

By Senator Baxley

12-01166B-22

20221716__

1 A bill to be entitled
2 An act relating to display of flags in residential
3 associations; amending s. 718.113, F.S.; authorizing
4 unit owners of a condominium to display no more than a
5 certain number of specified flags regardless of
6 certain prohibitions in the governing documents of the
7 condominium association; removing a limitation
8 relating to flying flags only on specified days;
9 defining the term "first responder flag"; authorizing
10 a civil cause of action; entitling prevailing parties
11 to attorney fees and costs in such actions; amending
12 s. 720.304, F.S.; authorizing homeowners to display
13 specified flags regardless of certain prohibitions in
14 the governing documents of the homeowners'
15 association; defining the term "first responder flag";
16 entitling prevailing parties to attorney fees and
17 costs in specified actions; amending s. 720.3075,
18 F.S.; prohibiting certain homeowners' association
19 documents from precluding property owners from
20 displaying certain flags; requiring that such flags be
21 displayed in a specified manner; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 718.113, Florida Statutes, is amended to
27 read:

28 718.113 Maintenance; limitation upon improvement; display
29 of flags ~~flag~~; hurricane shutters and protection; display of

12-01166B-22

20221716__

30 religious decorations.—

31 (1) Maintenance of the common elements is the
32 responsibility of the association. The declaration may provide
33 that certain limited common elements shall be maintained by
34 those entitled to use the limited common elements or that the
35 association shall provide the maintenance, either as a common
36 expense or with the cost shared only by those entitled to use
37 the limited common elements. If the maintenance is to be by the
38 association at the expense of only those entitled to use the
39 limited common elements, the declaration shall describe in
40 detail the method of apportioning such costs among those
41 entitled to use the limited common elements, and the association
42 may use the provisions of s. 718.116 to enforce payment of the
43 shares of such costs by the unit owners entitled to use the
44 limited common elements.

45 (2) (a) Except as otherwise provided in this section, there
46 shall be no material alteration or substantial additions to the
47 common elements or to real property which is association
48 property, except in a manner provided in the declaration as
49 originally recorded or as amended under the procedures provided
50 therein. If the declaration as originally recorded or as amended
51 under the procedures provided therein does not specify the
52 procedure for approval of material alterations or substantial
53 additions, 75 percent of the total voting interests of the
54 association must approve the alterations or additions before the
55 material alterations or substantial additions are commenced.
56 This paragraph is intended to clarify existing law and applies
57 to associations existing on July 1, 2018.

58 (b) There shall not be any material alteration of, or

12-01166B-22

20221716__

59 substantial addition to, the common elements of any condominium
60 operated by a multicondominium association unless approved in
61 the manner provided in the declaration of the affected
62 condominium or condominiums as originally recorded or as amended
63 under the procedures provided therein. If a declaration as
64 originally recorded or as amended under the procedures provided
65 therein does not specify a procedure for approving such an
66 alteration or addition, the approval of 75 percent of the total
67 voting interests of each affected condominium is required before
68 the material alterations or substantial additions are commenced.
69 This subsection does not prohibit a provision in any
70 declaration, articles of incorporation, or bylaws as originally
71 recorded or as amended under the procedures provided therein
72 requiring the approval of unit owners in any condominium
73 operated by the same association or requiring board approval
74 before a material alteration or substantial addition to the
75 common elements is permitted. This paragraph is intended to
76 clarify existing law and applies to associations existing on
77 July 1, 2018.

78 (c) There shall not be any material alteration or
79 substantial addition made to association real property operated
80 by a multicondominium association, except as provided in the
81 declaration, articles of incorporation, or bylaws as originally
82 recorded or as amended under the procedures provided therein. If
83 the declaration, articles of incorporation, or bylaws as
84 originally recorded or as amended under the procedures provided
85 therein do not specify the procedure for approving an alteration
86 or addition to association real property, the approval of 75
87 percent of the total voting interests of the association is

12-01166B-22

20221716__

88 required before the material alterations or substantial
89 additions are commenced. This paragraph is intended to clarify
90 existing law and applies to associations existing on July 1,
91 2018.

