

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

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1 Committee/Subcommittee hearing bill: Commerce Committee  
2 Representative Esposito offered the following:

**Amendment**

Remove lines 280-502 and insert:

(b)1. By January 1, 2025, an association that has 100 parcels or more shall post the following documents on its website or make such documents available through an application that can be downloaded on a mobile device:

a. The articles of incorporation of the association and each amendment thereto.

b. The recorded bylaws of the association and each amendment thereto.

c. The declaration of covenants and a copy of each amendment thereto.

d. The current rules of the association.

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17 e. A list of all current executory contracts or documents  
18 to which the association is a party or under which the  
19 association or the parcel owners have an obligation or  
20 responsibility and, after bidding for the related materials,  
21 equipment, or services has closed, a list of bids received by  
22 the association within the past year.

23 f. The annual budget required by subsection (6) and any  
24 proposed budget to be considered at the annual meeting.

25 g. The financial report required by subsection (7) and any  
26 monthly income or expense statement to be considered at a  
27 meeting.

28 h. The association's current insurance policies.

29 i. The certification of each director as required by s.  
30 720.3033(1) (a) .

31 j. All contracts or transactions between the association  
32 and any director, officer, corporation, firm, or association  
33 that is not an affiliated homeowners' association or any other  
34 entity in which a director of an association is also a director  
35 or officer and has a financial interest.

36 k. Any contract or document regarding a conflict of  
37 interest or possible conflict of interest as provided in ss.  
38 468.436(2) (b) 6. and 720.3033(2) .

39 l. Notice of any scheduled meeting of members and the  
40 agenda for the meeting, as required by s. 720.306, no later than  
41 14 days before such meeting. The notice must be posted in plain

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42 view on the homepage of the website or application, or on a  
43 separate subpage of the website or application labeled "Notices"  
44 which is conspicuously visible and linked from the homepage. The  
45 association must also post on its website or application any  
46 document to be considered and voted on by the members during the  
47 meeting or any document listed on the meeting agenda at least 7  
48 days before the meeting at which such document or information  
49 within the document will be considered.

50 m. Notice of any board meeting, the agenda, and any other  
51 document required for such meeting as required by subsection  
52 (3), which must be posted on the website or application no later  
53 than the date required for notice under subsection (3).

54 2. The association's website or application must be  
55 accessible through the Internet and must contain a subpage, web  
56 portal, or other protected electronic location that is  
57 inaccessible to the general public and accessible only to parcel  
58 owners and employees of the association.

59 3. Upon written request by a parcel owner, the association  
60 must provide the parcel owner with a username and password and  
61 access to the protected sections of the association's website or  
62 application which contains the official documents of the  
63 association.

64 4. The association shall ensure that the information and  
65 records described in paragraph (5)(g), which are not allowed to  
66 be accessible to parcel owners, are not posted on the

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67 association's website or application. If protected information  
68 or information restricted from being accessible to parcel owners  
69 is included in documents that are required to be posted on the  
70 association's website or application, the association must  
71 ensure the information is redacted before posting the documents.  
72 Notwithstanding the foregoing, the association or its authorized  
73 agent is not liable for disclosing information that is protected  
74 or restricted under paragraph (5) (g) unless such disclosure was  
75 made with a knowing or intentional disregard of the protected or  
76 restricted nature of such information.

77 (c) The association shall adopt written rules governing  
78 the method or policy by which the official records of the  
79 association are to be retained and for how long such records  
80 must be retained pursuant to paragraph (a). Such information  
81 must be made available to the parcel owners through the  
82 association's website or application.

83 (5) INSPECTION AND COPYING OF RECORDS.—

84 (a) Unless otherwise provided by law or the governing  
85 documents of the association, the official records ~~must~~ ~~shall~~ be  
86 maintained within the state for at least 7 years and ~~shall~~ be  
87 made available to a parcel owner for inspection or photocopying  
88 within 45 miles of the community or within the county in which  
89 the association is located within 10 business days after receipt  
90 by the board or its designee of a written request from the  
91 parcel owner. This subsection may be complied with by having a

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92 copy of the official records available for inspection or copying  
93 in the community or, ~~at the option of the association,~~ by making  
94 the records available to a parcel owner electronically via the  
95 Internet or by allowing the records to be viewed in electronic  
96 format on a computer screen and printed upon request. If the  
97 association has a photocopy machine available where the records  
98 are maintained, it must provide parcel owners with copies on  
99 request during the inspection if the entire request is limited  
100 to no more than 25 pages. An association shall allow a member or  
101 his or her authorized representative to use a portable device,  
102 including a smartphone, tablet, portable scanner, or any other  
103 technology capable of scanning or taking photographs, to make an  
104 electronic copy of the official records in lieu of the  
105 association's providing the member or his or her authorized  
106 representative with a copy of such records. The association may  
107 not charge a fee to a member or his or her authorized  
108 representative for the use of a portable device.

