

1 A bill to be entitled
2 An act relating to homeowners' associations; amending
3 s. 720.303, F.S.; providing that officers and
4 directors of a homeowners' association are subject to
5 certain standards; requiring a detailed accounting of
6 amounts due to the association be given to certain
7 persons within a certain timeframe upon written
8 request; providing for a complete waiver of
9 outstanding fines under certain circumstances;
10 amending s. 720.3035, F.S.; prohibiting an association
11 or certain committees of the association from
12 enforcing or adopting certain covenants, rules, or
13 guidelines; authorizing a parcel owner to appeal
14 certain decisions of the association or certain
15 committees of the association to an appeals committee
16 within a specified time frame; providing for
17 membership and authority of the appeals committee;
18 requiring the appeals committee to make its decisions
19 within a specified time frame; amending s. 720.3045,
20 F.S.; authorizing parcel owners or their tenants to
21 install, display, or store clotheslines and vegetable
22 gardens under certain circumstances; amending s.
23 720.305, F.S.; prohibiting certain fines from being
24 aggregated and becoming a lien on a parcel without a
25 supermajority vote of a certain percentage of the

26 | voting members; specifying how fines, suspensions,
27 | attorney fees, and costs are determined; requiring
28 | certain notices to be provided to parcel owners and,
29 | if applicable, an occupant, a licensee, or an invitee
30 | of the parcel owner; requiring certain hearings to be
31 | held within a specified timeframe and authorizing such
32 | hearings to be held by telephone or other electronic
33 | means; prohibiting the accrual of attorney fees and
34 | costs after a specified time; specifying the priority
35 | of payments made by a parcel owner to an association;
36 | authorizing certain persons to request a hearing to
37 | dispute certain fees and costs; providing that certain
38 | fines may not become a lien on a parcel; requiring
39 | fines or suspensions related to traffic infractions to
40 | be determined and issued by a certain person;
41 | prohibiting a parcel owner from being fined for
42 | certain traffic infractions; defining the term
43 | "traffic infraction"; prohibiting an association from
44 | levying a fine or imposing a suspension for certain
45 | actions; prohibiting an association from enforcing
46 | certain rules or covenants under certain
47 | circumstances; amending s. 720.3075, F.S.; prohibiting
48 | certain homeowners' association documents from
49 | precluding property owners from taking certain
50 | actions; prohibiting homeowners' association documents

51 from limiting or requiring certain actions; amending
 52 s. 720.308, F.S.; prohibiting a board from increasing
 53 assessments by more than specified percentages without
 54 a supermajority vote of a certain percentage of the
 55 voting members; providing an exception; prohibiting
 56 certain assessments from becoming a lien on a parcel
 57 without a supermajority vote of a certain percentage
 58 of the voting members; amending s. 720.318, F.S.;
 59 authorizing a law enforcement officer to park his or
 60 her assigned law enforcement vehicle on public roads
 61 and rights-of-way; providing an effective date.

62

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

64

65 Section 1. Subsection (1) of section 720.303, Florida
 66 Statutes, is amended, and subsection (13) is added to that
 67 section, to read:

68 720.303 Association powers and duties; meetings of board;
 69 official records; budgets; financial reporting; association
 70 funds; recalls.—

71 (1) POWERS AND DUTIES.—An association that ~~which~~ operates
 72 a community as defined in s. 720.301, must be operated by an
 73 association that is a Florida corporation. After October 1,
 74 1995, the association must be incorporated and the initial
 75 governing documents must be recorded in the official records of

76 | the county in which the community is located. An association may
77 | operate more than one community. The officers and directors of
78 | an association are subject to s. 617.0830 and have a fiduciary
79 | relationship to the members who are served by the association.
80 | The powers and duties of an association include those set forth
81 | in this chapter and, except as expressly limited or restricted
82 | in this chapter, those set forth in the governing documents.
83 | After control of the association is obtained by members other
84 | than the developer, the association may institute, maintain,
85 | settle, or appeal actions or hearings in its name on behalf of
86 | all members concerning matters of common interest to the
87 | members, including, but not limited to, the common areas; roof
88 | or structural components of a building, or other improvements
89 | for which the association is responsible; mechanical,
90 | electrical, or plumbing elements serving an improvement or
91 | building for which the association is responsible;
92 | representations of the developer pertaining to any existing or
93 | proposed commonly used facility; and protesting ad valorem taxes
94 | on commonly used facilities. The association may defend actions
95 | in eminent domain or bring inverse condemnation actions. Before
96 | commencing litigation against any party in the name of the
97 | association involving amounts in controversy in excess of
98 | \$100,000, the association must obtain the affirmative approval
99 | of a majority of the voting interests at a meeting of the
100 | membership at which a quorum has been attained. This subsection

