

CHAPTER 97-311

Committee Substitute for House Bill No. 113

An act relating to homeowners' associations; amending s. 617.303, F.S.; providing that statutory provisions applicable to association board meetings apply to meetings of committees when a final decision will be made regarding the expenditure of association funds; amending s. 617.305, F.S.; increasing the limit on fines that an association may impose on members, tenants, guests, or invitees; providing an exemption from the prohibition against an association suspending the voting rights of a member; providing an effective date.

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

Section 1. Subsection (2) of section 617.303, Florida Statutes, is amended to read:

617.303 Association powers and duties; meetings of board; official records; budgets; financial reporting.—

(2) BOARD MEETINGS.—A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice or provision of a schedule of board meetings. 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. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to including any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

Section 2. Subsection (2) of section 617.305, Florida Statutes, is amended, present subsection (3) of that section is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

617.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights; failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of any member.—

(2) If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed ~~\$100~~ \$50 per violation, against any member or any tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents.

(a) A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and 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. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

(b) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.

(c) Suspension of common-area-use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

~~(d) An association may not suspend the voting rights of a member.~~

(3) If the governing documents so provide, an association may suspend the voting rights of a member for the nonpayment of regular annual assessments that are delinquent in excess of 90 days.

Section 3. This act shall take effect July 1, 1997.

Became a law without the Governor's approval June 14, 1997.

Filed in Office Secretary of State June 13, 1997.