

Amendment No. a1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Business & Professions
 2 Subcommittee
 3 Representative Trujillo offered the following:
 4

5 **Amendment to Amendment (250827) by Representative Bracy**
 6 **(with title amendment)**

7 Remove lines 7-9 of the amendment and insert:

8 Section 1. Subsections (12) and (13) of section 718.111,
 9 Florida Statutes, are amended to read:

10 718.111 The association -

11 (12) OFFICIAL RECORDS.-

12 (a) From the inception of the association, the association
 13 shall maintain each of the following items, if applicable, which
 14 constitutes the official records of the association:

15 1. A copy of the plans, specifications, permits, and
 16 warranties related to improvements to the common areas or other
 17 property that the association is obligated to maintain, repair,

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18 or replace, and other items provided by the developer pursuant
19 to s. 718.301(4).

20 2. A photocopy of the recorded declaration of condominium
21 of each condominium operated by the association and each
22 amendment to each declaration.

23 3. A photocopy of the recorded bylaws of the association
24 and each amendment to the bylaws.

25 4. A certified copy of the articles of incorporation of
26 the association, or other documents creating the association,
27 and each amendment thereto.

28 5. A copy of the current rules of the association.

29 6. A book or books that contain the minutes of all
30 meetings of the association, the board of administration, and
31 the unit owners, which minutes must be retained for at least 7
32 years.

33 7. A current roster of all unit owners and their mailing
34 addresses, unit identifications, voting certifications, and, if
35 known, telephone numbers. The association shall also maintain
36 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of
37 unit owners consenting to receive notice by electronic
38 transmission. The e-mail ~~electronic mailing~~ addresses and
39 facsimile numbers are not accessible to unit owners if consent
40 to receive notice by electronic transmission is not provided in
41 accordance with subparagraph (c)5. The e-mail addresses and
42 facsimile numbers provided by unit owners to receive notice by
43 electronic transmission must be removed from any association

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44 records if the unit owner revokes his or her consent to receive
45 notice by electronic transmission. However, the association is
46 not liable for an inadvertent disclosure of the electronic mail
47 address or facsimile number for receiving electronic
48 transmission of notices.

49 8. All current insurance policies of the association and
50 condominiums operated by the association.

51 9. A current copy of any management agreement, lease, or
52 other contract to which the association is a party or under
53 which the association or the unit owners have an obligation or
54 responsibility. Bids for materials, equipment, or services are
55 official records and must be maintained by the association for a
56 period of 1 year.

57 10. Bills of sale or transfer for all property owned by
58 the association.

59 11. Financial and accounting records for the association
60 and separate accounting records for each condominium that the
61 association operates. All accounting records must be maintained
62 for at least 7 years. Any person who knowingly or intentionally
63 defaces or destroys such records, or who knowingly or
64 intentionally fails to create or maintain such records, with the
65 intent of causing harm to the association or one or more of its
66 members, is personally subject to a civil penalty pursuant to s.
67 718.501(1)(d). The financial and accounting records must
68 include, but are not limited to:

69 a. Accurate, itemized, and detailed records of all

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70 receipts and expenditures.

71 b. A current account and a monthly, bimonthly, or
72 quarterly statement of the account for each unit designating the
73 name of the unit owner, the due date and amount of each
74 assessment, the amount paid on the account, and the balance due.

75 c. All tax returns, audits, reviews, accounting
76 statements, and financial reports of the association or
77 condominium.

78 d. Any records that identify, measure, record, or
79 communicate financial information ~~All contracts for work to be~~
80 ~~performed. Bids for work to be performed are also considered~~
81 ~~official records and must be maintained by the association.~~

82 12. Ballots, sign-in sheets, voting proxies, and all other
83 papers relating to voting by unit owners, which must be
84 maintained for 1 year from the date of the election, vote, or
85 meeting to which the document relates, notwithstanding paragraph
86 (b).