101 does not limit any statutory or common-law right of any
102 individual member or class of members to bring any action
103 without participation by the association. A member does not have
104 authority to act for the association by virtue of being a
105 member. An association may have more than one class of members
106 and may issue membership certificates. An association of 15 or
107 fewer parcel owners may enforce only the requirements of those
108 deed restrictions established prior to the purchase of each
109 parcel upon an affected parcel owner or owners.

110 (13) REQUIREMENT TO PROVIDE AN ACCOUNTING.—A parcel owner
111 or any occupant, licensee, or invitee of the parcel owner may,
112 at any time, make a written request to the board for a detailed
113 accounting of any amounts he or she owes to the association and
114 the board shall provide such information within 10 days after
115 receipt of the written request. Failure by the board to respond
116 in 10 days to a written request for a detailed accounting
117 constitutes a complete waiver of any outstanding fines of the
118 person who requested such accounting.

119 Section 2. Subsections (1) and (4) of section 720.3035,
120 Florida Statutes, are amended to read:

121 720.3035 Architectural control covenants; parcel owner
122 improvements; rights and privileges.—

123 (1)(a) The authority of an association or any
124 architectural, construction improvement, or other such similar
125 committee of an association to review and approve plans and

126 specifications for the location, size, type, or appearance of
127 any structure or other improvement on a parcel, or to enforce
128 standards for the external appearance of any structure or
129 improvement located on a parcel, shall be permitted only to the
130 extent that the authority is specifically stated or reasonably
131 inferred as to such location, size, type, or appearance in the
132 declaration of covenants or other published guidelines and
133 standards authorized by the declaration of covenants.

134 (b) An association or any architectural, construction
135 improvement, or other such similar committee of an association
136 may not enforce or adopt a covenant, rule, or guideline that:

137 1. Limits or places requirements on the interior of a
138 structure that is not visible from the parcel's frontage or an
139 adjacent parcel.

140 2. Requires the review and approval of plans and
141 specifications for a central air-conditioning, refrigeration,
142 heating, or ventilating system by the association or any
143 architectural, construction improvement, or other such similar
144 committee of an association, if such system is not visible from
145 the parcel's frontage and is substantially similar to a system
146 that is approved or recommended by the association or a
147 committee thereof.

148 (4) (a) Each parcel owner is ~~shall be~~ entitled to the
149 rights and privileges set forth in the declaration of covenants
150 or other published guidelines and standards authorized by the

151 declaration of covenants concerning the architectural use of the
152 parcel, and the construction of permitted structures and
153 improvements on the parcel. ~~and~~ Such rights and privileges may
154 ~~shall~~ not be unreasonably infringed upon or impaired by the
155 association or any architectural, construction improvement, or
156 other such similar committee of the association.

157 (b) If a parcel owner's rights and privileges have been
158 unreasonably infringed upon or impaired by a decision concerning
159 the architectural use of his or her parcel or the construction
160 of permitted structures and improvements on such parcel by the
161 association or any architectural, construction improvement, or
162 other such similar committee of the association, the association
163 must provide the parcel owner with the ability to appeal such
164 decision to an appeals committee that consists of at least three
165 members appointed by the board who are not officers, directors,
166 or employees of the association or members of the architectural,
167 construction improvement, or other similar committee of the
168 association. The appeals committee has the right to reverse,
169 modify, or affirm the decision being appealed. A parcel owner
170 may appeal a decision of the association or any architectural,
171 construction improvement, or other such similar committee of the
172 association within 90 days after the owner receives written
173 notification of the initial decision. The appeals committee must
174 make a decision on the issue under appeal within 60 days after
175 receiving a parcel owner's request for an appeal.

176 (c) If the association or any architectural, construction
177 improvement, or other such similar committee of the association
178 should unreasonably, knowingly, and willfully infringe upon or
179 impair the rights and privileges set forth in the declaration of
180 covenants or other published guidelines and standards authorized
181 by the declaration of covenants, the adversely affected parcel
182 owner is ~~shall be~~ entitled to recover damages caused by such
183 infringement or impairment, including any costs and reasonable
184 attorney ~~attorney's~~ fees incurred in preserving or restoring the
185 rights and privileges of the parcel owner set forth in the
186 declaration of covenants or other published guidelines and
187 standards authorized by the declaration of covenants.

