

2011 Florida Statutes

Title XL REAL AND PERSONAL PROPERTY

Chapter 720 HOMEOWNERS' ASSOCIATIONS Entire Chapter

SECTION 305

Obligations of members remedies at law or in equity levy of fines and suspension of use rights.

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(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.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. A member prevailing in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney's fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

(2) The association may levy reasonable fines of up to \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney's fees and costs from the nonprevailing party as determined by the court.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association.

(b) A fine or suspension may not be imposed without at least 14 days' notice 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. If the association imposes a fine or suspension, the association must provide written

notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

(3) If a member is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities until the monetary obligation is paid in full. This subsection does not apply to that portion of common areas used to provide access or utility services to the parcel. Suspension does 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. The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection.

(4) An association may suspend the voting rights of a parcel or member for the nonpayment of any monetary obligation due to the association that is more than 90 days delinquent. A voting interest or consent right allocated to a parcel or member which has been suspended by the association may not be counted towards the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this chapter or pursuant to the governing documents. The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection. The suspension ends upon full payment of all obligations currently due or overdue to the association.

(5) All suspensions imposed pursuant to subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the association must notify the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery.

History.—s. 37, ch. 92-49; s. 55, ch. 95-274; s. 2, ch. 97-311; s. 51, ch. 2000-258; s. 20, ch. 2004-345; s. 17, ch. 2004-353; s. 12, ch. 2007-173; s. 8, ch. 2008-202; s. 24, ch. 2010-174; s. 18, ch. 2011-196.

Note.—Former s. 617.305.