87 13. All rental records if the association is acting as
88 agent for the rental of condominium units.

89 14. A copy of the current question and answer sheet as
90 described in s. 718.504.

91 15. All other written records of the association not
92 specifically included in the foregoing which are related to the
93 operation of the association.

94 16. A copy of the inspection report as described in s.
95 718.301(4)(p).

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96 (b) The official records of the association must be
97 maintained within the state for at least 7 years. The records of
98 the association shall be made available to a unit owner within
99 45 miles of the condominium property or within the county in
100 which the condominium property is located within 5 working days
101 after receipt of a written request by the board or its designee.
102 However, such distance requirement does not apply to an
103 association governing a timeshare condominium. This paragraph
104 may be complied with by having a copy of the official records of
105 the association available for inspection or copying on the
106 condominium property or association property, or the association
107 may offer the option of making the records available to a unit
108 owner electronically via the Internet or by allowing the records
109 to be viewed in electronic format on a computer screen and
110 printed upon request. The association is not responsible for the
111 use or misuse of the information provided to an association
112 member or his or her authorized representative pursuant to the
113 compliance requirements of this chapter unless the association
114 has an affirmative duty not to disclose such information
115 pursuant to this chapter.

116 (c)1. In addition to any other provision of law,
117 associations with 500 or more units must provide a digital copy
118 of specified documents on the association's website.

119 a. An association's website must be:

120 (I) An independent website or web portal, wholly owned and
121 operated by the association; or

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122 (II) A website or web portal operated by a third party
123 provider with whom the association owns, leases, rents, or
124 otherwise obtains the right to operate a web page, subpage, web
125 portal, or collection of subpages or web portals dedicated to
126 the association's activities and where required notices,
127 records, and documents may be posted by the association.

128 b. The association's website must be accessible through
129 the Internet and must contain a subpage, web portal, or other
130 protected electronic location that is inaccessible to the
131 general public and that is accessible only to unit owners and
132 employees of the association.

133 c. The association must provide access to each unit owner
134 to the protected sections of the association's website that
135 contain any notices, records, or documents that must be
136 electronically provided.

137 2. The following documents must be placed in digital
138 format on the website:

139 a. Copies of the official records described in paragraph
140 (a). However, the current roster of all unit owners with their
141 mailing addresses and parcel identifications may not be placed
142 in digital format on the website. The website must include the
143 following statement: "A current roster of all unit owners and
144 their mailing addresses and parcel identifications is available
145 at the request of any unit owner or unit owner representative,
146 including the e-mail addresses of the unit owners who have
147 consented to receive notice by electronic transmission." The

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148 notice shall include the e-mail address of the person to contact
149 for a copy of the roster.

150 b. The annual budget required by s. 718.112(2)(f) and any
151 proposed budget to be considered at the annual meeting.

152 c. The financial report required by subsection (13) and
153 any proposed financial report to be considered at a meeting.

154 d. Any document created by the association or a board
155 member relating to the recall of a director, pursuant to s.
156 718.112(2)(j), or any document created for or filed by the
157 association in an arbitration proceeding conducted by the
158 division regarding the recall of a director.

159 e. The certification of each director required by s.
160 718.112(2)(d)4.b.

161 f. A list of all contracts or transactions between the
162 association and any director, officer, corporation, firm, or
163 association that is not an affiliated condominium association,
164 or other entity in which an association director is also a
165 director or officer and financially interested.

166 g. Any fidelity bond entered into by the association.

167 h. Any contract or document regarding a conflict of
168 interest or possible conflict of interest as provided in ss.
169 468.436(2) and 718.3026(3).