188 Section 3. Section 720.3045, Florida Statutes, is amended
189 to read:

190 720.3045 Installation, display, and storage of items.—
191 Regardless of any covenants, restrictions, bylaws, rules, or
192 requirements of an association, and unless prohibited by general
193 law or local ordinance, an association may not restrict parcel
194 owners or their tenants from installing, displaying, or storing
195 any items on a parcel which are not visible from the parcel's
196 frontage or an adjacent parcel, including, but not limited to,
197 artificial turf, boats, flags, vegetable gardens, clotheslines,
198 and recreational vehicles.

199 Section 4. Subsection (2) of section 720.305, Florida
200 Statutes, is amended, and subsections (7) through (10) are added

201 to that section, to read:

202 720.305 Obligations of members; remedies at law or in
 203 equity; levy of fines and suspension of use rights.-

204 (2) An association may levy reasonable fines for
 205 violations of the declaration, association bylaws, or reasonable
 206 rules of the association. A fine may not exceed \$100 per
 207 violation against any member or any member's tenant, guest, or
 208 invitee for the failure of the owner of the parcel or its
 209 occupant, licensee, or invitee to comply with any provision of
 210 the declaration, the association bylaws, or reasonable rules of
 211 the association unless otherwise provided in the governing
 212 documents. A fine may be levied by the board for each day of a
 213 continuing violation, with a single notice and opportunity for
 214 hearing, except that the fine may not exceed \$1,000 in the
 215 aggregate unless otherwise provided in the governing documents.
 216 A fine of less than \$1,000 may not become a lien against a
 217 parcel. A fine that amounts to less than 1 percent of the
 218 parcel's property value at the time the fine was levied may only
 219 become a lien against the parcel with approval by 75 percent of
 220 the total membership of parcel owners, and fines may not be
 221 aggregated to create a lien against a parcel. In any action to
 222 recover a fine, the prevailing party is entitled to reasonable
 223 attorney fees and costs from the nonprevailing party as
 224 determined by the court.

225 (a) An association may suspend, for a reasonable period of

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226 | time, the right of a member, or a member's tenant, guest, or
227 | invitee, to use common areas and facilities for the failure of
228 | the owner of the parcel or its occupant, licensee, or invitee to
229 | comply with any provision of the declaration, the association
230 | bylaws, or reasonable rules of the association. This paragraph
231 | does not apply to that portion of common areas used to provide
232 | access or utility services to the parcel. A suspension may not
233 | prohibit an owner or tenant of a parcel from having vehicular
234 | and pedestrian ingress to and egress from the parcel, including,
235 | but not limited to, the right to park.

236 | (b) A fine or suspension levied by the board of
237 | administration may not be imposed unless the board first
238 | provides at least 14 days' written notice of the parcel owner's
239 | right to a hearing to the parcel owner at his or her designated
240 | mailing or e-mail address in the association's official records
241 | and, if applicable, to any occupant, licensee, or invitee of the
242 | parcel owner, sought to be fined or suspended. Such and a
243 | hearing must be held within 30 days after issuance of the notice
244 | before a committee of at least three members appointed by the
245 | board who are not officers, directors, or employees of the
246 | association, or the spouse, parent, child, brother, or sister of
247 | an officer, director, or employee. The committee may hold the
248 | hearing by telephone or other electronic means. The notice must
249 | include a description of the alleged violation; the specific
250 | action required to cure such violation, if applicable; and the

251 hearing date, and location, and access information if held by
252 telephone or other electronic means of the hearing. A parcel
253 owner has the right to attend a hearing by telephone or other
254 electronic means.

255 (c) If the committee, by majority vote, does not approve a
256 proposed fine or suspension, the proposed fine or suspension may
257 not be imposed. The role of the committee is limited to
258 determining whether to confirm or reject the fine or suspension
259 levied by the board.

260 (d) Within 7 days after the hearing, the committee shall
261 provide written notice to the parcel owner at his or her
262 designated mailing or e-mail address in the association's
263 official records and, if applicable, any occupant, licensee, or
264 invitee of the parcel owner, of the committee's findings related
265 to the violation, including any applicable fines or suspensions
266 that the committee approved or rejected, and how the parcel
267 owner or any occupant, licensee, or invitee of the parcel owner
268 may cure the violation, if applicable, or fulfill a suspension,
269 or the date by which a fine must be paid.