92 (3) A unit owner shall not do anything within his or her
93 unit or on the common elements which would adversely affect the
94 safety or soundness of the common elements or any portion of the
95 association property or condominium property which is to be
96 maintained by the association.

97 (4) (a) If any covenant, restriction, bylaw, rule, or
98 requirement of an association prohibits a unit owner from
99 displaying flags listed in subparagraphs 1.-5., the Any unit
100 owner may still display one portable, removable United States
101 flag in a respectful manner, up to two of the following way and,
102 on Armed Forces Day, Memorial Day, Flag Day, Independence Day,
103 and Veterans Day, may display in a respectful way portable,
104 removable official flags, not larger than 4 1/2 feet by 6 feet:
105 that represent

106 1. The United States flag.

107 2. The official flag of the State of Florida.

108 3. A flag that represents the United States Army, Navy, Air
109 Force, Marine Corps, ~~or~~ Coast Guard, or Space Force.

110 4. A POW-MIA flag.

111 5. A first responder flag. A first responder flag may
112 incorporate the design of any other flag permitted under this
113 paragraph to form a combined flag. For purposes of this
114 subsection, the term "first responder flag" means a flag that
115 recognizes and honors the services of any of the following:

116 a. Law enforcement officers, as defined in s. 943.10(1),

12-01166B-22

20221716__

117 and is limited to the colors blue, black, and white and the
118 words "law enforcement"; "police"; "officers"; "first
119 responders"; "service"; "honor our"; "support our"; "in
120 memoriam"; "department"; and any other language, initials, or
121 acronyms that identify a particular law enforcement department
122 or law enforcement agency.

123 b. Firefighters, as defined in s. 112.191(1), and is
124 limited to the colors red, gold, black, and white and the words
125 "firefighter"; "F" or "D"; "FD"; "first responders"; "service";
126 "honor our"; "support our"; "in memoriam"; "department"; and any
127 other language, initials, or acronyms that identify a particular
128 fire department or public safety department.

129 c. Paramedics or emergency medical technicians, as those
130 terms are defined in s. 112.1911(1), and is limited to the
131 colors blue, black, and white and the words "paramedic";
132 "emergency medical"; "technician"; "EMT"; "first responders";
133 "service"; "honor our"; "support our"; "in memoriam"; and any
134 other language, initials, or acronyms that identify a particular
135 emergency medical services department or emergency medical
136 services agency.

137 (b) A unit owner prevented from exercising his or her
138 rights guaranteed under this subsection may bring a civil cause
139 of action in the appropriate court of the county in which the
140 alleged infringement occurred. If the court finds that an
141 infringement has occurred, the court must enjoin the enforcement
142 of any covenant, restriction, bylaw, rule, or requirement of the
143 association which operates to deprive the unit owner of his or
144 her rights under this subsection. The prevailing party is
145 entitled to reasonable attorney fees and costs ~~regardless of any~~

12-01166B-22

20221716__

146 ~~declaration rules or requirements dealing with flags or~~
147 ~~decorations.~~

148 (5) Each board of administration of a residential
149 condominium shall adopt hurricane shutter specifications for
150 each building within each condominium operated by the
151 association which shall include color, style, and other factors
152 deemed relevant by the board. All specifications adopted by the
153 board must comply with the applicable building code.

154 (a) The board may, subject to s. 718.3026 and the approval
155 of a majority of voting interests of the residential
156 condominium, install hurricane shutters, impact glass, code-
157 compliant windows or doors, or other types of code-compliant
158 hurricane protection that comply with or exceed the applicable
159 building code. However, a vote of the owners is not required if
160 the maintenance, repair, and replacement of hurricane shutters,
161 impact glass, code-compliant windows or doors, or other types of
162 code-compliant hurricane protection are the responsibility of
163 the association pursuant to the declaration of condominium. If
164 hurricane protection or laminated glass or window film
165 architecturally designed to function as hurricane protection
166 that complies with or exceeds the current applicable building
167 code has been previously installed, the board may not install
168 hurricane shutters, impact glass, code-compliant windows or
169 doors, or other types of code-compliant hurricane protection
170 except upon approval by a majority vote of the voting interests.

