

## HB0266 – Favorable with Amendments

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(Note OAG is referring to the OAG Consumer Protection Division)

This is so necessary. The governing boards tend to think they are responsible for the “governing” of the community when the bylaws clearly state they are administrators of the community.

Also the members of the community need recourse and currently don't have any except to file a lawsuit against the board, which costs the community double, once for the claim and then from the community funds for the defense. It creates an oxymoron effect. Today the OAG however only acts as mediator. I know this from my own experience.

What the community members need is a **judge**; someone who can provide a legal interpretation of some of the by-laws. Lawyers do not know how to interpret statutes or bylaws. Some attorneys do, but most lawyers do not, and the community members don't know the difference.

**Amendment 1** – while the communities all have “governing documents” and the board does act by governing within those documents, I think it is necessary to define “governing body” to include the fact that the “governing body” is only governing **within the limits of the bylaws** and that in most cases that is an **administrative function**. It is **not** a governing function like a municipality. (We had an incident where the BOD thought they could 1) act on their own as individuals, 2) inspect the personal property of the member, and 3) require certain repairs of the personal property of the member. This would be governing, not administrating.)

**Amendment 2** – (B)(15) should broaden the OAG's scope to include all the governing documents of the community. Otherwise the community will continue to have no recourse in matters of interpretation of the community's specific bylaws/rules except again through Circuit Court litigation.

The real issue behind the necessity of this Bill of Rights is that the people on the “governing body” misinterpret the governing documents (if they even read them!), including the bylaws. They add words and delete words at their will and this is the first error in legal interpretation. We need someone to help provide that interpretation without it costing the community members or the unit owner expensive attorney fees.

**Amendment 3** – (7)(II) should include a percentage vote by which a board member can be recalled and this percentage should override the bylaws if it is lower than currently stated in the bylaws. We the community owners need recourse if a BOD is acting inappropriately, not following the bylaws, not acting in the best interest of the community and not upholding their fiduciary responsibility. Unfortunately too often the majority of the community is too busy, too complacent, and / or too unaware to take action against a sitting board. Paragraph (7)(II) should read something to this effect: **“To recall an incumbent member of the governing body by a vote of 10% of the eligible community members notwithstanding the bylaws governing the community.”**

Thank you for pressing forward with this again this year. We desperately need it.

I 100% support this bill.

Thank you.

Nelda Fink