. Total number of parcels.
- 69 5. Total amount of revenues and expenses from the
70 association's annual budget.

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

- 74 1. Legal name.
- 75 2. Mailing address.
- 76 3. Total number of parcels owned on the date of reporting.

77 (c) The reporting requirement provided in this subsection
78 shall be a continuing obligation on each association until the

79 required information is reported to the division.

80 (d) By October 1, 2016 ~~2013~~, the department shall
 81 establish and implement a registration system through an
 82 Internet website that provides for the reporting requirements of
 83 paragraphs (a) and (b).

84 (e) The department shall prepare an annual report of the
 85 data reported pursuant to this subsection and present it to the
 86 Governor, the President of the Senate, and the Speaker of the
 87 House of Representatives by December 1, 2016 ~~2013~~, and each year
 88 thereafter.

89 (f) The division shall adopt rules pursuant to ss.
 90 120.536(1) and 120.54 to implement the provisions of this
 91 subsection.

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

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

96 720.311 Dispute resolution.—

97 (1) The Legislature finds that alternative dispute
 98 resolution has made progress in reducing court dockets and
 99 trials and in offering a more efficient, cost-effective option
 100 to litigation. The filing of any petition for arbitration or the
 101 serving of a demand for presuit mediation as provided for in
 102 this section shall toll the applicable statute of limitations.
 103 Any recall dispute filed with the department pursuant to s.
 104 720.303(10) shall be conducted by the department in accordance

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105 with ~~the provisions of~~ ss. 718.112(2)(j) and 718.1255 and the
106 rules adopted by the division. In addition, the department shall
107 conduct mandatory binding arbitration of election disputes
108 between a member and an association pursuant to s. 718.1255 and
109 rules adopted by the division. Neither election disputes nor
110 recall disputes are eligible for presuit mediation; these
111 disputes shall be arbitrated by the department. The department
112 may arbitrate other homeowners' association-related disputes at
113 its discretion, subject to any conflict with this chapter. At
114 the conclusion of the proceeding, the department shall charge
115 the parties a fee in an amount adequate to cover all costs and
116 expenses incurred by the department in conducting the
117 proceeding. Initially, the petitioner shall remit a filing fee
118 of at least \$200 to the department. The fees paid to the
119 department shall become a recoverable cost in the arbitration
120 proceeding, and the prevailing party in an arbitration
121 proceeding shall recover its reasonable costs and attorney
122 ~~attorney's~~ fees in an amount found reasonable by the arbitrator.
123 The department shall adopt rules to effectuate the purposes of
124 this section.

125 (2)

126 (d) A mediator or arbitrator may ~~shall be authorized to~~
127 conduct mediation or arbitration under this section only if he
128 or she has been certified as a county court or circuit court
129 civil mediator or arbitrator, respectively, pursuant to the
130 requirements established by the Florida Supreme Court.

131 Settlement agreements resulting from mediation do ~~shall~~ not have
 132 precedential value in proceedings involving parties other than
 133 those participating in the mediation to support either a claim
 134 or defense in other disputes.

135 Section 4. Section 720.317, Florida Statutes, is created
 136 to read:

137 720.317 Educational programs.—The department shall provide
 138 training and educational programs for homeowners' association
 139 members, directors, and officers. The training may, in the
 140 department's discretion, include web-based electronic media,
 141 live training, and seminars in various locations throughout the
 142 state. The department may review and approve training and
 143 educational programs for members, directors, and officers
 144 offered by providers and shall maintain a current list of
 145 approved programs and providers. The department shall make the
 146 list available to the associations in a reasonable and cost-
 147 effective manner.

148 Section 5. Section 720.318, Florida Statutes, is created
 149 to read:

150 720.318 Authority of the department.—The department may
 151 enforce and ensure compliance with this chapter and rules
 152 relating to the records access, financial management, and
 153 elections of homeowners' associations. In performing its duties,
 154 the department has complete jurisdiction to investigate
 155 complaints and enforce compliance with respect to homeowners'
 156 associations.

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157 Section 6. Section 720.319, Florida Statutes, is created
158 to read:

159 720.319 Transfer of title fees for new homeowners.—An
160 association fee for a transfer of title, including such fees
161 assessed at closing, for a new homeowner in an association that
162 is not developer controlled may not exceed 35 percent of the
163 association's fee for a transfer of title for that fiscal year.

164 Section 7. This act shall take effect July 1, 2016.