

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

HB 1263

2015

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.

HB 1263

2015

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.