171 (b) The association is responsible for the maintenance,
172 repair, and replacement of the hurricane shutters, impact glass,
173 code-compliant windows or doors, or other types of code-
174 compliant hurricane protection authorized by this subsection if

12-01166B-22

20221716__

175 such property is the responsibility of the association pursuant
176 to the declaration of condominium. If the hurricane shutters,
177 impact glass, code-compliant windows or doors, or other types of
178 code-compliant hurricane protection are the responsibility of
179 the unit owners pursuant to the declaration of condominium, the
180 maintenance, repair, and replacement of such items are the
181 responsibility of the unit owner.

182 (c) The board may operate shutters, impact glass, code-
183 compliant windows or doors, or other types of code-compliant
184 hurricane protection installed pursuant to this subsection
185 without permission of the unit owners only if such operation is
186 necessary to preserve and protect the condominium property and
187 association property. The installation, replacement, operation,
188 repair, and maintenance of such shutters, impact glass, code-
189 compliant windows or doors, or other types of code-compliant
190 hurricane protection in accordance with the procedures set forth
191 in this paragraph are not a material alteration to the common
192 elements or association property within the meaning of this
193 section.

194 (d) Notwithstanding any other provision in the residential
195 condominium documents, if approval is required by the documents,
196 a board may not refuse to approve the installation or
197 replacement of hurricane shutters, impact glass, code-compliant
198 windows or doors, or other types of code-compliant hurricane
199 protection by a unit owner conforming to the specifications
200 adopted by the board.

201 (6) An association may not refuse the request of a unit
202 owner for a reasonable accommodation for the attachment on the
203 mantel or frame of the door of the unit owner of a religious

12-01166B-22

20221716__

204 object not to exceed 3 inches wide, 6 inches high, and 1.5
205 inches deep.

206 (7) Notwithstanding the provisions of this section or the
207 governing documents of a condominium or a multicondominium
208 association, the board of administration may, without any
209 requirement for approval of the unit owners, install upon or
210 within the common elements or association property solar
211 collectors, clotheslines, or other energy-efficient devices
212 based on renewable resources for the benefit of the unit owners.

213 (8) The Legislature finds that the use of electric and
214 natural gas fuel vehicles conserves and protects the state's
215 environmental resources, provides significant economic savings
216 to drivers, and serves an important public interest. The
217 participation of condominium associations is essential to the
218 state's efforts to conserve and protect the state's
219 environmental resources and provide economic savings to drivers.
220 For purposes of this subsection, the term "natural gas fuel" has
221 the same meaning as in s. 206.9951, and the term "natural gas
222 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
223 that is powered by natural gas fuel. Therefore, the installation
224 of an electric vehicle charging station or a natural gas fuel
225 station shall be governed as follows:

226 (a) A declaration of condominium or restrictive covenant
227 may not prohibit or be enforced so as to prohibit any unit owner
228 from installing an electric vehicle charging station or a
229 natural gas fuel station within the boundaries of the unit
230 owner's limited common element or exclusively designated parking
231 area. The board of administration of a condominium association
232 may not prohibit a unit owner from installing an electric

12-01166B-22

20221716__

233 vehicle charging station for an electric vehicle, as defined in
234 s. 320.01, or a natural gas fuel station for a natural gas fuel
235 vehicle within the boundaries of his or her limited common
236 element or exclusively designated parking area. The installation
237 of such charging or fuel stations is subject to the provisions
238 of this subsection.

239 (b) The installation may not cause irreparable damage to
240 the condominium property.

241 (c) The electricity for the electric vehicle charging
242 station or natural gas fuel station must be separately metered
243 or metered by an embedded meter and payable by the unit owner
244 installing such charging or fuel station or by his or her
245 successor.

246 (d) The cost for supply and storage of the natural gas fuel
247 must be paid by the unit owner installing the natural gas fuel
248 station or by his or her successor.

249 (e) The unit owner who is installing an electric vehicle
250 charging station or a natural gas fuel station is responsible
251 for the costs of installation, operation, maintenance, and
252 repair, including, but not limited to, hazard and liability
253 insurance. The association may enforce payment of such costs
254 under s. 718.116.

255 (f) If the unit owner or his or her successor decides there
256 is no longer a need for the electric vehicle charging station or
257 natural gas fuel station, such person is responsible for the
258 cost of removal of such charging or fuel station. The
259 association may enforce payment of such costs under s. 718.116.