270 (e) If a violation is found by the committee, but has been
271 cured before the hearing or in the manner specified in the
272 written notice required in paragraph (b) or paragraph (d), a
273 fine or suspension may not be imposed.

274 (f)(e) If a violation found by the committee is not cured
275 and the proposed fine or suspension levied by the board is

276 | approved by the committee by a majority vote, the committee must
277 | set a date by which the fine must be paid, which date must be at
278 | least 30 days after delivery of the written notice required in
279 | paragraph (d).

280 | (g) If a violation is found by the committee and the
281 | proposed fine or suspension levied by the board is approved by
282 | the committee and the violation is not cured or the fine is not
283 | paid per the written notice required in paragraph (d),
284 | reasonable attorney fees and costs may be awarded to the
285 | association. Attorney fees and costs may not begin to accrue
286 | until after the date noticed for payment under paragraph (d) and
287 | the time for an appeal has expired.

288 | (h) Upon receipt of a payment for any outstanding fines
289 | from a parcel owner or any occupant, licensee, or invitee of the
290 | parcel owner, the board must apply the payment first to the fine
291 | before satisfying any other amounts due to the association.
292 | Attorney fees and costs may not continue to accrue after a
293 | parcel owner or any occupant, licensee, or invitee of the parcel
294 | owner pays the fine.

295 | (i) A parcel owner or any occupant, licensee, or invitee
296 | of the parcel owner may request a hearing before the board to
297 | dispute the reasonableness of the attorney fees and costs
298 | awarded to the association.

299 | (7) If an association allows a fine to be levied for an
300 | infraction relating to lawn, landscaping, or grass maintenance,

301 such fine may not become a lien on a parcel.

302 (8) If an association allows a fine to be levied or a
 303 suspension to be imposed against a parcel owner or an occupant,
 304 a licensee, a guest, or an invitee of the parcel owner for a
 305 traffic infraction, such infraction must be determined and
 306 issued by a board-approved nonaffiliated third party
 307 specializing in traffic infractions before such fine may be
 308 levied or suspension imposed. A fine for a traffic infraction
 309 may not become a lien on a parcel. However, a fine may not be
 310 imposed against a parcel owner for a speeding violation
 311 committed by his or her occupant, licensee, guest, or invitee.
 312 For purposes of this paragraph, the term "traffic infraction"
 313 means a noncriminal violation of parking and traffic rules
 314 adopted by the state, county, municipality, or association.

315 (9) Notwithstanding any provision to the contrary in an
 316 association's governing documents, an association may not levy a
 317 fine or impose a suspension for any of the following:

318 (a) Leaving garbage receptacles at the curb or end of the
 319 driveway within 24 hours before or after the designated garbage
 320 collection day or time.

321 (b) Leaving holiday decorations or lights on a structure
 322 or other improvement on a parcel longer than indicated in the
 323 governing documents, unless such decorations or lights are left
 324 up for longer than 1 week after the association provides written
 325 notice of the violation to the parcel owner.

326 (10) An association may not enforce a new rule or covenant
 327 against a parcel owner for an action that took place before the
 328 new rule or covenant was enacted ~~fine payment is due 5 days~~
 329 ~~after notice of the approved fine required under paragraph (d)~~
 330 ~~is provided to the parcel owner and, if applicable, to any~~
 331 ~~occupant, licensee, or invitee of the parcel owner. The~~
 332 ~~association must provide written notice of such fine or~~
 333 ~~suspension by mail or hand delivery to the parcel owner and, if~~
 334 ~~applicable, to any occupant, licensee, or invitee of the parcel~~
 335 ~~owner.~~

336 Section 5. Subsection (3) of section 720.3075, Florida
 337 Statutes, is amended, and paragraph (c) is added to subsection
 338 (4) of that section, to read:

339 720.3075 Prohibited clauses in association documents.—

340 (3) Homeowners' association documents, including
 341 declarations of covenants, articles of incorporation, or bylaws,
 342 may not preclude:

343 (a) The display of up to two portable, removable flags as
 344 described in s. 720.304(2)(a) by property owners. However, all
 345 flags must be displayed in a respectful manner consistent with
 346 the requirements for the United States flag under 36 U.S.C.
 347 chapter 10.