109 (b) ~~(a)~~ The failure of an association to provide access to  
110 the records within 10 business days after receipt of a written  
111 request submitted by certified mail, return receipt requested,  
112 creates a rebuttable presumption that the association willfully  
113 failed to comply with this subsection.

114 (c) ~~(b)~~ A member who is denied access to official records  
115 is entitled to the actual damages or minimum damages for the  
116 association's willful failure to comply with this subsection.

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117 The minimum damages are to be \$50 per calendar day up to 10  
118 days, the calculation to begin on the 11th business day after  
119 receipt of the written request.

120 (d) Any director or member of the board or association or  
121 a community association manager who knowingly, willfully, and  
122 repeatedly violates paragraph (a), with the intent of causing  
123 harm to the association or one or more of its members, commits a  
124 misdemeanor of the second degree, punishable as provided in s.  
125 775.082 or s. 775.083. For purposes of this paragraph, the term  
126 "repeatedly" means two or more violations within a 12-month  
127 period.

128 (e) Any person who knowingly and intentionally defaces or  
129 destroys accounting records during the period in which such  
130 records are required to be maintained, or who knowingly or  
131 intentionally fails to create or maintain accounting records  
132 that are required to be created or maintained, with the intent  
133 of causing harm to the association or one or more of its  
134 members, commits a misdemeanor of the first degree, punishable  
135 as provided in s. 775.082 or s. 775.083.

136 (f) Any person who willfully and knowingly refuses to  
137 release or otherwise produce association records with the intent  
138 to avoid or escape detection, arrest, trial, or punishment for  
139 the commission of a crime, or to assist another person with such  
140 avoidance or escape, commits a felony of the third degree,  
141 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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142        ~~(g)-(e)~~ The association may adopt reasonable written rules  
143 governing the frequency, time, location, notice, records to be  
144 inspected, and manner of inspections, but may not require a  
145 parcel owner to demonstrate any proper purpose for the  
146 inspection, state any reason for the inspection, or limit a  
147 parcel owner's right to inspect records to less than one 8-hour  
148 business day per month. The association may impose fees to cover  
149 the costs of providing copies of the official records, including  
150 the costs of copying and the costs required for personnel to  
151 retrieve and copy the records if the time spent retrieving and  
152 copying the records exceeds one-half hour and if the personnel  
153 costs do not exceed \$20 per hour. Personnel costs may not be  
154 charged for records requests that result in the copying of 25 or  
155 fewer pages. The association may charge up to 25 cents per page  
156 for copies made on the association's photocopier. If the  
157 association does not have a photocopy machine available where  
158 the records are kept, or if the records requested to be copied  
159 exceed 25 pages in length, the association may have copies made  
160 by an outside duplicating service and may charge the actual cost  
161 of copying, as supported by the vendor invoice. The association  
162 shall maintain an adequate number of copies of the recorded  
163 governing documents, to ensure their availability to members and  
164 prospective members. Notwithstanding this subsection ~~paragraph~~,  
165 the following records are not accessible to members or parcel  
166 owners:

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167 1. Any record protected by the lawyer-client privilege as  
168 described in s. 90.502 and any record protected by the work-  
169 product privilege, including, but not limited to, a record  
170 prepared by an association attorney or prepared at the  
171 attorney's express direction which reflects a mental impression,  
172 conclusion, litigation strategy, or legal theory of the attorney  
173 or the association and which was prepared exclusively for civil  
174 or criminal litigation or for adversarial administrative  
175 proceedings or which was prepared in anticipation of such  
176 litigation or proceedings until the conclusion of the litigation  
177 or proceedings.

178 2. Information obtained by an association in connection  
179 with the approval of the lease, sale, or other transfer of a  
180 parcel.

181 3. Information an association obtains in a gated community  
182 in connection with guests' visits to parcel owners or community  
183 residents.

184 4. Personnel records of association or management company  
185 employees, including, but not limited to, disciplinary, payroll,  
186 health, and insurance records. For purposes of this  
187 subparagraph, the term "personnel records" does not include  
188 written employment agreements with an association or management  
189 company employee or budgetary or financial records that indicate  
190 the compensation paid to an association or management company  
191 employee.

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192           5. Medical records of parcel owners or community  
193 residents.

194           6. Social security numbers, driver license numbers, credit  
195 card numbers, electronic mailing addresses, telephone numbers,  
196 facsimile numbers, emergency contact information, any addresses  
197 for a parcel owner other than as provided for association notice  
198 requirements, and other personal identifying information of any  
199 person, excluding the person's name, parcel designation, mailing  
200 address, and property address. Notwithstanding the restrictions  
201 in this subparagraph, an association may print and distribute to  
202 parcel owners a directory containing the name, parcel address,  
203 and all telephone numbers of each parcel owner. However, an  
204 owner may exclude his or her telephone numbers from the  
205 directory by so requesting in writing to the association. An  
206 owner may consent in writing to the disclosure of other contact  
207 information described in this subparagraph. The association is  
208 not liable for the disclosure of information that is protected  
209 under this subparagraph if the information is included in an  
210 official record of the association and is voluntarily provided  
211 by an owner and not requested by the association.