260 (g) The unit owner installing, maintaining, or removing the
261 electric vehicle charging station or natural gas fuel station is

12-01166B-22

20221716__

262 responsible for complying with all federal, state, or local laws
263 and regulations applicable to such installation, maintenance, or
264 removal.

265 (h) The association may require the unit owner to:

266 1. Comply with bona fide safety requirements, consistent
267 with applicable building codes or recognized safety standards,
268 for the protection of persons and property.

269 2. Comply with reasonable architectural standards adopted
270 by the association that govern the dimensions, placement, or
271 external appearance of the electric vehicle charging station or
272 natural gas fuel station, provided that such standards may not
273 prohibit the installation of such charging or fuel station or
274 substantially increase the cost thereof.

275 3. Engage the services of a licensed and registered firm
276 familiar with the installation or removal and core requirements
277 of an electric vehicle charging station or a natural gas fuel
278 station.

279 4. Provide a certificate of insurance naming the
280 association as an additional insured on the owner's insurance
281 policy for any claim related to the installation, maintenance,
282 or use of the electric vehicle charging station or natural gas
283 fuel station within 14 days after receiving the association's
284 approval to install such charging or fuel station or notice to
285 provide such a certificate.

286 5. Reimburse the association for the actual cost of any
287 increased insurance premium amount attributable to the electric
288 vehicle charging station or natural gas fuel station within 14
289 days after receiving the association's insurance premium
290 invoice.

12-01166B-22

20221716__

291 (i) The association provides an implied easement across the
292 common elements of the condominium property to the unit owner
293 for purposes of electric vehicle charging station or natural gas
294 fuel station installation, and the furnishing of electrical
295 power or natural gas fuel supply, including any necessary
296 equipment, to such charging or fuel station, subject to the
297 requirements of this subsection.

298 (9) The board of administration of an association may make
299 available, install, or operate an electric vehicle charging
300 station or a natural gas fuel station upon the common elements
301 or association property and establish the charges or the manner
302 of payments for the unit owners, residents, or guests who use
303 the electric vehicle charging station or natural gas fuel
304 station. For the purposes of this section, the installation,
305 repair, or maintenance of an electric vehicle charging station
306 or natural gas fuel station under this subsection does not
307 constitute a material alteration or substantial addition to the
308 common elements or association property.

309 Section 2. Section 720.304, Florida Statutes, is amended to
310 read:

311 720.304 Right of owners to peaceably assemble; display of
312 flags ~~flag~~; SLAPP suits prohibited.-

313 (1) All common areas and recreational facilities serving
314 any homeowners' association shall be available to parcel owners
315 in the homeowners' association served thereby and their invited
316 guests for the use intended for such common areas and
317 recreational facilities. The entity or entities responsible for
318 the operation of the common areas and recreational facilities
319 may adopt reasonable rules and regulations pertaining to the use

12-01166B-22

20221716__

320 of such common areas and recreational facilities. No entity or
321 entities shall unreasonably restrict any parcel owner's right to
322 peaceably assemble or right to invite public officers or
323 candidates for public office to appear and speak in common areas
324 and recreational facilities.

325 (2) (a) If any covenant, restriction, bylaw, rule, or
326 requirement of an association prohibits a homeowner from
327 displaying flags listed in subparagraphs 1.-5., the Any
328 homeowner may still display ~~one portable, removable United~~
329 States flag or official flag of the State of Florida in a
330 respectful manner, up to two of the following and ~~one portable,~~
331 removable flags ~~official flag, in a respectful manner,~~ not
332 larger than 4 1/2 feet by 6 feet; ~~which represents~~

333 1. The United States flag.

334 2. The official flag of the State of Florida.

335 3. A flag that represents the United States Army, Navy, Air
336 Force, Marine Corps, ~~or~~ Coast Guard, or Space Force.

337 4. A POW-MIA flag.

