

Bill Summary By Milena Macias, Esq.
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ANALYSIS OF BILL HB 1021

LEGISLATIVE SESSION 2024

STAFF ANALYSIS : Community Associations

LAW OF FLORIDA CHAPTER:

A BILL by Commerce Committee ; State Administration & Technology Appropriations Subcommittee ; Regulatory Reform & Economic Development Subcommittee ; Lopez, V. ; (CO-INTRODUCERS) Anderson ; Bartleman ; Benjamin ; Caruso ; Cross ; Garcia ; López, J. ; Mooney ; Porras ; Redondo ; Stevenson ; ValdésC

Last Action: Signed into law on 6/14/24 by Governor DeSantis
Effective Date: 7/1/2024

Community Associations: Provides requirements and penalties for community association managers and management firms relating to conflicts of interest; revises and provides provisions relating to condominium and cooperative associations, including milestone inspections, reporting requirements, financial reports, unit owner and board meetings, director education, criminal activity and penalties, official records, legal actions, electronic voting, and notices; requires Division of Florida Condominiums, Time Shares, & Mobile Homes to submit report to Governor and Legislature and to create database.

The passage of HB 1021 provides significant provisions to help members and owners in mandatory community associations.

The provisions include penalties on association managers and management firms relating to conflicts of interest, financial reports, criminal penalties and board meetings, and director education (finally Boards will not be able to sign a

piece of paper to “certify” that they know the laws and obligations requirements, but instead must educate themselves on roles they are performing).

Official Records/Association materials.

(1) **Professional Practice Standards.** The law creates Subsection (3) to Section 1 of section 468.436 entitled “professional practice standards” and requires a community association manager or a community association management firm to return all community association official records within its possession to the community association within 20 business days after termination or receipt of a written request for return of the official records, whichever occurs first.

(2) **Website.** (a) Condominium Associations with 25 or more units must post digital copies of specified documents on its website or make such documents available through an application that can be downloaded on a mobile device. (Deadline: January 1, 2026)

(b) Email addresses are not part of Official Records open for inspection unless the owner has consented to receiving notices of association meetings via email, or indicated that their email can be shared with other owners.

(3) **Failure to comply** creates a rebuttable presumption that the manager or firm willfully failed to comply and will be subject to suspension of its license under s. 468.436, and a civil penalty of \$1,000 per day for a maximum of 10 days, assessed beginning on the 21st day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first.

(4) **Meetings.** The Board of Directors must hold at least 4 meetings a year. Currently only one meeting is necessary to be held by

Associations. The increased requirements will provide more knowledge to members interested in the way the Association is run.

(5) **Conflicts of interests**. The law is amended by creating Section 2. Section 468.4335, Florida Statutes, “Conflicts of interest” that a CAM (and/or their relatives) or community management company with a financial law interest in a community association management firm, and the relatives of such persons, must disclose to the board of a community association any activity that may reasonably be construed to be a conflict of interest.

(6) **Bids** for work to be performed or for materials equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law.

(7) The **official records** must be maintained in an organized manner that facilitates inspection of the records by a unit owner. In the event that the official records are lost, destroyed, or otherwise unavailable, the obligation to maintain the official records includes a good faith obligation to obtain and recover those records that are not available must be provided on a “checklist” and the checklist is part of the Official Records and must be maintained for at least 7 years.

(8) A rebuttable presumption of a **conflict of interest** exists if any of the following occurs without prior notice:

(a) If a contract with those who have a financial interest in a community association management firm, and/or the relatives of such persons, the association must also consider at least 3 bids from other third-party providers of such good or service.

(b) If the association receives and considers a bid to provide a good or service from those who may have a financial interest, (i.e., community association

manager or a community association management firm), the proposed activity must be attached to the meeting agenda.

(c) Disclosures of possible conflict of interest must be entered into the written minutes of the meeting. Approval of the contract or other transaction requires an affirmative vote of two-thirds of all other directors present.

(d) At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members.

(e) Upon motion of any member, the contract or transaction must be brought up for a vote and may be canceled by a majority vote of the members present.

(f) If the contract is canceled, the association is liable only for the reasonable value of the goods and services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

(g) Failing to disclose any conflict of interest as required by s. 468.4335 could result in disciplinary proceedings on suspension or revocation of licenses, and civil and criminal proceedings. In addition, the law provides that a person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.

(9) **Kickbacks** to an officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value or kickback will be rewarded with charges of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(10) **Referral to local law enforcement.** The division shall refer to local law enforcement authorities any email addresses that are not part of the official

records and whom the division believes has engaged in fraud, theft, embezzlement, etc.

(11) **Attendance**. The division director (or any officer or employee of the division and the condominium ombudsman or any employee of the Office of the Condominium Ombudsman) may attend and observe any meeting of the board of administration or unit owner meeting, including any meeting of a subcommittee or special committee, which is open to members of the association for the purpose of performing the duties of the division.

(11) **Structural integrity**. Within 45 days after receiving the structural in reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study notice must be made by the communication method provided by the owner as well as copies of all building permits issued for ongoing or planned construction.