

2017 FL Title XL Chapter 720: Home Owner's Associations Summary

Part I: General Provisions – Rights and Obligations

Go to: <http://www.flsenate.gov/Laws/Statutes/2017/Chapter720/All> to read complete chapter

Sections of Chapter 720

- 720.302 Purposes, scope, and application.
- 720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.
- 720.3033 Officer and Directors
- 720.3035 Architectural control covenants; parcel owner improvements; rights and privileges.
- 720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.
- 720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.
- 720.3053 Failure to fill vacancies on board of directors sufficient to constitute a quorum; appointment of receiver upon petition of member.
- 720.3055 Contracts for products and services; in writing; bids; exceptions.
- 720.306 Meetings of members; voting and election procedures; amendments.
- 720.307 Transition of association control in a community.
- 720.3075 Prohibited clauses in association documents.
- 720.308 Assessments and charges.
- 720.3085 Payment for assessments; lien claims.
- 720.30851 Estoppel certificates.
- 720.3086 Financial report.
- 720.309 Agreements entered into by the association.
- 720.31 Recreational leaseholds; right to acquire; escalation clauses.
- 720.311 Dispute resolution.
- 720.312 Declaration of covenants; survival after tax deed or foreclosure.
- 720.313 Receivership notification.
- 720.315 Passage of special assessments.
- 720.316 Association emergency powers.
- 720.317 Electronic voting.

**720.302** Purpose: to provide procedures for operating homeowners' associations, and to protect the rights of association members

**720.303**

(1) The officers and directors of an association have a fiduciary relationship to the members of the association. The association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members.

(2)(a) A Board Meeting occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members and also applies to the meetings of Architectural Review Committee where final approval/disproval decisions are made.

(2)(b) Members have the right to attend all meetings of the board and to speak on any matter placed on the agenda.

(2)(c) & (2)(c)1 Parcel owners and members must be notified of all board meetings, member meetings, and Architectural Review Committee meetings.

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Part I: General Provisions – Rights and Obligations

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- (2)(c)2 An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.
- (2)(c)3 Directors may vote by proxy or by secret ballot at board meetings only for the election of officers.
- (2)(d) If 20 percent of the total voting interests petition the board to address an item of business, the board shall at its next regular board meeting or at a special meeting of the board within 60 days after receipt of petition have that item on the agenda. Each member shall have the right to speak for at least 3 minutes on each matter placed on the agenda by petition.
- (3) Minutes of all meetings of the members of an association and of the board of directors of an association must be maintained. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.
- (4) The association shall maintain each of the following items, when applicable, which constitute the official records of the association:
- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.
  - (b) A copy of the bylaws of the association and of each amendment to the bylaws.
  - (c) A copy of the articles of incorporation of the association and of each amendment thereto.
  - (d) A copy of the declaration of covenants and a copy of each amendment thereto.
  - (e) A copy of the current rules of the homeowners' association.
  - (f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.
  - (g) A current roster of all members and their mailing addresses and parcel identifications. The association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission.
  - (h) All of the association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.
  - (i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records.
  - (j) The financial and accounting records of the association, kept according to good accounting practices (GAAP).  
All financial and accounting records must be maintained for a period of at least 7 years.  
The financial and accounting records must include:
    1. Accurate, itemized, and detailed records of all receipts and expenditures.
    2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
    3. All tax returns, financial statements, and financial reports of the association.
    4. Any other records that identify, measure, record, or communicate financial information.
  - (k) A copy of the disclosure summary described in s. 720.401(1).