338 5. A first responder flag. A first responder flag may
339 incorporate the design of any other flag permitted under this
340 paragraph to form a combined flag. For purposes of this
341 subsection, the term "first responder flag" means a flag that
342 recognizes and honors the services of any of the following:

343 a. Law enforcement officers, as defined in s. 943.10(1),
344 and is limited to the colors blue, black, and white and the
345 words "law enforcement"; "police"; "officers"; "first
346 responders"; "service"; "honor our"; "support our"; "in
347 memoriam"; "department"; and any other language, initials, or
348 acronyms that identify a particular law enforcement department

12-01166B-22

20221716__

349 or law enforcement agency.

350 b. Firefighters, as defined in s. 112.191(1), and is
351 limited to the colors red, gold, black, and white and the words
352 "firefighter"; "F" or "D"; "FD"; "first responders"; "service";
353 "honor our"; "support our"; "in memoriam"; "department"; and any
354 other language, initials, or acronyms that identify a particular
355 fire department or public safety department.

356 c. Paramedics or emergency medical technicians, as those
357 terms are defined in s. 112.1911(1), and is limited to the
358 colors blue, black, and white and the words "paramedic";
359 "emergency medical"; "technician"; "EMT"; "first responders";
360 "service"; "honor our"; "support our"; "in memoriam"; and any
361 other language, initials, or acronyms that identify a particular
362 emergency medical services department or emergency medical
363 services agency, regardless of any covenants, restrictions,
364 bylaws, rules, or requirements of the association.

365 (b) Regardless of any covenants, restrictions, bylaws,
366 rules, or requirements of an association, a ~~Any~~ homeowner may
367 erect a freestanding flagpole no more than 20 feet high on any
368 portion of the homeowner's real property, as long as regardless
369 of any covenants, restrictions, bylaws, rules, or requirements
370 of the association, if the flagpole does not obstruct sightlines
371 at intersections and is not erected within or upon an easement.
372 The homeowner may further display in a respectful manner from
373 that flagpole, regardless of any covenants, restrictions,
374 bylaws, rules, or requirements of the association, one official
375 United States flag, not larger than 4 1/2 feet by 6 feet, and
376 may additionally display one other official flag as described
377 under paragraph (a) of the State of Florida or the United States

12-01166B-22

20221716__

378 ~~Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA~~
379 ~~flag.~~ Such additional flag must be equal in size to or smaller
380 than the United States flag. The flagpole and display are
381 subject to all building codes, zoning setbacks, and other
382 applicable governmental regulations, including, but not limited
383 to, noise and lighting ordinances in the county or municipality
384 in which the flagpole is erected and all setback and locational
385 criteria contained in the governing documents.

386 (c) This subsection applies to all community development
387 districts and homeowners' associations, regardless of whether
388 such homeowners' associations are authorized to impose
389 assessments that may become a lien on the parcel.

390 (3) A homeowner ~~Any owner~~ prevented from exercising his or
391 her rights guaranteed under ~~by~~ subsection (1) or subsection (2)
392 may bring a civil cause of an action in the appropriate court of
393 the county in which the alleged infringement occurred. If the
394 court finds that an infringement has occurred, and, upon
395 ~~favorable adjudication,~~ the court shall enjoin the enforcement
396 of any covenant, restriction, bylaw, rule, or requirement of the
397 ~~provision contained in any homeowners' association document or~~
398 ~~rule~~ that operates to deprive the homeowner ~~owner~~ of his or her
399 ~~such~~ rights. The prevailing party is entitled to reasonable
400 attorney fees and costs.

401 (4) It is the intent of the Legislature to protect the
402 right of parcel owners to exercise their rights to instruct
403 their representatives and petition for redress of grievances
404 before the various governmental entities of this state as
405 protected by the First Amendment to the United States
406 Constitution and s. 5, Art. I of the State Constitution. The

12-01166B-22

20221716__

407 Legislature recognizes that "Strategic Lawsuits Against Public
408 Participation" or "SLAPP" suits, as they are typically called,
409 have occurred when members are sued by individuals, business
410 entities, or governmental entities arising out of a parcel
411 owner's appearance and presentation before a governmental entity
412 on matters related to the homeowners' association. However, it
413 is the public policy of this state that government entities,
414 business organizations, and individuals not engage in SLAPP
415 suits because such actions are inconsistent with the right of
416 parcel owners to participate in the state's institutions of
417 government. Therefore, the Legislature finds and declares that
418 prohibiting such lawsuits by governmental entities, business
419 entities, and individuals against parcel owners who address
420 matters concerning their homeowners' association will preserve
421 this fundamental state policy, preserve the constitutional
422 rights of parcel owners, and assure the continuation of
423 representative government in this state. It is the intent of the
424 Legislature that such lawsuits be expeditiously disposed of by
425 the courts.