212           7. Any electronic security measure that is used by the  
213 association to safeguard data, including passwords.

214           8. The software and operating system used by the  
215 association which allows the manipulation of data, even if the

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216 owner owns a copy of the same software used by the association.  
217 The data is part of the official records of the association.

218 9. All affirmative acknowledgments made pursuant to s.  
219 720.3085(3)(c)3.

220 ~~(h)(d)~~ The association or its authorized agent is not  
221 required to provide a prospective purchaser or lienholder with  
222 information about the residential subdivision or the association  
223 other than information or documents required by this chapter to  
224 be made available or disclosed. The association or its  
225 authorized agent may charge a reasonable fee to the prospective  
226 purchaser or lienholder or the current parcel owner or member  
227 for providing good faith responses to requests for information  
228 by or on behalf of a prospective purchaser or lienholder, other  
229 than that required by law, if the fee does not exceed \$150 plus  
230 the reasonable cost of photocopying and any attorney fees  
231 incurred by the association in connection with the response.

232 (i) If an association receives a subpoena for records from  
233 a law enforcement agency, the association must provide a copy of  
234 such records or otherwise make the records available for  
235 inspection and copying to a law enforcement agency within 5  
236 business days after receipt of the subpoena, unless otherwise  
237 specified by the law enforcement agency or subpoena. An  
238 association must assist a law enforcement agency in its  
239 investigation to the extent permissible by law.

240 (6) BUDGETS.—

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241 (f) After one or more reserve accounts are established,  
242 the membership of the association, upon a majority vote at a  
243 meeting at which a quorum is present, may provide for no  
244 reserves or less reserves than required by this section. If a  
245 meeting of the parcel ~~unit~~ owners has been called to determine  
246 whether to waive or reduce the funding of reserves and such  
247 result is not achieved or a quorum is not present, the reserves  
248 as included in the budget go into effect. After the turnover,  
249 the developer may vote its voting interest to waive or reduce  
250 the funding of reserves. Any vote taken pursuant to this  
251 subsection to waive or reduce reserves is applicable only to one  
252 budget year.

253 (7) FINANCIAL REPORTING.—Within 90 days after the end of  
254 the fiscal year, or annually on the date provided in the bylaws,  
255 the association shall prepare and complete, or contract with a  
256 third party for the preparation and completion of, a financial  
257 report for the preceding fiscal year. Within 21 days after the  
258 final financial report is completed by the association or  
259 received from the third party, but not later than 120 days after  
260 the end of the fiscal year or other date as provided in the  
261 bylaws, the association shall, within the time limits set forth  
262 in subsection (5), provide each member with a copy of the annual  
263 financial report or a written notice that a copy of the  
264 financial report is available upon request at no charge to the  
265 member. Financial reports shall be prepared as follows:

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266 (a) An association that meets the criteria of this  
267 paragraph shall prepare or cause to be prepared a complete set  
268 of financial statements in accordance with generally accepted  
269 accounting principles as adopted by the Board of Accountancy.  
270 The financial statements shall be based upon the association's  
271 total annual revenues, as follows:

272 1. An association with total annual revenues of \$150,000  
273 or more, but less than \$300,000, shall prepare compiled  
274 financial statements.

275 2. An association with total annual revenues of at least  
276 \$300,000, but less than \$500,000, shall prepare reviewed  
277 financial statements.

278 3. An association with total annual revenues of \$500,000  
279 or more shall prepare audited financial statements.

280 4. An association with 1,000 parcels or more shall prepare  
281 audited financial statements, notwithstanding the association's  
282 total annual revenues.

283 (d) If approved by a majority of the voting interests  
284 present at a properly called meeting of the association, an  
285 association may prepare or cause to be prepared:

286 1. A report of cash receipts and expenditures in lieu of a  
287 compiled, reviewed, or audited financial statement;

288 2. A report of cash receipts and expenditures or a  
289 compiled financial statement in lieu of a reviewed or audited  
290 financial statement; or

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291 3. A report of cash receipts and expenditures, a compiled  
292 financial statement, or a reviewed financial statement in lieu  
293 of an audited financial statement.

294  
295 An association may not prepare a financial statement pursuant to  
296 this paragraph for consecutive fiscal years.

297 (13) DEBIT CARDS.—

298 (a) An association and its officers, directors, employees,  
299 and agents may not use a debit card issued in the name of the  
300 association, or billed directly to the association, for the  
301 payment of any association expenses.

302 (b) A person who uses a debit card issued in the name of  
303 the association, or billed directly to the association, for any  
304 expense that is not a lawful obligation of the association  
305 commits theft as provided under s. 812.014.

306  
307 For the purposes of this subsection, the term "lawful obligation  
308 of the association" means an obligation that has been properly  
309 preapproved by the board and is reflected in the meeting minutes  
310 or the written budget.