2017 FL Title XL Chapter 720: Home Owner's Associations Summary

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- (1) All other written records of the association not specifically included in the foregoing which are related to the operation of the association.
- (5) The official records must be open to inspection and available for copying by members or available electronically through the internet.
- (6)(a) The association shall prepare an annual budget that sets out the annual operating expenses. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request.
- (7) The association shall prepare and complete a financial report for the preceding fiscal year and provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available within 90 days of the end of fiscal year.
- (8)(a) All association funds held by a developer shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled prior to turnover.
- (8)(b) No developer in control of a homeowners' association shall commingle any association funds with his or her funds or with the funds of any other homeowners' association or community association.
- (10)(a)1. Any member of the board of directors may be recalled and removed from office with or without cause by a majority of the total voting interests.
- (11) Windstorm Insurance: N/A
- (12) A director, officer, or committee member of the association may not directly receive any salary or compensation from the association for the performance of duties as a director, officer, or committee member.

**720.3033**

Within 90 days of election or appointment to the board, each director shall certify in writing to the secretary of the association that he or she has read the association's declaration of covenants, articles of incorporation, bylaws, and current written rules and policies; that they will work to uphold such documents and policies to the best of their ability; and that they will faithfully discharge his or her fiduciary responsibility to the association's members. Directors must disclose conflict of interest agreements with entities outside the association.

**720.3035**

(1) The authority of an association or any Architectural Review Committee to review and approve plans and specifications shall be permitted only to the extent that the authority is specifically stated or reasonably inferred in the declaration of covenants or published guidelines.

**720.304**

- (1) Homeowners may use common areas for their intended purpose.
- (2)(a) Homeowners may display up to two designated flags.
- (2)(b) Homeowners may erect a flagpole.
- (4) SLAPP suits are not permitted.
- (5)(a) Homeowners may install an access ramp.
- (6) Homeowners may display a contractor's security sign.

2017 FL Title XL Chapter 720: Home Owner's Associations Summary

Part I: General Provisions – Rights and Obligations

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**720.305**

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

- (a) The association;
- (b) A member;
- (c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and
- (d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

(2) If a member is delinquent in paying a monetary obligation due the association, an association may suspend the rights of a member or a member's tenants, guests, or invitees, or both and may levy reasonable fines.

(a)(b) A fine or suspension may not be imposed without notice to the person sought to be fined or suspended and without an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.

(3)(4) An association may suspend the use of common areas and voting rights of a member for the nonpayment of regular annual assessments.

**720.3053**

(1) If an association fails to fill vacancies on the board of directors sufficient to constitute a quorum in accordance with the bylaws, any member may give notice of the member's intent to apply to the circuit court for the appointment of a receiver to manage the affairs of the association.

**720.3055**

(1) All contracts as further described in this section or any contract that is not to be fully performed within 1 year after the making thereof for the purchase, lease, or renting of materials or equipment to be used by the association and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association that exceeds 10 percent of the total annual budget of the association, including reserves, the association must obtain competitive bids. The association is not required to accept the lowest bid.

(2)(a)1. Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, engineering, and landscape architect services are not subject to the provisions of this section.

**720.306**

(1) Quorum; Amendments:

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions that require a vote of the members must be made by the concurrence of at least

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a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained.

(b) Any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association.

(2) The association shall hold a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the bylaws. The election of directors must be held at the annual meeting or as provided in the governing documents.

(3) Special meetings must be held when called by the board of directors or by at least 10 percent of the total voting interests of the association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

(4) Notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(5) The association shall give all parcel owners and members actual notice of all membership meetings.

(6) Members and parcel owners have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda.

(7) Adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place.

(8) The members have the right to vote in person or by proxy.

(9) All members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held or, if the election process allows voting by absentee ballot, in advance of the balloting. Boards of directors must be elected by a plurality of the votes cast by eligible voters.

(10) Any parcel owner may tape record or videotape meetings of the board of directors and meetings of the members.

**720.307 thru 720.313** See Chapter 720 for content

**720.315**

Before turnover, the board of directors controlled by the developer may not levy a special assessment unless a majority of the parcel owners other than the developer has approved the special assessment by a majority vote at a duly called special meeting of the membership at which a quorum is present.

**720.316**

When the state of emergency is declared for the area including the association, certain of the above clauses are suspended and/or amended and disaster plans may be implemented.

**720.317**

Electronic (internet) voting is permitted given that certain conditions are met by the association.