426 (a) As used in this subsection, the term "governmental
427 entity" means the state, including the executive, legislative,
428 and judicial branches of government, the independent
429 establishments of the state, counties, municipalities,
430 districts, authorities, boards, or commissions, or any agencies
431 of these branches which are subject to chapter 286.

432 (b) A governmental entity, business organization, or
433 individual in this state may not file or cause to be filed
434 through its employees or agents any lawsuit, cause of action,
435 claim, cross-claim, or counterclaim against a parcel owner

12-01166B-22

20221716__

436 without merit and solely because such parcel owner has exercised
437 the right to instruct his or her representatives or the right to
438 petition for redress of grievances before the various
439 governmental entities of this state, as protected by the First
440 Amendment to the United States Constitution and s. 5, Art. I of
441 the State Constitution.

442 (c) A parcel owner sued by a governmental entity, business
443 organization, or individual in violation of this section has a
444 right to an expeditious resolution of a claim that the suit is
445 in violation of this section. A parcel owner may petition the
446 court for an order dismissing the action or granting final
447 judgment in favor of that parcel owner. The petitioner may file
448 a motion for summary judgment, together with supplemental
449 affidavits, seeking a determination that the governmental
450 entity's, business organization's, or individual's lawsuit has
451 been brought in violation of this section. The governmental
452 entity, business organization, or individual shall thereafter
453 file its response and any supplemental affidavits. As soon as
454 practicable, the court shall set a hearing on the petitioner's
455 motion, which shall be held at the earliest possible time after
456 the filing of the governmental entity's, business organization's
457 or individual's response. The court may award the parcel owner
458 sued by the governmental entity, business organization, or
459 individual actual damages arising from the governmental
460 entity's, individual's, or business organization's violation of
461 this section. A court may treble the damages awarded to a
462 prevailing parcel owner and shall state the basis for the treble
463 damages award in its judgment. The court shall award the
464 prevailing party reasonable attorney ~~attorney's~~ fees and costs

12-01166B-22

20221716__

465 incurred in connection with a claim that an action was filed in
466 violation of this section.

467 (d) Homeowners' associations may not expend association
468 funds in prosecuting a SLAPP suit against a parcel owner.

469 (5) (a) Any parcel owner may construct an access ramp if a
470 resident or occupant of the parcel has a medical necessity or
471 disability that requires a ramp for egress and ingress under the
472 following conditions:

473 1. The ramp must be as unobtrusive as possible, be designed
474 to blend in aesthetically as practicable, and be reasonably
475 sized to fit the intended use.

476 2. Plans for the ramp must be submitted in advance to the
477 homeowners' association. The association may make reasonable
478 requests to modify the design to achieve architectural
479 consistency with surrounding structures and surfaces.

480 (b) The parcel owner must submit to the association an
481 affidavit from a physician attesting to the medical necessity or
482 disability of the resident or occupant of the parcel requiring
483 the access ramp. Certification used for s. 320.0848 shall be
484 sufficient to meet the affidavit requirement.

485 (6) Any parcel owner may display a sign of reasonable size
486 provided by a contractor for security services within 10 feet of
487 any entrance to the home.

488 Section 3. Subsection (3) of section 720.3075, Florida
489 Statutes, is amended to read:

490 720.3075 Prohibited clauses in association documents.—

491 (3) Homeowners' association documents, including
492 declarations of covenants, articles of incorporation, or bylaws,
493 may not preclude the display of up to two ~~one~~ portable,

12-01166B-22

20221716__

494 removable flags as described in s. 720.304(2) ~~United States flag~~
495 by property owners. However, all flags ~~the flag~~ must be
496 displayed in a respectful manner, consistent with the
497 requirements for the United States flag under Title 36 U.S.C.
498 chapter 10.

499 Section 4. This act shall take effect July 1, 2022.