170 i. Notice of any board meeting and the agenda for the
171 meeting, as required by s. 718.112(2)(d)3., placed online no
172 later than 14 days before the meeting posted in plain view on
173 the front page, or on a separate subpage labeled "Notices" which

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174 is conspicuously visible and linked from the front page of the
175 association's website. The association must post on the
176 association's website any documents to be considered during the
177 meeting or listed on the agenda at least 7 days before the
178 meeting at which the document or the information within the
179 document will be considered, unless otherwise stated, including
180 the following documents:

181 (I) The proposed annual budget required by s.
182 718.112(2)(e), which must be provided at least 14 days before
183 the meeting.

184 (II) The proposed financial report required by subsection
185 (13).

186 (III) A list of persons seeking to be elected to the
187 board.

188 3. The association shall ensure that the information and
189 records described in paragraph (d), which are not permitted to
190 be accessible to unit owners, are not placed on the
191 association's website. If protected information, or information
192 restricted from being accessible to unit owners, is included in
193 documents that are required to be placed on the association's
194 website, the association shall ensure the information is
195 redacted before placing the documents online.

196 (d)~~(e)~~ Physical copies of the official records of the
197 association are open to inspection by any association member or
198 the authorized representative of such member at all reasonable
199 times. The right to inspect the records includes the right to

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200 make or obtain copies, at the reasonable expense, if any, of the
201 member. The association may adopt reasonable rules regarding the
202 frequency, time, location, notice, and manner of record
203 inspections and copying. The failure of an association to
204 provide the records within 10 working days after receipt of a
205 written request creates a rebuttable presumption that the
206 association willfully failed to comply with this paragraph. A
207 unit owner who is denied access to official records is entitled
208 to the actual damages or minimum damages for the association's
209 willful failure to comply. Minimum damages are \$50 per calendar
210 day for up to 10 days, beginning on the 11th working day after
211 receipt of the written request. The failure to permit inspection
212 entitles any person prevailing in an enforcement action to
213 recover reasonable attorney fees from the person in control of
214 the records who, directly or indirectly, knowingly denied access
215 to the records. Any person who knowingly or intentionally
216 defaces or destroys accounting records that are required by this
217 chapter to be maintained during the period for which such
218 records are required to be maintained, or who knowingly or
219 intentionally fails to create or maintain accounting records
220 that are required to be created or maintained, with the intent
221 of causing harm to the association or one or more of its
222 members, is personally subject to a civil penalty pursuant to s.
223 718.501(1)(d). The association shall maintain an adequate number
224 of copies of the declaration, articles of incorporation, bylaws,
225 and rules, and all amendments to each of the foregoing, as well

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226 as the question and answer sheet as described in s. 718.504 and
227 year-end financial information required under this section, on
228 the condominium property to ensure their availability to unit
229 owners and prospective purchasers, and may charge its actual
230 costs for preparing and furnishing these documents to those
231 requesting the documents. An association shall allow a member or
232 his or her authorized representative to use a portable device,
233 including a smartphone, tablet, portable scanner, or any other
234 technology capable of scanning or taking photographs, to make an
235 electronic copy of the official records in lieu of the
236 association's providing the member or his or her authorized
237 representative with a copy of such records. The association may
238 not charge a member or his or her authorized representative for
239 the use of a portable device. Notwithstanding this paragraph,
240 the following records are not accessible to unit owners:

241 1. Any record protected by the lawyer-client privilege as
242 described in s. 90.502 and any record protected by the work-
243 product privilege, including a record prepared by an association
244 attorney or prepared at the attorney's express direction, which
245 reflects a mental impression, conclusion, litigation strategy,
246 or legal theory of the attorney or the association, and which
247 was prepared exclusively for civil or criminal litigation or for
248 adversarial administrative proceedings, or which was prepared in
249 anticipation of such litigation or proceedings until the
250 conclusion of the litigation or proceedings.

251 2. Information obtained by an association in connection

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252 with the approval of the lease, sale, or other transfer of a
253 unit.

254 3. Personnel records of association or management company
255 employees, including, but not limited to, disciplinary, payroll,
256 health, and insurance records. For purposes of this
257 subparagraph, the term "personnel records" does not include
258 written employment agreements with an association employee or
259 management company, or budgetary or financial records that
260 indicate the compensation paid to an association employee.