348 (b) A property owner or a tenant, a guest, or an invitee
 349 of the property owner from parking his or her personal vehicle,
 350 including a pickup truck, in the property owner's driveway, in

351 common parking lots, on public roads and rights-of-way, or in
352 any other area at which the property owner or the property
353 owner's tenant, guest, or invitee has a right to park. The
354 homeowners' association documents, including declarations of
355 covenants, articles of incorporation, or bylaws, may not
356 prohibit a property owner or a tenant, a guest, or an invitee of
357 the property owner from parking his or her work vehicle, which
358 is not a commercial motor vehicle as defined in s. 320.01(25),
359 in the property owner's driveway.

360 (c) A property owner from inviting, hiring, or allowing
361 entry to a contractor or worker on the owner's parcel solely
362 because the contractor or worker is not on a preferred vendor
363 list of the association. Additionally, homeowners' association
364 documents may not preclude a property owner from inviting,
365 hiring, or allowing entry to a contractor or worker on his or
366 her parcel solely because the contractor or worker does not have
367 a professional or an occupational license. The association may
368 not require a contractor or worker to present or prove
369 possession of a professional or an occupational license to be
370 allowed entry onto a property owner's parcel.

371 (d) Operating a vehicle that is not a commercial motor
372 vehicle as defined in s. 320.01(25) in conformance with state
373 traffic laws, on public roads or rights-of-way or the property
374 owner's parcel.

375 (e) A property owner from installing code-compliant

376 hurricane protection or home hardening, such as hurricane
 377 shutters, impact glass, code-compliant windows or doors, or
 378 other similar protection that complies with or exceeds the
 379 applicable building code.

380 (f) A property owner from installing a metal roof,
 381 artificial turf, vegetable garden, or clotheslines or other
 382 energy-efficient device.

383 (4)

384 (c) Homeowners' association documents, including
 385 declarations of covenants, articles of incorporation, or bylaws,
 386 may not limit landscaping to grass-only or grass-majority lawns,
 387 or issue a mandatory watering schedule to property owners.
 388 However, the association's documents may generally require that
 389 a property owner keep any lawn, landscaping, and grass on the
 390 property owner's parcel well-maintained.

391 Section 6. Subsection (3) of section 720.308, Florida
 392 Statutes, is amended, and subsection (7) is added to that
 393 section, to read:

394 720.308 Assessments and charges.—

395 (3) MAXIMUM LEVEL OF ASSESSMENTS.—

396 (a) The stated dollar amount of the guarantee ~~must shall~~
 397 be an exact dollar amount for each parcel identified in the
 398 declaration. Regardless of the stated dollar amount of the
 399 guarantee, assessments charged to a member ~~may shall~~ not exceed
 400 the maximum obligation of the member based on the total amount

401 of the adopted budget and the member's proportionate share of
402 the expenses as described in the governing documents.

403 (b) Notwithstanding more restrictive limitations placed on
404 the board by the governing documents and paragraph (c), the
405 board may not impose a regular assessment that is more than 10
406 percent greater than the regular assessment for the
407 association's preceding fiscal year or impose special
408 assessments that in the aggregate exceed 5 percent of the
409 budgeted gross expenses of the association for that fiscal year
410 without the approval of 75 percent of voting members at a member
411 meeting.

412 (c) The board may increase regular assessments beyond the
413 limits in paragraph (b) if the board can prove that such
414 increase is necessary for the immediate physical protection of
415 property or public safety.

416 (7) LIENS.—An assessment that amounts to less than 1
417 percent of the parcel's property value at the time of the
418 assessment may not become a lien against the parcel or the basis
419 of a claim of lien against a parcel without the approval of 75
420 percent of voting members at a member meeting.

421 Section 7. Section 720.318, Florida Statutes, is amended
422 to read:

423 720.318 Law enforcement vehicles.—An association may not
424 prohibit a law enforcement officer, as defined in s. 943.10(1),
425 who is a parcel owner, or who is a tenant, guest, or invitee of

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426 | a parcel owner, from parking his or her assigned law enforcement
427 | vehicle in an area where the parcel owner, or the tenant, guest,
428 | or invitee of the parcel owner, otherwise has a right to park,
429 | including on public roads or rights-of-way.

430 | Section 8. This act shall take effect July 1, 2024.