261 4. Medical records of unit owners.

262 5. Social security numbers, driver license numbers, credit
263 card numbers, e-mail addresses, telephone numbers, facsimile
264 numbers, emergency contact information, addresses of a unit
265 owner other than as provided to fulfill the association's notice
266 requirements, and other personal identifying information of any
267 person, excluding the person's name, unit designation, mailing
268 address, property address, and any address, e-mail address, or
269 facsimile number provided to the association to fulfill the
270 association's notice requirements. Notwithstanding the
271 restrictions in this subparagraph, an association may print and
272 distribute to parcel owners a directory containing the name,
273 parcel address, and all telephone numbers of each parcel owner.
274 However, an owner may exclude his or her telephone numbers from
275 the directory by so requesting in writing to the association. An
276 owner may consent in writing to the disclosure of other contact
277 information described in this subparagraph. The association is

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278 not liable for the inadvertent disclosure of information that is
279 protected under this subparagraph if the information is included
280 in an official record of the association and is voluntarily
281 provided by an owner and not requested by the association.

282 6. Electronic security measures that are used by the
283 association to safeguard data, including passwords.

284 7. The software and operating system used by the
285 association which allow the manipulation of data, even if the
286 owner owns a copy of the same software used by the association.
287 The data is part of the official records of the association.

288 (e)~~(d)~~ The association shall prepare a question and answer
289 sheet as described in s. 718.504, and shall update it annually.

290 (f)~~(e)~~1. The association or its authorized agent is not
291 required to provide a prospective purchaser or lienholder with
292 information about the condominium or the association other than
293 information or documents required by this chapter to be made
294 available or disclosed. The association or its authorized agent
295 may charge a reasonable fee to the prospective purchaser,
296 lienholder, or the current unit owner for providing good faith
297 responses to requests for information by or on behalf of a
298 prospective purchaser or lienholder, other than that required by
299 law, if the fee does not exceed \$150 plus the reasonable cost of
300 photocopying and any attorney's fees incurred by the association
301 in connection with the response.

302 2. An association and its authorized agent are not liable
303 for providing such information in good faith pursuant to a

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304 written request if the person providing the information includes
305 a written statement in substantially the following form: "The
306 responses herein are made in good faith and to the best of my
307 ability as to their accuracy."

308 (g)~~(f)~~ An outgoing board or committee member must
309 relinquish all official records and property of the association
310 in his or her possession or under his or her control, including
311 administrative rights or controls of an association's website or
312 other digital or electronic asset of the association, to the
313 incoming board within 5 days after the election. The division
314 shall impose a civil penalty as set forth in s. 718.501(1)(d)6.
315 against an outgoing board or committee member who willfully and
316 knowingly fails to relinquish such records and property.

317 -----
318
319 **T I T L E A M E N D M E N T**

320 Remove lines 352-360 of the amendment and insert:

321 An act relating to community associations; amending s. 718.111,
322 F.S.; requiring certain condominium associations to provide
323 financial reports to the Division of Florida Condominiums,
324 Timeshares, and Mobile Homes under certain circumstances;
325 deleting a provision authorizing certain associations to prepare
326 a report of cash receipts and expenditures in lieu of certain
327 financial statements; revising records required to be maintained
328 by a condominium association; providing requirements relating to
329 the provision of specified documents on an association's

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Bill No. HB 1405 (2016)

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330 website; amending ss. 719.104 and 720.303, F.S.; requiring
331 certain cooperative associations to provide financial reports to
332 the Division of Florida Condominiums, Timeshares, and Mobile
333 Homes under certain circumstances; deleting a provision
334 authorizing certain associations to prepare a report of cash
335 receipts and expenditures in lieu of certain financial
336 statements; providing an effective date.

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